

# CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 3rd Floor, Long Beach, CA 90802 (562) 570-5237

## R-24

August 18, 2015

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

### RECOMMENDATION:

Receive a report and consider amendments to the Cultural Heritage Commission Ordinance as recommended by the Cultural Heritage Commission (Version A); or as recommended by the Development Services Department (Version B);

Request the City Attorney to draft an Ordinance amending Long Beach Municipal Code Chapter 2.63 related to the Cultural Heritage Commission (Version A or Version B), and amending Long Beach Municipal Code Chapter 9.65 related to Administrative Citations and Penalties; and

Increase appropriations in the General Grants Fund (SR 120) in the Development Services Department (DV) by \$69,000. (Citywide)

### DISCUSSION

In 2015, Development Services staff began initial discussions with Long Beach Heritage regarding the process to designate select City buildings as historic landmarks. In reviewing the landmark designation process in the Cultural Heritage Commission (CHC) Ordinance (Ordinance), Chapter 2.63 of the Long Beach Municipal Code (LBMC), it was apparent that the application and review process was somewhat cumbersome. Though the regulations were intended to facilitate designating landmarks for protection and appropriate rehabilitation, the lengthy and unwieldy process deterred eligible properties from being considered. As a result, the City's historic consultant, Galvin Preservation Associates (GPA), was tasked with streamlining the process for designating landmarks and landmark districts. The objective of reworking the Ordinance is to create a more streamlined and effective process to designate and protect appropriate structures among the City's rich inventory of historic resources.

Working closely with staff, the consultant reviewed a number of model landmark ordinances, including the cities of Pasadena, Glendale, and Los Angeles, as a point of comparison for best practices in designating historic resources. The proposed Ordinance changes represent a combination of local experience, best practices from other cities, consultant recommendations, and feedback from Long Beach Heritage and liaisons from the City's historic districts compiled over the years since the last CHC Ordinance amendment in February 2009. The Ordinance revisions are summarized as follows:

- 1) **Definitions.** Definitions were added for the following terms:
  - a) Contributing property
  - b) Cultural resource
  - c) Days
  - d) Façade easement
  - e) Integrity
  - f) Modification
- 2) **Simplified Designation Criteria.** The criteria for a landmark and a landmark district were reduced and simplified to be consistent with state and federal criteria, and there is no loss in the level of integrity required for the designation. Criteria consistent with the state will facilitate local landmarks that pursue state-level landmark status. Consistent with state criteria, the designation criteria for a landmark and a landmark district are independently prescribed.
- 3) **Streamlined Application and Review Process.** The application and review process for a landmark and a landmark district are prescribed independently, and reflect a streamlined review process that includes a professional survey prepared at the City's expense. Applications for landmarks and landmark districts will no longer be heard by the Planning Commission, but will go straight from the Cultural Heritage Commission (CHC) to the City Council. However, appeal of a CHC determination on a Certificate of Appropriateness will be heard by the Planning Commission. Appeal of a staff level Certificate of Appropriateness will continue to be heard by the CHC.
- 4) **Enhanced credibility in the landmark designation.** The revised process includes the City's commitment to fund an independent professional assessment of landmark and landmark district applications so they are fully researched and vetted before a recommendation is made to the CHC.
- 5) **Rescinding or Amending a Designation.** A provision has been added to allow revisions to a designation based upon a change in the status of a designated resource.
- 6) **Publicly Owned Resources Deleted.** This section of the current Ordinance was deleted, as it is redundant in that any publicly owned resources are subject to the provisions of this Ordinance, even if it is not explicitly stated.

In addition to the proposed process changes, it is necessary to enhance the City's ability to enforce the provisions of the CHC Ordinance as it relates to the rehabilitation and repair and maintenance of landmark and landmark district properties. Accordingly, the proposed amendment includes a revision to LBMC Chapter 9.65, Administrative Citations and Penalties, to include LBMC Title 2, among the City Code provisions that can be enforced with administrative citations. Currently, Code Enforcement staff cannot issue citations for violations of Chapter 2.63 when property owners undertake rehabilitation, replacement, or modification of defining features on designated properties without building permits or without a Certificate of Appropriateness.

Two versions of the recommended CHC Ordinance are hereby included for the City Council's consideration. Version A is recommended by the CHC and Version B is recommended by staff, as summarized below:

**Version A – CHC Recommended Ordinance (Exhibit A).** There was a consensus among the CHC to recommend moving the Draft Ordinance forward as proposed by staff with one exception. The CHC did not support language to require property-owner consent to designate a landmark, and unanimously voted to recommend City Council approval of the Draft Ordinance with the existing language for property owner participation. In summary, the existing language allows a property owner to petition the City to withdraw a designated landmark status, but this petition would occur after the City Council has already taken an action on the request. The existing Ordinance language reads as follows:

*“The record owner of real property designated as a landmark or the owner of a historically significant contributing property within a landmark district, or the city, on its own initiative, may petition to withdraw from designated status provided the same procedure described above to cause such designation is followed.”*

**Version B – Staff Recommended Ordinance (Exhibit B).** The Ordinance recommended by staff is exactly the same as the Ordinance recommended by the CHC, with the exception that it expressly requires a property owner's prior written authorization to apply for a landmark designation. The staff recommended Ordinance provides a streamlined landmark designation process, the added value of City resources to conduct an independent assessment of each application, and the authorization of the property owner to process a landmark designation. By its nature, the landmark designation limits the full range of property rights available to the property owner, and the City's determination regarding this designation must include due consideration of the property owner's wishes. The language included in the staff recommended version of the Ordinance regarding owner authorization is as follows:

*“A nomination shall be filed by submitting a completed application on a form provided by the Development Services Department and shall include the signature of the property owner of record, authorizing the property to be considered for landmark designation.”*

The current Cultural Heritage Commission Ordinance is attached (Exhibit C).

This matter was reviewed by Deputy City Attorney Linda Vu on June 24, 2015, and by Budget Management Officer Victoria Bell on July 22, 2015.

#### TIMING CONSIDERATIONS

City Council action on this matter is not time critical.

FISCAL IMPACT

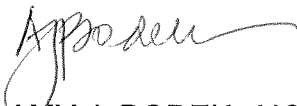
An appropriation increase is requested in the General Grants Fund (SR 120) in the Department of Development Services (DV) by \$69,000. With the implementation of the amended Cultural Heritage Commission Ordinance, the Department of Development Services would incur costs for a third-party, professional survey that evaluates and documents a property's or district's qualifications for landmark designation. The average cost of a landmark survey for a property is \$1,500. Planning staff anticipates that six properties could be evaluated for landmark status annually, resulting in a cost of \$9,000. In addition, three potential historic districts could be evaluated annually. The estimated annual cost for the three historic district surveys is \$60,000. The total annual cost of the surveys, estimated at \$69,000, would be funded from a mitigation payment made by the Camden Development related to the removal of the Loof's structure formerly on the site of the multi-family residential complex. These funds are designated for historic preservation purposes.

There is no local job impact as a result of this recommended action.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



AMY J. BODEK, AICP  
DIRECTOR OF DEVELOPMENT SERVICES

AJB: LT

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Attachments: Exhibit A - Draft CHC Ordinance – Version A (CHC Recommended)  
Exhibit B - Draft CHC Ordinance – Version B (Staff Recommended)  
Exhibit C - Current CHC Ordinance

APPROVED:

  
PATRICK H. WEST  
CITY MANAGER

City of Long Beach

**Chapter 2.63 CULTURAL HERITAGE COMMISSION**

2.63.010 Purpose.

2.63.020 Definitions.

2.63.030 Created--Members.

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2.63.050 Criteria for designation of landmarks and landmark districts.

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2.63.120 Penalties.

2.63.130 Incentives for preserving cultural resources.

**2.63.010 Purpose.**

It is declared that the recognition, preservation, protection, and use of cultural resources are necessary to the health, property, social and cultural enrichment and general welfare of the people. The purpose of this Chapter is:

- A. To protect, enhance and perpetuate districts, buildings, structures, natural features, works of art, signs and other similar objects that are reminders of past eras, events and persons important in local, State or national history, or that provide significant examples of architectural styles of the past, or that are

unique and irreplaceable assets to the City and its neighborhoods, or that provide for this and future generations significant examples of the physical surroundings in which past generations lived;

- B. To develop and maintain appropriate settings and environments for cultural resources;
- C. To increase the economic and financial benefits to the City and its inhabitants by promoting the City's tourist trade, thereby stimulating local business and industry;
- D. To enhance the visual character of the City through the preservation and rehabilitation of varied building types and styles that reflect the City's cultural, social, economic, political and architectural history;
- E. To encourage the rehabilitation, restoration and adaptive reuse of cultural resources using the best practices in the field of historic preservation principles;
- F. To promote public understanding and appreciation of the unique architectural and cultural heritage of the City through educational programs; and
- G. To strengthen civic pride in the beauty and notable accomplishments of the City's past, and thereby encourage community involvement in the City's future.

#### **2.63.020 Definitions.**

- A. "Alteration" means physical change to a district, building, structure, natural feature, work of art, sign or similar object subject to the provisions of this Chapter.
- B. "Applicant" means a person, persons, association, partnership, corporation or other business entity who applies for a certificate of appropriateness in order to undertake any modification to property subject to this Chapter.
- C. "Archaeology" or "archeology" means the scientific study of the remains of past people and cultures as may be evidenced by artifacts, sites, implements, inscriptions, relics, etc.
- D. "Certificate of appropriateness" means a written authorization issued pursuant to this Chapter to accomplish any modification to a landmark or property within a landmark district.
- E. "City" means the City of Long Beach.

- F. "Contributing Property" means a property within a landmark district that was present during the period of significance and retains integrity.
- G. "Cultural resource" means district, building, structure, natural feature, work of art, sign and other similar objects having a special historical, cultural, archeological, architectural or aesthetic value.
- H. "Days" means consecutive calendar days unless otherwise specified.
- I. "Director" means the Director of the Development Services Department, or his or her designee.
- J. "Facade Easement" means a voluntary legal agreement between a property owner and qualified organization to protect a significant cultural resource.
- K. "Improvement" means any building, structure, work of art, sign or similar object constituting a physical addition to real property or any part of such addition.
- L. "Integrity" means the ability of the cultural resource to convey its significance, defined by a combination of the following qualities: location, design, setting, materials, workmanship, feeling and association.
- M. "Landmark" means any property or improvement, manmade or natural, that has special historical, cultural, archeological, architectural or aesthetic value as part of the heritage of the City, State or United States and has been designated as a landmark pursuant to the provisions of this Chapter.
- N. "Landmark district" means any grouping of related properties that has a special historical, cultural, archeological, architectural or aesthetic value as part of the heritage of the City, State or United States and has been designated as a landmark district pursuant to the provisions of this Chapter.
- O. "Member" means any member of the Cultural Heritage Commission.
- P. "Mills Act" means the program implemented by the City of Long Beach to provide a financial incentive for property owners to undertake restoration, rehabilitation, or maintenance of a landmark property.
- Q. "Modification" means any alteration, demolition, removal, or construction of any improvement or natural feature subject to the provisions of this Chapter.
- R. "Natural feature" means any tree, plant life or geological element subject to provisions of this Chapter.

