



Development Services Department

Advance Planning Division

August 14, 2013

Ivor E. Samson
Dentons US LLP
525 Market Street
26th Floor
San Francisco, CA 94105-2708

Re: Sears Store, 565 Broadway

Dear Mr. Samson,

We are in receipt of your letter dated July 22, 2013 regarding the Sears Store at 565 Broadway, Chula Vista. This letter contains responses as well as clarifications to the issues and comments you raised in your letter.

1.) Sears Issue – Historic Eligibility:

Your letter indicates that the City merely identified the Sears store as potentially eligible for listing as a local historic resource. Your letter further indicates that, at this time, the Sears store has not been designated a historic resource nor has any formal application been submitted to designate the Sears store as a historic resource under Chula Vista Municipal Code Section 21.04.090, California state law or U.S. federal law.

Chula Vista response:

The Sears building was identified as being Eligible (see definition of Eligible Historical Resource, Chula Vista Municipal Code (CVMC) Section 21.03.044) through a Historical Resources Survey (Survey) conducted by ASM Affiliates, Inc. (2012). The Survey was conducted pursuant to CVMC Section 21.04.010 and Chula Vista Historic Preservation Program (HPP) Section 3.1. (See attached CVMC and HPP Section 3.1.)

2.) Sears Issue – Designation:

Your letter indicates that no hearing has been conducted on whether the Sears store meets the criteria for designation as a historical resource under CVMC Section 21.04.100.

Chula Vista Response:

No action has been taken on the part of the City of Chula Vista to designate the Sears building as a Historical Resource. As you stated in your letter the City “merely identified” the Sears store as being eligible for designation. A Survey is a commonly used tool that informs staff, as well as the public, as to what in the community is worthy of recognition and preservation. The Survey is also an important informational tool for planning and development projects. It provides the first level of historic information about a site and helps to identify those sites that need additional historic study during the entitlement process in accordance with the California

Received
AUG 20 2013

Environmental Quality Act (CEQA). The applicable code section for Surveys is CVMC Section 21.04.010 not CVMC Section 21.04.100. CVMC Section 21.04.100 does not apply unless the property owner(s) were to apply for designation pursuant to CVMC Section 21.04.090. To date, no application for the designation of Sears has been filed with the City.

3.) Sears Issue – August 21, 2013 Meeting:

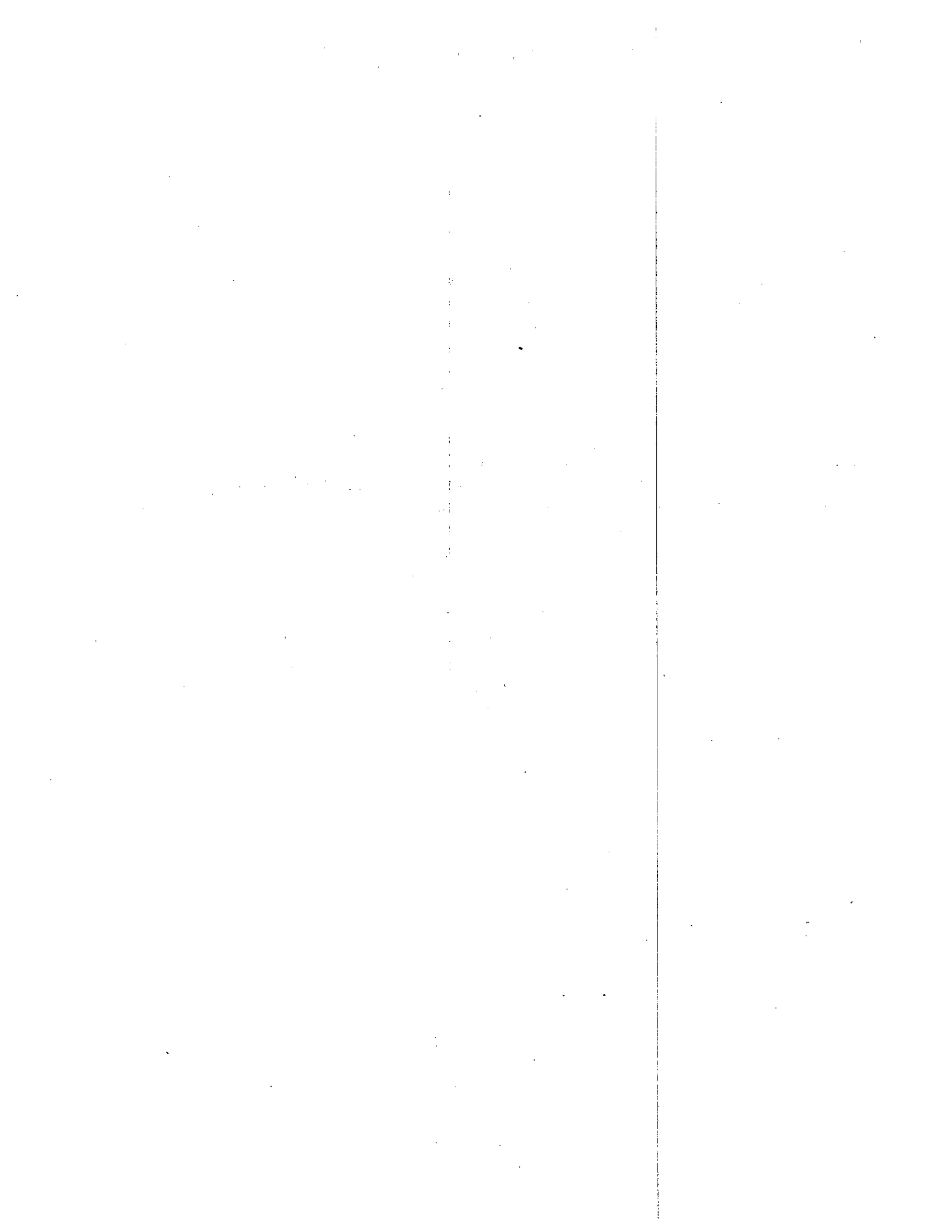
Your letter further indicates that to automatically designate the Sears Store in Chula Vista as a historical resource and deem the August 21, 2013 meeting in your office an “appeal” would be tantamount to a deprivation of Sears’ property rights and interest by the City without due process.

