

Chapter 19.58 Cultural Heritage Preservation

19.58.010 Council Findings.

The provisions of this chapter, which constitute the city’s Cultural Heritage Preservation Ordinance, are adopted based on the following findings by the Council.

A. *Threatened Structures and Sites.* The Council has determined that the character, history, and spirit of the city, state, and nation are reflected in the historic structures, improvements, natural features, objects, sites, and areas of significance located within the city and that in the face of ever increasing pressures of modernization and urbanization, cultural resources, cultural resource sites, and historic districts located within the city are threatened with alteration, demolition, or removal.

B. *Preservation of Structures and Sites.* The Council has further determined that these threatened structures, representing the city’s unique cultural, historical, and social foundations, should be preserved as a living part of community life and development in order to build a greater understanding of the city’s past and to give future generations the opportunity to appreciate, enjoy, and understand the city’s rich heritage.

C. *Methods of Preservation.* Recognizing that the use of historic preservation measures has become increasingly prevalent as a method for identifying and preserving cultural resources, the city joins with private concerns, the state, and the United States Congress to develop methods of preserving the city’s unique aesthetic, architectural, cultural, and historical heritage, in compliance with the provisions of the National Historic Preservation Act of 1966, as amended, and state law (Government Code Section 37361).

(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.020 Purpose.

Given the findings above, the city has adopted this chapter, which may be known as the “Cultural Heritage Preservation Ordinance.” The purpose of this chapter is to promote the public health, safety, and general welfare by:

A. Conserving valuable material and energy resources by ongoing use and maintenance of the existing built environment;

B. Developing and maintaining an appropriate setting and environment for cultural resources, cultural resource sites, and historic districts;

- C. Encouraging and facilitating public appreciation, knowledge, and understanding of the city's historic past and unique sense of place;
- D. Encouraging public participation in identifying and preserving architectural and historic resources thereby increasing community pride in the city's cultural heritage;
- E. Enhancing property values and increasing economic and financial benefits to the city and its inhabitants through the exploration of creative financial incentives for preservation including the active nomination of National Register properties and locally certified historic districts;
- F. Fostering civic and neighborhood pride and a sense of identity based on the recognition and use of cultural resources, cultural resource sites, and historic districts;
- G. Identifying cultural resources as early as possible and resolving conflicts between the preservation of cultural resources and alternative land uses;
- H. Increasing the economic benefits of preservation of cultural resources for the city and its inhabitants;
- I. Integrating the preservation of cultural resources, cultural resource sites, and historic districts into public and private land use management and development processes;
- J. Preserving diverse architectural styles, patterns of development, and design preferences reflecting phases of the city's history and encouraging complementary contemporary design and construction and inspiring a more livable urban environment;
- K. Promoting the celebration, enjoyment, and use of cultural resources appropriate for the education and recreation of the people of the city;
- L. Promoting public awareness of the benefits of preservation;
- M. Protecting and enhancing the city's attraction to tourists and visitors thereby stimulating business and industry;
- N. Safeguarding the city's unique cultural heritage as embodied and reflected in the city's architectural and archaeological history, pre-history, and patterns of cultural and historical development; and
- O. Stabilizing neighborhoods through the preservation of cultural resources and cultural resource sites and the establishment of historic districts.

(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.030 Applicability.

- A. This chapter shall apply to all cultural resources within the city.
- B. The technical and specialized terms and phrases used in this chapter are defined in Chapter 19.90 (Definitions/Glossary) under “Cultural Heritage Preservation.”
(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.040 Review Authority.

The Historic Preservation Commission (HPC) shall serve as the review authority for all projects involving designated or potential cultural resources, all applications for certificates of appropriateness, all nominations and designations, all rehabilitation incentive applications, and in all public outreach or public information projects, except as indicated in Sections 19.58.070(B)(6) and 19.58.100(B)(4). All recommendations for designation of potential resources shall be forwarded to the Council for final decision. All other decisions of the HPC are final unless appealed to the Council, or unless a hearing and decision before the Planning Commission is otherwise required. HPC review shall be completed prior to the review and approval of project permits related to the historical significance of the building’s use or appearance. Other duties of the HPC, in compliance with Section 2.40.100 of the West Hollywood Municipal Code, include:

- A. Periodically updating the city’s Historic Resources Survey;
- B. Recommending to the Council, in compliance with Section 19.58.050, the designation of cultural resources, including structures, portions of structures, improvements, natural features, landmarks, sites, objects, historic districts, multiple resource or thematic groupings of structures sharing common characteristics or uses;
- C. Maintaining a local public register of cultural resources, historic districts and sites within the city, including all information required for each designation;
- D. Preparing prescriptive standards and design guidelines to be used in reviewing applications for permits to construct, alter, remodel, relocate, enlarge, remove, or demolish any cultural resource, or structure within a historic district, or conservation zone. These guidelines shall be based upon the Secretary of the Interior’s *Standards for Rehabilitation*;
- E. Issuing certificates of appropriateness to alter, construct, remodel, relocate, enlarge, remove, or demolish cultural resources or structures within a historic district where authorized by this chapter;
- F. Reviewing and commenting upon the conduct of land use, housing and redevelopment, municipal improvement, and other types of planning and governmental programs undertaken by any agency of the city, the county, state, or federal government as they relate to the cultural resources of the community;