- S. "Ordinary repairs and maintenance" means any work done on any improvements or replacement of any part of an improvement for which a building permit is not required by law and where the purpose and effect of such work or replacement is to correct any deterioration, decay or damage to such improvement in order to restore it to original condition prior to the occurrence of such deterioration, decay or damage.
- T. "Owner" means the person, persons, association, partnership, corporation or other business entity appearing as the owner of such improvement, natural feature or property on the last equalized assessment roll of the County.
- U. "Period of Significance" means the period the resource achieved significance.
- V. "Person" means any individual, association, partnership, firm, corporation, public agency or political division.
- W. "Relocation" means moving a building, structure, work of art, sign or similar object from one site to another.

#### **2.63.030 Created--Members.**

- A. A Cultural Heritage Commission is created by this Chapter whose purpose shall be to recognize, protect and promote the retention, maintenance and use of landmarks and landmark districts in the City in accordance with this Chapter. Said Commission shall consist of seven (7) members who shall serve without compensation and who are residents of the City who have manifested a knowledge and interest in the preservation of the City's cultural heritage.
- B. Commission members shall be appointed from the disciplines of architecture, urban design, history, architectural history, urban planning, archeology or other historic preservation related disciplines, such as American studies, American civilization, cultural geography or cultural anthropology, to the extent that such professionals are available in the community. Commission membership shall also include lay members who have special interest or concern in, or who have demonstrated competence, experience or knowledge in historic preservation or related disciplines.
- C. The term of office and the number of terms of office of the members of the Commission shall be in accordance with and pursuant to the provisions of Chapter 2.18, as the provisions of Chapter 2.18 are presently worded or hereafter amended.



## **2.63.040 Duties.**

The Cultural Heritage Commission shall have the following powers and duties:

- A. To recommend to the City Council that specific districts, buildings, structures, natural features, works of art, signs or similar objects having a special historical, cultural, archeological, architectural, or aesthetic value as part of the heritage of the City, be designated as a landmark or landmark district;
- B. To review any proposed modifications to landmarks or to a contributing building or structure within a landmark district, and to issue or deny a certificate of appropriateness thereon;
- C. To encourage public interest in the preservation of cultural resources in the City;
- D. To compile, maintain and update a local register of landmarks and landmark districts and to publicize and periodically update the City's cultural resource survey;
- E. To review and comment for advisory purposes only upon the conduct of land use, housing, redevelopment, public works and other types of planning and programs undertaken by any agency of the City, County, State or nation, within the City of Long Beach, as they relate to the cultural heritage of the City;
- F. Upon authorization of the City Council, coordinate and cooperate with local, County, State and federal governments in pursuit of the Commission's purposes;
- G. Subject to the consent of the City Council, recommend acceptance of gifts, grants and facade easement donations consistent with the purposes for which the Commission was established;
- H. To make and adopt, and from time to time amend, rules and procedures governing the conduct of its business and provide for the administration of this Chapter consistent with Chapter 2.18 of this code;
- I. To assume whatever responsibilities and duties may be assigned to it by the State under certified local government provisions of the National Historic Preservation Act of 1966, as amended; and
- J. To perform any other functions consistent with the purposes herein that may be directed by the City Council.

## **2.63.050 Criteria for designation of landmarks and landmark districts.**

### **A. Landmarks.**

A cultural resource qualifies for designation as a landmark if it retains integrity and manifests one (1) or more of the following criteria:

1. It is associated with events that have made a significant contribution to the broad patterns of our history; or
2. It is associated with the lives of persons significant in the City's past; or
3. It embodies the distinctive characteristics of a type, period or method of construction, or it represents the work of a master or it possess high artistic values; or
4. It has yielded, or may be likely to yield, information important in prehistory or history.

### **B. Landmark Districts.**

A group of cultural resources qualify for designation as a landmark district if it retains integrity as a whole and meets the following criteria:

1. The grouping represents a significant and distinguishable entity that is significant within a historic context; and
2. A minimum of 60 percent of the properties within the boundaries of the proposed landmark district qualify as a contributing property.

## **2.63.060 Procedures for designation of a landmark.**

The Cultural Heritage Commission may recommend the designation of a landmark either upon its own nomination or upon nomination by any interested group or individual including the owner or occupant of the property proposed for such designation.

### **A. Nomination for the designation of a landmark.**

Nomination of a resource for landmark designation shall be submitted to the Development Services Department for review in the manner prescribed in this Section.

1. Nomination application. A nomination shall be filed by submitting a completed application on a form provided by the Development Services Department.

2. Application Fee. A filing fee shall accompany each application in the amount set forth in the fee schedule adopted by City Council resolution.
3. Application review. Staff reviews the application for completeness.
  - a. If the application is deemed incomplete, staff contacts the applicant for additional information.
  - b. If the application is deemed complete, staff:
    - i. Schedules the nomination for a public hearing on the next available agenda of the Cultural Heritage Commission, but no more than 60 days after the application is deemed complete;
    - ii. Notifies the affected property owner and the occupants of the property consistent with City noticing requirements; and
    - iii. Prepares a recommendation report for final action. The report shall include a discussion of the relationship of the proposed landmark to the General Plan, its effect on the surrounding neighborhood and any other planning or historic preservation considerations that may be relevant to the proposed designation.

B. Review of the landmark nomination.

1. The Cultural Heritage Commission shall review the nomination at a duly noticed public hearing and make a recommendation to the City Council based upon findings of fact pertaining to the designation criteria in this Chapter.
2. Final action recommending approval or disapproval of a nominated landmark shall be by a majority vote of the Commission.
3. The City Council shall consider the nomination as soon as practical after receiving the Cultural Heritage Commission's recommendation, and shall approve by ordinance (in whole or in part) or disapprove the nomination. The ordinance designating a landmark shall include a description of the particular characteristics that justify the designation; set forth the reasons relative to the designation criteria; and delineate the location and boundaries of the landmark.
4. Notice of the City Council's decision shall be sent to the Cultural Heritage Commission, the applicant, and the owner of the subject property.

C. Declaration of a landmark designation.

1. A certified copy of such ordinance shall be recorded in the Office of the County Recorder by the City Clerk immediately following its effective date. The ordinance to be recorded shall contain a legal description of the property, the date and substance of the designation, a statement explaining that the demolition, alteration or relocation of the property is restricted, and a reference to this Section authorizing the recordation.
2. The property included in the designation ordinance shall upon designation be subject to the controls and standards set forth in this Chapter.

D. Interim protection for properties while nomination is under review.

Once a nomination has been deemed complete, and while the Cultural Heritage Commission's public hearing and the decision by the City Council on their recommendation is pending, no permits for the alteration, demolition or removal of improvements on the property nominated for landmark status may be issued, provided that the prohibitions shall terminate on the one hundred eighty first day following the application being deemed complete, and provided that, notwithstanding the provisions of this Subsection D, requests for building permits which the Director of Development Services determines will have no adverse effect on the architectural character of the nominated property, and which meets the criteria for approval of certificates of appropriateness and the procedure set forth in Section 2.63.080, may be approved during the pendency of review of the subject nomination.

- E. The record owner of real property designated as a landmark, or the record owner of a historically significant contributing property within a landmark district, or the City, on its own initiative, may petition to withdraw from designated status provided the same procedure described above to cause such designation is followed. Any owner of designated property that petitions for withdrawal from designated status shall furnish the materials required in Subsection C of this Section and shall pay such fee as established by the City Council by resolution; provided, that in no case may real property be withdrawn from designated status unless it has lost those contributing qualities that led to its initial designation and the City Council, upon recommendation of the Cultural Heritage Commission and the Planning Commission, by resolution so finds.

F. Rescinding or amending a landmark designation.

1. The procedures for rescinding or amending the designation of a landmark shall comply with the provisions of Section 2.63.060.A through 2.63.060.C to designate a landmark.
2. In rescinding or amending the designation of a landmark, the Cultural Heritage Commission shall determine that any of the provisions of 2.a. through 2.c. of this section are applicable, or that 2.d. of this section are applicable to the designated landmark.
  - a. The information in the landmark nomination was erroneous and the property is not significant and does not retain integrity.
  - b. New information contradicts the information in the landmark nomination and the property is not significant and does not retain integrity.
  - c. The landmark has been altered since it was designated and no longer retains integrity.
  - d. The landmark has been demolished.
3. Notice of the rescission of or amendment to a designation shall be mailed to the owner of record of the subject property. The City Clerk shall file for removal of the recordation with the Office of the County Recorder.

**2.63.070 Procedures for designation of a landmark district.**

The Cultural Heritage Commission may recommend the designation of a landmark district either upon nomination by a neighborhood group or owner of property in the proposed historic district. Nominations for landmark districts are processed as set forth in A. through C. of this Section.

A. Nomination for the designation of a landmark district.

Nomination of a resource for landmark district designation shall be submitted to the Development Services Department for processing as prescribed below.

1. Nomination application. The nomination for a landmark district shall be filed with the Development Services Department on an application form provided by the Department. The application shall include:
  - a. A petition that a majority of the property owners within the boundaries of the proposed landmark district support the designation.
  - b. A map with the boundaries of the proposed landmark district.

- c. Evidence that the proposed landmark district meets the designation criteria.
- 2. Application Fee. A filing fee shall accompany each application in the amount set forth in the fee schedule adopted by City Council resolution.
- 3. Application review. Staff reviews the application for completeness.
  - a. If the application is deemed incomplete, staff contacts the applicant for additional information.
  - b. If the application is deemed complete, staff:
    - i. Conducts a workshop for the affected property owners and the occupants of the properties on landmark district designation;
    - ii. Makes a preliminary determination regarding the eligibility of the proposed landmark district;
    - iii. If the proposed landmark district appears to meet the designation criteria in this Chapter, the Director of Development Services authorizes staff to prepare a historic resources survey. The survey shall be conducted according to the methodology established by the State Office of Historic Preservation.
    - iv. Schedules the nomination, including the historic resources survey, for a public hearing on the next available agenda of the Cultural Heritage Commission, but no more than 60 days after the application is deemed complete;
    - v. Notifies the affected property owners and occupants of the public hearing consistent with City noticing requirements.
    - vi. Prepares a recommendation report for final action. The report shall include a discussion of the relationship of the proposed landmark district to the General Plan, its effect on the surrounding neighborhood and any other planning or historic preservation considerations that may be relevant to the proposed designation.

