CITY OF ORANGE
HISTORIC AND CULTURAL RESOURCES PRESERVATION ORDINANCE

§ 9.56.010. Title.

This Chapter shall be known as the Historic and Cultural Resources Preservation Ordinance of the City of Orange, California.

§ 9.56.020. Enabling Authority.

California Government Code §§ 66850 and 37361 enable municipal legislative .bodies to "provide for places, buildings, structures, works of art, and other objects, having a special character or special historic, cultural, or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation, or use that may include appropriate and reasonable control of the use or appearance of neighboring private property, or both."

§ 9.56.030. Purpose.

It is hereby declared as a matter of public policy that the purpose of this Chapter is to promote the public health, safety and general welfare by establishing such procedures and providing such regulations as are deemed necessary to:

A. Protect improvements and areas that represent elements of the city's cultural, social, economic, political and architectural history.

B. Safeguard the city's historic, aesthetic and cultural heritage as embodied and reflected in such improvements and areas.

C. Foster civic pride in the beauty and noble accomplishments of the past.

D. Protect and enhance the city's aesthetic and historic attractions to residents, tourists, visitors, and others, thereby serving as a stimulus and support to business and industry.

E. Promote the use of Landmarks, Historic Resources, and Historic Districts for the education, pleasure, and welfare of the people of this city.

§ 9.56.040. Definitions.

As used in this Chapter, the following words and phrases shall have the meaning set forth herein, unless it is apparent from the context that a different meaning is intended:

Alteration. Any act or process that modifies a historic and cultural resource that either:

1) Materially alters the resource or any of its Character-defining Features, requires a building or other permit or certificate, and/or changes one or more of the features of a landscape or structure including, without limitation, the setting of the resource or the construction, reconstruction, or relocation of any structure or any part of the structure; or
2) Significantly changes the setting and/or Character-defining Feature of a landscape or exterior of a structure that relates to its status as a historic resource or contributing resource.

California Historic Building Code (or CHBC; also known as the STATE HISTORICAL BUILDING CODE, or SHBC). As codified in Part 8, Title 24 of the State Building Standards Code shall apply to all qualified cultural resources designated or included in an adopted inventory per federal, state, or local authority. The CHBC provides alternative, performance-based building and zoning regulations to allow for upgrades, changes to, and ongoing use of historically significant properties that preserve their historic integrity.

Certificate of Appropriateness. A certificate granted to a property owner or applicant approving plans, specifications, and/or statements of work involving any proposed alteration, restoration, rehabilitation, construction, removal, relation, or demolition, in whole or in part relating to a Historic Resource or structure or object within a Historic District. The Heritage Commission has the authority to issue said certificates for projects it reviews. For projects exempt from Heritage Commission review, the Director or their designee has the authority to issue.

Certificate of Completion. A certificate issued to a property owner or applicant that work pursuant to a Certificate of Appropriateness has been carried out according to the Certificate of Appropriateness, Secretary of Interior Standards, and all applicable city regulations.

Character-defining Feature. The physical elements and characteristics of a historic and cultural resource convey the significance of a resource. Character-defining Features can include, but are not limited to, a property's setting and site plan, overall form and massing, architectural style, materials, finishes, and decorative detailing, as well as relationship to neighboring properties, planning features, hardscaping and landscaping, and interior features.

City-designated Resource. Any existing building, structure, natural feature, or object that is designated by the City as a Landmark, Historic Resource, or a Contributing Resource to a Historic District.

Contributing Resource. A structure or object that has been identified as one that contributes to the designation of an area as a Historic District.

Commission. The Heritage Commission.

Demolition. Any act or process that destroys, in whole or in part, a building, structure, object, or site or permanently impairs its structural integrity and that is not in conformance with the Secretary of Interior Standards.

Demolition by Neglect. The process by which a resource is allowed to deteriorate over a period of time as a result of lack of maintenance, failure to secure the property, and/or failure to take reasonable measures to prevent intrusion of water or weather through the roof, walls, or openings, leading to substantial deterioration and/or structural failure to the extent that the structure constitutes a threat to public health and safety.

Department. The Department of Community Development.

Director. The Director of the Community Development Department or their designee.

Exterior Features. The architectural style, design, general arrangement, components and natural features or all of the outer surfaces of an improvement, including, but not limited to, the kind, color and texture of the building material, the type and style of all windows, doors, lights, signs, walls, fences and other fixtures appurtenant to such improvement, and the natural form and appearance of, but not by way of limitation, any grade, rock, body of water, stream, tree, plant,

shrub, road, path, walkway, plaza, fountain, sculpture or other form of natural or artificial landscaping.

