

## Chapter 18.106 HISTORIC PRESERVATION

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### **18.106.010 Definitions.**

For purposes of this chapter, the following words and phrases have the meanings ascribed to them in this section, unless the context or the provision clearly requires otherwise:

- (a) "Alteration" means any change or expansion to an HRI property that involves (1) changes to the exterior of a structure, such as its surface materials or its architectural features, or (2) substantial reconfiguration of the interior space.
- (b) "Architectural feature" means the architectural elements embodying the historical significance or architectural style, design, general arrangement, and components of all the exterior surfaces of a building or structure, including, but not limited to, the type of building materials, and type and style of windows, doors, design, arrangement, massing, texture, painted and unpainted surfaces and materials.
- (c) Building. Refer to SCCC 18.06.010(b)(5).
- (d) "California Register of Historical Resources" means the authoritative guide in California to be used by State and local agencies, private groups, and citizens to identify the State's historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial adverse change. (Public Resources Code Section 5024.1(a))
- (e) "Character-defining feature" means the architectural features of a building, structure, or object that help convey the significance of the HRI property and which were present during the period of significance.

(f) “Demolition” means the destruction, in whole or in part, of the original physical elements or building materials of an HRI property, including features that contribute to its historic character, architecture and integrity. Notwithstanding the foregoing, alteration work that qualifies as a small project as defined in this chapter shall not constitute demolition.

(g) “Demolition by neglect” means negligence resulting in the deterioration and irreversible harm to the original features and materials of an HRI property leading to substantial deterioration and/or structural failure constituting a threat to public health, safety and visual impact to a street, neighborhood or defined geographic area.

(h) “Evaluation” means the process by which the significance and integrity of a building, structure, object or site is judged according to the National Park Service Standards set forth in 36 CFR Part 61 and using the designation criteria outlined in SCCC [18.106.040\(a\)](#) (Designation Criteria).

(i) “Historic fabric” means those architectural form and character-defining features, such as siding, brick, stone, roofing or other materials visible on the structure, that are characteristic of the period of significance and therefore assist in portraying the style and historic significance of the HRI property from its most important time period.

(j) “Historic Resource Inventory” means the City of Santa Clara Historic Resource Inventory, which is incorporated into the 2010-2035 General Plan as Appendix 8.9 (“Historic Resource Inventory” or “HRI”), as may be amended from time to time.

(k) “HRI property” means a building, structure, object, or site currently included in the Historic Resource Inventory (HRI), which was designated as architecturally or historically significant by the City of Santa Clara pursuant to this chapter, or which the City added to the HRI prior to the effective date of this chapter.

(l) “Historic resources survey” means the process of systematically identifying, researching, photographing and documenting HRI properties within a defined geographic area and placed on a State of California DPR 523 series form. All surveys shall be conducted in accordance with the Secretary of the Interior’s Standards and Guidelines for Archaeology and Historic Preservation: Standards and Guidelines for Identification and Evaluation, as may be amended.

(m) “Historical and Landmarks Commission” or “HLC” means the Historical and Landmarks Commission (HLC) established pursuant to SCCC 2.120.100.

(n) “Integrity” means the authenticity of an HRI property’s historic identity, evidenced by the survival of an HRI property’s visual and physical characteristics that existed during the HRI property’s period of significance. Within the concept of integrity, the National Register criteria recognize seven aspects or qualities that, in various combinations, define integrity. These seven aspects are location, design, setting, materials, workmanship,

feeling and association.

(o) “Major alteration” means any significant change that is subject to Director of Community Development review and approval in accordance with Chapter 18.76 SCCC or pursuant to City policy or procedure.

(p) “National Register of Historic Places” means the National Historic Landmarks Register established pursuant to 54 U.S.C. Section 302101 et seq.

(q) “Period of significance” means the span of time during which relevant events and activities occurred at an HRI property.

(r) “Preventative maintenance” means any work to prevent deterioration or damage to the structural integrity or any exterior feature of an HRI property that does not involve a change in design, material or exterior appearance. Such work includes, but is not limited to, painting, wood trim or siding repair, roof repair, patching, caulking, foundation or chimney repairs, or landscape maintenance.

(s) “Secretary of the Interior’s Treatment Standards” means the Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings, published by the National Park Service, as may be amended.

(t) “Site” (as applied in the context of this chapter) means the location of a significant historical event, a prehistoric or historic occupation or activity, building or structure, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing buildings, structures or objects. Examples of a site are a battlefield, designed landscape, trail, or industrial site.

