

## 17.61.080 - Variances

**A. Purpose.** The provisions of this Section allow for Variances (Section D.) from the development standards of this Zoning Code, Variances for Historic Resources (Section H.), and modifications for individuals with disabilities (Section I.).

**1. Special privileges prohibited.**

- a. A Variance may only be granted when, because of special circumstances applicable to the subject property, including dimension, location, shape, size, or surroundings; geographic, topographic, or other physical conditions on the site or in the immediate vicinity; or from street locations or traffic conditions in the immediate vicinity, the strict application of this Zoning Ordinance denies the property owner privileges enjoyed by other property owners in the vicinity and under identical zoning districts, or creates an unnecessary, and non self-created hardship or unreasonable regulation which makes it obviously impractical to require compliance with the applicable development standards.
- b. A Variance shall not be granted that would have the effect of granting a special privilege(s) not shared by other property owners in the vicinity and under identical zoning districts.

**2. Does not extend to uses and notes.**

- a. The power to grant Variances does not extend to allowable land uses and the notes on the land-use tables. In no case shall a Variance be granted to allow a use of land or structure not otherwise allowed in the zoning district in which the subject property is located. A Variance shall not be granted to the notes on the land-use tables contained in Articles 2 and 3.
- b. Flexibility in allowable land uses is provided in Section 17.61.050 (Conditional Use Permits).

**3. Does not extend to procedures.** A Variance shall not be granted to allow an adjustment to the procedural requirements of this Zoning Code.

**B. Review authority.** Variances may be granted in compliance with the following:

**1. The Hearing Officer may:**

- a. Grant Variances in compliance with Subsection D., below; or
- b. Defer action and refer the application directly to the Board of Zoning Appeals (BZA).

**2. The Zoning Administrator may:**

- a. Grant Minor Variances in compliance with Subsection C., below, and State law (Government Code Section 65901); or

- b. Defer action and refer the application directly to the Hearing Officer or the Board of Zoning Appeals (BZA).

**C. Minor Variances.**

1. **Purpose.** Minor Variances are a form of Variance intended for adjustments that are determined to have lesser (minor) potential impacts and therefore require a modified review process.
2. **Applicability.** The following applications for adjustments from the applicable development standards may be processed as a Minor Variance:
  - a. Up to two permit applications, for a Minor Variance, Minor Conditional Use Permit, or Sign Exception, may be combined and processed under the Minor Variance/Minor Conditional Use Permit procedure.
  - b. Alteration or expansion of a nonconforming use in compliance with Section 17.71.080 E. (Allowed Alterations and/or Additions to Nonconforming Uses and Structures).
  - c. Unless otherwise identified in Table 6-4, below, adjustments not exceeding 25 percent of the development standard may be processed as a Minor Variance.
  - d. Applications for adjustments exceeding 25 percent of the development standard shall be processed as Variances, in compliance with Subsection D. below.

**TABLE 6-4 - ALLOWABLE MINOR VARIANCES**

| Types of Minor Variances Allowed  | Maximum Adjustment Allowed   |
|---|--|
| 1. In all districts: <ul style="list-style-type: none"> <li>a. Front setback</li> <li>b. Side setback</li> <li>c. Rear setback</li> <li>d. Corner setback</li> <li>e. Fence or wall height</li> </ul> | No limit on percent of adjustment  |
| f. Building height  | Not exceeding an adjustment of 10 feet, or 5 feet in the HD overlay district |
| g. Appurtenance height  | No limit on percent of adjustment  |
| 2. For projects subject to RS and RM-12 development standards, not including HD overlay standards – maximum floor area  | Not exceeding an adjustment of 10 percent                                    |
| 3. In RM districts – minimum landscape area   |  |

**3. Procedures.**

- a. The standard procedure for notice shall be followed, except that mailed and posted notice shall be within a 300-foot radius of the subject site's boundaries.
- b. The Zoning Administrator shall set a date and time on which the application will be considered.
- c. Notice shall be mailed and posted at least 14 days before the date set by the Zoning Administrator.
- d. The notice shall indicate that any interested person may request, in person or in writing, no later than one working day before the date set by the Zoning Administrator, that a hearing be held on that date.
- e. If no hearing is requested, the Zoning Administrator's decision may be made without a public hearing.
- f. The Zoning Administrator may also hold a hearing at the Zoning Administrator's discretion.
- g. If a hearing is held, the Zoning Administrator shall conduct the hearing in compliance with Chapter 17.76 (Public Hearings).

**D. Variances.** The Hearing Officer may grant an adjustment from the requirements of this Zoning Code governing only the following:

1. **Development standards.** Any development standard identified in Subsection C. (Minor Variances), above, where the requested adjustment exceeds the maximum limits for a Minor Variance;
2. **Dimensional standards.** Dimensional standards including distance-separation requirements, landscape and paving requirements, lighting, loading spaces, lot area, lot dimensions, parking areas, open space, structure heights, etc;
3. **Numerical standards.** Number of off-street parking spaces, loading spaces, landscaping, etc;
4. **Additional land-use regulations.** The additional land-use regulations which apply to each use classification; and
5. **Other.** Other standards including operational/performance standards relating to dust, glare, hours of operation, landscaping, light, noise, number of employees, etc.

**E. Application requirements.** An application for a Variance shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Variance applications. The applicant shall be responsible for providing the evidence in support of the findings required by Subsection G. (Findings and decision) below.

**F. Notice and hearings.**

1. **Minor Variances.** The procedures identified in Subsection C.3. (Procedures), above, shall determine if a public hearing shall be required for the Zoning Administrator's decision on a Minor Variance.
2. **Variances.**
  - a. A public hearing shall be required for all Variances considered by the Hearing Officer.
  - b. A public hearing shall be scheduled once the Director has determined that the application is complete.
  - c. Noticing of the public hearing shall be given in compliance with Chapter 17.76 (Public Hearings).
  - d. If taken under advisement, the Hearing Officer shall render a decision on the Variance application within 10 days following the final public hearing on the application.