Historic and Cultural Resource: Any object, building, structure, site, area, place, record, natural feature, or work of art that is historically or archaeologically significant, or is significant in the architectural, engineering, economic, agricultural, educational, social, political, military, or cultural annals of the city, state, or nation in the Inventory found to be of significance or potentially significant.

Historic Context. The broad patterns of historical development of a community or region that are represented by the physical development and character of the built environment. Contexts typically are based on one or more themes, a geographical area, and periods of significance. They also identify important associated property types and establish eligibility criteria and integrity thresholds.

Historic District. Any geographic area or noncontiguous grouping of thematically related properties that the City Council has designated as and determined to be appropriate for historical preservation pursuant to the provisions of this Chapter.

Historic Integrity. The authenticity of a resource's historic identity. Properties with Historic Integrity are those properties that retain enough of their materials, features, and characteristics from their period of significance that they continue to convey the reasons for their significance. As defined by the National Park Service and in accordance with the accepted standards of professional preservation practice, Historic Integrity is the composite of seven aspects of integrity: location, design, setting, materials, workmanship, feeling, and association although not all seven are required to be present. Historic Integrity is the same as condition; a deteriorated property may still retain Historic Integrity.

Historic Resource Evaluation. An in-depth study of a property to determine its eligibility as a federal, state, or local resource. A Historic Resource Evaluation generally results in a report including detailed, property-specific information that can include ownership/occupant history, historic context and themes of significance, Character-defining Features as well as building type, dates of construction, architectural style, description of other design aspects, materials, and setting, approximate dates of exterior alterations, physical condition, and historic integrity analysis.

Improvement. Any building, structure, place, site, work of art, landscape feature, plant life, lifeform, scenic condition, or other object constituting a physical betterment of real property, or any part of such betterment.

Inventory. The city's official list of properties, structures, objects, sites, cultural landscapes, or heritage trees surveyed or assessed for their potential historic and/or historic value.

Landmark. Any resource that has been designated as and determined to be appropriate for historical preservation by the Heritage Commission, or by the City Council on appeal, pursuant to the provisions of this Chapter.

Landmark Parcel. Any portion of real property, the location and boundaries as defined and described by the Heritage Commission, upon which a Landmark is situated, that is determined by the Heritage Commission as requiring control and regulation to preserve, maintain, protect or safeguard the Landmark.

Secretary of Interior Standards. The Secretary of the Interior *Standards for Treatment of Historic Properties* published by the U.S. Department of the Interior found at 36 C.F.R. Section 68.3 as it may be amended from time to time.

Historic Resource. Any object, building, structure, site, area, place, record, natural feature, or work of art that has been designated by the Heritage Commission as is historically significant based on formalized criteria, such as: inclusion in the National Register of Historic Places with status codes 1 through 6 and 7N; a minimum of 50 years of age; constitutes a unique or rare example of an architectural design, detail or historical type, etc.

Survey. A neighborhood- or citywide survey to identify potentially historic resources, including buildings, structures, objects, sites, historic districts, planning features, public art, and natural features. Surveys produce information about each resource such as building type, dates of construction, architectural style, description of other design aspects, materials, setting, approximate dates of exterior alterations, physical condition, and notes on historic integrity and historic significance.
result in an inventory of properties that are potentially eligible for federal, state, or local designation.

§ 9.56.050. Orange Inventory of Cultural and Historic Resources.

A. The Inventory shall comprise all surveyed properties, structures, objects, and natural features along with status codes as defined by the National Park Service for the National Register of Historic Places. Newly completed surveys, including updated surveys, shall be approved by the Heritage Commission and to be deemed part of the Inventory.

B. To ensure the city's proactive identification and treatment of historic and cultural resources, and consistent with the intent of California Public Resources Code § 5024.1.g(4), the Inventory shall be reviewed every five years at a minimum by the Heritage Commission and periodically updated through historic resource surveys.

C. In accordance with California Code of Regulations Title 14, Chapter 3, § 15064.5(a)(2), properties found to be historic or potentially historic shall be considered historic resources for the purposes of California Environmental Quality Act (CEQA).

D. A current iteration of the Inventory shall be readily available to the public on the city's website and shall be included in the city's GIS database.

§ 9.56.060. Historic Resources.