G. Maintaining certified local government status and actively pursuing the designation of local certified historic districts and National Register nominations to enable property owners to make use of federal tax incentives. Investigating and making recommendations to the Council on the use of other various federal, state, local or private funding sources and mechanisms available to promote cultural resource preservation in the city;

H. Reviewing all applications for permits, environmental assessments, environmental impact reports, environmental impact statements, and other similar documents pertaining to designated and potential cultural resources, or related neighboring property within public view. "Neighboring properties within public view" shall mean any property that can be seen from a public right-of-way and which is within the same street block (on either side of the street) as a cultural resource. The department staff shall forward all these documents to the HPC for review and comment, before review and approval by the Commission, as appropriate. The review may either be under the auspices of a certificate of appropriateness or as a Commission consideration item on the HPC agenda;

I. Reviewing the actions and proposed actions, and advising environmental review processes, of all city departments, and public agencies, and their agents and employees, concerning the effects of their actions, programs, capital improvements, or activities on designated and potential cultural resources;

J. Recommending to the department the retaining of consultants and qualified archaeologists when potential archaeological resources are involved and the conducting of studies as the HPC deems desirable or necessary;

K. Cooperating with local, county, state and federal governments in pursuit of cultural resource preservation objectives;

L. Rendering advice and guidance on the restoration, alteration, remodeling, enlargement, removal, decoration, landscaping, or maintenance of any cultural resource, or historic district;

M. Rendering advice and guidance on procedures for inclusion of a cultural resource on the National Register of Historic Places;

N. Participating in, promoting and conducting public information, education, and interpretation programs pertaining to cultural resources preservation;

O. Conferring recognition upon the owners of cultural resources or of property within historic districts by means of certificates, plaques or markers and from time to time, recommending that the Council issue commendations to owners of cultural resources who have rehabilitated their property in an exemplary manner;

P. Advising the Council on the maintenance and operation of cultural resources and historic districts under the city's ownership and control, and overseeing compliance with façade easements on these properties;

Q. Assuming responsibilities and duties which may be assigned to the city by the state under the Certified Local Government provisions of the Natural Historic Preservation Act of 1966, as amended;

R. Undertaking any other action or activity necessary or appropriate to the implementation of its powers and duties or to fulfill the objectives of cultural resource preservation; and

S. Assisting private individuals or private or non-profit organizations with a desire to restore, preserve, maintain, and operate a property listed on the Register of Cultural Resources to purchase the property from an existing owner unable to restore, preserve, maintain, and operate the property as a cultural resource.

(Ord. 03-663 § 4 (part), 2003: Ord. 02-643 § 47, 2003: Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.050 Criteria for Designation of Cultural Resources.

The Historic Preservation Commission may approve a nomination application for and recommend designation of, and the Council may designate a cultural resource, or any portion thereof (both interior and exterior) or historic district in compliance with Sections 19.58.060 (Designation of Historic Districts) and 19.58.070 (Review and Approval of Designations) below if it finds that the cultural resource meets one or more of the following criteria.

A. *Exemplifies Special Elements of the City.* It exemplifies or reflects special elements of the city's aesthetic, architectural, cultural, economic, engineering, political, natural, or social history and possesses an integrity of design, location, materials, setting, workmanship feeling, and association in the following manner:

1. It embodies distinctive characteristics of a period, method, style, or type of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or

2. It contributes to the significance of a historic area by being:

a. A geographically definable area possessing a concentration of historic or scenic properties; or

b. A thematically related grouping of properties which contribute to each other and are unified aesthetically by plan or physical development; or

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

4. It embodies elements of architectural design, craftsmanship, detail, or materials that represent a significant structural or architectural achievement or innovation; or

5. It has a unique location or singular physical characteristic or is a view or vista representing an established and familiar visual feature of a neighborhood, community, or the city; or

B. *Example of Distinguishing Characteristics.* It is one of the few remaining examples in the city, region, state or nation, possessing distinguishing characteristics of an architectural or historical type or specimen; or

C. *Identified with Persons or Events.* It is identified with persons or events significant in local, state, or national history; or

D. *Notable Work.* It is representative of the work of a notable architect, builder, or designer.

(Ord. 03-663 § 4 (part), 2003; Ord. 02-643 § 48, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.060 Designation of Historic Districts.

Except as outlined below, the criteria and procedure for designating a historic district shall be the same as for designating individual cultural resources as in Section 19.58.070 (Review and Approval of Designations).

A. *Historic Resources Survey.* As part of the nomination for designating a historic district, a historic resources survey shall be prepared identifying all contributing resources and non-contributing resources. If not otherwise designated, all cultural resources listed in a designated historical district will be considered “contributing.” The survey may also identify contributing landscaping, natural features or sites. The survey shall be reviewed in accordance to the designation procedures listed below. The survey shall identify the manner in which the proposed district possesses a significant concentration, linkage, or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development within the period of significance and within the context of the district.

B. *Finding of Contribution.* Each cultural resource within a proposed historic district must be identified as a contributing resource. If a resource is individually designated, it is then automatically considered a contributing resource within the district that includes it.

(Ord. 02-643 § 49, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.070 Review and Approval of Designations.