B. Review of landmark district nomination.

- 1. Upon completion of the historic resources survey, the Cultural Heritage Commission shall conduct a public hearing to review the nomination and make a recommendation to the City Council based upon findings of fact pertaining to the designation criteria in this Chapter.

2. Final action recommending approval or disapproval of a nominated Landmark District shall be by a majority vote of the Cultural Heritage Commission.
3. Within 60 days of receipt of the Cultural Heritage Commission's recommendation, the City Council shall consider the recommendation at a public hearing, and by ordinance approve (in whole or in part) or disapprove the nomination. The ordinance designating a landmark district shall include a description of the unifying characteristics that justify the designation; set forth the reasons for the designation relative to the designation criteria; establish the period of significance; delineate the boundaries of the district; and identify the contributing and noncontributing properties.
4. Notice of the City Council's decision shall be sent to the Cultural Heritage Commission, the applicant, and the owners of the properties within the landmark district.

C. Declaration of landmark district designation.

1. A certified copy of the ordinance shall be recorded in the Office of the County Recorder by the City Clerk immediately following its effective date. The ordinance to be recorded shall contain a legal description of the subject properties, the date and substance of the designation, a statement explaining that the demolition, alteration or relocation of cultural resources within the landmark district is restricted, and a reference to this Section authorizing the recordation.
2. The properties included in the designation ordinance shall upon designation be subject to the controls and standards set forth in this Chapter.

D. Interim protection for properties while a nomination is under review.

Once a nomination has been deemed complete, and while the Cultural Heritage Commission's public hearing and the decision by the City Council on their recommendation is pending, no permits for the alteration, demolition or removal of improvements on the property nominated for landmark status may be issued, provided that the prohibitions shall terminate on the one hundred eighty first day following the application being deemed complete, and provided that, notwithstanding the provisions of this Subsection D, requests for building permits which the Director of Development Services determines will have no adverse effect on the architectural character of the nominated property, and which meets the criteria for approval of certificates of appropriateness and the procedure set forth in Section 2.63.080, may be approved during the pendency of review of the subject nomination.

E. Rescinding or amending a landmark district designation.

1. The procedures for rescinding or amending the designation of a landmark district shall comply with Section 2.63.070.A through 2.63.070.C.
2. In rescinding or amending the designation of a landmark district, the Cultural Heritage Commission shall determine that one or more of the provisions of sections a. through g. below are applicable:
  - a. The information in the historic resource survey of the landmark district was erroneous and the area is not significant and does not retain integrity.
  - b. New information contradicts the information in the landmark district nomination and the area is not significant and does not retain integrity.
  - c. The boundaries of the landmark district should be changed so that a minimum of 60 percent of the properties within the boundaries qualify as contributing properties.
  - d. The period of significance of the landmark district should be changed to accurately reflect the reasons that justified its designation.
  - e. A property has been altered since it was designated and no longer retains integrity. Therefore the status of the property should be changed from contributing to noncontributing.
  - f. The historic character of a property has been restored since it was designated. Therefore the status should be changed from noncontributing to contributing.
  - g. A contributing property has been demolished. Therefore the status of that structure should be changed to noncontributing.
3. Notice of the rescission of, or amendment to, a designation shall be mailed to the owner of record of the subject property. The City Clerk shall file for the revision of the ordinance recorded with the Office of the County Recorder.

**2.63.080 Procedures and criteria for issuance of a certificate of appropriateness.**

- A. No person owning, renting or occupying property that has been designated a landmark or situated in a landmark district, shall make any modification to such property unless a certificate of appropriateness has been issued authorizing such modification. All modifications made to landmarks or properties within landmark districts require a certificate of appropriateness whether or not the alteration, demolition, removal or construction of such property requires a City permit.



B. The Cultural Heritage Commission shall be responsible for considering and issuing certificates of appropriateness for landmarks pursuant to the provisions of this Chapter; and also for substantial alterations made to contributing structures, buildings or sites within a landmark district. For the purposes of this Section, "substantial alterations" shall mean an alteration that jeopardizes a structure's individual eligibility as a contributing structure on the National Register of Historic Places, or its status as a contributing structure within a landmark district, or the California Register of Historical Resources, such as, but not limited to:

1. The addition, removal, alteration or substitution of defining architectural features, such that the building or structure is incapable of yielding important historical information about its period, including changes to the exterior siding (unless siding is replaced with siding of similar size and appearance), roof pitch, fenestration and the compatibility of additions in terms of general scale, massing, and materials.
2. Isolation of a property or alteration of its setting such that the historic character and integrity are no longer reflected in the site. Examples may include the introduction of parking lots, removal of subsidiary buildings, or relocation of a structure from its original site.
3. Use of surface cleaning or maintenance methods which endanger the building, structure, or object's historic building materials, such as sandblasting and improper masonry repointing.

The Director of Development services shall be responsible for considering and issuing certificates of appropriateness within landmark districts in all other instances, including but not limited to, the replacement of windows and doors (including screen doors) with like materials (e.g., wood window changed with wood or wood clad window of similar aesthetics); replacement or repair of siding similar in size and appearance; replacement or repair of a porch or primary entry to the building or structure; replacement or repair of garage doors that are visible from the public right of way or installation or repair of rain gutters.

C. An application for a certificate of appropriateness shall be filed with the Cultural Heritage Commission or Director of Development Services, as appropriate. The application shall contain all facts and information necessary to properly consider the matter. The applicant shall also pay such fee as is established by resolution of the City Council.

D. The Cultural Heritage Commission or, as appropriate, the Director of Development Services, shall only issue a certificate of appropriateness if it is determined that the proposed modification:

1. Will not adversely affect any significant historical, cultural, architectural or aesthetic feature of the landmark or subject property within the

landmark district and that issuance of the certificate of appropriateness is consistent with the spirit and intent of this Chapter;

2. Will remedy any condition determined to be imminently dangerous or unsafe by the Fire Marshal and/or Building Official;
  3. Will comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.
  4. Will comply with the Design Guidelines for Landmark Districts, for a property located within a landmark district.
- E. If the Cultural Heritage Commission or, if authorized, the Director of Development Services, determines that the proposed modification will adversely affect any significant historical, cultural, architectural or aesthetic feature of the landmark or concerned property within a landmark district, the certificate of appropriateness shall be denied. If the Commission or the Director of Development Services finds that the adverse effects can be overcome by minor modifications to the application, a certificate of appropriateness with conditions may be issued.
- F. Once a certificate of appropriateness is issued, the applicant may proceed with the proposed modification, provided all other requirements of the City are met.
- G. The California State Historical Building Code, which is defined as Sections 18950 to 18961 of Division 13, Part 2.7 of the Health and Safety Code, shall be used for any landmark or contributing property within a landmark district through the City's building permit procedure.
- H. The provisions of this Section shall not be construed so as to prevent the ordinary maintenance and repair of any exterior feature of a landmark or property within a landmark district; or to prevent the construction, reconstruction, alteration, restoration or demolition of any feature which is necessary to remedy an immediately unsafe or dangerous condition as determined by the Fire Marshall and/or Building Official excluding orders issued pursuant to Chapter 18.68 of this Code. In such cases, the work must be approved by the Director of Development Services, and no certificate of appropriateness shall be required.

The Director of Development Services shall determine whether or not the proposed work, alteration, construction or improvement constitutes ordinary maintenance and repair and is therefore exempt from the certificate of appropriateness requirement established by this Chapter.

- I. Notwithstanding any other provisions of this Chapter, a certificate of appropriateness shall become void unless construction relating to the modification is commenced within twelve (12) months of the date of issuance. Certificates of appropriateness may be renewed for a twelve (12) month period by applying to the Cultural Heritage Commission staff or to the Director of Development Services. If the modification is not completed within twelve (12) months after the expiration of the last building permit, a new certificate of appropriateness shall be required.

#### **2.63.090 Hearings and determinations.**

All hearings conducted by the Cultural Heritage Commission and determinations by the Director of Development Services shall be conducted in accordance with the provisions of this Chapter and in the following manner:

- A. For public hearings to be conducted by the Cultural Heritage Commission, notice shall be consistent with current city noticing requirements set forth in Chapter 21.21.302.
- B. The Director of Development Services shall consider all applications for certificates of appropriateness within his/her jurisdiction as set forth in Section 2.63.080. Determinations shall be made within forty-five (45) days after the applicant has submitted an application and the Director determines it to be complete. The Director has authority to approve, conditionally approve or deny an application. Determinations made pursuant to this Subsection shall not require a formal hearing or notice. In making his/her determination the Director shall make written findings in accordance with the criteria set forth in Subsections 2.63.080.D. and E. Rather than act on an application for a certificate of appropriateness within his/her jurisdiction, the Director of Development Services may, in his/her sole discretion, refer the application to the Cultural Heritage Commission for its determination. In such case the procedures set forth in Subsection 2.63.090.A. shall apply.
- C. After considering all of the testimony and evidence submitted, the Cultural Heritage Commission shall render its decision within ten (10) calendar days of the hearing. The decision shall be in writing and shall include findings of fact, a summary of the relevant evidence, a statement of issues and a decision. A copy of the decision shall be provided to the applicant and to any other person who has requested it. All hearings shall be conducted and decisions rendered no later than ninety (90) days from the date that an application has been deemed complete by the Director of Development Services.

#### **2.63.100 Appeals.**

Any person aggrieved by the denial or approval of a certificate of appropriateness may appeal such denial or approval in the following manner:

- A. The appellant may file a notice of appeal, in writing, with the Department of Development Services within ten (10) calendar days after issuance of the written decision to deny or approve the application for a certificate of appropriateness. The appeal shall be filed on a form prescribed by the Development Services Department and accompanied by payment of the appeal fee as established by resolution of the City Council. The appeal shall, in the case of a decision of the Cultural Heritage Commission, be heard by the Planning Commission, or in the case of a determination by the Director of Development Services, by the Cultural Heritage Commission. The appeal hearing shall be conducted no later than forty-five (45) days after the notice of appeal has been filed and deemed complete. Notice of the appeal hearing shall be provided to the appellant, the applicant, and to any person who has requested in writing that such notice be provided. Notice of the appeal hearing shall also be posted at the subject site at least fourteen (14) days prior to the hearing in a form and manner deemed appropriate by the Director of Development Services.
- B. The appeal body may affirm, reverse or modify the action of the Cultural Heritage Commission or the Director of Development Services and may affix whatever conditions of approval it deems reasonably necessary.
- C. The decision of the Cultural Heritage Commission or the Planning Commission on appeal shall be final. Pursuant to California Code of Civil Procedure Section 1094.6, the time within which to seek judicial review of the final decision is ninety (90) days after the date the decision becomes final. The decision becomes final as of the date the appeal hearing is conducted and a decision is rendered.