Chula Vista Response:

Please be advised, the City has not designated the subject Sears store as a historical resource, which is an appealable action. However, there is no mechanism for a review of a property that has only been designated as historically eligible. The time for addressing any eligibility issues before the Historic Preservation Commission (HPC) was when the Survey designating the site as eligible was taken before the HPC. In our meeting on November 15, 2012 you stated that the Sears store Operations Manager attended the September 19th, 2012 HPC meeting. In reviewing the minutes for that meeting, the Operations Manager did not provide any comment to the HPC at that meeting. In an effort to accommodate Sear’s request to present its experts’ information as to the historic eligibility of the Sears building to the HPC, in a July 15, 2013 email to you, Lynnette Tessitore-Lopez stated that we were looking at dates to take an appeal forward to the HPC and that the next available HPC meeting would be August 21, 2013. Again, Ms. Tessitore-Lopez’s characterization that the HPC meeting would be an appeal was as an accommodation to your client, because there is no mechanism to go back before the HPC on eligibility determinations. Since your client has apparently decided not to take advantage of the City’s accommodation, the item cannot go forward on August 21, 2013.

In addition to your client attending the September 19, 2012 HPC meeting, your client was also sent a letter on September 11, 2012 informing them that their property was determined through a Survey to be an eligible Historical Resource and therefore, qualifies for Designation, if they so choose to apply. The letter also informed them that, although not required by the code, the survey would be discussed by the HPC on September 19, 2012 followed by a two week public comment period from September 19, 2012 to October 3, 2012. At the September 19th meeting staff announced that the survey would again be discussed by the HPC on October 3, 2013. The October 3rd meeting was noticed in the newspaper and discussed in the September 19th HPC Staff Report.

Upon your client’s receipt of the September 11, 2012 letter, both Ms. Tessitore-Lopez and I were contacted by representatives from both the Sears Real Estate Assets division and the Sears corporate office, and at no time during the public comment period did the Sears representatives provide additional technical expert analysis that contradicted the Survey findings.





3.0 Historical Resources

3.1 Historical Resource Surveys

A historical resource survey is an important tool in the identification and evaluation of historical resources. A survey informs staff as well as the public as to what in the community is worthy of recognition and preservation. In the absence of a historical resource survey, historical resources may be altered or lost. A survey is also an important informational tool for planning and development projects in that it helps to avoid delays by providing the necessary historical information in advance.



To date the City has conducted two surveys, a 1985 survey that covered only a portion of north-west Chula Vista, and the 2005 Urban Core Specific Plan survey that assessed 50 commercial properties within the Urban Core (See Appendix D). It is recognized that a comprehensive area-wide survey would be an expensive undertaking that could take a considerable amount of time to accomplish and therefore a survey program that prioritizes development older than 45 years within western Chula Vista by neighborhood, area, or concentration of resources may be a more

practical approach. Until such time that a broader survey is conducted, the City will utilize the eligibility determination process included in the HPO, in lieu of survey data. The HPO establishes an eligibility determination process where the Zoning Administrator uses surveys, historical databases, and other information available to the City to determine whether a resource is historically significant. In an attempt to avoid project delays, eligibility determination would occur early in the project review process.