A. *Application.*

1. An application requesting designation may be submitted as follows:

a. Any person or group may submit an application requesting the designation of an area, improvement, natural feature, object, or structure as a cultural resource or historic district by submitting a completed written nomination statement for the designation to the department. Applications are not limited to buildings previously identified in the historic resource inventory.

b. No applications will be accepted for any properties for which a complete development permit application has been accepted as complete by the City.

2. The application for nomination shall be kept on file in the department and shall contain, at a minimum, the following:

a. Application form;

b. Legal description of the location of the nominated resource;

c. Photograph(s) of the resource;

d. Statement of the qualities and characteristics of the resource which supports the findings for designation; and

e. Other documentation which shall be attached, if available, are copies of architectural drawings, copies of historical descriptions or accounts of the resource and its cultural significance including articles, artifacts, correspondence, newspaper articles, periodicals, and written testimony from an architect, archivist; or historian in support of the application.

3. A particular potential cultural resource may be evaluated by the City only once in any five-year period in any context - as either an individual resource or as part of a district - unless the nomination statement or application includes substantially new information. The HPC may evaluate any nominated resource as either an individual designation or a potential contributor to a district before rendering a recommendation on the resource.

4. At any time, the HPC, or the Council may, on its own initiative, reconsider the designation or non-designation decision in any particular case where new

information, material to the decision to designate a cultural resource, which was not discovered through the exercise of due diligence at the time of the original designation, has been uncovered, or when the HPC or the Council discovers that the information upon which it made its determination regarding designation was false. Wherever applicable, this process must follow the nomination process outlined in Sections 19.58.050, 19.58.060, and 19.58.070, above. (See also Section 19.58.080, Removal of Designated Resources from Local Register).

5. The HPC may also initiate the proceedings by resolution containing sufficient documentation and information to indicate how the nominated resource meets the designation criteria identified in Section 19.58.050 (Criteria for Designation of Cultural Resources), above.

B. *Notice and Hearing.*

1. Notification that an application for the nomination of a particular property or area has been submitted shall be sent to the property owner(s) and occupant(s) of the property within ten days of the Department's finding the completed nomination application complete.

2. Notification of the HPC's decision either to recommend nomination of a potential cultural resource, in compliance with the application process or on its own initiative, or to deny a recommendation for nomination shall be mailed or hand delivered to the property owner(s) and occupant(s) of the potential cultural resource within ten days of the HPC's public date of decision.

3. The department shall determine whether the nomination application is complete. If complete, the application shall be filed and the time for notification shall begin to run. If the department determines that the application papers are incomplete, the department shall send a letter, notifying the applicant and specifying the documentation which would be necessary to complete the application for filing. A nomination application shall not be considered filed unless and until it is determined to be complete by the department.

4. Once a resource has been nominated for designation, a public hearing to consider possible designation of the resource shall be conducted. The applicant and the property owner(s) and occupant(s) of the nominated resource shall be notified of the public hearing to consider the designation by mail at least ten days before the hearing date and may submit testimony to the HPC. A public notice shall be published in a newspaper of general circulation within the city not less than ten days before the hearing.

5. The HPC shall either recommend designation of the cultural resource or recommend denial of the designation, in whole or in part, to the Council. If this HPC decision is appealed, the appeal must be filed in the Office of the City Clerk within ten days following the date of the HPC's public action on the designation, in compliance with Chapter 19.74 (Public Hearings and Notice).

6. The HPC recommendation statement or resolution recommending designation of a cultural resource or historic district may be placed on the Council's consent calendar for approval unless an appeal is filed, in which case, the appeal will be heard at a regularly scheduled public hearing.

7. Failure to send any notice by mail or hand delivery to any property owners where the address of the owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. The HPC and Council may also give other notices, as they may deem desirable and practicable.

8. Once a designation is approved, the Council shall adopt a resolution designating the cultural resource or historic district, or denying its designation, and the reasons therefor. If the cultural resource or historic district is designated, it shall be placed on the local register. Any resolution approving a designation shall be forwarded to the State Office of Historic Preservation.

C. *Permits Pending Review.* The city may not issuance any building or planning permits on any structure, improvement, natural area or district for which a complete nomination form has been accepted. Once the Council makes a final determination on the application, building and planning permits may be issued in accordance with this chapter.

D. *Active Permits.* Any active permits on any structure, improvement, natural area, or district for which a complete nomination form has been accepted shall be placed on hold until the time that the nomination process has been completed. Once the Council makes a final determination on the application, building and planning permits placed on hold may be reactivated in accordance with this chapter.

E. *Recordation.* Designations shall be recorded with the County of Los Angeles, Department of Deeds.

F. *Local Register.* The HPC shall maintain a local register of all city-designated cultural resources and historic districts. Copies of the register shall be sent to all city Departments for reference and shall be updated regularly to coordinate the preservation of cultural resources within the city.

(Ord. 03-671 § 1, 2003; Ord. 03-663 § 4 (part), 2003; Ord. 02-643 § 50, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.080 Removal of Designated Resources from Local Register.

