

**Chapter 15.36**

**HISTORIC PRESERVATION**

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**Section 15.36.010 Purpose.**

The purpose of this chapter is to provide for the identification, protection, enhancement, perpetuation and use of historic landmarks within the city that reflect special elements of the city's historical heritage and to promote the general welfare by:

- A. Encouraging public knowledge, understanding, and appreciation of the city's past;
- B. Fostering civic pride in the beauty and personality of the city and in the accomplishments of the city's past;
- C. Safeguarding the heritage of the city by protecting landmarks which reflect the city's history;
- D. Protecting and enhancing property values within the city and increasing economic and financial benefits to the city and its inhabitants;
- E. Identifying as early as possible and resolving conflicts between the preservation of historical landmarks and alternative land uses;
- F. Preserving historic building materials through maintenance and restoration of existing historical landmarks;
- G. Taking whatever steps are reasonable and necessary to safeguard the property rights of the owners whose building or structure is declared to be a landmark;
- H. Promoting the use of landmarks for the education and enjoyment of the people of the city; and
- I. Promoting awareness of the economic benefits of historic preservation. (Ord. 194 § 2 (part), 1994)

**Section 15.36.020 Definitions.**

"Certificate of appropriateness" means the permit granted upon an application to perform work after review by the director or upon appeal by the historical preservation commission or the city council.

"Demolition" means destroying in whole or in part, a landmark.

"Director" means the director of The Department of community development.

"Exterior architectural feature" means the architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement, including, but not limited to, the kind, color and texture of the building materials and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such improvements.

"Landmark" means a building, site, tree or structure of significant, historical importance which has received the designation of landmark by resolution of the planning commission.

"Relocation" means any change of the location of a landmark in its present siting or to another site.

"Restoration" means the act of accurately recovering the form and details of a landmark as it appeared

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at a particular period of time by means of the removal of later work or the replacement of missing or earlier work.

"Site" means a lot or a portion of a lot upon which the landmark is located or the site can be a landmark itself.

"Work" means any, additions, reconstruction, restoration, remodeling, reassembly, reproduction, replacement, rehabilitation, relocation, repair or maintenance that changes the exterior of the landmark, or any demolition. In the case of trees, it shall mean any pruning, removal, maintenance or other work which could potentially harm a tree. (Ord. 194 § 2 (part), 1994)

### **Section 15.36.030 Establishment of a historical preservation commission.**

The members of the planning commission shall act as the historical preservation commission. The staff of the department of community development shall serve as staff to the historical preservation commission. (Ord. 194 § 2 (part), 1994)

### **Section 15.36.040 Powers and duties of the historical preservation commission.**

The historical preservation commission shall have the following powers and duties:

- A. To designate a landmark as provided in this chapter;
- B. To oversee and review surveys, inventories, registers and other information prepared consistent with this chapter;
- C. To maintain a local register of landmarks;
- D. To review and comment upon the conduct of land use, housing, redevelopment, municipal improvement, and other types of planning and programs as they relate to a landmark in the city;
- E. To investigate and report to the city council on the use of various federal, state, local, county and private funding sources and mechanisms available to promote landmark preservation in the city;
- F. To cooperate with local, county, state and federal governments and private organizations in the pursuit of the objectives of historic preservation;
- G. To keep minutes and records of all meetings and proceedings, including voting records, attendance, resolutions, findings, recommendations and decisions;
- H. To participate in, promote and conduct public information, educational, and interpretive programs pertaining to historic preservation;
- I. To meet at least annually to review the status of landmarks and prepare an annual report for the city council. (Ord. 194 § 2 (part), 1994)

### **Section 15.36.050 Public hearings.**

A. Notice. Whenever a public hearing is required by this chapter, the owners of the property within a three-hundred-foot radius of the subject property, the property owner and aggrieved party, if any, shall be given ten (10) days' written notice, by registered mail, of the public hearing. Posting of the subject site shall be consistent with the city's posting policies. Notice shall also be advertised once, not less than ten (10) days or more than twenty (20) days prior to the hearing, in a newspaper of general circulation. The notice shall state the time, date and place of the hearing, including a general explanation of the matter to be considered and a general description of the area affected and the street address, if any, of the subject property. Any person requesting to be notified of a proposed landmark designation shall be notified of the hearing to be conducted by the historical preservation commission or the city council.

