

ARTICLE 11

HISTORIC PRESERVATION ORDINANCE

Section	Subject
10-11.00	FINDINGS AND PURPOSE
10-11.01	DEFINITIONS
10-11.02	INAPPLICABILITY OF ARTICLE TO CERTAIN PROPERTIES
10-11.03	PROCEDURE FOR DESIGNATION OF HISTORIC STRUCTURES, SITES, OR DISTRICTS
10-11.04	CRITERIA FOR DESIGNATION OF HISTORIC STRUCTURES, SITES, OR DISTRICTS
10-11.05	ALTERATION OF SIGNIFICANT STRUCTURES OR SITES
10-11.06	DEMOLITION OF SIGNIFICANT STRUCTURES
10-11.07	MAINTENANCE OF SIGNIFICANT STRUCTURES
10-11.08	ENFORCEMENT AND REMEDIES

ARTICLE 11

HISTORIC PRESERVATION ORDINANCE

SEC. 10-11.00 FINDINGS AND PURPOSE. It is found that the protection, enhancement, perpetuation, and use of structures and districts of historical and architectural significance located within the City of Hayward are of cultural and aesthetic benefit to the community. It is further found that the economic, cultural, and aesthetic standing of the City will be enhanced by respecting the heritage of the City. Therefore, the purposes of this article are to:

- a. Designate, preserve, protect, enhance, and perpetuate those historic structures, districts, and neighborhoods which contribute to the cultural and aesthetic heritage of Hayward;
- b. Foster civic pride in the beauty and accomplishments of the past;
- c. Stabilize and improve the economic value of certain historic structures, districts, and neighborhoods;
- d. Develop and maintain appropriate settings for such structures; and
- e. Enhance the visual and aesthetic character, diversity, and interest of the City.

SEC. 10-11.01 DEFINITIONS. Throughout this article the following definitions shall apply:

- a. 'Historic district' means a geographically defined area which has been designated as possessing a significant concentration or number of buildings unified by past events, or aesthetically by plan or physical development. The collective value of buildings and landscape in an historic district taken together may be greater than the value of each individual element. Each building or site within an historic district is categorized as significant for the purpose of this article except the provisions for retaining major interior architectural features and for making penalties available for a failure to maintain buildings shall apply only to buildings on the City's List of Historically or Architecturally Significant Buildings. A building or site located within an historic district shall not be added to the List of Historically or Architecturally Significant Buildings unless such building has been specifically designated as an historic structure or site.
- b. 'Historic site' is a property which has been designated as a site closely identified with an historic person's life, community, or historic event.
- c. 'Historic structure' means any building within the City which has been identified as having historic or architectural significance and has been placed on the City's List of Historically and Architecturally Significant Buildings.
- d. 'Significant Structure' refers to both an historic structure which has been placed on the City's List of Historically and Architecturally Significant Buildings and a

structure located within an historic site or an historic district, unless the context specifically indicates otherwise.

SEC. 10-11.02 INAPPLICABILITY OF ARTICLE TO CERTAIN PROPERTIES.

The provisions of this article shall not be applicable to any property owned by a public agency or dedicated to a public use, nor shall this article apply to any property which is proposed for acquisition by a public agency. A property shall be deemed to be proposed for acquisition by a public agency if it has been identified on a preliminary right-of-way drawing for a street or highway project under active consideration by a public agency, is being actively considered for acquisition by a public agency, is the subject of a Resolution of Necessity or acquisition negotiations by a public agency.

SEC. 10-11.03 PROCEDURE FOR DESIGNATION OF HISTORIC STRUCTURES, SITES, OR DISTRICTS.

- a. Initiation of designation may be proposed by the Hayward Area Historical Society, the Planning Commission, the City Council, the owner of the property, the Director of Community and Economic Development/Planning Director, or by application of at least fifty residents of the City.
- b. Proposals for designation shall be filed with the Development Review Services Division and shall include the following data:
 - (1) The address and assessor's parcel number of the site or boundaries of the proposed district;
 - (2) A description detailing the structure, site, or district's special aesthetic, cultural, architectural, or engineering interest or value of an historic nature;
 - (3) A description of the historical value of the structure, site, or district;
 - (4) Sketches, drawings, photographs, or other descriptive material; and
 - (5) Other supporting information as required by the Director of Community and Economic Development/Planning Director.
- c. Action on any pending development or demolition permit affecting a structure or site proposed for designation shall be automatically suspended by the Director of Community and Economic Development/Planning Director for a period of no more than sixty (60) days from the filing of the proposal for designation in order to provide for action on the designation proposal. This period of suspension shall expire automatically ten (10) days after the Planning Commission has acted on the designation application; provided, however, that this provision shall not operate to extend the sixty (60) day period of suspension.
- d. Notice of the time, place, and purpose of the hearing shall be given at least ten (10) days prior to the date of the hearing by mail to the applicant, to the owner or owners of the property, to the owners of property within three hundred (300) feet of the site,

to the Hayward Area Historical Society, and to all neighborhood associations in the area on file with the City.

- e. The Planning Commission shall approve, disapprove, or modify the application for designation. The action of the Planning Commission may be appealed to the City Council by any interested person or review requested by a City Council Member according to the provisions of Section 10-1.2845 of the Municipal Code. The filing of an appeal shall automatically extend the stay on processing of a demolition or development permit application for a period of time which expires on the lesser of the following: Forty-five (45) days after the Planning Commission decision or the day after the City Council has concluded its appeal proceedings.
- f. On appeal the City Council may approve, disapprove, or modify the designation and, in any case where an application for a development or demolition permit is pending concurrently with the proposal for designation, such decision shall be made within forty-five (45) days of Planning Commission action.
- g. After approval of the designation of an historic structure, site, or district, the City Clerk shall send to the owners of the property so designated, by first class mail, a letter outlining the basis for such designation. Notice of this designation shall also be filed in the Building Department and the Development Review Services Division. Notice of an historic structure or site designation shall also be filed with the Alameda County Recorder.