A. A designated local resource may only be removed from the Local Register in the following cases:

1. In cases of demolition as approved by a certificate of appropriateness; or

2. After five years of being designated, the property owner may submit a “de-nomination statement,” outlining reasons for removal from the register. The de-nomination request shall be processed in compliance with the procedure for nomination listed above (Section 19.58.070(B)). The de-nomination statement must provide written proof and documentation that the findings used to designate the structure were largely in error, or that new information is discovered, material to the decision to designate a cultural resource, which was not discovered through the exercise of due diligence at the time of the original designation; or

3. In compliance with Section 19.58.070(B)(6), above.

B. If delisting a designated resource is proposed, the lead agency shall conduct environmental review in compliance with the state guidelines for the implementation of the California Environmental Quality Act (CEQA) as they relate to historic resources.

(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.090 Certificates of Appropriateness, Generally.

A. *Purpose.* A certificate of appropriateness is intended to protect structures, improvements, natural features, objects, and areas of architectural, cultural, economic, historic, political, and social importance from any alteration, demolition, or removal which would have an adverse effect thereon. For demolition requests, see 19.58.110 (Certificates of Appropriateness for Proposed Demolition).

B. *Applicability.* A certificate of appropriateness is required for the alteration, demolition, or removal of any individual cultural resource or any contributing cultural resource within a historic district, and for any alteration, demolition, or removal of any potential cultural resource, by the city, any agent of the city, or a private party. A certificate of appropriateness shall be required:

1. In addition to any other permits to regulate land uses or square footage additions as required by this Zoning Ordinance, but in lieu of any permits to regulate physical alteration of the cultural resources; and

2. Shall accompany any permit or any work otherwise altering the architectural features or appearance of the resource.

An “alteration” shall mean any act or process, through private or public action, that changes the specified character defining or significant physical features or architectural appearance of a cultural resource, including the reconstruction, new construction additions, repair, restoration, rehabilitation, replacement or removal of any resource.

These changes include modification of a structure, architectural detail or visual characteristic (e.g., grading, paint color, surface texture), surface paving, the addition of new structures, the cutting or removal of trees, landscaping and other natural features, the disturbance of archaeological sites or areas, and the placement or removal of any significant objects (e.g., fences, landscaping and accessories, light fixtures, plaques, signs, steps, street furniture, and walls) affecting the significant visual or historical qualities of the property.

When approving a certificate of appropriateness, the HPC may permit a waiver of development standards for designated cultural resources only.

C. *Application Filing.* Applications for Certificates of Appropriateness shall be filed with the department. Applications shall include plans and specifications showing the proposed change in architectural appearance, color and texture of materials, the proposed architectural design of the structure, and any information as required by the application on file in the department. The application shall also show the relationship of the proposed work to the surrounding environs. Applications for Certificates of Appropriateness may propose discreet alterations of a cultural resource or may propose a long-term plan of rehabilitation and preservation of a particular resource.

D. *Application for Demolition.* Applications for demolition of a cultural resource, a structure within a historic district and for new construction on the cultural resource property shall include plans and specifications for the proposed new structure or addition and shall include information pertaining to landscaping, massing, relationship to site and streetscape, scale, and signs. The application shall be accompanied by any other information that the HPC determines is required for it to make an informed judgment of the proposed work in compliance with Section 19.58.150(E) (Findings for Rehabilitation Incentives) and Section 19.58.110 (Certificate of Appropriateness for Proposed Demolition).

E. *Within Historic Districts.* Both individual resources and contributing resources are subject to all Certificates of Appropriateness findings and requirements. Non-contributing resources are not subject to the requirements of this section, but will be reviewed to ensure that proposed development on the non-contributing property will not degrade the historical character of the historic district. If non-contributing resources are proposed to be demolished, the HPC shall review the proposed proj

ect under a certificate of appropriateness to ensure that the proposed development will not degrade the historical character of the historic district.

F. *CEQA.* The review and approval of a certificate of appropriateness shall require environmental review in compliance with the state guidelines for the implementation of the California Environmental Quality Act (CEQA) as they relate to historic resources.

G. *Solar Panel Exemption.* Notwithstanding subsection B of this section, a certificate of appropriateness is not required for the installation of a solar energy system, solar panels, or the appurtenant equipment and accessory features associated with solar energy systems, provided that the collectors are located in compliance with Section 19.20.170 (Solar Access and Solar Equipment).

(Ord. 08-794 § 10, 2008; Ord. 03-663 § 4 (part), 2003; Ord. 02-643 §§ 51, 52, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.100 Review and Approval of Certificates of Appropriateness.

A. *Noticing.* For every completed application for a certificate of appropriateness, the HPC shall schedule a public hearing as soon as practicable after receipt of the application. A Director-approved certificate of appropriateness as authorized in subsection (B)(4), below, shall be received and approved in compliance with the process for administration of permits in Section 19.44.040. Notice shall be given as follows:

1. A notice shall be mailed to the property owner of record at least ten days prior to the public hearing;
2. Notice to occupants shall be given either by mailing a notice or by posting an 8½" by 11" notice at the primary structure entrance or at the lobby elevators, whichever is more appropriate. This notice shall be mailed or posted on the site ten days prior to the public hearing. Notice is to occupants of the site under review only; and
3. Notice in cases involving proposed demolition shall be given in the following manner:
 - a. Notice shall be given by means of a one-quarter page advertisement in a newspaper of general circulation in the city;
 - b. A notice shall be mailed to the property owner of record;
and
 - c. Notice to occupants of the proposed site shall be given either by mailing a notice or by posting an 8½" by 11" notice at the primary structure's entrance or at the lobby elevators, whichever is more appropriate.