**G. Findings and decision.** Following a public hearing, if required, the review authority may approve a Variance (Major or Minor) application, with or without conditions, only after first finding that:

1. There are exceptional or extraordinary circumstances or conditions applicable to the subject site that do not apply generally to sites in the same zoning district;
2. Granting the application is necessary for the preservation and enjoyment of a substantial property right of the applicant and to prevent unreasonable property loss or unnecessary hardship;
3. Granting the application would not be detrimental or injurious to property or improvements in the vicinity of the subject site, or to the public health, safety, or general welfare;
4. Granting the application is in conformance with the goals, policies, and objectives of the General Plan, and the purpose and intent of any applicable specific plan and the purposes of this Zoning Code, and would not constitute a grant of special privilege inconsistent with limitations on other properties in the vicinity and in the same zone district; and
5. Cost to the applicant of strict compliance with a regulation shall not be the primary reason for granting the Variance.

**H. Variances for Historic Resources.****1. Purpose.**

- a. A Variance for Historic Resources is intended to accommodate historic resources that are undergoing adaptive use or are being relocated.
- b. This unique type of Variance is designed to provide relief from the strict compliance with the development standards of this Zoning Code that may impair the ability of a designated historic resource to be properly used for adaptive reuse or to be relocated onto a new site.
- c. The Variance shall not allow a use of land or structure not otherwise allowed in the zoning district in which the subject property is located and only applies if the property has a historic designation.
- d. Adaptive use is the reuse of a structure with a new use different from that for which the structure was originally constructed.

**2. Procedures.**

- a. The Zoning Administrator shall be the applicable review authority for Variances for Historic Resources.
- b. The Hearing Officer shall be the applicable review authority for Variances for Historic Resources that are combined with applications for a Conditional Use Permit or a Variance.
- c. The procedures for a Variance for Historic Resources shall be the same as for a Minor Variance, including those for notice and hearing upon request.

**3. Findings and decision.** Following a public hearing, if required, the review authority may approve a Variance for Historic Resources application, with or without conditions, only after first finding that:

- a. The Variance for Historic Resource is necessary to facilitate the appropriate use of an existing designated historic structure;
- b. The Variance for Historic Resource would not adversely impact property within the neighborhood or historic district; and
- c. Granting the Variance for Historic Resource application would be in conformance with the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan.

**I. Modifications for individuals with disabilities.**

1. **Purpose.** The purpose of this Subsection is to provide a mechanism through which the City may, in compliance with State and Federal law, grant reasonable modifications to the strict requirements of this Zoning Code where necessary to avoid discrimination against individuals with disabilities.
2. **Procedures.**
  - a. The Zoning Administrator shall be the applicable review authority for applications for the modifications. However, the Hearing Officer shall be the applicable review authority for the application that is combined with an application for a Conditional Use Permit or a Variance.
  - b. The application, notice, and hearing procedures for considering applications for modifications shall be in compliance with Subsection C.3. (Procedures) above.
  - c. An individual with a disability, or designated representative, may request that any applicable development standard be modified to prevent discrimination against the individual on the basis of the individual's disability. The modifications shall not be granted to any applicable development standard relating to density, FAR, gross floor area, or lot coverage.
  - d. A modification granted for an individual with a disability shall be a personal accommodation for the individual applicant and shall not run with the land.
    - (1) Before the issuance of a Building Permit for the modification, the permittee shall execute a notarized statement that permits the City to inspect the affected premises at least annually to verify compliance with this Subsection and with any applicable conditions of approval.
    - (2) Before any transfer of interest in the premises, the permittee shall notify the transferee of the existence of the modification, the status of the modification, and the requirement that the transferee may apply for a new modification if qualified and necessary.
    - (3) Once the transfer takes effect, the modification shall have no further validity, and therefore shall be considered voluntarily relinquished by the permittee in compliance with Section 17.64.070 (Voluntary Relinquishments).
3. **Findings and decision.** Following a public hearing, if required, the review authority may approve the application for modification, with or without conditions, only after first finding that:
  - a. The individual requesting the modification is a qualified individual with a disability;
  - b. The requested modification to the strict requirements of this Zoning Code is a reasonable modification on the part of the City made necessary by State or Federal laws designed to avoid discrimination on the basis of disability, and to ensure that the

qualified individual with a disability has the opportunity to enjoy the rights, privileges, and opportunities available to residents or property owners, as applicable, in the same zoning district; and

- c. All necessary conditions have been imposed to ensure that the modification shall not be detrimental to public health and safety.
- J. Compliance with findings.** In approving a Variance or Minor Variance, the applicable review authority may impose conditions (e.g., buffers, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, etc.) deemed reasonable and necessary to:
1. **Compliance with Section.** Ensure compliance with the general purpose of this Section, and the goals, policies, and objectives of the General Plan and the purpose and intent of any applicable specific plan;
  2. **Special privileges prohibited.** Ensure that the approval does not grant special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which the property is located;
  3. **Compliance with findings.** Ensure that the approval would be in compliance with the findings required by Subsection G. (Findings and decision), above; and
  4. **Protect interests.** Protect the best interests of the surrounding property or neighborhood, and to preserve the public health, safety, and general welfare.
- K. Concurrent processing.** If the project that is the subject of an application for a Tentative Map or Tentative Parcel Map in compliance with Title 16 (Subdivisions), or a Master Plan in compliance with Section 17.61.050, would require a Variance or Minor Variance, the applicable review authority for the underlying permit shall have the authority to also act upon the proposed Variance after first making the Variance findings required by this Subsection G. (Findings and decision) above. For subdivision-related hearings, concurrent processing is limited only to Variances for lot size and lot width, no other type of Variance may be considered by the Subdivision Committee.
- L. Post approval procedures.** The procedures relating to appeals, changes, expiration, performance guarantees, and revocation that are identified in Article 7 (Zoning Code Administration), and those identified in Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), shall apply following the decision on a Variance or modification application.