B. Failure to Receive Notice. The failure of any person to receive notice of a public hearing, given pursuant to this section, shall not constitute grounds for any court to invalidate the action for which the notice was given.

C. Continued Hearing. Any public hearing conducted pursuant to this chapter may be continued

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from time to time within the prescribed time limits.

### D. Appeals.

1. An application for an appeal concerning any decision of the historical preservation commission may be filed by an aggrieved party within sixteen (16) calendar days after the date of the decision, or on the following workday if the sixteenth day falls on a weekend or holiday. The appeal must be filed on forms provided by the department of community development. The appellant shall also pay an appeal fee set by resolution of the city council. The notice of appeal shall state the grounds for the appeal. The city council shall be the decision-making body in considering an appeal from the historical preservation commission decision.

2. The city council shall hold a public hearing on the appeal and shall approve, conditionally approve or deny the appeal within thirty (30) days after the notice of appeal was filed; an additional fifteen (15) day period may be granted if mutually agreed upon by the applicant and the city council. The decision shall be in writing, shall be based upon findings of fact, and shall be final, unless appealed subject to the provisions of this chapter. (Ord. 194 § 2 (part), 1994)

### Section 15.36.060 Landmark designation.

#### A. Procedures.

1. An application to designate or de-designate a building, site, tree or structure as a landmark shall be made, on forms prescribed by the department of community development, by the property owner or with the written consent of the property owner(s). The application shall be filed with the department of community development with a fee as established by city council resolution. The historical preservation commission may initiate an application on its own motion, only if the proposed landmark is to be demolished within six (6) months.

2. The historical preservation commission shall hold a public hearing on the application within forty-five (45) days after the application was accepted as complete and render a decision within six (6) months of application completeness. The decision shall be in writing, shall be based upon findings of fact, and shall be final.

3. Designation of each landmark shall be made by a resolution which contains a statement as to why the proposed landmark is being designated as a landmark and whether it is to be marked with a uniform and distinctive plaque. Any such resolution shall include a legal description of the subject property, a description of exterior architectural features, and the name of the property owner, and shall be recorded by the city clerk in the county recorder's office. Any action to de-designate a landmark shall be in the form of a resolution which will state the necessary findings as required in subsection D of this section and shall be recorded by the city clerk in the county recorder's office.

B. Criteria. A building, site, tree or structure may be designated as a landmark if it is found that the proposed landmark meets one (1) or more of the following criteria:

1. It is associated with persons or events significant in local, state or national history.
2. It reflects or exemplifies a particular period of national, state or local history.
3. It embodies the distinctive characteristics of a type, style or period of architecture or of a method of construction.
4. It is strongly identified with a person or persons who significantly contributed to the culture, history or development of the area.
5. It is one of the few remaining examples in the area possessing distinguishing characteristics of an architectural type of specimen.
6. It is a notable work of an architect or master builder whose individual work has significantly influenced the development of the area.
7. It embodies elements of architectural design, detail, materials or craftsmanship that represents a significant architectural innovation.
8. It has a unique location or singular physical characteristics representing an established and

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familiar visual feature of a neighborhood, community or the area.

9. It has unique design or detailing.

10. It is a particularly good example of a period of style.

11. It contributes to the historical or scenic heritage or historical or scenic properties of the area (to include, but not limited to landscaping, light standards, trees, curbing and signs).