B. *Review and Approval Procedures.*

1. In all cases where the proposed alteration, demolition, or removal would otherwise require Planning Commission approval, the HPC may recommend approval or denial, in whole or in part, of the application in writing. The HPC's recommendation shall include findings of fact relating to the criteria for obtaining the certificate and that constitute the basis for its recommendation. The HPC shall adopt its

recommendation by resolution and send it to the Planning Commission at the Commission meeting held to consider the proposal.

The Planning Commission shall have final authority to approve or deny, in whole or in part, the recommendation of the Historic Preservation Commission. The certificate may be approved in conjunction with a project which requires a development permit from the Planning Commission. Notice of the Planning Commission's decision shall be sent to the applicant, owner(s) and occupant(s) of the property within two business days of the Commission's date of public action, and any appeal therefrom shall be made in compliance with Chapter 19.74 (Public Hearings and Notice).

2. In all other cases, the HPC's decision to approve or deny, in whole or in part, the issuance of a certificate of appropriateness shall be final unless appealed to the Council. Any appeal shall be made in compliance with Chapter 19.76 (Appeals).

3. In evaluating applications for Certificates of Appropriateness, the HPC or Director shall use any adopted design guidelines, CEQA Guidelines, and the Secretary of the Interior's Standards for Rehabilitation and shall consider the factors (e.g., the existing and proposed architectural style, arrangement, color, design, materials, and texture to be used) with regard to the original distinguishing architectural characteristics of the cultural resource. In addition, the Director may require that the proposed work be reviewed by a preservation architect. The actual work must be completed by a preservation contractor or someone with demonstrated expertise in the field.

4. The Director may approve Certificates of Appropriateness for proposals which are for minor architectural elements and details, paint or other colorings or finishes, minor site improvements, or signage. Director approval of a certificate of appropriateness shall require making all of the certificate of appropriateness findings in Section 19.58.100(D), but does not require a public hearing or public notice. The Director may also approve fences, replacement of window glass, replacement in-kind of windows, doors, roofs, or exterior materials, or proposals which are determined by the Director to be ordinary maintenance or repair, and which are conducted in a manner that preserves the archaeological, cultural, and historic value of the cultural resource through conformance with the prescriptive standards adopted by the Historic Preservation Commission for that cultural resource, cultural resource property, or historic district and/or the guidelines of the Secretary of the Interior's Standards for Rehabilitation. Minor changes or modifications to a certificate of appropriateness can be approved by the Director, even if the Director was not the approving body. The Director may refer any certificate of appropriateness application to the HPC.

5. Wherever feasible, the State Historic Building Code (SHBC) and the Uniform Code for Building Conservation (UCBC) shall be used in permitting any alteration to a cultural resource.

C. *Investigation for Certificates of Appropriateness.* The HPC or the Director shall be authorized to require the applicant to furnish material evidence, as needed, supporting the request for alteration, demolition, or removal of a cultural resource or to give testimony and furnish evidence of any or all of the following, where appropriate:

1. Cost estimates of the proposed alteration, construction, demolition, or removal, and an estimate of the cost(s) that would be incurred to comply with the recommendations of the HPC for the issuance of a certificate of appropriateness;

2. A written report from a licensed structural engineer with experience and expertise of historic structures in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;

3. Estimated market value of the property in its current condition and estimated market value after completion of the proposed alteration, construction, demolition, or removal as compared with any changes recommended by the HPC;

4. In the case of a proposed demolition, an estimate from an appraiser, architect, developer, real estate consultant, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or adaptive reuse of the existing structure on the property and its market value for continued use after rehabilitation;

5. For income-producing properties, information on annual gross income, current assessed property valuations, current property value appraisals, depreciation, reductions, and annual cash flow after debt service, operating and maintenance expenses, real estate taxes, and other information considered necessary by the HPC to determine whether substantial evidence of economic hardship exists;

6. Remaining balance on any mortgage or other financing secured by the property for the previous two years;

7. All appraisals obtained within the previous two years by the owner(s) or applicant in connection with the financing, ownership, or purchase of the subject property;

8. Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer. Additionally, any listing of the property for sale or rent, price(s) asked and offer(s) received, if any, within the previous two years;

9. Assessed value of the property according to the two most recent assessments;

10. Real estate taxes for the previous two years;
11. Form of ownership or operation of the property, whether sole proprietorship, for-profit or nonprofit corporation, limited partnership, joint venture, or other;
12. Other information including the income tax bracket of the owner(s), applicant, or principal investor(s) in the property considered necessary by the HPC or HPC for a determination as to whether the property does yield or may yield a reasonable return to the owner(s); and
13. In the event of proposed demolition, any information listed in Section 19.58.110.