**17.61.090 - Filming Permits**

- A. Purpose.** This Section establishes procedures for the granting of Filming Permits that:
1. Establish special regulations for filming in the City; and
  2. May not meet the normal development or use standards of the applicable zoning district, but may be acceptable because of their temporary, short-term nature.
- B. Applicability.** Filming activities shall not be conducted, established, or operated in any manner without the approval and maintenance of a valid Filming Permit in compliance with this Section.
- E. Filming activities.** The following temporary filming activities may be allowed, subject to the issuance of a Filming Permit.
1. **Allowed.** Property in any zoning district, unless otherwise specified in this Zoning Code, may be used as a filming location for filming, including the filming of motion pictures, professional photography, or videotaping.
  2. **Exemptions.** A Filming Permit shall not be required for filming activities for personal use or entertainment, nor shall any permit be required for filming for use in news gathering, investigative reporting, or for public and municipal access stations.
- F. Application filing, processing procedures, and action.** An application for a Filming Permit shall be filed with the Department and processed in the following manner.
1. **Application requirements.** An application for a Filming Permit shall be filed with the Film Liaison. The application shall be accompanied by the information identified in the Department's Filming Permit application. The applicant shall be responsible for providing the evidence in support of the findings required by Subsection H. (Findings and decision), below, for Filming Conditional Use Permits.
  2. **Filming Conditional Use Permit procedures.**
    - a. The standard notice procedure identified in Chapter 17.76 (Public Hearings) shall be followed, except that the mailed and posted notices shall be within 300 feet of the boundaries of the filming location.
    - b. The Film Liaison shall set a date and time on which the application will be considered. The public hearing notices shall be mailed and posted at least 14 days before that date. The hearing notice shall indicate that any interested person may request, in person or in writing, that a hearing be held on that date.
  3. **Applicable review authority.** The Film Liaison shall be the applicable review authority for Filming Permits.



- a. **Short-term Filming Permits.** A Short-term Filming Permit may be approved by the Film Liaison for commercial motion picture filming, professional photographing, and videotaping at the same location for:
    - (1) Six or fewer days per quarter of a calendar year, and up to 24 days of a calendar year, in residential, open space, public, and semi-public zoning districts; or
    - (2) 15 or fewer days per quarter of a calendar year in all other zoning districts.
  - b. **Long-term Filming Permits.** A Filming Conditional Use Permit may be approved by the Film Liaison allowing Long-term Filming Permits for commercial motion picture filming, professional photographing, and videotaping at the same location for:
    - (1) More than six days per quarter of a calendar year in residential, public, and semi-public zoning districts; or
    - (2) More than 15 days per quarter of a calendar year in all other zoning districts.
4. **Public hearing requirements.**
- a. **Short-term Filming Permits.** Notice or a public hearing shall not be required for the Film Liaison's decision on a Short-term Filming Permit.
  - b. **Long-term Filming Permits.**
    - (1) A public hearing shall only be required for the Film Liaison's decision on a Long-term Filming Permit, if a hearing is requested, in compliance with Subparagraph F.3.b., above.
    - (2) If a hearing is not requested, the decision may be made without a hearing.
    - (3) The Film Liaison may hold a hearing at the discretion of the Film Liaison.
    - (4) If a hearing is held, the Film Liaison shall conduct the hearing in compliance with Chapter 17.76 (Public Hearings).
5. **Effective dates.**
- a. A Short-term Filming Permit shall be effective immediately for the days approved by the Film Liaison.
  - b. A Filming Conditional Use Permit shall be effective in compliance with Section 17.64.020 (Effective Dates).

**G. Standards.**

1. **Adjustment of standards.** The Film Liaison may authorize an adjustment from the specific standards deemed necessary or appropriate consistent with the temporary nature of the filming activity.
2. **Other permits required.** Filming activities may be subject to additional licenses, inspections, or permits required by applicable local, State, or Federal requirements.
3. **Duration of permit.** A Filming Conditional Use Permit shall be effective until the date specified by the Film Liaison, not to exceed 90 days.
  - a. The permit may be extended by the Film Liaison one time without notice and hearings, subject to making the same findings required for the original approval of the permit, in compliance with Subsection H. (Findings and decision) below.
  - b. The Film Liaison may extend the permit up to an additional 90 days beyond the 180 days.
    - (1) This extension shall require a noticed public hearing in compliance with Chapter 17.76 (Public Hearings); and
    - (2) The Film Liaison shall have to make the same findings required for the original approval of the permit, in compliance with Subsection H. (Findings and decision), below, before granting this extension.
  - c. The permit shall become void if not used within the approved time period.

**H. Findings and decision.** The Film Liaison may approve a Filming Conditional Use Permit, with or without a public hearing and with or without conditions, only after first finding that:

1. The proposed filming activity would be located and conducted in a manner conforming with the goals, policies, and objectives of the General Plan and the provisions of this Section; and
2. Approval of the application would not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare.

**I. Conditions of approval.**

1. **Filming Conditional Use Permits.** In approving a Filming Conditional Use Permit, the Film Liaison may impose conditions (e.g., hours of operation, lighting, parking, performance guarantees, property maintenance, signs, time limits, traffic circulation, etc.) deemed reasonable and necessary to ensure that the approval would be in compliance with the findings required by Subsection H. (Findings and decision), above, and to preserve the public health, safety, and general welfare.