#### **2.63.110 Easements and development rights.**

This Chapter shall empower the City to acquire facade easements or development rights to landmarks or contributing properties within a landmark district through purchase, donation or condemnation. The easement or development rights shall be designed to run with the land in order to preserve or maintain the significant features of the subject property.

#### **2.63.120 Penalties.**

- A. Any person who knowingly violates a requirement of this Chapter or knowingly fails to obey a lawful order issued by the Cultural Heritage Commission or the Director of Development Services, or to comply with a condition of approval of any certificate or permit issued under this Chapter shall be guilty of a misdemeanor and subject to provisions of Section 1.32.010 of this Code.

- B. Any person who constructs, alters, removes or demolishes a designated landmark or contributing property within a designated landmark district in violation of this Chapter shall be required to restore the building, object, site or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City or any other interested party. The civil remedy may be in addition to, and not in lieu of, any criminal prosecution and penalty and other remedy provided by law.
- C. Any person who constructs, alters, removes or demolishes a designated landmark or contributing property within a designated landmark district in violation of this Chapter may be subject to an administrative citation for each violation in accordance with Chapter 9.65 of this Code. As part of any enforcement proceeding, violators may be required to restore the building, object, site or structure to its appearance or setting prior to the violation.
- D. Every landmark or contributing property within a landmark district shall be maintained in good repair by the owner or person who is legally responsible for the property in order to prevent its deterioration or decay.

#### **2.63.130 Incentives for preserving cultural resources.**

Preservation incentives shall be made available to owners of properties that are landmarks or contributing to a landmark district, as appropriate, through:

- A. Variances for height or setbacks consistent with existing structures.
- B. Waivers from requirements for covered parking or parking spaces.
- C. Mills Act Historic Property Contracts.
- D. Adaptive Reuse Ordinance.
- E. Building permits issued under the California State Historical Building Code.

City of Long Beach

**Chapter 2.63 CULTURAL HERITAGE COMMISSION**

2.63.010 Purpose.

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2.63.130 Incentives for preserving cultural resources.

**2.63.010 Purpose.**

It is declared that the recognition, preservation, protection, and use of cultural resources are necessary to the health, property, social and cultural enrichment and general welfare of the people. The purpose of this Chapter is:

- A. To protect, enhance and perpetuate districts, buildings, structures, natural features, works of art, signs and other similar objects that are reminders of past eras, events and persons important in local, State or national history, or that provide significant examples of architectural styles of the past, or that are

unique and irreplaceable assets to the City and its neighborhoods, or that provide for this and future generations significant examples of the physical surroundings in which past generations lived;

- B. To develop and maintain appropriate settings and environments for cultural resources;
- C. To increase the economic and financial benefits to the City and its inhabitants by promoting the City's tourist trade, thereby stimulating local business and industry;
- D. To enhance the visual character of the City through the preservation and rehabilitation of varied building types and styles that reflect the City's cultural, social, economic, political and architectural history;
- E. To encourage the rehabilitation, restoration and adaptive reuse of cultural resources using the best practices in the field of historic preservation principles;
- F. To promote public understanding and appreciation of the unique architectural and cultural heritage of the City through educational programs; and
- G. To strengthen civic pride in the beauty and notable accomplishments of the City's past, and thereby encourage community involvement in the City's future.

#### **2.63.020 Definitions.**

- A. "Alteration" means physical change to a district, building, structure, natural feature, work of art, sign or similar object subject to the provisions of this Chapter.
- B. "Applicant" means a person, persons, association, partnership, corporation or other business entity who applies for a certificate of appropriateness in order to undertake any modification to property subject to this Chapter.
- C. "Archaeology" or "archeology" means the scientific study of the remains of past people and cultures as may be evidenced by artifacts, sites, implements, inscriptions, relics, etc.
- D. "Certificate of appropriateness" means a written authorization issued pursuant to this Chapter to accomplish any modification to a landmark or property within a landmark district.
- E. "City" means the City of Long Beach.

- F. "Contributing Property" means a property within a landmark district that was present during the period of significance and retains integrity.
- G. "Cultural resource" means district, building, structure, natural feature, work of art, sign and other similar objects having a special historical, cultural, archeological, architectural or aesthetic value.
- H. "Days" means consecutive calendar days unless otherwise specified.
- I. "Director" means the Director of the Development Services Department, or his or her designee.
- J. "Facade Easement" means a voluntary legal agreement between a property owner and qualified organization to protect a significant cultural resource.
- K. "Improvement" means any building, structure, work of art, sign or similar object constituting a physical addition to real property or any part of such addition.
- L. "Integrity" means the ability of the cultural resource to convey its significance, defined by a combination of the following qualities: location, design, setting, materials, workmanship, feeling and association.
- M. "Landmark" means any property or improvement, manmade or natural, that has special historical, cultural, archeological, architectural or aesthetic value as part of the heritage of the City, State or United States and has been designated as a landmark pursuant to the provisions of this Chapter.
- N. "Landmark district" means any grouping of related properties that has a special historical, cultural, archeological, architectural or aesthetic value as part of the heritage of the City, State or United States and has been designated as a landmark district pursuant to the provisions of this Chapter.
- O. "Member" means any member of the Cultural Heritage Commission.
- P. "Mills Act" means the program implemented by the City of Long Beach to provide a financial incentive for property owners to undertake restoration, rehabilitation, or maintenance of a landmark property.
- Q. "Modification" means any alteration, demolition, removal, or construction of any improvement or natural feature subject to the provisions of this Chapter.
- R. "Natural feature" means any tree, plant life or geological element subject to provisions of this Chapter.



- S. "Ordinary repairs and maintenance" means any work done on any improvements or replacement of any part of an improvement for which a building permit is not required by law and where the purpose and effect of such work or replacement is to correct any deterioration, decay or damage to such improvement in order to restore it to original condition prior to the occurrence of such deterioration, decay or damage.
- T. "Owner" means the person, persons, association, partnership, corporation or other business entity appearing as the owner of such improvement, natural feature or property on the last equalized assessment roll of the County.
- U. "Period of Significance" means the period the resource achieved significance.
- V. "Person" means any individual, association, partnership, firm, corporation, public agency or political division.
- W. "Relocation" means moving a building, structure, work of art, sign or similar object from one site to another.

#### **2.63.030 Created--Members.**

- A. A Cultural Heritage Commission is created by this Chapter whose purpose shall be to recognize, protect and promote the retention, maintenance and use of landmarks and landmark districts in the City in accordance with this Chapter. Said Commission shall consist of seven (7) members who shall serve without compensation and who are residents of the City who have manifested a knowledge and interest in the preservation of the City's cultural heritage.
- B. Commission members shall be appointed from the disciplines of architecture, urban design, history, architectural history, urban planning, archeology or other historic preservation related disciplines, such as American studies, American civilization, cultural geography or cultural anthropology, to the extent that such professionals are available in the community. Commission membership shall also include lay members who have special interest or concern in, or who have demonstrated competence, experience or knowledge in historic preservation or related disciplines.
- C. The term of office and the number of terms of office of the members of the Commission shall be in accordance with and pursuant to the provisions of Chapter 2.18, as the provisions of Chapter 2.18 are presently worded or hereafter amended.

## **2.63.040 Duties.**

The Cultural Heritage Commission shall have the following powers and duties:

- A. To recommend to the City Council that specific districts, buildings, structures, natural features, works of art, signs or similar objects having a special historical, cultural, archeological, architectural, or aesthetic value as part of the heritage of the City, be designated as a landmark or landmark district;
- B. To review any proposed modifications to landmarks or to a contributing building or structure within a landmark district, and to issue or deny a certificate of appropriateness thereon;
- C. To encourage public interest in the preservation of cultural resources in the City;
- D. To compile, maintain and update a local register of landmarks and landmark districts and to publicize and periodically update the City's cultural resource survey;
- E. To review and comment for advisory purposes only upon the conduct of land use, housing, redevelopment, public works and other types of planning and programs undertaken by any agency of the City, County, State or nation, within the City of Long Beach, as they relate to the cultural heritage of the City;
- F. Upon authorization of the City Council, coordinate and cooperate with local, County, State and federal governments in pursuit of the Commission's purposes;
- G. Subject to the consent of the City Council, recommend acceptance of gifts, grants and facade easement donations consistent with the purposes for which the Commission was established;
- H. To make and adopt, and from time to time amend, rules and procedures governing the conduct of its business and provide for the administration of this Chapter consistent with Chapter 2.18 of this code;
- I. To assume whatever responsibilities and duties may be assigned to it by the State under certified local government provisions of the National Historic Preservation Act of 1966, as amended; and
- J. To perform any other functions consistent with the purposes herein that may be directed by the City Council.

## **2.63.050 Criteria for designation of landmarks and landmark districts.**

### **A. Landmarks.**

A cultural resource qualifies for designation as a landmark if it retains integrity and manifests one (1) or more of the following criteria:

1. It is associated with events that have made a significant contribution to the broad patterns of our history; or
2. It is associated with the lives of persons significant in the City's past; or
3. It embodies the distinctive characteristics of a type, period or method of construction, or it represents the work of a master or it possess high artistic values; or
4. It has yielded, or may be likely to yield, information important in prehistory or history.

### **B. Landmark Districts.**

A group of cultural resources qualify for designation as a landmark district if it retains integrity as a whole and meets the following criteria:

1. The grouping represents a significant and distinguishable entity that is significant within a historic context; and
2. A minimum of 60 percent of the properties within the boundaries of the proposed landmark district qualify as a contributing property.

## **2.63.060 Procedures for designation of a landmark.**

The Cultural Heritage Commission may recommend the designation of a landmark either upon its own nomination or upon nomination by any interested group or individual including the owner or occupant of the property proposed for such designation. However, no landmark designation shall be considered without the authorization of the property owner.

### **A. Nomination for the designation of a landmark.**

Nomination of a resource for landmark designation shall be submitted to the Development Services Department for review in the manner prescribed in this Section.

1. Nomination application. A nomination shall be filed by submitting a completed application on a form provided by the Development Services Department and shall include the signature of the property

owner of record, authorizing the property to be considered for landmark designation.

2. Application Fee. A filing fee shall accompany each application in the amount set forth in the fee schedule adopted by City Council resolution.
3. Application review. Staff reviews the application for completeness.
  - a. If the application is deemed incomplete, staff contacts the applicant for additional information.
  - b. If the application is deemed complete, staff:
    - i. Schedules the nomination for a public hearing on the next available agenda of the Cultural Heritage Commission, but no more than 60 days after the application is deemed complete;
    - ii. Notifies the affected property owner and the occupants of the property consistent with City noticing requirements; and
    - iii. Prepares a recommendation report for final action. The report shall include a discussion of the relationship of the proposed landmark to the General Plan, its effect on the surrounding neighborhood and any other planning or historic preservation considerations that may be relevant to the proposed designation.

