



Historic Preservation Ordinance Update Frequently Asked Questions August 18, 2016

1. What is the Historic Inventory?

The Historic Inventory is a list of 706 pre-1940 homes that were identified through a historic survey in 1981 as being eligible for the City's Historic Register. These homes were determined to be those which have most retained their original appearance, and architectural integrity and which most represent the former character of Laguna Beach.

The Inventory is a valuable planning tool as the Inventory provides a preliminary property rating designation which indicates if a property should be reviewed as a historic resource during the evaluation of a project.

2. What is the Historic Register?

The Historic Register is a list of approximately 300 properties which have been officially designated on the City's Historic Register. These properties were all voluntarily placed on the Register by its property owner, at some point in time since 1989. The owner of each property has signed an agreement to preserve the property. These agreements are recorded with the County. The current Historic Preservation Ordinance (Municipal Code Section 25.45.006) notes that structures on the Register are eligible to apply for preservation benefits such as parking reductions, setback flexibility and financial incentives for properties listed on the Register.

A majority of the properties listed on the Historic Register were identified on the 1981 Historic Inventory (approximately 250), but other homes not identified in the Inventory have also been designated over time pursuant to Municipal Code Section 25.45.004. The current Ordinance requires Design Review approval, with a recommendation by the Heritage Committee for exterior changes proposed to a structure listed on the Historic Register. The same procedure is proposed in the draft Ordinance.

3. How are the City's Historic Ratings defined?

The following definitions were adopted by the City Council (Resolution 82.111) in 1982:

E- Exceptional:

Buildings with this classification are outstanding historic architectural examples. Most have been recommended eligible for the National Register and those which are not may be considered for National Register status in the future. Buildings in this category are usually in excellent architectural condition and are typically unique or excellent historical and/or historical architectural examples.

K- Key:

Buildings with this classification are very good historical architectural examples which strongly retain their original integrity. These buildings have significant architectural, historical, and/or aesthetic value and are fine period examples.

C- Contributive:

Buildings with this classification are those which contribute to the overall character of and history of the neighborhood, though they are not unique in and of themselves. The great preponderance of these buildings contribute greatly to the visual fabric of Laguna Beach and are important in a more general historical architectural context. The many beach bungalows built in Laguna during the 1920's are examples of buildings in this category. While contributive buildings are not architecturally outstanding, without them the streetscape of many Laguna neighborhoods would be very different.

4. What is the Draft Inventory?

The draft Inventory is a survey which was initiated by Ostashay and Associates in 2014. The survey was conducted to re-evaluate those structures originally identified on the Historic Inventory in 1981. The draft inventory provides a recommended property rating for all of the structures listed on the Inventory, which have not been placed on the Register. These ratings are preliminary and are subject to City Council approval, upon a recommendation from the Heritage Committee. No additional structures were evaluated as part of this survey effort. This inventory is still in draft form, and it will be reviewed by the Heritage Committee and then ultimately presented to the City Council.

5. How do I “opt-out” of the Historic Inventory?

Over the course of updating the Historic Inventory and Historic Preservation Ordinance, the question has been raised as to if a property owner can request that their property be removed from the Inventory, or essentially if they can “opt-out” of the Inventory. The current ordinance does not include a “stand-alone” “opt-out” provision which would allow property owners to simply remove the properties from the Inventory at the owner’s discretion. However, the proposed draft Ordinance does include a process to re-evaluate a property’s historic rating in the efforts to remove a historic classification. During this proposed re-evaluation process, if it is determined that the structure no longer warrants historic consideration, then the property rating would be adjusted to reflect that the property is not historic.

It is important to note why an “opt-out” provision is not in the draft Ordinance. If a “stand alone” “opt-out” provision were incorporated into the draft, and the re-evaluation process was omitted as part of this process, then “opting out” alone would not be sufficient to discount the potential historic significance of a property. Therefore, if a project is submitted for development in the future, at that time, the project would still need to be reviewed by the City for historical impacts.

6. What is the Historic Preservation Ordinance?

The Historic Preservation Ordinance was originally adopted in 1989. This Ordinance established the City's current historic preservation program and includes sections which provide for the process to designate a structure to the Historic Register, to modify a structure on the Historic Register, and lists the incentives available for structures listed on the Register. Penalties for illegal demolition of historic structures are also included. The current historic preservation ordinance does not include a review process to modify structure listed on the Historic Inventory, or potentially historic structures that have never been surveyed. The following is a list of the sections provided in the current ordinance (note that a process to alter a structure listed on the Historic Inventory, or a rating re-evaluation process is not included):

- 25.45.002 Intent and purpose.
- 25.45.004 General provisions.
- 25.45.006 Historic register preservation incentives.
- 25.45.008 Procedures for the alteration of historic register structures.
- 25.45.010 Procedures for demolition.
- 25.45.012 Unsafe or dangerous conditions.
- 25.45.014 Illegal demolition—Penalty for violations.