2. **General filming conditions.**
    - a. Filming, including setup and dismantling of film activity, shall not be done before 7:00 a.m. or after 7:00 p.m. The Film Liaison may extend these hours upon a showing of necessity and upon showing the exception would not disturb the public.
    - b. Bull horns, explosions, gunfire, public address systems, sirens, or other noise-creating devices shall not be used in violation of the City's Noise Ordinance. Requests for noise-creating devices shall be reviewed by the City's Police and Fire Departments. A noise monitor may be assigned by the Film Liaison.
    - c. Filming Permits shall not be issued for sites where outstanding uncorrected violations of this Zoning Code or the City's adopted Uniform Fire Code exist.
  3. **Specified Short-term Filming Permit conditions.** The Film Liaison may impose conditions on Short-term Filming Permits for protection of the public, including without limitation the following:
    - a. Minimum insurance requirements, including the City as additional insured, with proof of insurance, and provisions forbidding cancellation of insurance in the forms and amounts deemed necessary by the Film Liaison;
    - b. A parking plan for vehicles used in the filming session;
    - c. Written permission from affected property owner(s) and tenant(s);
    - d. Attendance during setup and the filming session by uniformed police officers or firefighters at the applicant's sole cost and expense; and
    - e. The Film Liaison may impose additional conditions on Short-term Filming Permits, deemed reasonable and necessary, to ensure preservation of the public health, safety, and general welfare.
  4. **Filming activity guidelines.** The Council may adopt, by resolution, guidelines to be applied in granting Filming Permits and establishing conditions in compliance with this Section.
- J. Condition of site following temporary use.** Each site occupied by a temporary filming activity shall be cleaned of debris, litter, or any other evidence of the filming activity upon completion or removal of the activity, and shall thereafter be used in compliance with the provisions of this Zoning Code. The Film Liaison may require appropriate security before initiation of the filming activity to ensure proper cleanup after the use is finished.
- K. Post-approval procedures for Filming Conditional Use Permits.**
1. **Appeals.** Shall be in compliance with Chapter 17.72 (Appeals).
  2. **Revocations.** A Filming Conditional Use Permit may be revoked by the Film Liaison effective immediately for violation of the terms of the permit.

3. **Modifications.** The Film Liaison may require changes in the terms or conditions of an approved Filming Conditional Use Permit at any time while it is in effect if needed to ensure that the activity may continue to operate consistent with the required findings identified in Subsection H, above.

## 17.61.100 - Public Art Component

- A. Purpose.** The provisions of this Section allow for the implementation of the Cultural and Recreational Element of General Plan. The element calls for the provision of art and other cultural resources in new commercial development within the City. This Section furthers this goal by establishing a requirement that the design of certain projects incorporate a public art component.
- B. Applicability.**
1. **Applicable projects.** This Section shall apply to the following categories of projects:
    - a. **More than 25,000 square feet.** All commercial, industrial, and mixed-use projects with over 25,000 square feet of gross floor area shall incorporate a public art component.
    - b. **City projects.** All City construction projects shall incorporate a public art component.
  2. **Exempt projects.** This Section shall not apply to the following categories of projects:
    - a. Projects having a fully executed Owner Participation Agreement (OPA), Disposition and Development Agreement (DDA), development agreement, or a Vesting Tentative Map approved before the effective date of this Section;
    - b. Projects within the Northwest Enterprise Zone, as this zone may be amended from time to time;
    - c. Projects within the boundaries of a Master Plan or Planned Development area approved before the effective date of this Section;
    - d. Projects within the boundaries of a Redevelopment Project Area. For these areas, the applicant shall comply with the design requirements adopted in compliance with the applicable redevelopment plan; and
    - e. Projects for which a Building Permit was issued before the effective date of this Section. However, a Building Permit for additions to the same project which is issued after the effective date of this Section shall be subject to the requirements of this Section.
  3. **Public art defined.** For purposes of this Section, public art shall mean creation of an original work or service of an artist for a publicly accessible space which could include earthworks, mosaics, murals, and sculpture.
  4. **Minimum standard of performance.** The minimum standard of performance used to measure compliance with this Section is that the public art component shall have a value equal to not less than one percent of the Building Permit valuation for the underlying project.

- C. Application requirements.** An application for a Public Art Component shall be filed in compliance with Chapter 17.60 (Application Filing and Processing). The application shall be accompanied by the information identified in the Department handout for Public Art Components.
- D. Arts Commission.** The Arts Commission shall be responsible for administering this Section. The Arts Commission shall recommend and the Council, by resolution, shall adopt guidelines to be used in determining whether there has been compliance with this Section.
- E. Compliance.** A Certificate of Occupancy for a project as defined in Subsection B.1. (Applicable projects) above, shall not be issued until there has been a written determination made by the Arts Commission that there has been compliance with this Section.

## **CHAPTER 17.62 - HISTORIC PRESERVATION**

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### **Sections:**

- 17.62.010 - Purpose of Chapter
- 17.62.020 - Administrative and Review Authorities - Powers and Duties
- 17.62.030 - General Procedures
- 17.62.040 - Criteria for Designation of Historic Resources
- 17.62.050 - Process for Designating Historic Resource
- 17.62.060 - Rescinding or Amending a Designation
- 17.62.070 - Designating Landmark Districts
- 17.62.080 - Acquisition of Historic Easements on Facades
- 17.62.090 - Alteration, Demolition, or Relocation of a Historic Resource
- 17.62.100 - Replacement Building Permit Requirements
- 17.62.110 - Review of Major Projects Affecting City-Owned Historic Resources
- 17.62.120 - Demolition or Alteration of a Historic Resource Without a Permit
- 17.62.130 - Incentives for Preserving Historic Resources

### **17.62.010 - Purpose of Chapter**

The purpose of this Chapter is to specify significance criteria for the designation of historic resources, procedures for designation, and review procedures to:

- A. Encourage and promote the adaptive reuse of the City's historic resources;
- B. Enhance, perpetuate, and preserve architecturally and historically significant structures and promote revitalization of historic neighborhoods and commercial areas;
- C. Ensure that the rights of the owners of historic resources and owners of properties adjacent to historic resources are safeguarded;
- D. Foster civic pride in the beauty and noble accomplishments of the past by promoting private stewardship of historic resources that represent these accomplishments;
- E. Fulfill the City's responsibilities:
  - 1. As a Certified Local Government under Federal preservation laws; and
  - 2. For Federal Section 106 reviews and for the California Environmental Quality Act regarding historic resources.
- F. Promote the identification, documentation, and evaluation of the significance of individual historic resources and districts;
- G. Implement the historic preservation goals, policies, and programs of the General Plan;

- H. Promote the City as a destination for tourists and as a desirable location for business;
- I. Promote public awareness of the value of rehabilitation, restoration, and maintenance of the existing building stock as a means to conserve reusable material and energy resources;
- J. Recognize the City’s historic resources as economic assets; and
- K. Stabilize and improve property values, and enhance the aesthetic and visual character and environmental amenities of the City’s historic properties and areas.

**17.62.020 - Administrative and Review Authorities - Powers and Duties**

The powers and duties of the applicable review authorities are identified in Table 6-5, below.

**TABLE 6-5  
REVIEW AUTHORITIES - POWERS AND DUTIES**

| Review Authority                 | Powers and Duties  |
|----------------------------------|--|
| Director                         | Approve/disapprove applications for minor projects affecting designated historic resources and approve/delay major (except demolition) and minor projects affecting historic resources eligible for designation; approve/disapprove applications for relief from the replacement Building Permit requirement of insignificant buildings.   |
| Historic Preservation Commission | Recommend to Council designations of landmarks and historic monuments.<br>Recommend to Planning Commission and Council designations of landmark districts. Outside of the CD zoning district, approve/disapprove applications for alteration, demolition, relocation, and new construction affecting designated historic resources and demolition affecting historic resources eligible for designation.<br>Forward recommendations to the Design Commission/Council on proposals for major projects involving alteration, demolition, and relocation of designated, City-owned historic resources.<br>Review appeals of decisions of the Director.<br>Approve/disapprove applications for relief from the replacement Building Permit requirement for designated and eligible historic resources, outside the CD zoning district.<br>Review appeals of penalties for demolition without required approvals. |
| Design Commission                | In the CD zoning district, approve/disapprove applications for major projects affecting designated historic resources and approve/disapprove relief from the replacement Building Permit requirement for designated and eligible historic resources.<br>Recommend to Council proposals for alteration, demolition, and relocation that affect City-owned historic resources.   |
| Planning Commission              | Recommend to Council approval/disapproval of landmark district zoning map overlays.  |
| Council                          | Approve/disapprove designations of landmarks, historic monuments, and landmark districts.<br>Call for review/appeals of decision of the Director and Historic Preservation Commission.   |



**17.62.030 - General Procedures****A. Review of applications.**

1. The reviews by the Historic Preservation Commission are limited to areas outside of the Central District.
2. Applications to the Historic Preservation Commission for additions, alterations, demolitions, relocations, and new construction and applications for relief from the replacement building permit requirement under this Zoning Code shall be processed in compliance with the standard review procedures identified in Section 17.62.100.

**B. Review of applications in the Central District.** The Design Commission shall review applications for additions, alterations, demolitions, relocations, and new construction and relief from the replacement Building Permit requirement in the Central District as specified in Table 6-3 in Section 17.61.030.

**C. Application submittal requirements.** The Director shall specify the application submittal requirements for designation of historic resources and for reviews of projects to alter, demolish, relocate historic resources, and of new construction in a historic or landmark district.

**17.62.040 - Criteria for Designation of Historic Resources****A. Historic monuments.**

1. A historic monument shall include all historic resources previously designated as historic treasures before adoption of this Chapter, historic resources that are listed in the National Register at the State-wide or Federal level of significance (including National Historic Landmarks) and any historic resource that is significant at a regional, State, or Federal level, and is an exemplary representation of a particular type of historic resource and meets one or more of the following criteria:
  - a. It is associated with events that have made a significant contribution to the broad patterns of the history of the region, State, or nation.
  - b. It is associated with the lives of persons who are significant in the history of the region, State, or nation.
  - c. It is exceptional in the embodiment of the distinctive characteristics of a historic resource property type, period, architectural style, or method of construction, or that is an exceptional representation of the work of an architect, designer, engineer, or builder whose work is significant to the region, State, or nation, or that possesses high artistic values that are of regional, State-wide or national significance.
  - d. It has yielded, or may be likely to yield, information important in prehistory or history of the region, State, or nation.
2. A historic monument designation may include significant public or semi-public interior spaces and features.

3. When considering an application for designation of a historic monument the Historic Preservation Commission shall apply the criteria according to the National Register of Historic Places Bulletins (National Park Service) for evaluating historic properties.

**B. Landmarks.**

1. A landmark shall include all properties previously designated a landmark before adoption of this Chapter and any historic resource that is of a local level of significance and meets one or more of the criteria listed in Subparagraph 2., below.
2. A landmark may be the best representation in the City of a type of historic resource or it may be one of several historic resources in the City that have common architectural attributes that represent a particular type of historic resource. A landmark shall meet one or more of the following criteria:
  - a. It is associated with events that have made a significant contribution to the broad patterns of the history of the City, region, or State.
  - b. It is associated with the lives of persons who are significant in the history of the City, region, or State.
  - c. It embodies the distinctive characteristics of a type, architectural style, period, or method of construction, and represents the work of a architect, designer, engineer, or builder whose work is of significance to the City or, to the region or possesses artistic values of significance to the City or to the region.
  - d. It has yielded, or may be likely to yield, information important locally in prehistory or history.
3. When considering an application for designation of a landmark, the Historic Preservation Commission shall apply the criteria according to the National Register of Historic Places Bulletins (National Park Service) for evaluating historic properties.