B. Review of the landmark nomination.

1. The Cultural Heritage Commission shall review the nomination at a duly noticed public hearing and make a recommendation to the City Council based upon findings of fact pertaining to the designation criteria in this Chapter.
2. Final action recommending approval or disapproval of a nominated landmark shall be by a majority vote of the Commission.
3. The City Council shall consider the nomination as soon as practical after receiving the Cultural Heritage Commission's recommendation, and shall approve by ordinance (in whole or in part) or disapprove the nomination. The ordinance designating a landmark shall include a description of the particular characteristics that justify the designation; set forth the reasons relative to the designation criteria; and delineate the location and boundaries of the landmark.

4. Notice of the City Council's decision shall be sent to the Cultural Heritage Commission, the applicant, and the owner of the subject property.

C. Declaration of a landmark designation.

1. A certified copy of such ordinance shall be recorded in the Office of the County Recorder by the City Clerk immediately following its effective date. The ordinance to be recorded shall contain a legal description of the property, the date and substance of the designation, a statement explaining that the demolition, alteration or relocation of the property is restricted, and a reference to this Section authorizing the recordation.
2. The property included in the designation ordinance shall upon designation be subject to the controls and standards set forth in this Chapter.

D. Interim protection for properties while nomination is under review.

Once a nomination has been deemed complete, and while the Cultural Heritage Commission's public hearing and the decision by the City Council on their recommendation is pending, no permits for the alteration, demolition or removal of improvements on the property nominated for landmark status may be issued, provided that the prohibitions shall terminate on the one hundred eighty first day following the application being deemed complete, and provided that, notwithstanding the provisions of this Subsection D, requests for building permits which the Director of Development Services determines will have no adverse effect on the architectural character of the nominated property, and which meets the criteria for approval of certificates of appropriateness and the procedure set forth in Section 2.63.080, may be approved during the pendency of review of the subject nomination.

E. Rescinding or amending a landmark designation.

1. The procedures for rescinding or amending the designation of a landmark shall comply with the provisions of Section 2.63.060.A through 2.63.060.C to designate a landmark.
2. In rescinding or amending the designation of a landmark, the Cultural Heritage Commission shall determine that any of the provisions of 2.a. through 2.c. of this section are applicable, or that 2.d. of this section are applicable to the designated landmark.
  - a. The information in the landmark nomination was erroneous and the property is not significant and does not retain integrity.

- b. New information contradicts the information in the landmark nomination and the property is not significant and does not retain integrity.
  - c. The landmark has been altered since it was designated and no longer retains integrity.
  - d. The landmark has been demolished.
3. Notice of the rescission of or amendment to a designation shall be mailed to the owner of record of the subject property. The City Clerk shall file for removal of the recordation with the Office of the County Recorder.

#### **2.63.070 Procedures for designation of a landmark district.**

The Cultural Heritage Commission may recommend the designation of a landmark district either upon nomination by a neighborhood group or owner of property in the proposed historic district. Nominations for landmark districts are processed as set forth in A. through C. of this Section.

##### **A. Nomination for the designation of a landmark district.**

Nomination of a resource for landmark district designation shall be submitted to the Development Services Department for processing as prescribed below.

1. Nomination application. The nomination for a landmark district shall be filed with the Development Services Department on an application form provided by the Department. The application shall include:
  - a. A petition that a majority of the property owners within the boundaries of the proposed landmark district support the designation.
  - b. A map with the boundaries of the proposed landmark district.
  - c. Evidence that the proposed landmark district meets the designation criteria.
2. Application Fee. A filing fee shall accompany each application in the amount set forth in the fee schedule adopted by City Council resolution.
3. Application review. Staff reviews the application for completeness.
  - a. If the application is deemed incomplete, staff contacts the applicant for additional information.
  - b. If the application is deemed complete, staff:

- i. Conducts a workshop for the affected property owners and the occupants of the properties on landmark district designation;
- ii. Makes a preliminary determination regarding the eligibility of the proposed landmark district;
- iii. If the proposed landmark district appears to meet the designation criteria in this Chapter, the Director of Development Services authorizes staff to prepare a historic resources survey. The survey shall be conducted according to the methodology established by the State Office of Historic Preservation.
- iv. Schedules the nomination, including the historic resources survey, for a public hearing on the next available agenda of the Cultural Heritage Commission, but no more than 60 days after the application is deemed complete;
- v. Notifies the affected property owners and occupants of the public hearing consistent with City noticing requirements.
- vi. Prepares a recommendation report for final action. The report shall include a discussion of the relationship of the proposed landmark district to the General Plan, its effect on the surrounding neighborhood and any other planning or historic preservation considerations that may be relevant to the proposed designation.

B. Review of landmark district nomination.

1. Upon completion of the historic resources survey, the Cultural Heritage Commission shall conduct a public hearing to review the nomination and make a recommendation to the City Council based upon findings of fact pertaining to the designation criteria in this Chapter.
2. Final action recommending approval or disapproval of a nominated landmark district shall be by a majority vote of the Cultural Heritage Commission.
3. Within 60 days of receipt of the Cultural Heritage Commission's recommendation, the City Council shall consider the recommendation at a public hearing, and by ordinance approve (in whole or in part) or disapprove the nomination. The ordinance designating a landmark district shall include a description of the unifying characteristics that justify the designation; set forth the reasons for the designation relative to the designation criteria; establish the period of significance; delineate the boundaries of the district; and identify the contributing and noncontributing properties.

4. Notice of the City Council's decision shall be sent to the Cultural Heritage Commission, the applicant, and the owners of the properties within the landmark district.

C. Declaration of landmark district designation.

1. A certified copy of the ordinance shall be recorded in the Office of the County Recorder by the City Clerk immediately following its effective date. The ordinance to be recorded shall contain a legal description of the subject properties, the date and substance of the designation, a statement explaining that the demolition, alteration or relocation of cultural resources within the landmark district is restricted, and a reference to this Section authorizing the recordation.
2. The properties included in the designation ordinance shall upon designation be subject to the controls and standards set forth in this Chapter.

D. Interim protection for properties while a nomination is under review.

Once a nomination has been deemed complete, and while the Cultural Heritage Commission's public hearing and the decision by the City Council on their recommendation is pending, no permits for the alteration, demolition or removal of improvements on the property nominated for landmark status may be issued, provided that the prohibitions shall terminate on the one hundred eighty first day following the application being deemed complete, and provided that, notwithstanding the provisions of this Subsection D, requests for building permits which the Director of Development Services determines will have no adverse effect on the architectural character of the nominated property, and which meets the criteria for approval of certificates of appropriateness and the procedure set forth in Section 2.63.080, may be approved during the pendency of review of the subject nomination.

E. Rescinding or amending a landmark district designation.

1. The procedures for rescinding or amending the designation of a landmark district shall comply with Section 2.63.070.A through 2.63.070.C.
2. In rescinding or amending the designation of a landmark district, the Cultural Heritage Commission shall determine that one or more of the provisions of sections a. through g. below are applicable:
  - a. The information in the historic resource survey of the landmark district was erroneous and the area is not significant and does not retain integrity.



- b. New information contradicts the information in the landmark district nomination and the area is not significant and does not retain integrity.
  - c. The boundaries of the landmark district should be changed so that a minimum of 60 percent of the properties within the boundaries qualify as contributing properties.
  - d. The period of significance of the landmark district should be changed to accurately reflect the reasons that justified its designation.
  - e. A property has been altered since it was designated and no longer retains integrity. Therefore the status of the property should be changed from contributing to noncontributing.
  - f. The historic character of a property has been restored since it was designated. Therefore the status should be changed from noncontributing to contributing.
  - g. A contributing property has been demolished. Therefore the status of that structure should be changed to noncontributing.
3. Notice of the rescission of, or amendment to, a designation shall be mailed to the owner of record of the subject property. The City Clerk shall file for the revision of the ordinance recorded with the Office of the County Recorder.

**2.63.080 Procedures and criteria for issuance of a certificate of appropriateness.**

- A. No person owning, renting or occupying property that has been designated a landmark or situated in a landmark district, shall make any modification to such property unless a certificate of appropriateness has been issued authorizing such modification. All modifications made to landmarks or properties within landmark districts require a certificate of appropriateness whether or not the alteration, demolition, removal or construction of such property requires a City permit.
- B. The Cultural Heritage Commission shall be responsible for considering and issuing certificates of appropriateness for landmarks pursuant to the provisions of this Chapter; and also for substantial alterations made to contributing structures, buildings or sites within a landmark district. For the purposes of this Section, "substantial alterations" shall mean an alteration that jeopardizes a structure's individual eligibility as a contributing structure on the National Register of Historic Places, or its status as a contributing structure within a landmark district, or the California Register of Historical Resources, such as, but not limited to:
  - 1. The addition, removal, alteration or substitution of defining architectural features, such that the building or structure is incapable of yielding important historical information about its period, including changes to

the exterior siding (unless siding is replaced with siding of similar size and appearance), roof pitch, fenestration and the compatibility of additions in terms of general scale, massing, and materials.

2. Isolation of a property or alteration of its setting such that the historic character and integrity are no longer reflected in the site. Examples may include the introduction of parking lots, removal of subsidiary buildings, or relocation of a structure from its original site.
3. Use of surface cleaning or maintenance methods which endanger the building, structure, or object's historic building materials, such as sandblasting and improper masonry repointing.

The Director of Development services shall be responsible for considering and issuing certificates of appropriateness within landmark districts in all other instances, including but not limited to, the replacement of windows and doors (including screen doors) with like materials (e.g., wood window changed with wood or wood clad window of similar aesthetics); replacement or repair of siding similar in size and appearance; replacement or repair of a porch or primary entry to the building or structure; replacement or repair of garage doors that are visible from the public right of way or installation or repair of rain gutters.

- C. An application for a certificate of appropriateness shall be filed with the Cultural Heritage Commission or Director of Development Services, as appropriate. The application shall contain all facts and information necessary to properly consider the matter. The applicant shall also pay such fee as is established by resolution of the City Council.
- D. The Cultural Heritage Commission or, as appropriate, the Director of Development Services, shall only issue a certificate of appropriateness if it is determined that the proposed modification:
  1. Will not adversely affect any significant historical, cultural, architectural or aesthetic feature of the landmark or subject property within the landmark district and that issuance of the certificate of appropriateness is consistent with the spirit and intent of this Chapter;
  2. Will remedy any condition determined to be imminently dangerous or unsafe by the Fire Marshal and/or Building Official;
  3. Will comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties and Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings.
  4. Will comply with the Design Guidelines for Landmark Districts, for a property located within a landmark district.

