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## Chapter 18.130 – Historic Preservation

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### 18.130.010 – Purpose

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, economic, historical, archaeological, architectural, engineering, cultural, natural, or aesthetic heritage.

### 18.130.020 – Intent

This Chapter shall be known as the Santa Clara Historic Preservation Ordinance.

### 18.130.030 – Identification of HRI Properties

- A. In order to carry out the goals and policies of the 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).
- B. 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 compliance 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 specified in Subsection 18.130.040 A. (Designation Criteria) may be added to the HRI by the Council after consideration and recommendation by the Historical and Landmarks Commission (HLC).
- C. The HRI shall be kept on file in the Department, subject to review and update by the HLC and the Council as deemed necessary. Because the HRI is an appendix to the General Plan, the City shall amend the General Plan on a regular basis to update the HRI to reflect recent Council decisions on designation.

### 18.130.040 – HRI Property Designation

- A. **Designation Criteria.** For purposes of this Chapter, a building, structure, object, or site is eligible for inclusion in the HRI if it meets all of the following designation criteria:

1. **Age.** A building, structure, object, site, or district that is 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 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;
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. **Appendix 8.9.** The property proposed for inclusion falls within one or more of the following categories, as these terms are defined in Section 8.9.2 (Criteria for Local Significance) of Appendix 8.9 of the General Plan:
  - a. Historical or cultural significance;
  - b. Architectural significance;
  - c. Geographic significance; or
  - d. Archaeological significance.

#### **B. Initiation of Designation.**

1. Designation of a property proposed for inclusion on the HRI 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);
  - b. Historical and Landmarks Commission; or
  - c. Council.
2. If designation is initiated by the owner(s), an application for designation shall be made to the Department through submittal of the prescribed application form accompanied by a nonrefundable filing fee as specified in the Fee Schedule. The Department shall establish what supporting documentation shall accompany the application, including, but not limited to, State of California DPR 523 series forms or other HRI 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) shall 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 HLC or the Council, the Department shall notify the owner(s) of the property by certified mail within 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 HRI shall be agendized for review by the HLC within 60 days from the date the application is deemed complete.
- C. Approval of Permits When Designation is Pending.** Except as provided in Section 18.130.080 (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 HRI designation application has been initiated with the Department as specified in Subsection B. (Initiation of Designation) until all hearings on the matter are concluded. Minor alterations and small projects may still be approved.
- D. HLC 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 in compliance with Chapter 18.146 (Public Notices and Hearings).
  3. A staff report, including the supporting documentation as described in Subsection B. (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 Council approval, modification, or denial of the designation proposal.
- E. Council Action.** Following the HLC action, the Council shall take action on the request by resolution or other means determining whether the subject property is eligible for inclusion on the HRI.
- F. Notice of Designation.**
1. Following action by the 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.
  2. 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. (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 specified in Subsection F. (Notice of Designation).

**18.130.050 – 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, or the Review Authority specified 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 (SPA) Permit.**
1. The owner or authorized representative proposing alterations to an HRI property shall file a planning application with the Department, with the required supporting information, and any applicable filing fee in compliance with the Fee Schedule.
  2. As soon as practicable after the application is deemed complete, the application for the SPA Permit shall be forwarded to the Director or HLC, as appropriate, for its review and recommendation.
- C. Review Required for Alterations.**
1. The 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 Director of Community Development.
  2. The HLC shall review applications for SPA Permits proposed for major alterations and render a recommendation to the Director of Community Development.
  3. Following review and recommendation by the HLC, applications for SPA Permits for major alterations shall be forwarded to the Director of Community Development, which shall approve or deny the application.
  4. The Director or HLC may require supplemental information or reports as may be necessary for a complete review.
  5. The Director 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 Chapter.
  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 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 findings.

1. The alterations shall be designed to the essential character, features, and defining elements that make the HRI property significant;
2. The project proposal 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.**

1. 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 specified in the Fee Schedule.
2. Appeals of the Director’s decisions shall be evaluated in the same manner as major alterations and shall be referred to the HLC for recommendation and the Council for decision.

**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 Director or the applicable Review Authority. The Director or Review Authority may at any time authorize extensions of time on any approval, without the need for any public hearing, for a total period of 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 HRI. 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, 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 structure 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.

### **18.130.060 – 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 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 Department shall make a determination as to whether an application should be referred to the HLC and 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.
2. For any such referral, the HLC and Council shall make an eligibility determination using the same criteria and process as a designation determination in compliance with Section 18.130.040 (HRI Property Designation), 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 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. (HRI Properties and Eligible Properties).

#### **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 in compliance with Subsection A. (Properties Not Listed on the HRI).
2. The Demolition Permit application and Environmental Impact report shall be referred to the HLC for a recommendation on whether to grant, modify, or deny the Demolition Permit application. The HLC recommendation shall be forwarded to the Council, which shall make a final decision on the application.
3. The HLC shall recommend approval of a Demolition Permit, and the 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.

### **18.130.070 – HLC Referral for Projects Near HRI Properties**

- A. For development projects that require Architectural Review but that are not located on HRI properties, if the project is located within 200 feet of an HRI property, then before submitting the application to the Director, the application shall first be referred to the HLC.
- B. The HLC shall review the project for neighborhood compatibility and consistency with the City’s adopted Design Guidelines and make a recommendation to the Director.

**18.130.080 – Unsafe or Dangerous Conditions**

- A.** None of the provisions of this Chapter shall prevent the alteration, construction, reconstruction, 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.
- B.** Only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed in compliance with this Subsection.
- C.** The California Historical Building Code shall be employed for this purpose at the request of the property owner.