C. Temporary Stay on Building Permits Pending Designation. No permit shall be issued pursuant to Title 15 of this code with regard to any proposed landmark for which an application is on file with the department of community development until the decision by the historical preservation commission on the application becomes final.

D. Removal of Designation. A landmark designation may be removed from a building, site, tree or structure pursuant to the procedure set forth in subsection A of this section. The landmark designation of a building, site, tree or structure may be removed if one or more of the following findings can be made:

1. It is no longer associated with persons or events significant in local, state or national history.

2. It no longer reflects or exemplifies a particular period of national, state or local history.

3. It no longer embodies the distinctive characteristics of a type, style or period of architecture or of a method of construction.

4. It is no longer strongly identified with a person or persons who significantly contributed to the culture, history or development of the area.

5. It is no longer one of the few remaining examples in the area possessing distinguishing characteristics of an architectural type of specimen.

6. It is no longer a notable work of an architect or master builder whose individual work has significantly influenced the development of the area.

7. It no longer embodies elements of architectural design, detail, materials or craftsmanship that represents a significant architectural innovation.

8. It no longer has a unique location or a singular physical characteristics representing an established and familiar visual feature of a neighborhood, community, or the area.

9. It no longer has a unique design or detailing.

10. It is no longer a particularly good example of a period of style.

11. It no longer contributes to the historical or scenic heritage or historical or scenic properties of the area (to include, but not limited to landscaping, light standards, trees, curbing and signs). (Ord. 194 § 2 (part), 1994)

### **Section 15.36.070 Certificate of appropriateness for work affecting landmarks.**

A. Certificate of Appropriateness Required. It is unlawful for any person to perform work on any landmark without first obtaining a certificate of appropriateness in the manner provided for in this section, in addition to any permit required by Title 15 of this code.

B. Certificate of Appropriateness Procedures.

1. Application.

a. The application for a certificate of appropriateness shall be made on forms prescribed by the department of community development; no public noticing is required.

b. The applicant shall submit, together with the application for work, all plans, materials and documents that are related to work proposed and are required for proper review of the proposed work.

c. The applicant shall submit together with the application for work, a clear photograph of the landmark, a brief description of the intended work and samples of replacement materials and paint for comparison with the existing materials and paints.

2. The director shall approve, conditionally approve or deny the application for work except demolition within ten (10) days after the environmental review of the application is complete. In case of an application for demolition, the director shall approve, conditionally approve, or deny the demolition no more than ninety (90) days after the environmental review of the application is complete. The decision

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shall be in writing and shall be based upon written findings of fact. The decision shall be final unless appealed in accordance with subsection F of this section.

### C. Criteria.

1. Work Other Than Relocation or Demolition. A certificate of appropriateness for work shall be approved, with or without conditions, if it is found that:

a. The proposed work will not destroy, detrimentally alter or adversely affect any exterior architectural feature that is described in the resolution of the historical preservation commission designating the landmark; and

b. If the proposed work will not have an adverse effect on, and will be compatible with, any exterior architectural feature that is described in the resolution of the historical preservation commission designating the landmark.

2. Relocation. A certificate of appropriateness for relocation shall be approved with or without conditions, if it is found that:

a. The landmark can be moved without significant damage to its physical integrity; and

b. The relocation is not inconsistent with the criteria upon which the landmark was designated, as described in the resolution of the historical preservation commission designating the landmark.

3. Demolition. Demolition of a landmark constitutes an irreplaceable loss to the quality and character of the city. Therefore, no certificate of appropriateness for demolition shall be approved, with or without conditions, unless it is found that:

a. Disapproval of the certificate of appropriateness would deprive the property owner of substantially all beneficial use of the landmark site; or

b. There are unusual circumstances that compel the need for demolition of the landmark; or

c. The merits of the proposed replacement project outweigh the historic value of the landmark.

### D. Negotiations Prior to Decision on Application for Demolition.

1. Prior to the time that the director must act on the application for demolition, the director shall explore with the applicant, other alternatives to demolition with city officials and local preservation organizations.