**C. Historic signs.**

1. A historic sign shall include all signs in the sign inventory as of the date of adoption of this Zoning Code and any sign subsequently designated historically significant by the Historic Preservation Commission that possesses high artistic values.
2. All other regulations relating to signs shall comply with Chapter 17.48 (Signs).

**D. Landmark trees.** A tree shall qualify to be of historic or cultural significance and of importance to the community if it meets any one of the following criteria:

1. It is one of the largest or oldest trees of the species located in the City;
2. It has historical significance due to an association with a historic event, person, site, street, or structure; or

3. It is a defining landmark or significant outstanding feature of a neighborhood.

**E. Landmark districts.**

1. A landmark district shall include all landmark districts previously designated before adoption of this Chapter and any grouping of contiguous properties that also meet the following criteria:
  - a. Within its boundaries, a minimum of 60 percent of the properties qualify as contributing; and
  - b. The grouping represents a significant and distinguishable entity of Citywide importance and one or more of a defined historic, cultural, development and/or architectural context(s) (e.g., 1991 Citywide historic context, as amended, historic context prepared in an intensive-level survey or historic context prepared specifically for the nominated landmark district).
2. When considering applications to designate a landmark district, the Historic Preservation Commission shall apply the above criteria according to applicable National Register of Historic Places Bulletins for evaluating historic properties.

### **17.62.050 - Process for Designating Historic Resource**

**A. Application for designation of monument, landmark, historic sign, or landmark tree.**

1. An application for the nomination of a historic monument, landmark (including applications to designate signs or trees) shall be submitted by a property owner, a member of the Council, a member of the Historic Preservation Commission, or by any interested person who resides in the City.
2. If the applicant is not the owner of the property, the Director shall, within 10 days of submittal of the application, notify the owner in writing that an application for designation has been submitted.
3. Within 30 days of submittal of an application for nomination, the Director shall determine if the application is complete and if the nominated property meets the applicable criteria for designation, and shall notify the applicant and/or property owner in writing whether or not the property is eligible for designation.
4. If the Director determines that the property is not eligible for designation, the applicant and/or property owner may appeal the decision to the Historic Preservation Commission, and the Historic Preservation Commission shall review the nomination at a public hearing noticed and conducted in compliance with Chapter 17.76 (Public Hearings).
5. If the Director determines that the property is eligible for designation, the Director shall prepare a designation report within 45 days of the determination of eligibility, which shall establish in the record that the property meets the applicable criteria, and schedule a public hearing before the Historic Preservation Commission.

6. For historic monuments or landmarks, the report shall include a map of the property with boundaries for the proposed designation and a legal description of the property. For a historic sign or landmark tree, the report shall include the legal description of the property on which the sign or tree is located.

**B. Review of designation applications.**

1. At a public hearing, the Historic Preservation Commission shall review the application and designation report and recommend approval or disapproval of the designation to the Council.
2. Following receipt of the written recommendation from the Historic Preservation Commission, the City Clerk shall schedule a noticed public hearing before the Council within 60 days.
3. The Council may approve, modify, or disapprove the designation of a historic monument, landmark, historic sign, or landmark tree.

**C. Declaration of designation.**

1. The designation of a historic monument, landmark, historic sign, or landmark tree shall be approved by a declaration of designation executed by the Mayor.
2. Notice of the designation shall be mailed to the owner of record of the designated property.
3. The City Clerk shall record the declaration in the Office of the County Recorder.

### **17.62.060 - Rescinding or Amending a Designation**

**A. Procedure for rescinding or amending.** Rescission of, or amendment to, a designation of a historic monument, landmark, historic sign, or landmark tree shall follow the same procedure as the procedure for designation of a historic resource, in compliance with Section 17.62.050, above.

**B. Required findings.** In rescinding the designation of a historic monument or landmark, the Council shall determine that the historic monument, landmark, historic sign, or landmark tree no longer meets the designation criteria due to findings of fact that:

1. New information compromises the significance of the property;
2. Destruction of the historic monument, landmark, historic sign, or landmark tree through a catastrophic event has rendered the structure a hazard to the public health, safety, or welfare; or
3. The historic monument, landmark, historic sign, or landmark tree has been demolished, relocated, or removed.

**C. Notice of the rescission or amendment.**

1. Notice of the rescission of or amendment to a designation shall be mailed to the owner of record of the subject property.
2. The City Clerk shall file for removal of the recordation with the Office of the County Recorder.

### **17.62.070 - Designating Landmark Districts**

- A. LD overlay zoning district regulations** The land use and development regulations applicable in a landmark district (LD) overlay zoning district shall be as prescribed for the base zoning district with which it is combined, provided that the requirements of the LD overlay zoning district shall govern where conflicts arise.
- B. Application for designation.**
1. An application for designation of a landmark district shall be submitted to the Director by a neighborhood organization or owner(s) of property in the proposed district.
  2. The application shall include:
    - a. Documentation by letter or preliminary petition that a majority of the owners of property in the proposed district support the designation;
    - b. A map with the boundaries of the proposed district; and
    - c. An inventory and photographs of all properties in the proposed district, including both contributing and noncontributing properties.
  3. Within 60 days of the determination that the application is complete, the Director shall prepare a designation report, establishing in the record that the landmark district meets, or does not meet, the applicable criteria for designation, and shall schedule a public hearing before the Historic Preservation Commission, noticed and conducted in compliance with Chapter 17.76 (Public Hearings), except that the notice shall apply only to property owners within the boundaries of the proposed district.
  4. The hearing by the Historic Preservation Commission shall include a workshop on landmark district designation for property owners and residents of the area.
- C. Review of landmark district designation application.**
1. The Historic Preservation Commission shall review the application and recommend approval or disapproval of the designation to the Planning Commission and Council.
  2. The Historic Preservation Commission's recommendation for approval shall be based on the finding that the landmark district meets the criteria for designation as specified in Section 17.62.040(E) above.