A. For the purposes of this Chapter, a building, structure, object, natural feature, or work of art shall be designated a Historic Resource if the Heritage Commission determines that it has one of the following characteristics:

   a) The improvement has been identified in the city's Historic Resources Inventory with National Register of Historic Places status codes 1 through 6 and 7N [see attached list].

   b) The improvement is a minimum of 50 years of age and meets one of the following criteria:

i) The improvement is a unique or rare example of an architectural design, detail or historical type.

ii) The improvement is representative of a style that is no longer prevalent in the city.

iii) The improvement is or was once associated or identified with the lives of personages or groups important to local, state, or national history.

iv) The improvement contributes to a potential Historic District.

c) The improvement retains integrity from its period of significance. A Historic Resource need not retain all seven aspects of historic integrity (location, design, setting, materials, workmanship, feeling, and association), but it must retain sufficient integrity to convey the reasons for its cultural, architectural, social, historical, economic, and/or political significance.

B. Neither deferred maintenance of an improvement nor its dilapidated condition shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the improvement's eligibility under the appropriate criteria and theme of significance.

C. If an improvement is designated as a Historic Resource because the improvement contributes to a potential Historic District, this designation shall remain in full force and effect only if within 90 days from the date of designation, either by the Heritage Commission or by the City Council on appeal, an application for designation of an Historic District has been filed pursuant to Section 9.56.080 that would include the Historic Resource within its area. If a Historic District application is timely filed, the Historic Resource designation shall remain in full force and effect during the Historic District designation process. If an application for designation of a Historic District is not timely filed or a Historic District is not designated in accordance with Section 9.56.080, then the Historic Resource designation shall be automatically nullified without any action required by the Commission.

§ 9.56.070. Orange Register of Landmarks.

A. The Orange Register of Landmarks is hereby established. It shall include all locally designated historic and cultural resources that meet the criteria and procedure herein, as well as properties designated on the National Register of Historic Places and the California Register of Historic Resources.

B. The designation of a historic and cultural resource shall run with the land and shall not be affected by a change in property ownership.

C. Any person may request the designation or de-designation of a Landmark by filing a complete application for such designation with the Department on a form furnished by the Department. Additionally, the Commission may file an application for the designation or de-designation of a Landmark on its own motion. The property owner of the subject property shall be notified of the filing of a Landmark designation application.

D. The Commission may recommend Landmark designation if the property, site, building, structure, work of art, cultural landscape, or natural feature meets the requirements described in divisions a) and b) below:

a) The proposed Landmark meets one of the following criteria:

   i) It exemplifies, symbolizes, or manifests elements of the cultural, social, economic, political or architectural history of the city.

   ii) It has aesthetic or artistic interest or value, or other noteworthy interest or value.

   iii) It is identified with historic personages or with important events in local, state or national history.

   iv) It embodies distinguishing architectural characteristics valuable to a study of a period, style, method of construction, or the use of indigenous materials or craftsmanship, or is a unique or rare example of an architectural design, detail or historical type valuable to such a study.

   v) It is a significant or a representative example of the work or product of a notable builder, designer, or architect.

   vi) It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community, or the city.

b) The proposed Landmark retains integrity from its period of significance, as determined by a qualified architectural historian or historian. A proposed Landmark need not retain all seven aspects of historic integrity (location, design, setting, materials, workmanship, feeling, and association), but it must retain sufficient integrity to convey the reasons for its cultural, architectural, social, historical, economic, and political significance.

E. Neither the deferred maintenance of a proposed Landmark nor its dilapidated condition shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the property's eligibility under the appropriate criteria and theme of significance.

F. Concurrent with the decision rendered, the Commission shall approve a resolution of official actions that shall include:

   a) A statement of the applicable criteria and standards against which the application for designation was assessed.

   b) A statement of the facts found which establish compliance or noncompliance with each applicable criteria and standards.

   c) The reasons for a determination to approve or deny the application.

   d) The decision to deny or to approve with or without conditions and subject to compliance with applicable standards.

G. For purposes of this Chapter, the City Council may approve Landmark designation of a site, structure, improvement, natural feature, or object upon recommendation by the Heritage Commission, or upon appeal of a negative recommendation by the Heritage Commission. The City Council may not approve Landmark designation if the property owner objects.

H. The Commission may recommend recission of Landmark designation if the property, site, building, structure, work of art, cultural landscape, or natural feature fails to meet the requirements described in divisions a) and b) above.

I. Subject to other provisions of this Section and Section 9.56.120 of this Chapter, a decision of the City Council to designate a Landmark shall be in full force and effect from and after the date of the rendering of such decision by the City Council.

J. Upon the filing of an application for designation of a site, building, structure, object, natural feature or work of art improvement as a Landmark, any alteration, restoration, construction, removal, relocation or demolition, in whole or in part, of or to a proposed Landmark is prohibited except for objects specifically excluded from the designation as a Historic Resource. No permit shall be issued by any City Department, board or commission, including, but not limited to, a conditional use permit, a tentative tract map or tentative parcel map permit, a development review permit, Certificate of Appropriateness permit, or building permit, that would authorize any such alteration, restoration, construction, removal, relocation or demolition until a final determination on the application is rendered by the Commission, or the City Council on appeal.