2. The application for a certificate of appropriateness for demolition shall be deemed withdrawn by the applicant, if during the negotiation period, any one (1) of the following occurs:

a. The property owner enters into a binding contract for the sale of the landmark; or

b. A certificate of appropriateness for relocation of the landmark is approved or conditionally approved in accordance with this section; or

c. The city or other duly authorized public entity determines to condemn the property and take it by the power of eminent domain.

### E. Showing of Hardship.

1. Notwithstanding the criteria set forth in subsection C of this section, a certificate of appropriateness for work shall be approved, with or without conditions, if it is found that denial of the certificate of appropriateness would cause the applicant unreasonable hardship.

2. The applicant shall bear the burden of claiming and establishing unreasonable hardship. The person or body that is considering the claim of unreasonable hardship may require that the applicant, or appellant upon appeal, furnish information relevant to the claim in addition to the information that is required by subsection (B)(1) of this section.

3. Information that may be considered in determining whether unreasonable hardship exists includes, but is not limited to, the following:

a. Bona fide efforts to rent or sell the landmark prior to the time that the application for the certificate of appropriateness was filed were unsuccessful;

b. Without the work for which the certificate of appropriateness is sought the landmark or the landmark site cannot be rented or sold at a reasonable rate of return;

c. Because of personal, economic or technical circumstances, work cannot be performed in a manner that satisfies the criteria set forth in subsection C of this section; or

d. The regulations and standards set forth in the city's zoning ordinance or building codes preclude

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work in a manner that satisfies the criteria set forth in subsection C of this section.

### F. Appeal of the Director's Decision.

1. The applicant for a certificate of appropriateness, or the owner of the landmark, as the aggrieved party, may appeal the decision of the director to the historical preservation commission by filing a notice of appeal with the department of community development within ten (10) days after the director rendered the decision. The notice of appeal shall state the grounds for the appeal.

2. The historical preservation commission shall hold a public hearing on the appeal and shall approve, conditionally approve or deny the certificate of appropriateness within fifteen (15) days after the notice of appeal was filed; an additional fifteen (15) day period may be granted if mutually agreed upon by the appellant and the historical preservation commission. The decision of the historical preservation commission shall be in writing and shall be based upon written findings of fact. The decision shall be final unless appealed in accordance with subsection D of this section.

### G. Appeal of the Historical Preservation Commission's Decision.

1. An application for an appeal concerning any decision of the historical preservation commission may be filed by an aggrieved party within sixteen (16) calendar days after the decision of the historic commission, or on the following workday if the sixteenth day falls on a weekend or holiday on forms provided by the department of community development and after filing of an appeal fee set by resolution of the city council. The appeal shall state the grounds for the appeal. The city council shall be the decision-making body in considering an appeal of the historical preservation commission.

2. The city council shall hold a meeting on the appeal and shall approve, conditionally approve or deny the certificate of appropriateness within thirty (30) days after the notice of appeal was filed; an additional fifteen (15) day period may be granted if mutually agreed upon by the applicant and the city council. The decision shall be in writing, shall be based upon findings of fact, and shall be final. (Ord. 194 § 2 (part), 1994)

### **Section 15.36.080 Dangerous conditions.**

Nothing in this chapter shall be construed to prevent any work that is necessary to correct or eliminate the unsafe or dangerous condition of any designated or proposed landmark, or such conditions as have been declared unsafe or dangerous by the department of building and safety, provided that the work has been ordered by the department of building and safety. (Ord. 194 § 2 (part), 1994)

### **Section 15.36.090 Duty to keep in good repair.**

The owner, occupant, or other person in actual charge of a landmark shall keep in good repair the exterior of the landmark, when subject to control as specified in the resolution of the historical preservation commission designating the landmark, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of the exterior. (Ord. 194 § 2 (part), 1994)