3. Following the public hearing, the Director shall forward the application with the recommendation for designation from the Historic Preservation Commission to the Planning Commission with the submittal requirements in Subsection E. below for a Zoning Map amendment.

**D. Planning Commission review of Zoning Map amendment.**

1. The Planning Commission shall hold a public hearing on the application for a Zoning Map amendment for a landmark district (LD) overlay zoning district.
2. The hearing shall be held no later than 12 months after the date the Director determines the application is complete in compliance with Section 17.60.060 (Initial Application Review).
3. The Planning Commission may consider the Zoning Map amendment application only if the application is accompanied by a final petition with the signatures from at least 51 percent of the property owners as specified in Subsection E., below.
4. If the number of property owners in support of the application is below 51 percent at the time of the hearing or the end of the 12-month period, the application shall be considered withdrawn and ineligible for resubmittal for a minimum period of 12 months in compliance with Section 17.64.090 (Resubmittals).

**E. Required submittals for Planning Commission review of Zoning Map amendment.** The application for a Zoning Map amendment for a landmark district (LD) overlay zoning district shall include the following materials:

1. A petition in support of the designation with signatures of a minimum of 51 percent of the owners of the legal lots within the boundaries;
2. A map with the boundaries of the proposed district;
3. A legal description of the district; and
4. An inventory of all properties in the district including contributing and noncontributing properties.

**F. Planning Commission's review of LD overlay.**

1. The Planning Commission shall review the application at a public hearing and forward a recommendation to the Council.
2. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 17.76 (Public Hearings) except that the notice shall apply only to property owners within the boundaries of the proposed district.

**G. Council review of application.**

1. Within 30 days of the decision by the Planning Commission, the Director shall request that the City Clerk schedule a public hearing by the Council and shall submit the following documentation to the City Clerk:
  - a. Recommendations from the Historic Preservation Commission and the Planning Commission;
  - b. A map with the boundaries of the proposed district; and
  - c. A legal description of the proposed district.
2. The Council shall review the application at a public hearing.
  - a. Within 30 days of the receipt of the documentation identified in Subparagraph 1., above, the City Clerk shall schedule a public hearing before the Council.
  - b. Notice of the public hearing shall be provided, and the hearing shall be conducted in compliance with Chapter 17.76 (Public Hearings) except that the notice shall apply only to property owners within the boundaries of the proposed district.
3. The Council may approve, modify, or disapprove the designation.
4. Approval by the Council shall be based on the finding that the landmark district meets the criteria for designation as specified in Subsection 17.62.040(E) above.
5. The landmark district designation shall be approved by a declaration of designation to be executed by the Mayor.
6. The City Clerk shall record the declaration in the Office of the County Recorder.

**H. Procedure for rescission of or amendment to a landmark district.** Rescission of a landmark district overlay and amendments to the boundaries of a landmark district overlay shall follow the procedures identified above for designation of a landmark district.

### **17.62.080 - Acquisition of Historic Easements on Facades**

- A. Historic easements acquired by condemnation, donation, or purchase.** Historic easements on the facades of structures designated as historic monuments or landmarks may be acquired by the City through condemnation, donation, or purchase.
- B. Contents of historic easements.** An historic easement would include any condition, covenant, easement, or restriction running with the land designed to preserve and maintain the significant features of the historic monuments or landmarks.

### **17.62.090 - Alteration, Demolition, or Relocation of a Historic Resource**

- A. Compliance with Section.** No person, owner, or other entity shall undertake a major or minor project to a designated historic resource or historic resource eligible for designation or new

construction in a landmark or historic district as defined below without first obtaining approval in compliance with this Section.

**B. Application submittal requirements.**

1. Any person, owner, or entity applying for a permit for exterior work that substantially alters, demolishes, or relocates a designated historic resource or historic resource eligible for designation, for work that alters a designated interior or alters or removes a fixture designed by Greene and Greene, or by Charles or Henry Greene, or for new construction in a designated district shall submit to the Department an application for a Certificate of Appropriateness, plans, specifications and/or other documentation pertaining to the work as required by the Director.
2. Alterations not requiring a Building Permit, but identified for Design Review in an adopted conservation plan shall be subject to the same submittal requirements.

**C. Compliance with California State Historical Building Code.**

1. Any designated historic resource may, upon request of the applicant for a permit, be subject to the provisions of the California State Historical Building Code if the work is required to comply with the Secretary's Standards.
2. The California State Historical Building Code may also apply to an un-designated property if the Director determines that the property qualifies for a historic designation.

**D. No Building Permit while designation is pending.** No Building Permits, unless approved by the Historic Preservation Commission, shall be issued while a historic monument or landmark designation is pending, except for permits to maintain or stabilize a dangerous condition or for interior work that does not affect the exterior of the structure.

**E. Review procedures for historic resources.**

1. **Category 1 review procedures.** Category 1 review procedures shall apply to all designated historic resources.
  - a. **Decision within 30 days.** If the proposed work is a major or minor project that affects a designated historic resource, or new construction in a landmark or historic district, the Director or the Historic Preservation Commission as required by this Chapter shall render a decision within 30 days after receiving a complete application, provided the work is not part of a project that requires an Initial Study or Environmental Impact Report.
  - b. **Major project.** The Historic Preservation Commission may approve, approve with conditions, or disapprove a Certificate of Appropriateness for a proposed major project.
  - c. **Minor project.** The Director may approve, approve with conditions, or disapprove a minor project.