7. What is the Draft Historic Preservation Ordinance?

The draft Historic Preservation Ordinance is a proposed revision to the originally adopted Historic Preservation Ordinance. The proposed Ordinance includes several expanded topics and processes, and appeal provisions. The following is a list of the proposed sections in the Ordinance:

- 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 pre-1955 structure.
- 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.

8. What is CEQA and how does CEQA relate to historic properties?

The California Environmental Quality Act (CEQA) requires that the lead agency (the City of Laguna Beach) review a project for environmental impacts prior to the discretionary review of that project. Projects which require design review are considered discretionary projects.

For purposes of CEQA, the “environment” includes objects of historic significance. A project that involves modification or demolition of a historic resource will normally be viewed as having a “significant impact” on the environment.

CEQA contains certain exemptions. Exempt projects typically require no environmental analysis before they can be acted upon by the City. The Class 31 Exemption provides that if modifications proposed to a historic structure are consistent with the Secretary of the Interior’s Standards (SOIS), then a project can be exempt from additional environmental (CEQA) review. If a project is not consistent with the SOIS, then additional environmental review (initial study, negative declaration, mitigated negative declaration or and environmental impact report) would be required. Hence, it is important to determine if a structure is historic when reviewing a project to determine if the existing structure has any historic value. If the structure is determined to not have significant value, then the property could be reviewed without considering the CEQA impacts to a historic resource. However, if the property is considered to be a historic resource, then the City must determine what appropriate CEQA analysis would be required for the project (exemption, (initial study, negative declaration, mitigated negative declaration or and environmental impact report).

Also see the Q/A memo provided by the City Attorney (posted on the City website) for additional information about how CEQA applies to historic resources.

9. What if I disagree with the current property rating of my home?

The current ordinance does not provide a re-evaluation process for a property so at this time, there is not a defined method to evaluate a rating. However, as part of the review of the draft Inventory, property owners who feel the proposed property ratings in the draft Inventory is wrong, are encouraged to submit documentation (to the Planning Department) indicating why the proposed property rating is not accurate. More details will be provided regarding this process in the near future. Further, the proposed draft Ordinance provides (under Section 25.45.022) a defined process to evaluate the historic rating of a structure and allows for an application to be submitted to either establish, elevate or downgrade a property rating. Specifically, the proposed process allows for a property owner, or the Director of Community Development to file an application to the Heritage Committee to evaluate the historic rating of the property through a publically noticed hearing. Neighbors within 300 feet and tenants within 100 feet of the subject property would receive notice of this hearing. During its review, the Heritage Committee may request that a historic assessment be prepared to evaluate the property at the cost of the City (currently proposed in the draft Ordinance). 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. This determination is appealable to the City Council.

10. What is the CURRENT process to remove a structure from the Historic Register?

Currently, 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. 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 historic 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.

The current Ordinance does not include any criteria for removal, and it does not indicate that the historic resource status would change as a result of this decision.

11. What is the PROPOSED process to remove a structure from the Historic Register?

The proposed ordinance provides for the same process as the current Ordinance to remove a structure (as noted above), however it is required that the application 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. Repayment of fees and benefits shall also be considered as in the current ordinance.

12. What is the current Historic Register criteria?

The current ordinance notes that if you have been identified on the Inventory, the structure is eligible to be placed on the Historic Register, subject to approval of the Heritage Committee. The ordinance also provides that if a structure was not listed on the historic inventory, but the owner desires inclusion of the structure on the Historic Register, then an application can 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.

13. What disclosure is required of real estate agents in the proposed/draft Ordinance?

Section 24.45.026 of the draft Ordinance requires that when a real estate agent is listing a property on the Historic Register for sale, he or she must disclose in that listing if a structure is listed on the Historic Register. No agent disclosure is required for structures listed on the Historic Inventory or structures which have not been surveyed. The current ordinance does not require any agent disclosure for historic resources.