K. In order to ensure that owners, residents, potential owners, and city staff are aware of the status of historic and cultural resources in the city, a current listing of the Register shall be readily available to the public on the city's website and shall be included in the city's GIS database. Additions and modifications to the Register shall be reported to the California Historic Resources Information System.

§ 9.56.080. Historic Districts.

A. For purposes of this Chapter, a geographic area or a noncontiguous grouping of thematically related properties may be designated a Historic District if it meets one or more of the following criteria:

   a) It exemplifies, symbolizes, or manifests elements of the cultural, social, economic, political, or architectural history of the city.

   b) It is identified with historic personages or with important events in local, state, or national history.

   c) It embodies distinguishing architectural characteristics valuable to the study of a period, style, method of construction, or the use of indigenous materials or craftmanship, or is a unique or rare example of an architectural design, detail, or historical type valuable for such a study.

   d) It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community, or the city.

   e) It is a noncontiguous grouping of thematically related properties or a definable area possessing a concentration of historic, scenic or thematic sites, which contribute to each other and are unified aesthetically by plan, physical development or architectural quality.

f) It reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning.

g) That a majority of the buildings and structures within the boundaries of the historic district be identified as contributors to the historic district.

B. Historic Districts shall be designated by the City Council in accordance with the following procedure:

a) Any person may request the designation of an area as a Historic District by properly filing with the Director of Planning an application for such designation on a form furnished by the Planning Department. Additionally, the Heritage Commission may file an application for the designation of a Historic District on its own motion.

b) Upon determination by city staff that an application for designation of an Historic District is complete, any alteration, restoration, construction, removal, relocation or demolition, in whole or in part, of or to a building or structure within a proposed Historic District is prohibited, and no permit issued by any city department, board or commission including a conditional use permit, a tentative tract map or parcel map permit, a final tract map or parcel map permit, a development review permit, any zoning conformance approval, or building permit authorizing any such alteration, restoration, construction, removal, relocation or demolition shall be granted while a public hearing or any appeal related thereto is pending.

c) Any person subject to subsection b) of this Section may apply to the Director, and to the Heritage Commission, on appeal, for an exception. Exceptions may be granted for repairs or alterations that do not involve any detrimental change or modification to the exterior of the structure in question or for actions that are necessary to remedy emergency conditions determined to be dangerous to life, health or property.

C. At the conclusion of a public hearing, or any continuation thereof, the Commission shall recommend to the City Council the approval, in whole or in part, or disapproval of the application for the designation of a Historic District, and shall forward such recommendation to the City Council in a resolution stating the findings of fact and reasons relied upon in reaching such a recommendation.

D. The City Council shall by ordinance have the power, after a public hearing, whether at the time it renders a decision to designate a Historic District or at any time thereafter, to specify the nature of any alteration, restoration, construction, removal, relocation or demolition of or to a building or structure within a Historic District that may be performed without the prior issuance of a Certificate of Appropriateness pursuant to this Chapter. The City Council shall by ordinance also have the power after a public hearing to amend, modify or rescind any specification made pursuant to the provisions of this subsection.

E. Upon the rendering of such decision to designate a Historic District, the owners of all real property within the designated Historic District shall be given written notification of such designation by the City Council, using for this purpose the names and addresses of such owners as are shown in the records of the Orange County Assessor.

F. Subject to other provisions of this Section 9.56.080, a decision of the City Council to designate a Historic District shall be in full force and effect from and after the effective date of the ordinance approving, in whole or in part, the application for the designation of a Historic District.

G. The City Council shall by ordinance have the power, after a public hearing, to amend, modify or rescind any decision to designate a Historic District and to make any preliminary or supplemental designations, determinations, or decisions, as additions thereto. The Commission shall have the power to forward the recommendations of the Commission to the City Council on its own motion or at the direction of the City Council.

H. Whenever an application for the designation of a Historic District has been disapproved or deemed disapproved by the Commission or the City Council, no application that contains the same or substantially the same information as the one that has been disapproved shall be resubmitted to or reconsidered by the Commission or City Council within a period of 5 years from the effective date of the final action upon such prior application. However, if significant new information is available, the City Council, upon recommendation from the Heritage Commission, may waive the time limit by resolution and permit a new application to be filed. In addition, an application of all owners of the majority of parcels within the subject area proposed for Historic District designation, may be resubmitted or reconsidered notwithstanding said 5-year time period.