D. *Findings for Certificate of Appropriateness.*

1. Alterations, Generally. A certificate of appropriateness shall be issued for a proposed alteration only if the review authority first finds that:
 - a. The proposed work will neither adversely affect the significant architectural features of the cultural resource nor adversely affect the character or historic, architectural, aesthetic interest, or value of the cultural resource and its site; and
 - b. The proposed work conforms to the prescriptive standards and design guidelines, if any, prepared by the Historic Preservation Commission for the particular resource, and to the Secretary of the Interior's Standards for Rehabilitation, and does not adversely affect the character of the cultural resource; and
 - c. In the case of construction of a new improvement upon a cultural resource property, the use and design of the improvement shall not adversely affect, and shall be compatible with, the use and design of existing cultural resources within the same historic district; and
 - d. Wherever feasible, the alteration takes full advantage of the State Historic Building Code and Uniform Code for Building Conservation.
2. Alterations Found Not to be Adverse. The effect of alteration on a cultural resource that would otherwise be found to be adverse may be considered not adverse for the purpose of this section when the alteration is:
 - Limited to the rehabilitation or restoration of improvements; and
 - Conducted in a manner that preserves the archaeological, cultural, and historic value of the cultural resource through conformance with the prescriptive standards adopted by the HPC for that cultural resource,

cultural resource property, or historic district, and the guidelines of the Secretary of the Interior's Standards for Rehabilitation.

E. *Conditions for Certificate of Appropriateness.* The review authority may approve a certificate of appropriateness subject to any condition deemed necessary or desirable to effect the purposes of this chapter. The conditions shall be covenants running with the land.

In approving or denying the certificate in whole or in part, the HPC may impose additional or different conditions to ensure that the purposes of this chapter shall be achieved. If the conditions imposed by the Commission (in cases where Commission review is required) conflict with the conditions imposed by the Historic Preservation Commission, the matter shall be referred back to the Historic Preservation Commission in order to resolve the conflict. In this case, the Historic Preservation Commission shall hear the matter as soon as is practical, and the Commission shall again consider the matter following the Historic Preservation Commission meeting.

F. *Period of Validity of Certificate of Appropriateness.* A certificate of appropriateness shall become void unless construction is commenced within twenty-four months from the date of public action approving the certificate. Certificates of Appropriateness may be renewed for a twenty-four-month period by applying to the department a minimum of thirty days before the expiration of the certificate. The review authority may grant an extension for another twenty-four-month period. A certificate of appropriateness may be extended only twice. A new certificate of appropriateness is required thereafter.

(Ord. 03-663 § 4 (part), 2003; Ord. 02-643 §§ 53 - 55, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.110 Certificates of Appropriateness for Proposed Demolition.

The following requirements shall apply in cases involving proposed demolition, in addition to all other applicable provisions of this chapter.

A. *Demolition, Generally.* Notwithstanding the adverse effect thereon, the HPC when recommending approval or conditional approval of a certificate of appropriateness to the approval authority for a demolition of a cultural resource, shall only do so when all of the following findings are made in a positive manner:

1. The cultural resource cannot be remodeled, rehabilitated or re-used in a manner which would allow a reasonable use;
2. Denial of the application will diminish the value of the subject property so as to leave substantially no value;

3. The cultural resource cannot be remodeled, rehabilitated, or re-used in a manner that would allow a reasonable rate of return; and

4. The applicant demonstrated that all means involving city-sponsored incentives (e.g., financial assistance, grants, loans, reimbursements, tax abatements, and changes in the Zoning Map or Zoning Ordinance), as well as the possibility of a change of use or adaptive reuse in compliance with Section 19.58.150(E)(5)(b) (Change of Use or Adaptive Reuse), above have been explored to relieve possible economic hardship, and further, that all other means for alleviating economic hardship, including state or federal tax credits, grants to subsidize the preservation of the property, have been exhausted and have failed to alleviate the hardship.

Commercial or residential developments which propose to demolish cultural resources shall not be eligible for any development bonuses or incentives. (See also Sections 19.10.050, 19.22.050, and 19.36.265.)

B. *Demolition - Justifiable Hardships.* Personal, family or financial difficulties, loss of prospective profits and Building Code violations are not justifiable hardships.

C. *Demolition - Reasonable Rate of Return.* In determining reasonable rate of return, the HPC shall not consider debt service arising from the acquisition of properties, or any increase in debt service resulting from the refinancing of properties listed on the city's Historic Resources Inventory occurring after January 4, 1988.

For any properties included on the city's Historic Resources Inventory, the city's consideration of means of historic preservation had begun and was well known, and property owners had reason to know that the city would enact a historic preservation ordinance. Further, on January 4, 1988 the Council adopted a six-month moratorium on demolition of properties listed in the Inventory.

For any properties not included in the Inventory, the HPC shall not consider debt service resulting from the acquisition, or any increase in debt service resulting from the refinancing, of properties once the properties are nominated as cultural resources.

D. *Demolition - Alternative Plan to Relieve Economic Hardship.* The HPC shall recommend the development and adoption of a plan in order to relieve economic hardship and to allow the applicant a reasonable use of and economic return from the property or otherwise preserve the subject property. If the HPC has found that without approval of the demolition, the property cannot be put to a reasonable economic return, and all of the findings and requirements of this section have been met, then the HPC shall recommend the issuance of a certificate of appropriateness approving the proposed demolition. If the demolition is to occur in a historic district, approval of alternative plans and specifications for constructing the new improvements shall require approval by the HPC.

If the HPC finds otherwise, or that any of the aforementioned incentives can be used to avoid economic hardship, it shall recommend issuance of a certificate of appropriateness only based upon the findings identified in Section 19.58.100(D) (Findings for Certificates of Appropriateness), utilizing the applicable incentives to ensure that the cultural resource is rehabilitated.