- E. If the Cultural Heritage Commission or, if authorized, the Director of Development Services, determines that the proposed modification will adversely affect any significant historical, cultural, architectural or aesthetic feature of the landmark or concerned property within a landmark district, the certificate of appropriateness shall be denied. If the Commission or the Director of Development Services finds that the adverse effects can be overcome by minor modifications to the application, a certificate of appropriateness with conditions may be issued.
- F. Once a certificate of appropriateness is issued, the applicant may proceed with the proposed modification, provided all other requirements of the City are met.
- G. The California State Historical Building Code, which is defined as Sections 18950 to 18961 of Division 13, Part 2.7 of the Health and Safety Code, shall be used for any landmark or contributing property within a landmark district through the City's building permit procedure.
- H. The provisions of this Section shall not be construed so as to prevent the ordinary maintenance and repair of any exterior feature of a landmark or property within a landmark district; or to prevent the construction, reconstruction, alteration, restoration or demolition of any feature which is necessary to remedy an immediately unsafe or dangerous condition as determined by the Fire Marshall and/or Building Official excluding orders issued pursuant to Chapter 18.68 of this Code. In such cases, the work must be approved by the Director of Development Services, and no certificate of appropriateness shall be required.

The Director of Development Services shall determine whether or not the proposed work, alteration, construction or improvement constitutes ordinary maintenance and repair and is therefore exempt from the certificate of appropriateness requirement established by this Chapter.

- I. Notwithstanding any other provisions of this Chapter, a certificate of appropriateness shall become void unless construction relating to the modification is commenced within twelve (12) months of the date of issuance. Certificates of appropriateness may be renewed for a twelve (12) month period by applying to the Cultural Heritage Commission staff or to the Director of Development Services. If the modification is not completed within twelve (12) months after the expiration of the last building permit, a new certificate of appropriateness shall be required.

### **2.63.090 Hearings and determinations.**

All hearings conducted by the Cultural Heritage Commission and determinations by the Director of Development Services shall be conducted in accordance with the provisions of this Chapter and in the following manner:

- A. For public hearings to be conducted by the Cultural Heritage Commission, notice shall be consistent with current city noticing requirements set forth in Chapter 21.21.302.
- B. The Director of Development Services shall consider all applications for certificates of appropriateness within his/her jurisdiction as set forth in Section 2.63.080. Determinations shall be made within forty-five (45) days after the applicant has submitted an application and the Director determines it to be complete. The Director has authority to approve, conditionally approve or deny an application. Determinations made pursuant to this Subsection shall not require a formal hearing or notice. In making his/her determination the Director shall make written findings in accordance with the criteria set forth in Subsections 2.63.080.D. and E. Rather than act on an application for a certificate of appropriateness within his/her jurisdiction, the Director of Development Services may, in his/her sole discretion, refer the application to the Cultural Heritage Commission for its determination. In such case the procedures set forth in Subsection 2.63.090.A. shall apply.
- C. After considering all of the testimony and evidence submitted, the Cultural Heritage Commission shall render its decision within ten (10) calendar days of the hearing. The decision shall be in writing and shall include findings of fact, a summary of the relevant evidence, a statement of issues and a decision. A copy of the decision shall be provided to the applicant and to any other person who has requested it. All hearings shall be conducted and decisions rendered no later than ninety (90) days from the date that an application has been deemed complete by the Director of Development Services.

### **2.63.100 Appeals.**

Any person aggrieved by the denial or approval of a certificate of appropriateness may appeal such denial or approval in the following manner:

- A. The appellant may file a notice of appeal, in writing, with the Department of Development Services within ten (10) calendar days after issuance of the written decision to deny or approve the application for a certificate of appropriateness. The appeal shall be filed on a form prescribed by the Development Services Department and accompanied by payment of the appeal fee as established by resolution of the City Council. The appeal shall, in the case of a decision of the Cultural Heritage Commission, be heard by the Planning Commission, or in the case of a determination by the Director of

Development Services, by the Cultural Heritage Commission. The appeal hearing shall be conducted no later than forty-five (45) days after the notice of appeal has been filed and deemed complete. Notice of the appeal hearing shall be provided to the appellant, the applicant, and to any person who has requested in writing that such notice be provided. Notice of the appeal hearing shall also be posted at the subject site at least fourteen (14) days prior to the hearing in a form and manner deemed appropriate by the Director of Development Services.

- B. The appeal body may affirm, reverse or modify the action of the Cultural Heritage Commission or the Director of Development Services and may affix whatever conditions of approval it deems reasonably necessary.
- C. The decision of the Cultural Heritage Commission or the Planning Commission on appeal shall be final. Pursuant to California Code of Civil Procedure Section 1094.6, the time within which to seek judicial review of the final decision is ninety (90) days after the date the decision becomes final. The decision becomes final as of the date the appeal hearing is conducted and a decision is rendered.

#### **2.63.110 Easements and development rights.**

This Chapter shall empower the City to acquire facade easements or development rights to landmarks or contributing properties within a landmark district through purchase, donation or condemnation. The easement or development rights shall be designed to run with the land in order to preserve or maintain the significant features of the subject property.

#### **2.63.120 Penalties.**

- A. Any person who knowingly violates a requirement of this Chapter or knowingly fails to obey a lawful order issued by the Cultural Heritage Commission or the Director of Development Services, or to comply with a condition of approval of any certificate or permit issued under this Chapter shall be guilty of a misdemeanor and subject to provisions of Section 1.32.010 of this Code.
- B. Any person who constructs, alters, removes or demolishes a designated landmark or contributing property within a designated landmark district in violation of this Chapter shall be required to restore the building, object, site or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City or any other interested party. The civil remedy may be in addition to, and not in lieu of, any criminal prosecution and penalty and other remedy provided by law.

- C. Any person who constructs, alters, removes or demolishes a designated landmark or contributing property within a designated landmark district in violation of this Chapter may be subject to an administrative citation for each violation in accordance with Chapter 9.65 of this Code. As part of any enforcement proceeding, violators may be required to restore the building, object, site or structure to its appearance or setting prior to the violation.
- D. Every landmark or contributing property within a landmark district shall be maintained in good repair by the owner or person who is legally responsible for the property in order to prevent its deterioration or decay.

#### **2.63.130 Incentives for preserving cultural resources.**

Preservation incentives shall be made available to owners of properties that are landmarks or contributing to a landmark district, as appropriate, through:

- A. Variances for height or setbacks consistent with existing structures.
- B. Waivers from requirements for covered parking or parking spaces.
- C. Mills Act Historic Property Contracts.
- D. Adaptive Reuse Ordinance.
- E. Building permits issued under the California State Historical Building Code.

## CHAPTER 2.63 - CULTURAL HERITAGE COMMISSION

### FOOTNOTE(S):

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**Note**—Prior ordinance history: Ordinance C-6624.

### 2.63.010 - Purpose.

It is declared that the recognition, preservation, protection and use of cultural resources are necessary to the health, property, social and cultural enrichment and general welfare of the people. The purpose of this Chapter is:

- A. To protect, enhance and perpetuate areas, districts, streets, places, buildings, structures, works of art, natural features and other similar objects which are reminders of past eras, events and persons important in local, State or national history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the City and its neighborhoods, or which provide for this and future generations significant examples of the physical surroundings in which past generations lived.
- B. To develop and maintain appropriate settings and environments for these cultural resources;
- C. To enhance the economic and financial benefits to the City and its inhabitants by promoting the City's tourist trade and interest and thereby stimulating community business and industry;
- D. To intensify the visual and aesthetic character and diversity of the City and thus enhance its identity through the preservation of varied architectural styles which reflect the City's cultural, social, economic, political and architectural history;
- E. To encourage public understanding and appreciation of the unique architectural and environmental heritage of the City through education programs; and
- F. To strengthen civic pride in the beauty and notable accomplishments of the City's past, and thereby to encourage community involvement in the City's future.

(ORD-09-0003, § 1, 2009; Ord. C-6961 § 1 (part), 1992)

### 2.63.020 - Definitions.

- A. "Alteration" means physical change to a place, building, structure, work of art or similar item subject to the provisions of this Chapter.
- B. "Applicant" means a person, persons, association, partnership, corporation, or other business entity who applies for a certificate of appropriateness in order to undertake any environmental change on property subject to this Chapter.
- C. "Archaeology" or "archeology" means the scientific study of the remains of past people and cultures as may be evidenced by artifacts, sites, implements, inscriptions, relics, etc.
- D. "Certificate of appropriateness" means a written authorization issued pursuant to this Chapter to accomplish any environmental change to a landmark or affected structure within a landmark district.
- E. "City" means the City of Long Beach.
- F. "Director" shall mean the Director of Development Services or designee.

- G. "Environmental change" means any alteration, demolition, removal or construction of any improvement or natural feature subject to the provisions of this Chapter.
- H. "Improvement"; means any place, building, structure, work of art or similar object constituting a physical addition to real property or any part of such addition.
- I. "Landmark" means any building, structure, permanent work of art, object, site or improvement, manmade or natural, which has special character or special historical, cultural, architectural, community or aesthetic value as part of the heritage of the City, State, or the United States and which has been designated as a landmark pursuant to the provisions of this Chapter.
- J. "Landmark district" means any designated area which contains a number of structures or natural features having a special character or special historical, cultural, architectural, community or aesthetic value.
- K. "Member" means any member of the Cultural Heritage Commission.
- L. "Natural feature" means any tree, plant life or geological element subject to provisions of this Chapter.
- M. "Ordinary repairs and maintenance" means any work done on any improvements or replacement of any part of an improvement for which a building permit is not required by law and where the purpose and effect of such work or replacement is to correct any deterioration, decay, or damage to such improvement in order to restore it to original condition prior to the occurrence of such deterioration, decay or damage.
- N. "Owner" means the person, persons, association, partnership, corporation or other business entity appearing as the owner of such improvement, natural feature, or site on the last equalized assessment roll of the County.
- O. "Person" means any individual, association, partnership, firm, corporation, public agency or political division.

(ORD-09-0003, § 1, 2009; Ord. C-6961 § 1 (part), 1992)

#### 2.63.030 - Created—Members.

- A. A Cultural Heritage Commission is created by this Chapter whose purpose shall be to recognize, protect and promote the retention, maintenance and use of landmarks and landmark districts in the City in accordance with this Chapter. Said Commission shall consist of seven (7) members who shall serve without compensation and who are residents of the City who have manifested a knowledge and interest in the City's heritage and landmark preservation.
- B. Commission members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, archeology or other historic preservation related disciplines, such as urban planning, American studies, American civilization, cultural geography or cultural anthropology, to the extent that such professionals are available in the community. Commission membership may also include lay members who have special interest in, or who have demonstrated competence, experience, or knowledge in historic preservation or other historic preservation related disciplines.
- C. The term of office and the number of terms of office of the members of the Commission shall be in accordance with and pursuant to the provisions of Chapter 2.18, as the provisions of Chapter 2.18 are presently worded or hereafter amended.