SEC. 10-11.04 CRITERIA FOR DESIGNATION OF HISTORIC STRUCTURES, SITES, OR DISTRICTS.

- a. Historic Structures. The following shall be used as criteria for designating additional historic structures.
 - (1) The structure is identified with the lives of historic people or with important events in the City, state, or nation; or
 - (2) The structure is particularly representative of an architectural style or way of life important to the City, state, or nation; or
 - (3) The structure is an example of a type of building which was once common, but is now rare; or
 - (4) The structure is connected with a business or use which was once common, but is now rare; or
 - (5) The structure contains elements demonstrating outstanding attention to architectural design, detail, materials, or craftsmanship.
- b. Historic Districts. A proposal for designation of an historic district may be approved only if the proposed district is found to contain a significant concentration or number of buildings or sites unified by either past events or aesthetically unified by plan or

physical development.

- c. Historic Sites. A proposal for designation of an historically significant site may be approved only if the site is found to be closely identified with the life of an historic person, community, or with an historic event in the City, state, or nation.

SEC. 10-11.05 ALTERATION OF SIGNIFICANT STRUCTURES OR SITES.

- a. Review Process. All development permit applications affecting a significant structure or site shall be reviewed as follows:
 - (1) The Director of Community and Economic Development/ Planning Director shall review and may approve additions or alterations which will not adversely affect the exterior architectural characteristics or the historical or aesthetic value of a significant structure or site or its site or surroundings in accordance with the procedures for approval of an administrative use permit.
 - (2) The Planning Commission shall review all development permit applications for proposed alterations of a significant structure or site which may substantially affect its style, scale, or bulk as well as new construction in an historic district or on an historic site. The Planning Commission's decision shall become final ten days after the decision.
- b. The Planning Commission shall consider the siting, landscaping, architectural style, design, materials, color, and any other pertinent factors, including but not limited to the following:
 - (1) As to buildings on the City's List of Historically and Architecturally Significant Buildings and significant sites the proposed alterations should not adversely affect the exterior architectural characteristics nor the historical or aesthetic value of the building or the site. Major interior architectural features of such significant structures shall also be conserved.
 - (2) As to any significant structure in an historic district, the proposed alterations should not adversely affect the exterior architectural characteristics or the historical, architectural, or aesthetic value of the building and its site. Also, siting, landscaping, architecture, materials, and color shall be harmonious with historic elements of the surrounding neighborhood.
 - (3) All applications shall comply with applicable requirements of the zoning regulations.
 - (4) The proposed alteration shall also be consistent with the General Plan and other officially adopted City policies.
- c. Any interested person may file an appeal to the City Council or any City Council member may request review of the Planning Commission's action within ten (10) days after the Planning Commission decision according to the procedures of Section

10-1.2845 of the Hayward Municipal Code.

SEC. 10-11.06 DEMOLITION OF SIGNIFICANT STRUCTURES.

- a. Applications for demolition of a significant structure shall include one (1) clear photograph of the front of the building and such other information as may be required by the City Building Official and the Director of Community and Economic Development/Planning Director.
- b. Within sixty (60) days of receipt of a completed application, a hearing shall be scheduled on the demolition permit before the Planning Commission. The demolition permit shall be withheld for a period not to exceed one year unless the following finding is made:

The Planning Commission determines that demolition of the significant structure will not have a significant negative effect on the achievement of the purposes of this article given the character of the landscaping and architecture to be put in its place as evidenced by an approved plan for development of the site. Consideration shall be given to siting, scale, style, quality of materials, applicable Special Design ("SD") district criteria, if any, and the history of the existing significant structure.

- c. Notwithstanding the requirements of this section, a demolition permit may be issued without the necessity for the Planning Commission's review if the City Building Official or the Fire Chief, after consultation with the Planning Director, determines that an imminent safety hazard exists and that demolition of the significant structure is necessary to secure the public safety.
- d. The decision of the Planning Commission may be appealed to the City Council by any interested person by the filing of an appeal or a City Council Member's filing of a request for review within ten (10) days of the Planning Commission's action according to the provisions of Section 10-1.2845 of the Hayward Municipal Code.

SEC. 10-11.07 MAINTENANCE OF SIGNIFICANT STRUCTURES. The owner, lessee, or other person legally in possession of a significant structure shall comply with all applicable codes, laws, and regulations governing the maintenance of property.

SEC. 10-11.08 ENFORCEMENT AND REMEDIES.

- a. Unlawful Alteration or Demolition of Significant Structures.
 - (1) It shall be unlawful for a person or entity to demolish or cause to be demolished any significant structure or portion thereof in violation of any of the provisions of this article.
 - (2) Any person or entity who demolishes a significant structure or causes a demolition in violation of the provisions of this article may be liable civilly in a sum equal to the replacement value of the building.

(3) The City Attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction, or replacement in kind of any significant structure or site demolished, altered, or partially demolished in violation of this article.

b. Failure to Maintain a Historic Structure.

- (1) It shall be unlawful for any person or entity to fail to maintain any historic structure.
- (2) Any person or entity who fails to maintain any historic structure may be liable civilly in a sum not to exceed One Thousand Dollars (\$1,000) in addition to any other available civil and criminal remedy. Each day of violation constitutes a separate offense for which a penalty may be assessed.

c. Remedies Not Exclusive. The remedies provided by this section are not exclusive.