I. Neither deferred maintenance within a proposed Historic District nor the dilapidated condition of its constituent buildings and landscapes shall, on their own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the district's eligibility under the appropriate criteria and theme of significance.

J. Upon approval of Historic Districts, the boundaries and identification of contributing structures, sites, and objects shall be readily available to the public on the city's website and shall be included in the city's GIS database. Additions and modifications to the list of Historic Resources shall be reported to the California Historic Resources Information System.

§ 9.56.090. Heritage Commission.

A Heritage Commission is hereby established which shall consist of five members appointed by the City Council, all of whom shall reside or work in the city and be over eighteen years of age. Of the members, at least one shall be a registered architect, at least one shall be a person with demonstrated interest and knowledge, to the highest extent practicable, of local history, and at least one shall have a graduate degree in architectural history or related field or have demonstrated interest, knowledge and practical or professional experience to the highest extent practicable of architectural history. The Director, or their designated representative, shall act as the Secretary of the Commission and shall maintain a record of all resolutions, proceedings, and actions of the Commission.

A. In the event of a vacancy occurring during the term of a member of the Heritage Commission, the City Council shall make an interim appointment to fill the unexpired term of such member, and where such member is required to have special qualifications pursuant

to Section 9.56.040, such vacancy shall be filled by interim appointment with a person possessing such qualifications.

B. Powers: In addition to any other powers set forth in this Chapter or in the Zoning Ordinance, the Heritage Commission shall have the power to:

   A. Act in an advisory capacity to the city in all matters pertaining to historic and cultural resource management and historic preservation in the city.

   B. Approve additions and updates to the city's Inventory, make recommendations to the City Council on the designation of Landmarks and Historic Districts, and make any preliminary or supplemental designations, determinations or decisions, as additions thereto, in order to effectuate the purposes of this Chapter.

   C. Approve, approve with conditions, or deny in whole or in part applications for the alteration, restoration, construction, removal, relocation or demolition, in whole or in part, of or to a Historic Resource, a Landmark, or of or to improvements within a Historic District including infill, new construction, demolitions, and additions except for de minimis projects as specified in the Zoning Code.

   D. Make any preliminary or supplemental designations, determinations, decisions, as additions thereto, in order to effectuate the purposes of this Chapter.

   E. Adopt, promulgate, amend, and rescind, from time to time, such rules and regulations as it may deem necessary to effectuate the purposes of this Chapter.

   F. Act in an advisory capacity and provide recommendations to the city for protection, enhancement, appreciation, and use of properties of cultural, historical, architectural, community, or aesthetic value that have not been designated as cultural and historic resources but are deserving of recognition.

   G. Act in an advisory capacity and make recommendations to the City Council on priorities for historic resource surveys and assessments.

   H. Certify and/or ratify applicable environmental documents, or when acting in an advisory capacity only, recommend certification or ratification of environmental documents, in accordance with the California Environmental Quality Act (CEQA) or the National Environmental Policy Act.

   I. Evaluate and comment upon proposals and environmental reviews pending before other public agencies affecting the physical development, historic preservation and urban design in the city.

§ 9.56.100. Certificate of Appropriateness and Certificate of Completion.

A. Unless a Certificate of Appropriateness has been issued or unless an express exemption specifically applies, any alteration, restoration, construction, removal, relocation, or demolition, in whole or in part, of or to a Historic Resource, Landmark, or of or to an improvement or object within a Historic District is prohibited, and no permit authorizing any such alteration, restoration, construction, removal, relocation or demolition shall be granted by any Department of the city. Certificates of Appropriateness shall be issued by the

Heritage Commission, or by the City Council upon appeal, or by the Director for those de minimis improvements exempt from Heritage Commission review.

B. For purposes of this Chapter, the Director, the Heritage Commission, or the City Council on appeal, shall issue a Certificate of Appropriateness for any proposed alteration, restoration, construction, removal, relocation or demolition, in whole or in part, of or to a Historic Resource, Landmark, to any building, structure or object within a Historic District if it makes a determination in accordance with any one or more of the following criteria.

   a) The proposed work would not detrimentally change, destroy, or adversely affect any exterior feature of the resource upon which such work is to be done.

   b) The proposed work would not be incompatible with the exterior features of other improvements within the Historic District, not adversely affect the character of the Historic District for which such Historic District was designated, or not be inconsistent with such further standards as may be embodied in the ordinance designating such Historic District. For any proposed work to any building or structure whose exterior features are not already compatible with the exterior features of other improvements within the Historic District, reasonable effort shall be made to produce compatibility, and in no event shall there be a greater deviation from compatibility.

   c) The exterior features of such new improvement would not adversely affect and not be disharmonious with the exterior features of other historic resources situated upon such Landmark Parcel.