(ORD-09-0003, § 1, 2009; Ord. C-6961 § 1 (part), 1992)

#### 2.63.040 - Duties.

The Cultural Heritage Commission shall have the following powers and duties:



- A. To recommend to the City Planning Commission that specific areas, places, buildings, structures, natural features, works of art or similar objects having a significant historical, cultural, architectural, archaeological, community or aesthetic value as part of the heritage of the City, be designated as a landmark or landmark district; or
- B. To review proposed substantial alterations to a designated landmark or to a contributing building or structure within a designated historic district, and to issue or deny a certificate of appropriateness thereon;
- C. To encourage public interest in cultural preservation in the City;
- D. To compile, maintain and update an informational local register of landmarks and historic districts and to publicize and periodically update the City's cultural resource survey;
- E. To review and comment for advisory purposes only upon the conduct of land use, housing, redevelopment, public works and other types of planning and programs undertaken by any agency of the City, County, State or nation, within the City of Long Beach, as they relate to the cultural heritage of the City;
- F. Upon authorization of the City Council, coordinate and cooperate with local, County, State and federal governments in pursuit of the Commission's purposes;
- G. Subject to the consent of City Council, recommend acceptance by the City of gifts, grants and conservation easement donations consistent with the purposes for which the Commission was established;
- H. To make and adopt, and periodically amend, rules and procedures governing the conduct of its business and provide for the administration of this Chapter consistent with Chapter 2.18 of this Code;
- I. To assume whatever responsibility and duties may be assigned to it by the State under certified local government provisions of the National Historic Preservation Act of 1966, as amended; and
- J. To perform any other functions consistent with the purposes herein that may be directed by the City Council.

(ORD-09-0003, § 1, 2009; Ord. C-6961 § 1 (part), 1992)

#### 2.63.050 - Criteria for designation of landmarks and landmark districts.

A resource may be recommended for designation as a landmark or landmark district if it manifests one (1) or more of the following criteria:

- A. It possesses a significant character, interest or value attributable to the development, heritage or cultural characteristics of the City, the southern California region, the State or the nation; or
- B. It is the site of a historic event with a significant place in history; or
- C. It is associated with the life of a person or persons significant to the community, City, region or nation; or
- D. It portrays the environment in an era of history characterized by a distinctive architectural style; or
- E. It embodies those distinguishing characteristics of an architectural type or engineering specimen; or
- F. It is the work of a person or persons whose work has significantly influenced the development of the City or the southern California region; or
- G. It contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or

- H. It is a part of or related to a distinctive area and should be developed or preserved according to a specific historical, cultural or architectural motif; or
- I. It represents an established and familiar visual feature of a neighborhood or community due to its unique location or specific distinguishing characteristic; or
- J. It is, or has been, a valuable information source important to the prehistory or history of the City, the southern California region or the State; or
- K. 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
- L. In the case of the designation of a tree(s) based on historic significance, that the tree(s) is (are) associated with individuals, places and/or events that are deemed significant based on their importance to national, State and community history; or
- M. In the case of the designation of a tree(s) based on cultural contribution, that the tree(s) is (are) associated with a particular event or adds (add) significant aesthetic or cultural contribution to the community.

(ORD-09-0003, § 1, 2009; Ord. ORD-05-0026 § 1, 2005; Ord. C-6961 § 1 (part), 1992)

#### 2.63.060 - Procedures for designation of landmark or landmark district.

The Cultural Heritage Commission may recommend the designation of a landmark or landmark district either upon its own nomination or upon nomination by any interested group or individual including the owner or occupant of property proposed for such designation. Any nomination which includes a public building shall be submitted to the City Manager for his review. Comments and recommendations resulting from that review may be submitted to the Cultural Heritage Commission. The Commission shall take no further action on the nomination until receipt of the City Manager's comments and recommendations; provided that, if a written report by the City Manager is not received within thirty (30) days of submittal to him, the Cultural Heritage Commission may proceed with its review of the nomination and the formulation of a recommendation relating to the designation of a landmark or landmark district pursuant to the following procedures:

- A. The Cultural Heritage Commission shall, as a part of its review process:
  - 1. Consult with affected property owners;
  - 2. Prepare a preliminary report on the nomination which shall include, among other things:
    - a. Notification of affected City departments including, when public buildings are a part of the nomination, the City Manager;
    - b. Confirmation and verification that the nomination conforms to the requirements of Section 2.63.050 of this Chapter;
    - c. Preliminary research into the character and history of the structure or area proposed for designation; and
    - d. A recommendation for final action by the Commission. If the Commission approves the nominated designation, then upon direction of the Commission, preliminary research, appropriate inventory forms and other supporting data as directed shall be completed as necessary to prepare the matter for final determination by the Commission. Final action recommending approval or disapproval of the nominated landmark or landmark district shall be by a majority vote of the Commission.
- B. If the Cultural Heritage Commission recommends approval, the Commission shall advise the Director of Development Services in writing of the proposed designation of a landmark or landmark district and secure from the Director of Development Services recommendations concerning the relationship of the proposed landmark or landmark district to the general plan of

- the City, its effect on the surrounding neighborhood and any other planning considerations which may be relevant to the proposed designation. If a written report by the Director of Development Services is not received within thirty (30) days of receipt of notice of a proposed designation, the Cultural Heritage Commission may conclude that the Director of Development Services has no objections to the designation and proceed with its consideration. The Cultural Heritage Commission shall acknowledge the recommendations, and incorporate them into their report to be submitted to the City Planning Commission. Included in the Cultural Heritage's Commission's report to the City Planning Commission shall be the Commission's recommended guidelines and standards to be applied to the subject property.
- C. The City Planning Commission shall schedule a public hearing on the proposed designation of a landmark or landmark district as soon as practicable after receiving the proposal from the Cultural Heritage Commission. Written notice shall be placed in the mail to all owners of record of real property within the boundaries of the area proposed for designation and located within the distance specified in Subsection 21.21.302.B.4. of this Code or any successor Section thereto. In those instances where the owners petition the City for such designation, it shall be the petitioners' obligation to furnish a current list of names and legal mailing addresses to the City Development Services Department of all real property owners to be notified and pay such fee as shall be established by separate resolution. When the proposed designation is by City initiative, the Development Services Department shall be responsible for preparing the notification list. The public hearing shall be set for not less than ten (10) days, nor more than thirty (30) days subsequent to the date of written notice.
  - D. Within thirty (30) days after the close of the public hearing, the City Planning Commission shall make its recommendation on the proposed landmark or landmark district designation. These recommendations, together with the specific findings of fact constituting the basis for the Commission's decision shall be transmitted to the City Council.
  - E. The City Council shall consider the matter as soon as practicable after receiving the City Planning Commission's recommendation. If the City Council approves the landmark or landmark district designation, such approval shall be evidenced by ordinance. The City Clerk shall then notify the Director of Development Services of its action in order to ensure compliance with this Chapter.
  - F. The ordinance designating a landmark or landmark district shall include a description of the particular characteristics which justify the designation and which should therefore be preserved; shall set forth the reasons relative to Section 2.63.050 for the designation; shall develop a set of general guidelines to establish standards for future proposed changes, and shall delineate the location and boundaries of the landmark site or landmark district. A certified copy of such ordinance shall be recorded in the office of the County Recorder of the County of Los Angeles by the City Clerk immediately following its effective date.
  - G. The property included in the designation ordinance shall upon designation be subject to the controls and standards set forth in this Chapter.
  - H. The record owner of real property designated as a landmark or the record owner of a historically significant contributing property within a landmark district, or the City, on its own initiative, may petition to withdraw from designated status provided the same procedure described above to cause such designation is followed. Any owner of designated property that petitions for withdrawal from designated status shall furnish the materials required in Subsection C. of this Section and shall pay such fee as established by the City Council by resolution; provided, that in no case may real property be withdrawn from designated status unless it has lost those contributing qualities that led to its initial designation and the City Council, upon recommendation of the Cultural Heritage Commission and the Planning Commission, by resolution so finds.
  - I. Once the Cultural Heritage Commission has approved a nomination for designation proceedings, no permits for the alteration, remodel, enlarging, demolition or removal of a structure or improvement nominated for landmark status as provided in this Section shall be issued during the pendency of a review related thereto; provided, that the prohibition shall terminate on the one hundred eighty-first (181st) day following approval of the nomination for designation proceedings,

and provided that, notwithstanding the provisions of this Subsection I., requests for building permits which the Director of Development Services determines will have no adverse effect on the architectural character of the nominated property, and which meet the guidelines for approval of certificates of appropriateness set forth in Section 2.63.070, may be approved during the pendency of review for nomination.

- J. If the Cultural Heritage Commission fails to transmit a recommendation for landmark designation of any kind to the Planning Commission within sixty (60) days of its action to recommend such designation, any aggrieved or interested party may petition the Cultural Heritage Commission to do so within twenty (20) days of the expiration of said sixty (60) day period. If the recommendation is not transmitted within thirty (30) days after such petition, the nomination for designation shall be deemed null and void and of no further force and effect.
- K. Recordation of landmarks and historic districts. All buildings or structures or areas designated as landmarks or landmark districts by the City Council pursuant to this Chapter shall be so recorded by the City in the office of the Los Angeles County Recorder. The document to be recorded shall contain a legal description of the property or properties, the date and substance of the designation, a statement explaining that the demolition, alteration, or relocation of the structure is restricted, and a reference to this Section authorizing the recordation.

(ORD-09-0003, § 1, 2009; Ord. C-7760 § 1, 2001; Ord. C-6961 § 1 (part), 1992)

2.63.070 - Procedures for administering the certificate of appropriateness.