(u) “Small projects” means alterations to any historic resource as defined herein, involving negligible visible changes. Alterations shall not qualify as small projects if they involve the removal or destruction of any exterior character-defining feature or historic fabric, including, but not limited to, original windows, or similarly protected interior features, unless an acceptable replacement is made with like materials and finishes, as determined by the Community Development Director.

(v) Structure. Refer to SCCC 18.06.010(s)(9). (Ord. 1972 § 1, 11-21-17; Ord. 2011 § 16, 2-11-20).

#### **18.106.020 Intent.**

This chapter shall be known as the Historic Preservation Ordinance of the City of Santa Clara. The purpose of this chapter is to promote the identification, protection, enhancement and perpetuation of buildings, structures and properties within the City that reflect special elements of the City’s social, economical, historical, architectural, engineering, archaeological, cultural, natural, or aesthetic heritage. (Ord. 1972 § 1, 11-21-17).

#### **18.106.030 Identification of HRI properties.**

In order to carry out the goals and policies of the City’s General Plan, and to further the purposes of this chapter,

a list of architecturally or historically significant resources shall be maintained as Appendix 8.9 of the General Plan. This list shall be known as the Historic Resource Inventory (HRI).

In order for a property to be placed on the HRI following the adoption of this chapter, an historic resource survey (DPR 523A) shall be prepared by a qualified consultant in accordance with the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation: Professional Qualifications Standards. Properties evaluated in an historic resource survey that meet the designation criteria outlined in [SCCC 18.106.040\(a\)](#) (Designation Criteria) may be added to the Historic Resource Inventory by the City Council after consideration and recommendation by the HLC.

The Historic Resource Inventory shall be kept on file in the Community Development Department, subject to review and update by the HLC and the City Council as deemed necessary. Because the HRI is an appendix to the General Plan, the City will amend the General Plan on a regular basis to update the HRI to reflect recent Council decisions on designation. (Ord. 1972 § 1, 11-21-17).

#### **18.106.040 HRI property designation.**

(a) Designation Criteria. For purposes of this chapter, a building, structure, object or site is eligible for inclusion in the Historic Resource Inventory if it meets all of the following designation criteria:

(1) Age. A building, structure, object, site or district that is fifty (50) years of age or older may qualify as an HRI property if it meets other designation criteria. If a property proposed for inclusion is less than fifty (50) years of age, sufficient time must have passed to obtain a scholarly perspective on the events or individuals associated with the property, and/or the property proposed for inclusion is a distinctive or important example of its type or style; and

(2) Retains Historic Integrity. A building, structure, object, site or district must maintain integrity to be considered eligible for listing on the City's inventory as an HRI property. Integrity refers to a resource's ability to convey its significance by the retention of a property's visual and physical characteristics and its surroundings. If a property proposed for inclusion was moved to prevent demolition at its former location, it may still be considered eligible for listing as an HRI property if the new location is compatible with the original character of the property; and

(3) The property proposed for inclusion falls within one or more of the following categories, as these terms are defined in Section 8.9.2 of Appendix 8.9 of the General Plan, Criteria for Local Significance:

(A) Historical or cultural significance;

(B) Architectural significance;

(C) Geographic significance;

(D) Archaeological significance.

(b) Initiation of Designation.

(1) Designation of a property proposed for inclusion on the City of Santa Clara Historic Resource Inventory may be initiated by any of the following parties:

(A) Owner(s) of the property proposed for inclusion or authorized representative of the owner(s); or

(B) Historical and Landmarks Commission; or

(C) City Council.

(2) If designation is initiated by the owner(s), an application for designation shall be made to the Community Development Department through submittal of the prescribed application form accompanied by a nonrefundable filing fee as set forth in the schedule of fees established by resolution of the City Council. The Community Development Department shall establish what supporting documentation shall accompany the application, including, but not limited to, State of California DPR 523 series forms or other historic resource inventory forms as may be approved by the State.

(3) At the time of submission of an application for designation, the owner(s) or authorized representative of the owner(s) must provide written consent for the designation process to the City.

(4) The application shall indicate the parameters of the property proposed for inclusion, specifying any related structures or landscape that is to be included for consideration and an evaluation of the property's conformance with the applicable criteria.

(5) If designation is initiated by the Historical and Landmarks Commission or the City Council, the Community Development Department shall notify the owner(s) of the property by certified mail within ninety (90) days of the initiation and request written consent from the owner. If the owner does not consent to the designation application, the designation procedure shall not proceed.

(6) Applications for designation of a property proposed for inclusion on the Historic Resource Inventory shall be agendized for review by the Historical and Landmarks Commission within sixty (60) days from the date the application is deemed complete.