C. A Certificate of Appropriateness may be issued subject to the making all the following findings:

   a) That the structure does not embody distinguishing architectural characteristics valuable to a study of a period, style, method of construction or the use of indigenous materials or craftsmanship and does not display such aesthetic or artistic quality that it would not reasonably meet the criteria for designation as one of the following: National Historic Landmark, National Register of Historic Places, California Registered Historical Landmark, or California Point of Historical Interest.

   b) That the conversion of the structure into a new use permitted by right under current zoning or with a conditional use permit, rehabilitation, or some other alternative for preserving the structure, including relocation within the city, is not feasible.

   c) The proposed work conforms with The Secretary of Interior's Standards.

B. The proposed work would not detrimentally change, destroy or adversely affect any interior feature of the resource.

C. In an effort to agree to a means of historically preserving a Historic Resource proposed for demolition:

   a) During a 180-day period commencing from proper filing of an application for a Certificate of Appropriateness, the city may negotiate with the owner of a Historic Resource, or with any other parties, in an effort to agree to a means of historically preserving the designated property. The negotiations may include, but are not limited to,

acquisition by gift, purchase, exchange, condemnation, or otherwise of the Historic Resource.

b) Notwithstanding any of the foregoing, the Commission shall have the power to extend the required 180-day period to a duration not to exceed a 360-day period in any case where the Commission determines that such an extension is necessary or appropriate for the continued historical preservation of a Historic Resource.

D. Notwithstanding subsection (C) of this Section, a Historic Resource shall not be demolished in contravention of a recorded deed restriction.

E. Once a Certificate of Appropriateness has been issued, work may proceed subject to any other permits or approvals needed. Upon verification that the work has been completed in accordance with the Certificate of Appropriateness and The Secretary of Interior's Standards, a Certificate of Completion shall be issued and any related permits may be finaled.

§ 9.56.110. Certificate of Appropriateness and Certificate of Completion Extensions.

The Heritage Commission Secretary may extend the time period for exercising a Certificate of Appropriateness as provided for in Section 9.56.110, Extensions, upon such terms and conditions as the Secretary deems appropriate consistent with the original approval and Section 9.56.110 if the development standards relevant to the project have not changed since project approval. An extended Certificate of Appropriateness shall expire if the work authorized thereby is not commenced by the end of the extension period. Except as otherwise provided for in this Section, all provisions of this Code applicable to a Certificate of Appropriateness shall apply to an extended Certificate of Appropriateness.

§ 9.56.120. Appeals.

An appeal to the City Council of an action of the Heritage Commission shall be processed in accordance with the following procedure:

A. Each of the following actions by the Commission may be appealed to the City Council:

a) Any decision relating to an application for the designation of a Landmark.

b) Any decision defining and describing a Landmark Parcel upon which a Landmark is situated.

c) Any decision amending, modifying, or rescinding any decision to designate a Landmark, or any preliminary or supplemental designations, determinations, or decisions, as additions thereto.

d) Any decision relating to an application for a Certificate of Appropriateness.

e) Any decision relating to a Historic Resource.

f) The approval or disapproval of an application of a Landmark, Historic District, Historic Resource, or Certificate of Appropriateness that occurred as a result of the expiration of the required time periods for processing such applications.

B. Any person may appeal a determination or decision of the Commission by filing a notice of appeal with the Department on a form furnished by the Department. Such notice of appeal shall be filed within seven consecutive days commencing from the date that such final determination or decision is made by the Commission or from the date an application is deemed approved or disapproved because of the failure to comply with any time period set forth in this Chapter. Notwithstanding any of the foregoing, any member of the Commission or City Council may request a review by the Commission or City Council of any determination or decision of the Commission without the accompaniment of such fee in the amount required by law. Once an appeal is filed, the review is de novo, and the City Council may review and take action on all determinations, interpretations, decisions, judgments, or similar actions taken that were in the purview of the original hearing body on the application or project and is not limited to only the original reason stated for the appeal.

C. The City Council shall schedule a public hearing to be held within 45 days after the notice of appeal is properly filed with the Department. The owner of the improvement may agree to extend the time period for the City Council to hold and conclude the public hearing on the application.