E. *Effect of Demolition.* If approval of a certificate of appropriateness will result in the demolition of a cultural resource, the applicant shall be required to memorialize the resource proposed for demolition in compliance with the standards of the Historic American Building Survey. The documentation may include an archaeological survey, floor plans, measured drawings, photographs, or other documentation specified by the HPC.

When appropriate, the HPC may require that a memorialization of the resource be incorporated into the proposed redevelopment of the site including the following:

1. Book or pamphlet;
2. Photographic display;
3. Small museum or exhibit;
4. Use of original fixtures; and/or
5. Other methods deemed appropriate by the HPC.

F. *HPC Recommendation.* In all cases where the proposed demolition or removal would otherwise require Commission approval, the HPC may recommend approval or denial, in whole or in part, of the application in writing. The HPC's recommendation shall include findings of fact relating to the criteria for obtaining the certificate and that constitute the basis for its recommendation. The HPC shall adopt its recommendation by resolution and send it to the Commission at the Commission meeting held to consider the proposal.

The final approval authority shall approve or deny, in whole or in part, the recommendation of the Historic Preservation Commission regarding demolitions. The certificate to demolish may only be approved in conjunction with a project for which other approvals are required. A certificate of appropriateness to demolish a cultural resource may not be issued for any building for which there is no project proposed and thereafter approved; demolition of a cultural resource requires concurrent processing and approval in compliance with Section 19.50.040 (Concurrent Processing of Permits).

(Ord. 03-663 § 4 (part), 2003; Ord. 02-643 § 56, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.120 Certificates of Appropriateness, Disaster Damage.

A certificate of appropriateness is required to alter, add to, repair, restore, reconstruct, demolish or replace a disaster-damaged cultural resource in compliance with the Municipal Code. (See also Section 19.58.100(B)(5) and Section 19.58.170.)

(Ord. 02-643 § 57, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.130 Development Standards or Prescriptive Design Guidelines.

Where the Commission approves a certificate of appropriateness for the alteration to a cultural resource in compliance with a long-term development plan or prescriptive guidelines, and where the plan or guidelines identifies particular development standards by which alterations would be made, an application to do work in compliance with the approved development standards may be approved by the Director without further public hearing.

(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.140 Historic (-H) Overlay Districts and Neighborhood Conservation (-NC) Overlay Districts.

The -H (Historic) and -NC (Neighborhood Conservation) overlay zoning districts are established by Article 19-2 of this Zoning Ordinance (Zoning Districts and Allowable Land Uses). See Sections 19.14.050 and 19.14.060, respectively.

(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.150 Rehabilitation Incentives.

A. *Purpose.* The rehabilitation incentives provided by this section are intended to encourage the maintenance, preservation, and rehabilitation of cultural resources in the city, based on a recognition that maintaining and rehabilitating a cultural resource places increased burdens on the property owner of the resource. These rehabilitation incentives are intended to equalize those burdens so that property owners will be encouraged to invest resources in maintaining the city's cultural resources.

B. *Applicability.* Upon designation of a structure or improvement as a designated cultural resource, the property owner of the designated resource may apply to the HPC for aid and assistance in rehabilitating the designated resource. The application for rehabilitation incentives is considered the necessary planning permit; the applicant need not submit additional applications for other permits required by this Zoning Ordinance.

C. *Types of Incentives Allowed.* Rehabilitation incentives that may be granted by the city include:

1. Permit fee waivers;

2. Transfer of development rights;
 3. Change of use or adaptive reuse;
 4. Mills Act Agreements;
 5. Reduction in the development standards of this Zoning Ordinance;
- and
6. The permitting of uses not allowed in the zone, but which are permitted in other zones.

- D. *Application Content.* Applications shall include the following information:
1. The property owner's name;
 2. The address of the cultural resource;
 3. The structure or improvement designated;
 4. A description of the specific rehabilitation incentive being requested;
 5. Detailed, scaled drawings depicting the proposed project;
 6. A plan for restoration or ongoing maintenance of the designated resource prepared by a preservation architect, who is acceptable to the city;
 7. An estimate of the cost of restoration or maintenance plan from a preservation architect who is acceptable to the city;
 8. A list of any funds granted by any agency, public or private, for the purpose of restoration;
 9. A statement regarding the availability of tax credits;
 10. A written statement complete with a full set of architectural drawings (where appropriate) which clearly outline and depict the proposal by the applicant for rehabilitation incentives; and
 11. Other information deemed necessary by the Director.

- E. *Review and Approval of Rehabilitation Incentives.*
1. HPC Hearing and Action. The HPC shall hold a public hearing to determine the eligibility of a property for rehabilitation incentives and shall, by

resolution, approve or deny any incentives. Public notice for the hearing shall comply with Chapter 19.74 (Public Hearings and Notice); however, noticing for incentives which would not otherwise require a public hearing (e.g., some reduction in standards, Mills Act Agreements, and some change of uses) shall instead require the following notice:

a. Notice to the property owner of record at least ten days prior to the decision on the incentive; and

b. Notice to occupants of the proposed site, either by mailing a notice or by posting an 8½” by 11” notice at the structure’s primary entrance or at the lobby elevators, whichever is more appropriate, at least ten days prior to the decision on the incentive.