14. What disclosure is required of the City for Historic Properties?

Section 24.45.026 of the draft Ordinance states that City is required to provide language identifying that the property is, or may be a historic resource on any Real Property Report (RPR) prepared for a structure listed on the Inventory, the Register or a pre-1955 structure which has not been surveyed. The current ordinance does not require any agent disclosure for historic resources. However, currently, the city has adopted the policy to provide the following language on any RPR which is prepared for a property containing a structure on the Inventory or the Register:

A Historic Resources Assessment Report prepared by a qualified historic preservation consultant may be required in order to determine if any proposed change, alteration or relocation of the historic structure on the property will be a substantial adverse change or a change that materially impairs the character-defining features of the historic structure. The California Environmental Quality Act (CEQA) and the associated CEQA Guidelines require that a proposed development project, which proposes a substantial adverse change to a historic resource to be avoided or adequately mitigated to qualify for a CEQA exemption or mitigated negative declaration. An Initial Study is required to be prepared to document and support a proposed mitigated negative declaration. If the proposed project cannot be mitigated to below a level of significance, an Environmental Impact Report must be prepared and processed according to the City and CEQA processing guidelines prior to project entitlement review and consideration.

15. What benefits/incentives are offered to Historic properties?

Historic Category	Current Ordinance	Draft/Proposed Ordinance
Historic Register	<ul style="list-style-type: none"> · residential parking reductions · commercial parking reductions · building and planning fees refunded · historic building code exemptions · setback flexibility · density bonuses in DTSP and LBP · historic plaque eligible · Mills Act (E/K rated structures) · Non-conforming building exemptions 	<ul style="list-style-type: none"> · residential parking reductions · commercial parking reductions · building and planning fees refunded · historic building code exemptions · setback flexibility · rear setback flexibility · density bonuses in DTSP/LBP, R-2 and R-3 zones · free historic plaques · Mills Act (E/K rated structures) · Expanded non-conforming, major remodel exemptions
Historic Inventory (K/E- Rating)	None	<ul style="list-style-type: none"> · residential parking reductions · commercial parking reductions · building and planning fees refunded · historic building code exemptions · setback flexibility · rear setback flexibility · density bonuses in DTSP/LBP, R-2 and R-3 zones · free historic plaques · Expanded non-conforming, major remodel exemptions
Neighborhood Property (Inventory C- Rating)	None	<ul style="list-style-type: none"> · residential parking reductions · commercial parking reductions · building and planning fees refunded · historic building code exemptions · setback flexibility · rear setback flexibility · density bonuses in DTSP/LBP, R-2 and R-3 zones · free historic plaques · Expanded non-conforming, major remodel exemptions

16. What is the process to modify the exterior of a historic or potentially historic structure?

Historic Category	Current Ordinance	Draft/Proposed Ordinance
The Historic Register (all ratings)	Exterior changes (except minor exterior modifications) require design review approval, based on a recommendation from the Heritage Committee. If a historic assessment is required, then it is paid for by the property owner. [Section 25.45.008]	No changes are proposed to this section, with the exception that the "minor exterior modifications" are re-defined as "in-kind replacement of historically appropriate materials". [Section 25.45.006]
The Historic Inventory (K/E rating)	Not addressed, no additional review required under the current ordinance. However, in order to comply with CEQA, staff has been obtaining a historic assessment for exterior modifications. If a project is subject to design review, then a recommendation of the Heritage Committee is also obtained.	Substantial alterations ¹ require design review approval, based on a recommendation from the Heritage Committee. If a historic assessment is required, then it shall paid for by the City. [Section 25.45.012]
Neighborhood property (C-rating)	Not addressed, no additional review required under the current ordinance. However, in order to comply with CEQA, staff has been obtaining a historic assessment for exterior modifications. If a project is subject to design review, then a recommendation of the Heritage Committee is also obtained.	Substantial alterations ¹ require design review approval, based on a recommendation from the Heritage Committee. Windows and doors may be replaced in the existing opening with similar or new materials. [Section 25.45.016]
Pre-1955 structure?	Not addressed, no additional review required. However, for projects requiring design review which include exterior changes to a structure that appears to obtain its original integrity, staff has been obtaining a historic assessment (paid for by the property owner).	When an application is submitted to substantially alter a pre-1955 structure, the director shall make a determination of whether the property maintains its original integrity and therefore could be 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 a rating review (as prescribed by draft Section 24.45.022) to determine the appropriate rating of the property. Once a rating is determined, then the proposed project would follow the review procedures set forth in 25.45.012, or 25.45.016 (see sections above). (2) If it is determined by the director that the structure does not warrant historic consideration, then a notice of this determination will be sent to the tenants within 100 feet, and the property owners within 300 feet of the subject property. (3) Any decision rendered by the Heritage Committee to upgrade or downgrade a rating is appealable to the City Council.

1. Substantial alteration is defined as the demolition, destruction, relocation, or alteration such that the significance and integrity of a historical resource would be impaired. Projects which include exterior modifications, additions, window alterations, or exterior material changes are examples of substantial alterations. Insubstantial alterations include repair and replacement of existing feature 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 of insubstantial alterations can be found in draft Ordinance Section 25.45.004.