D. Notice.

a) Notice of the date, time, place and purpose of a public hearing on an appeal shall be given by the Director by at least one publication in a daily newspaper of general circulation, and shall be mailed to:

i) The appellant;

ii) The owner of the Historic Resource or Landmark in the case of any action regarding either;

iii) The owners of all real property within the Historic District in the case of any action regarding an entire Historic District;

iv) The owners of all real property within 300 feet of the exterior boundaries of the lot or lots on which a Historic Resource or Landmark is located in the case of any action regarding either;

v) The owners all real property within 300 feet of the exterior boundaries of the Historic District in the case of any action regarding an entire Historic District;

vi) The owners of all real property within 300 feet of the exterior boundaries of the lots or lots on which a building or structure is located in the case of any action regarding a building or structure within a Historic District.

b) The names and addresses of such owners as are shown on the records of the Orange County Assessor shall be used for providing this notification. The failure to send notice by mail to any such real property where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. The Commission or the City Council may also give such other notice as it may deem desirable and practicable.

E. At the conclusion of the public hearing, or any continuation thereof, the City Council shall render its decision on the notice of appeal and shall approve, in whole or in part, or disapprove the prior determination or decision of the Commission. The City Council decision shall be in full force and effect from and after the date such decision is made. The owner of the improvement may agree to extend the time period for the City Council to hold and conclude the public hearing on the application.

F. Within 30 days after the decision has been made, the City Council shall approve a statement of official action that shall include:

   a) A statement of the applicable criteria and standards against which the application for designation was assessed.

   b) A statement of the facts found which establish compliance or noncompliance with each applicable criteria and standards.

   c) The reasons for a determination to approve or deny the application.

   d) The decision to deny or to approve with or without conditions and subject to compliance with applicable standards.

G. The appellant and the owner of the Historic Resource or Landmark in the case of a decision regarding either, the owners of all real property within the Historic District in the case of a decision regarding an entire Historic District, or the owner of a building or structure in the case of a building or structure within a Historic District shall be provided a copy of the statement of official action, using for this purpose the names and addresses of such owners as are shown in the records of the Orange County Assessor.

§ 9.56.130. Maintenance and Repair.

A. No owner or person in charge of a property that is within a Historic District or designated as a Historic Resource or Landmark shall deliberately or inadvertently neglect their properties when much maintenance is necessary to prevent deterioration and decay of the features therein.

   a) If a property is found to require work to meet the requirements of this division, the owner shall receive notice of a complaint identifying the deficiencies and providing notice that a plan and schedule must be prepared for undertaking the needed repairs to stabilize the building or structure and arrect further deterioration.

   b) If the owner fails to make the necessary repairs with the identified time frame, the city may utilize any available remedy at law to correct the deficiencies that create any hazardous and/or unsafe conditions to life, health, or property. The expense of this work can be recorded as a lien on the property.

B. It is the intent to preserve from deliberate or inadvertent neglect the Every owner, or person in charge, of a Landmark, a Historic Resource, or of a building or structure within a Historic District, shall have the duty of keeping in good repair all of the exterior features of such resources, and all interior features thereof that, if not so maintained, may cause or tend to cause the exterior features of such resource to deteriorate, decay, or become damaged, or otherwise to fall into a state of disrepair. All designated buildings or structures shall be

preserved against such decay and be kept free from structural defects through the prompt repair of any of the following:

a) Facades that may fall and injure members of the public or property.

b) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.

c) Members of ceilings, roofs, ceiling and roof supports or other horizontal members that age, split or buckle due to defective material or deterioration.

d) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.

e) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.

f) Any fault or defect in the building that renders it not properly watertight or structurally unsafe.

C. This Section shall be in addition to any and all other provisions of law requiring such Landmark, Historic Resource, or structure or object within a Historic District to be kept in good repair.

D.

§ 9.56.140. Unsafe or Dangerous Conditions.

Nothing contained in this Chapter shall prohibit the making of any necessary alteration, restoration, construction, removal, relocation or demolition, in whole or in part, of or to a Landmark , Historic Resource, or of or to a structure or object within a Historic District pursuant to a valid order of any governmental agency or pursuant to a valid court judgment, for the purpose of remedying emergency conditions determined to be dangerous to life, health or property. A copy of such valid order of any governmental agency or such valid court judgment shall be filed with the Director and in such cases, no Certificate of Appropriateness from the Heritage Commission shall be required.

§ 9.56.150. Ordinary Maintenance.