(c) Approval of Permits when Designation is Pending. Except as provided in SCCC [18.106.080](#) (Unsafe or dangerous conditions), no building permit, demolition permit or other permit that would result in a major alteration of the property shall be issued for any property when a Historic Resource Inventory designation application has been initiated with the Community Development Department as set forth in subsection (b) of this section (Initiation of Designation) until all hearings on the matter are concluded. Minor alterations and small projects may

still be approved.

(d) Historical and Landmarks Commission Public Hearing.

(1) The HLC shall conduct a public hearing on the application for designation in a timely manner.

(2) Notice of the public hearing shall be provided pursuant to SCCC 18.112.060 (Notice of Public Hearing).

(3) A staff report, including the supporting documentation as described in subsection (b) of this section (Initiation of Designation) concerning the property proposed for inclusion shall be provided to the HLC. The report shall address the significance and integrity of the property proposed for inclusion as it relates to the designation criteria, provide other relevant information, and include a recommendation concerning the application and the basis therefor.

(4) The HLC shall consider any evidence or input offered at the hearing. The HLC shall recommend to the City Council approval, modification or denial of the designation proposal.

(e) City Council Action. Following the Historical and Landmarks Commission action, the City Council shall take action on the request by resolution or other means determining whether the subject property is eligible for inclusion on the Historic Resource Inventory.

(f) Notice of Designation. Following action by the City Council, a copy of the findings shall be sent by first class mail to the owner(s) of the newly designated HRI property, and a notice of the designation, along with a legal description of the property, shall be recorded in the records of the County Recorder. Failure to record with the County Recorder shall not invalidate a designation or any of the requirements of this chapter.

(g) Designation Repeal or Amendment.

(1) Designation may be repealed or amended in the same manner and procedure as was followed in subsection (b) of this section (Initiation of Designation) et seq. This action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors that justified the designation.

(2) If a repeal is approved by the Council, a notice shall be sent to the same persons and manner set forth in subsection (f) of this section (Notice of Designation). (Ord. 1972 § 1, 11-21-17).

**18.106.050 Property alteration.**

(a) Permit(s) Required for Alterations. No person shall make alterations to any HRI property without first obtaining the required permits or approvals from the Director of Community Development, or a hearing body as prescribed in this chapter.

(1) A significant properties alteration (SPA) permit shall be required for alterations to an HRI property.

(2) The addition of an accessory dwelling unit to an HRI property requires an SPA permit.

(3) For purposes of compliance with the California Environmental Quality Act (CEQA), an SPA permit for a major alteration shall be considered a discretionary project under Section 15357 of the CEQA Guidelines.

(b) Application for Significant Property Alteration Permit. The owner or authorized representative proposing alterations to an HRI property shall file a planning application with the Community Development Department, with the required supporting information, and any applicable filing fee. As soon as practicable after the application is deemed complete, the application for the SPA permit shall be forwarded to the Community Development Director or HLC, as appropriate, for its review and recommendation.

(c) Review Required for Alterations.

(1) The Community Development Director shall approve or deny applications for SPA permits for small projects as defined in this chapter. The Director has the discretion to determine that any such application for a small project should instead be construed as a major alteration requiring review by the HLC and approval by the Planning Commission.

(2) The HLC shall review applications for SPA permits proposed for major alterations and render a recommendation to the Planning Commission.

(3) Following review and recommendation by the HLC, applications for SPA permits for major alterations shall be forwarded to the Planning Commission, which shall approve or deny the application.

(4) The Community Development Director, HLC or Planning Commission may require supplemental information or reports as may be necessary for a complete review.

(5) The Community Development Director or Planning Commission may impose such reasonable conditions or restrictions as they deem necessary or appropriate on a case-by-case basis to promote or achieve the purposes of this Code.

(6) Preventative maintenance, as defined in this chapter, shall be excluded from the review process specified in this section.

(7) The addition of an accessory dwelling unit to an HRI property shall be considered a major alteration if (A) the accessory unit would be attached to the main house and involve alterations to the exterior of the main house; (B) the HRI property is subject to a Mills Act contract; (C) the accessory dwelling unit would convert a garage that may be of a similar age and design to the main dwelling and contribute to the integrity of the HRI property; or (D) the Community Development Director makes a determination that the addition

would be a major alteration. All other additions of accessory dwelling units shall be processed as small projects.

(d) Findings Necessary to Approve SPA Permits. A decision to approve, approve with changes and/or conditions, or deny the application for the SPA permit shall be based upon the following factors:

- (1) The alterations shall be designed to the essential character, features, and defining elements that make the HRI property significant;
- (2) The project proposals shall not have a significant adverse effect on the integrity of the HRI property;
- (3) The alterations must be compatible with the existing structure or district; and
- (4) The alterations must be consistent with the Secretary of the Interior's Treatment Standards.