- d. Findings for approval.** Approval of a project shall be based on the following findings:
- (1) If a project is a demolition or relocation, including demolition in a historic or landmark district, the project will not cause a significant adverse effect as defined in Section 15064.5, as amended, of the Guidelines for Implementation of the California Environmental Quality Act; or
  - (2) If a project is an alteration or new construction, the project complies with the Secretary's Standards or adopted guidelines based on the Secretary's Standards.
- e. Economic Hardship Variance.** At the time of application for a Certificate of Appropriateness, an applicant may apply for an Economic Hardship Variance.
- (1) **Proof of economic hardship.** The application shall include proof by the owner of the property of economic hardship.
  - (2) **Documentation required by Director.** The Director may require the documents and/or testimony necessary to substantiate a claim of economic hardship.
  - (3) **Findings for Economic Hardship Variance.** The approval of an Economic Hardship Variance shall be based on the findings that:
    - (a) The owner of the property is qualified as very-low or low income; and
    - (b) If the Certificate of Appropriateness is for an income-producing property, the property is not in a state caused by demolition by neglect.
- 2. Category 2 review procedures.** Category 2 review procedures shall apply to an eligible historic resource.
- a. Decision within 30 days.** If the proposed work is a major project affecting a historic resource determined eligible for designation, the Historic Preservation Commission or Director shall render a decision within 30 days of the submittal of a complete application, provided the work is not part of a project that requires another discretionary action requiring an Initial Study or Environmental Impact Report.
  - b. Determination of alteration or new construction as a significant adverse effect.** If the work is not part of a project that requires another discretionary action and the historic resource has a 2, 3, 4, or 5S2 status code, the Director shall determine if the proposed major project constitutes:
    - (1) A significant adverse effect; or
    - (2) Not a significant adverse effect.

- c. **If not a significant adverse effect.** If a major project does not constitute a significant adverse effect, the Director shall approve the project.
  - d. **If a significant adverse effect.** If a project would result in a significant adverse effect, the Director may delay the project for a period up to but not exceeding 180 days.
  - e. **Director's efforts during delay.** During the delay period, the Director may work with the applicant on modifying the design so that it meets the Secretary's Standards, relocating the structure to another site or identifying other alternatives for preservation.
  - f. **If a significant adverse effect that can be mitigated.** If a project would result in a significant adverse effect that can be mitigated, the Director may approve the major project with conditions that comply with the Secretary's Standards.
  - g. **Demolition project.**
    - (1) **Historic Preservation Commission.** If a project involves a demolition of a historic resource determined eligible for designation with a 2, 3, 4, 5S2 or 5D2 status code, the Historic Preservation Commission shall review the application at a public hearing noticed and conducted in compliance with Chapter 17.76 (Public Hearings).
    - (2) **Director.** If a project is a demolition of a historic resource with a status code other than the ones identified in Subparagraph (1), above, the Director may approve the demolition, which approval shall be based on the finding that the historic resource does not meet criteria for designation.
  - h. **Historic Preservation Commission's action to delay demolition.** The Historic Preservation Commission may delay the demolition for a period of up to but not exceeding 180 days.
  - i. **Historic Preservation Commission's efforts during delay.** During the delay period, the Historic Preservation Commission may work with the applicant on modifying the design so that it meets the Secretary's Standards, relocating the structure to another site, or identifying other alternatives for preservation, or it may proceed with the designation of the property as a historic monument or landmark.
3. **Category 3 review procedures.** Category 3 review procedures shall apply to a potentially eligible historic resource.
- a. **Decision within 30 days.** If the proposed work is a major project affecting a historic resource not previously determined eligible for designation but determined by the Director to be potentially eligible for designation, the Commission or Director shall render a decision within 30 days of the submittal of a complete application, provided the work is not part of a project that requires an Initial Study or Environmental Impact Report.

- b. Director's determination of compliance with criteria.** In reviewing a proposed major project, except front yard fences or walls, affecting a historic resource that is not designated or eligible for designation, the Director shall determine if the historic resource meets the criteria for designation as a historic monument, landmark, or for listing in the National Register, or is a contributing structure to a potential historic district.
- c. Determination of alteration or new construction as a significant adverse effect.** If the historic resource meets the criteria for one of the above designations or listings, the Director shall determine if the proposed major project constitutes:

  - (1) A significant adverse effect; or
  - (2) Not a significant adverse effect.
- d. If not potentially eligible for designation or not a significant adverse effect.** The Director shall approve the proposed alteration or new construction if a major project is not a significant adverse effect on a historic resource that is eligible for designation.
- e. If a significant adverse effect.** If a project would result in a significant adverse effect, the Director may delay the project for a period up to but not exceeding 180 days.
- f. Director's efforts during delay.** During the delay period, the Director may work with the applicant on modifying the design so that it meets the Secretary's Standards, relocating the structure to another site, or identifying other alternatives for preservation.
- g. If a significant adverse effect that can be mitigated.** If a project would result in a significant adverse effect that can be mitigated, the Director may approve the major project with conditions that comply with the Secretary's Standards.
- h. Demolition project.**

  - (1) **Historic Preservation Commission.** If a project involves a demolition of a historic resource determined potentially eligible for designation, including a contributing structure to a potential landmark district or historic district, the Historic Preservation Commission shall review the application at a public hearing noticed and conducted in compliance with Chapter 17.76 (Public Hearings).
  - (2) **Director.** If a project is a demolition involving a historic resource that the Director determines is not a potentially eligible for designation, the Director may approve the demolition, which approval shall be based on the finding that the historic resource does not meet criteria for designation.