Nothing contained in this Chapter shall be construed to prevent ordinary maintenance or repair of any exterior features of a Historic Resource, Landmark, property within a Historic District, or property protected by a deed restriction that does not involve any detrimental change or modification of such exterior features. In such cases, the work must be approved by the Director or Heritage Commission, as applicable, and a Certificate of Appropriateness issued unless expressly exempted. The administrative determination is appealable to the Heritage Commission and shall be filed and processed in the same manner as a Certificate of Appropriateness. Examples of this work shall include, but not be limited to, the following:

E. Construction, demolition or alteration of side and rear yard fences.

F. Construction, demolition or alteration of front yard fences, if no change in appearance occurs.

G. Repairing or repaving of flat concrete work in the side and rear yards.

H. Repaving of existing front yard paving, concrete work, and walkways, if the same material in appearance as existing is used.

I. Roofing work, if no change in appearance occurs.

J. Foundation work, if no change in appearance occurs.

K. Chimney work, if no change in appearance occurs.

L. Landscaping, unless the Landmark designation specifically identifies the landscape layout, features, or elements as having particular historical, architectural, or cultural merit.

§ 9.56.160. Public Spaces.

For purposes of this Chapter, any interior space regularly open to the general public, including, but not limited to, a lobby area may be included in the Landmark designation of a structure or structures if the Heritage Commission, or the City Council upon appeal, finds that such public spaces meet one or more of the criteria listed under Section 9.56.070 or Section 9.56.080.

§ 9.56.170. Map.

All designations of Historic Resources and Landmarks and any definitions and descriptions of a Landmark Parcel thereto, and all designations of Historic Districts, shall be recorded on a Cultural and Historic Resources map by the Director.

§ 9.56.180. Voluntary Restrictive Covenants.

Upon approval by the City Council, the owner of a Landmark may enter into a restrictive covenant with the city regarding such Landmark after negotiations with the city.

§ 9.56.190. Waiver.

The Building Officer of the city shall have the power to vary or waive any provision of the Orange Building, Electrical, Housing, Mechanical or Plumbing Codes, pursuant to such Codes, in any case that they determine that such variance or waiver does not endanger the public health or safety, and such action is necessary for the continued historical preservation of a Landmark.

§ 9.56.200. Recordation of Landmarks and Historic Districts.

All buildings or structures designated as Landmarks or as part of a Historic District pursuant to this Chapter shall be recorded by the city in the office of the Orange County Recorder. The document to be recorded shall contain the name of the owner or owners, a legal description of the property, 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 9.56.200 authorizing the recordation.

§ 9.56.210. Preservation Incentives.

The City Council may by resolution or by ordinance adopt preservation incentives to encourage the designation, preservation, maintenance, and appropriate rehabilitation of the city's historic and cultural resources. Preservation incentives, in the form of financial and regulatory incentives, shall be made available to owners of Historic Resources, either individually or as Contributors to Historic Districts. The following examples of incentives may be recommended by the Director, for adoption by City Council:

A. **Certificates of Appropriateness and Certificate of Completion Fees.** All Certificate of Appropriateness and Certificate of Completion fees for any alteration, restoration or construction, in whole or in part, to a designated Landmark or to a contributing building or structure located in a Historic District shall be waived.

B. **Parking Incentives.** Any parking incentives permitted by the Zoning Ordinance.

C. **Streetscape Improvements in Historic Districts.** Whenever streetscape improvements are proposed by the city in areas that are designated Historic Districts, the city shall consider the use of materials, landscaping, light standards and signage that are compatible with the area's historic and architectural character.

E. **State Historical Building Code.** The California State Historical Building Code (Title 24, Part 8, California Administrative Code) shall be applied to alterations to designated Historic Resources, Landmarks, and contributing buildings and structures located in Historic Districts.

F. **Mills Act Historical Property Contracts.** Historic Resources, Landmarks and contributing buildings or structures located in Historic Districts that are privately owned and not exempt from taxation shall be considered qualified historical properties eligible for Mills Act historical property contracts submitted or entered into, pursuant to the provisions of Article 12, commencing with Section 50280, Chapter 1, Part 1, Division 1, Title 5, of the California Government Code. The City Council shall, by resolution, approve a historical property contract with the owner of a qualified historical property, provided that:

    1. The property has no confirmed and outstanding violations of this Code, or any other applicable federal, state or local law, rule or regulation;

    2. The property is not subject to a tax delinquency; and

    3. All completed or ongoing alterations, construction or rehabilitation to designated buildings or structures located on the property conform to the Secretary of Interior's Standards for the treatment of Historic Properties and applicable city standards and guidelines.

    4. The property is a designated Landmark.

G. **Plan Check Processing.** Structures designated as Historic Resources, Landmarks or contributing buildings or structures to a Historic District shall receive priority Building Division plan check processing.

§ 9.56.220. CEQA Time Extensions.

Any time periods set forth in this Chapter may be extended by the Director by such periods as are necessary to comply with the California Environmental Quality Act (CEQA).

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