(e) Appeal Procedures. In the event the applicant or other interested party is not satisfied with the permit or approval action permitted by this section, the decision may be appealed. Such appeal shall be taken by the filing of a notice in writing to that effect with the City Clerk within seven calendar days after rendition of the decision, along with the payment of an appeal fee as set forth by resolution of the City Council. Appeals of the Community Development Director's decisions shall be evaluated in the same manner as major alterations and shall be referred to the HLC for recommendation and the City Council for decision. Appeals of the Planning Commission's decisions shall be conducted in accordance with SCCC 18.108.060.

(f) Approval Expiration. Any approval granted under this section shall remain valid for a period of two years following the date the action was taken by the Community Development Director or the decision-making body. The Director or decision-making body may at any time authorize extensions of time on any approval, without the need for any public hearing, for a total period of twenty-four (24) months following the original date of expiration.

(g) Preventative Maintenance. The owner, lessee or other person(s) in actual charge of an HRI property ("responsible party") shall maintain and keep such property in a manner that ensures its continued eligibility for listing on the City's Historic Resource Inventory. Care of the HRI property shall be undertaken so as not to constitute "demolition by neglect" and prevent deterioration, dilapidation and decay of the historic fabric of any portion of the property. The responsible party shall ensure that all HRI properties shall remain free from structural defects through prompt corrections of any of the following defects:

- (1) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.
- (2) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.

- (3) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken window glass or doors.
- (4) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.
- (5) Any fault or defect in the building which renders it structurally unsafe or not properly watertight.
- (6) Minor mechanical systems in need of repair, not involving substantial removal of original interior or exterior building materials or features. (Ord. 1972 § 1, 11-21-17; Ord. 2011 § 17, 2-11-20).

#### **18.106.060 Demolition permits.**

##### **(a) Properties Not Listed on the HRI.**

- (1) Upon receiving an application for a demolition permit for a property not listed on the HRI, the Community Development Department shall search the City permit system database to ascertain if the property is noted as “potentially historic” next to the assessor’s parcel number. If the property contains this notation, the Community Development Department shall make a determination as to whether an application should be referred to the HLC and City Council for a determination as to whether the property is eligible for listing on the HRI. If no referral is made, the demolition permit may be approved or denied along with replacement plans by the Director of Community Development.
- (2) For any such referral, the HLC and City Council shall make an eligibility determination using the same criteria and process as a designation determination pursuant to SCCC [18.106.040](#), except that properties found to be eligible will not automatically be added to the HRI, unless the property owner requests that the property be listed. The owner shall be responsible for submitting the required documentation needed, including but not limited to a completed DPR 523A form so the City may make a determination on the referral of the property to the HLC or City Council.
- (3) For properties the Council determines to be ineligible for listing on the HRI, the Council may approve or deny the demolition permit at the time of the eligibility determination. For properties the Council determines to be eligible for listing on the HRI, the demolition permit application shall follow the process in subsection (b) of this section.

##### **(b) HRI Properties and Eligible Properties.**

- (1) An environmental impact report shall be required for any application to demolish an HRI property or a property determined to be eligible for listing pursuant to subsection (a) of this section.
- (2) The demolition permit application and environmental impact report shall be referred to the HLC for a recommendation on whether to grant, modify or disapprove the demolition permit application. The HLC

recommendation shall be forwarded to the City Council, which shall make a final decision on the application.

(3) The HLC shall recommend approval of a demolition permit, and the City Council shall approve a demolition permit, only if there are no viable alternatives for saving the property, and such alternatives have been fully addressed in an environmental impact report. (Ord. 1972 § 1, 11-21-17; Ord. 2011 § 18, 2-11-20).

**18.106.070 HLC referral for projects near HRI properties.**

For development projects that require Architectural Committee review but that are not located on HRI properties, if the project is located within 200 feet of an HRI property, then prior to submitting the application to the Architectural Committee, the application shall first be referred to the HLC. The HLC shall review the project for neighborhood compatibility and consistency with the City's Design Guidelines, and make a recommendation to the Architectural Committee. (Ord. 1972 § 1, 11-21-17).

**18.106.080 Unsafe or dangerous conditions.**

None of the provisions of this chapter shall prevent the construction, reconstruction, alteration, restoration, stabilization or demolition of an HRI property, or any exterior feature thereof, which the Building Official or designee has declared necessary to correct an unsafe or dangerous condition where there is a threat to public health and safety. Only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed pursuant to this subsection. The California Historical Building Code shall be employed for this purpose at the request of the property owner. (Ord. 1972 § 1, 11-21-17).