2. Planning Commission Review and Action. For rehabilitation incentives which involve adaptive reuse and where the proposed use would typically require Commission approval, the Commission shall be the approval authority. However, the Commission’s decision shall consider the recommendation of the HPC regarding the request.

3. Appeals. Appeals of HPC final decisions shall be heard by the Council, subject to the notice and hearing requirements of Chapter 19.74. The appeal shall be filed in the Office of the City Clerk within ten days following the date of the HPC’s public action. Noticing for Mills Act request shall only require a ten-day notification to the owner of the property. The Council has final approving authority in Mills Act decisions.

4. Investigations. The Commission has the authority to request the applicant for rehabilitation incentives to furnish any material deemed necessary to determine the propriety of granting a rehabilitation incentive.

5. Findings for Rehabilitation Incentives. The Commission may recommend or grant rehabilitation incentives, only if all of the following findings of fact are made in a positive manner:

a. Generally.

(1) The incentive(s) to be granted serve(s) to compensate the property owner for the increased burden, in terms of maintenance and expense, that rehabilitation would entail;

(2) The proposed incentive(s) would not impair the aesthetic, architectural, or historic integrity of the resource; and

(3) The proposed incentive(s) would not be detrimental to the public health, safety, or general welfare.

b. Change of Use or Adaptive Reuse. In addition to the findings identified in subsection (E)(5)(a), above, the Commission shall make the following findings for an application for a change of use or adaptive reuse:

(1) The change of use/adaptive reuse would occupy no more than the original square footage of the resource;

(2) The proposed change of use or adaptive reuse would not significantly impair the integrity or character of the neighborhood in which it is located; and

(3) The change of use or adaptive reuse would result in substantial restoration of the significant and architectural features or exterior architectural appearance of the resource or shall result in a maintenance plan for the building which will ensure the upkeep and continued maintenance of the resource over the expected life of the project.

(4) *In the case of a request for the reuse of a structure that has historically been residential, for a commercial use (e.g., a Bed and Breakfast Inn), the applicant has proven that an economic hardship exists such that the proposed commercial use is necessary to maintain the building.*

F. *Transfer of Development Rights.* TDRs are meant to encourage historic preservation by allowing an owner of a cultural resource to transfer unused development rights which would otherwise be permitted on the property to transfer the unused development rights to another site in the city. The Council has established, by resolution, criteria upon which the transfers shall be conditioned. This is called the Transfer of Development Rights Program, a copy of which is on file in the Community Development Department. This program may be modified without amendment of this Zoning Ordinance, but modification requires an approval by the Council.

G. *Permit Fee Waivers.* All planning application fees shall be deferred, and shall be waived upon approval of the rehabilitation incentives, provided that public noticing fees shall not be waived.

(Ord. 03-663 § 4 (part), 2003; Ord. 02-643 § 58, 2003; Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.160 Ordinary Maintenance and Repairs.

A. *Duty to Keep In Good Repair.* The owner(s), occupant(s), or other person(s) in actual charge of a cultural resource shall keep in good repair all of the exterior portions of the improvement, structure, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature(s) and any other specifically designated features of the property. If periodic maintenance and upkeep is not done, and the resource falls into disrepair, the fact that it

is in disrepair may not be used as justification for demolition or any other alteration which would cause adverse effect as defined in this chapter. (See the definition of “Ordinary Maintenance and Repair” under “Cultural Heritage Preservation” in Article 19-6.)

B. *Enforcement.* It shall be the duty of the Director to enforce this chapter.

(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.170 Unsafe or Dangerous Condition.

In the case of damage to a structure which is the result of an isolated incident, the Director may approve Certificates of Appropriateness for structures for which there is a threat of imminent hazard as determined by the Building Official. In the case of widespread damages to structures throughout the city (as in the case of an earthquake), the Director shall stay all notices to demolish designated or potential cultural resources, including all structures in designated or potential districts, until a structural engineer with expertise in the restoration of historic structures has evaluated the nature and extent of the damage to the structure(s) and recommended steps to stabilize the structure(s). The city shall stabilize or isolate damaged structures to permit persons with appropriate expertise to further evaluate the damage. In cases where a structural engineer with expertise in the restoration of historic structures has determined that the building cannot be stabilized, then the Director may issue a certificate of appropriateness for the demolition of a structure(s). See also Section 19.58.120.

(Ord. 01-594 § 2 (Exh. A (part)), 2001)

19.58.180 Enforcement Penalties.

A. *Misdemeanor.* Any person who violates a requirement of this chapter or fails to obey an order issued by the Commission or comply with a condition of approval of any certificate or permit issued in compliance with this chapter shall be guilty of a misdemeanor and subject to the provisions of Section 1.08.010(a) of the West Hollywood Municipal Code.

B. *Violation and Restoration.* Any person who alters, constructs, demolishes, or removes a cultural resource in violation of this chapter shall be required to restore the object, site, or structure to its appearance or setting before the violation under the certificate of appropriateness procedures. Any action to enforce this provision may be brought by the city or any other interested party. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty and any other remedy provided by law.

(Ord. 01-594 § 2 (Exh. A (part)), 2001)