- A. No person owning, renting or occupying property which has been designated a landmark or which is situated in a designated landmark district, shall make any environmental change to such property unless a certificate of appropriateness has been issued authorizing such environmental change. Except as otherwise set forth in this Chapter, all environmental changes made to designated landmarks, or historically significant properties within landmark districts within the City, require a certificate of appropriateness whether or not the alteration, demolition, removal or construction of such property requires a City permit.
- B. The Cultural Heritage Commission shall be responsible for considering and issuing certificates of appropriateness for those sites or improvements which have been designated as landmarks pursuant to the provisions of this Chapter; and also for substantial alterations made to contributing structures/buildings or sites within a designated historic district. For the purpose of this Section, the term "substantial alteration" shall mean an alteration which jeopardizes a structure's individual eligibility as a contributing structure in the National Register of Historic Places, or its status as a contributing structure within a designated City historic district or in the California Register of Historical Resources, such as, but not limited to:
  - 1. The addition, removal, alteration or substitution of defining architectural features, such that the building/structure is incapable of yielding important historical information about its period, including changes to the following: exterior siding (unless siding is replaced with siding of similar size and appearance), roof pitch, fenestration and the compatibility of additions in terms of general scale, massing and materials.
  - 2. Isolation of a property or alteration of its setting such that the historic character and integrity are no longer reflected in the site. Examples may include the following: introduction of parking lots, removal of subsidiary buildings or relocation of a structure from its original site.
  - 3. Use of surface cleaning or maintenance methods which endanger the building/structure, or object's historic building materials, such as sandblasting and improper masonry repointing.

The Director of Development Services shall be responsible for considering and issuing certificates of appropriateness for buildings/structures within designated landmark districts in all other instances, including, but not limited to; replacement of windows and doors (including screen doors) with like materials (e.g., wood window changed with wood or wood clad window of similar aesthetics);

replacement/repair of siding with siding similar in size and appearance; replacement/repair of a porch or primary entry to the building/structure; replacement/repair of garage doors that are visible from the public right-of-way; or installation/repair of rain gutters.

- C. An applicant for a certificate of appropriateness shall file an application with the Cultural Heritage Commission or Director of Development Services, as appropriate. The application shall contain all facts and information necessary to properly consider the matter. The applicant shall also pay such fee as is established by resolution of the City Council.
- D. The Cultural Heritage Commission or, as appropriate, the Director of Development Services, shall only issue a certificate of appropriateness if it is determined that the proposed environmental change:
  - 1. Will not adversely affect any significant historical, cultural, architectural or aesthetic feature of the concerned property or of the landmark district in which it is located and that issuance of the certificate is consistent with the spirit and intent of this Chapter;
  - 2. Will remedy any condition determined to be imminently dangerous or unsafe by the Fire Department or the Development Services Department;
  - 3. The proposed change is consistent with or compatible with the architectural period of the building;
  - 4. The proposed change is compatible in architectural style with existing adjacent contributing structures in a historic landmark district;
  - 5. The scale, massing, proportions, materials, colors, textures, fenestration, decorative features and details proposed are consistent with the period and/or compatible with adjacent structures;
  - 6. The proposed change is consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings of the U.S. Department of the Interior.
- E. If the Commission, or if authorized, the Director of Development Services, determines that the proposed environmental change will adversely affect any significant historical, cultural, architectural or aesthetic feature of the concerned property or of the landmark district in which it is located, the certificate of appropriateness shall be denied. If the Commission or the Director of Development Services finds that the adverse effects can be overcome by minor modifications to the application, a certificate of appropriateness with conditions may be issued.
- F. Once a certificate of appropriateness is issued, the applicant may proceed with the proposed environmental change provided all other requirements of the City are met.
- G. The California State Historical Building Code provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of qualified historic buildings or structures. This shall include structures on national, State or local historical registers or official inventories, such as the National Register of Historic Places, State historical landmarks, State points of historical interest, and City or County registers or inventories of historical or architecturally significant sites, places, historic districts or landmarks. The California State Historical Building Code, Part 8 of the Uniform Building Code, shall be used for any designated City landmark or contributing historic structure in a designated historic district through the City's building permit procedure.
- H. The provisions of this Section shall not be construed so as to prevent the ordinary maintenance and repair of any exterior feature of a landmark, or building/structure of historic or contributing historical significance within a landmark district; or to prevent the construction, reconstruction, alteration, restoration or demolition of any feature which is necessary to remedy an immediately unsafe or dangerous condition as determined by the Fire Department and/or Development Services Department, excluding orders issued pursuant to Chapter 18.68 of this Code. In such cases, the work must be approved by the Director of Development Services, and no certificate of appropriateness shall be required. Examples of this work shall include, but not be limited to the following:
  - 1. Construction, demolition or alteration of side and rear yard fences that does not alter the historical appearance or historical integrity of the structure;

2. Construction, demolition or alteration of front yard fences that does not alter the historical appearance or historical integrity of the structure;
3. Repairing or repaving of flat concrete work in the side and rear yard that does not alter the historical appearance or historical integrity of the structure;
4. Repaving of existing front yard paving, concrete work and walkways that does not alter the historical appearance or historical integrity of the structure;
5. Roofing work that does not alter the historical appearance or historical integrity of the structure;
6. Foundation work that does not alter the historical appearance or historical integrity of the structure;
7. Chimney work that does not alter the historical appearance or historical integrity of the structure;
8. Landscaping that does not alter the historical appearance or historical integrity of the structure;
9. Installation of water heaters, electrical box, air conditioning units or other utility items provided they are not visible from the public right-of-way;
10. Repainting, unless the repainting would alter the historical appearance or historical integrity of the structure.

The Director of Development Services shall determine whether or not the proposed work, alteration, construction or improvement constitutes ordinary maintenance and repair and is therefore exempt from the certificate of appropriateness requirement established by this Chapter.

- I. Notwithstanding any other provisions of this Chapter, a certificate of appropriateness shall become void unless construction relating to the environmental change is commenced within twelve (12) months of the date of issuance. Certificates of appropriateness may be renewed for a twelve (12) month period by applying to the Commission staff or to the Director of Development Services. If the environmental change is not completed within twelve (12) months after the expiration of the last building permit, a new certificate of appropriateness shall be required.

(ORD-09-0003, § 1, 2009; Ord. C-7836 § 1, 2002; Ord. C-6971 § 1, 1992; Ord. C-6961 § 1 (part), 1992)

#### 2.63.075 - Hearings and determinations.

All hearings conducted by the Cultural Heritage Commission and determinations by the Director of Development Services shall be conducted in accordance with the provisions of this Chapter and in the following manner:

- A. For hearings to be conducted by the Cultural Heritage Commission, notice shall be given not less than fourteen (14) days, nor more than forty-five (45) days prior to the hearing. Notice of hearing shall be mailed or personally delivered to the applicant and to the owner(s) of the subject property or their authorized agent. Notice shall also be mailed or delivered to all owners of real property as shown on the latest equalized assessment roll located within the distance specified in Subsection 21.21.302.B.4. of this Code or any successor Section thereto. Notice of hearing shall also be posted at the landmark site at least fourteen (14) days prior to the hearing in a form and manner deemed appropriate by the Director of Development Services.
- B. The Director of Development Services shall consider all applications for certificates of appropriateness within his/her jurisdiction as set forth in Section 2.63.070. Determinations shall be made within forty-five (45) days after the applicant has submitted an application and the Director determines it to be complete. The Director has authority to approve, conditionally approve or deny an application. Determinations made pursuant to this Subsection shall not require a formal hearing or notice. In making his/her determination the Director shall make written findings in accordance with the criteria set forth in Subsections 2.63.070.D. and E. Rather than act on an

application for a certificate of appropriateness within his/her jurisdiction, the Director of Development Services may, in his/her sole discretion, refer the application to the Cultural Heritage Commission for its determination. In such case the procedures set forth in Subsection 2.63.075.A. shall apply.

- C. Hearings conducted by the Cultural Heritage Commission need not be conducted according to the technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.
- D. After considering all of the testimony and evidence submitted, the Cultural Heritage Commission shall render its decision within fifteen (15) calendar days of the hearing. The decision shall be in writing and shall include findings of fact, a summary of the relevant evidence, a statement of issues and a decision. A copy of the decision shall be provided to the applicant and to any other person who has requested it. All hearings shall be conducted and decisions rendered no later than ninety (90) days from the date that an application has been deemed complete by the Director of Development Services.

(ORD-09-0003, § 1, 2009)

#### 2.63.080 - Appeals.

Any person aggrieved by the denial or approval of a certificate of appropriateness may appeal such denial or approval in the following manner:

- A. The appellant may file a notice of appeal, in writing, with the Department of Development Services within ten (10) calendar days after issuance of the written decision to deny or approve the application for a certificate of appropriateness. The appeal shall, in the case of a decision of the Cultural Heritage Commission, be heard by the Planning Commission, or in the case of a determination by the Director of Development Services, by the Cultural Heritage Commission. The appeal hearing shall be conducted no later than forty-five (45) days after the notice of appeal has been filed and deemed complete. Notice of the appeal hearing shall be provided to the appellant, the applicant, and to any person who has requested in writing that such notice be provided. Notice of the appeal hearing shall also be posted at the subject site at least fourteen (14) days prior to the hearing in a form and manner deemed appropriate by the Director of Development Services.
- B. The appeal body may affirm, reverse or modify the action of the Cultural Heritage Commission or the Director of Development Services and may affix whatever conditions of approval as it deems reasonably necessary.
- C. The decision of the Cultural Heritage Commission or the Planning Commission on appeal shall be final. Pursuant to California Code of Civil Procedure Section 1094.6, the time within which to seek judicial review of the final decision is ninety (90) days after the date the decision becomes final. The decision becomes final as of the date the appeal hearing is conducted and a decision is rendered.

(ORD-09-0003, § 1, 2009; Ord. C-7521 § 1, 1998; Ord. C-6961 § 1 (part), 1992)

#### 2.63.090 - Publicly-owned resources.

The provisions of this Chapter shall also apply to any plans to alter, redecorate or refurbish the exterior or interior features, or make any environmental change, to any designated cultural resources owned by the City or other public entities. The Director of Development Services shall notify the Cultural Heritage Commission at least sixty (60) days in advance of such plans, allowing adequate time for the Commission to study and make recommendations on the plan.

(ORD-09-0003, § 1, 2009; Ord. C-6961 § 1 (part), 1992)

2.63.100 - Easements and development rights.

This Chapter shall empower the City to acquire facade easements or development rights to landmarks, or other cultural resources within a landmark district, through purchase, donation or condemnation. The easement or development rights shall be designed to run with the land in order to preserve or maintain the significant features of the landmark or cultural resource within the landmark district.

(ORD-09-0003, § 1, 2009; Ord. C 6961 § 1 (part), 1992)

2.63.110 - Penalties.

- A. Any person who knowingly violates a requirement of this Chapter or knowingly fails to obey a lawful order issued by the Commission or the Director of Development Services, or to comply with a condition of approval of any certificate or permit issued under this Chapter shall be guilty of a misdemeanor and subject to provisions of Section 1.32.010 of this Code.
- B. Any person who constructs, alters, removes or demolishes a cultural resource in violation of this Chapter shall be required to restore the building, object, site or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City or any other interested party. The civil remedy may be in addition to, and not in lieu of, any criminal prosecution and penalty and other remedy provided by law.

(ORD-09-0003, § 1, 2009; Ord. C 6961 § 1 (part), 1992)