For consistency with state and national processes for documenting historical resources, Chula Vista's HPP includes the Office of Historic Preservation "Instructions for Recording Historical Resources" found in (Appendix E). These guidelines provide a system for documenting resources that will ensure that appropriate and sufficient information is collected during a survey.

The appendices for this section include: a matrix of surveyed properties, on how to complete a state survey form (DPR Form) and the National Register Bulletin: Guidelines for Local Surveys.

For more information on Historical Resource Surveys see National Register Bulletin 24 (Appendix E)



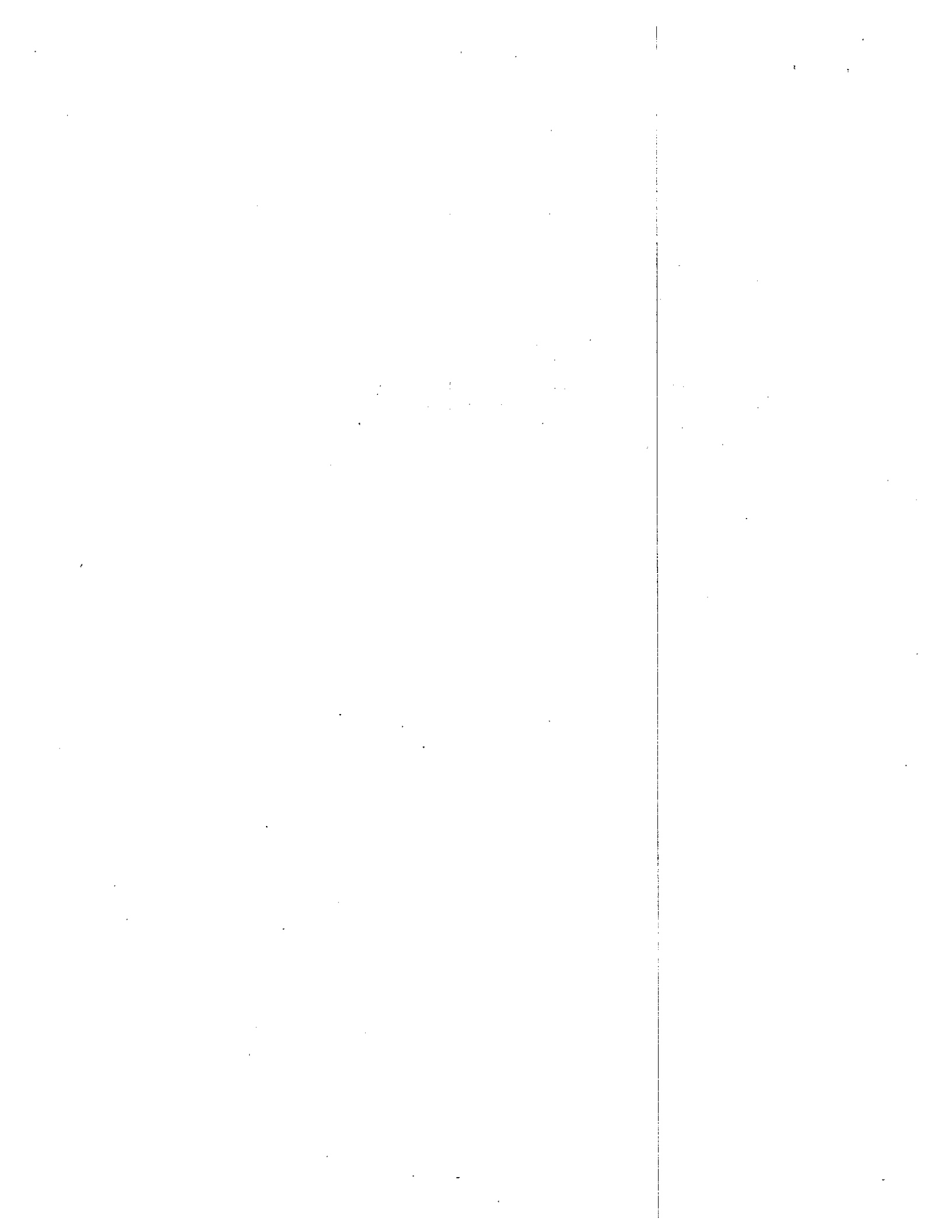
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AUG 20 2013

Title 21

HISTORIC PRESERVATION

Chapters:

- 21.02 General Provisions**
- 21.03 Definitions**
- 21.04 Identification and Designation of Historical Resources**
- 21.05 Delisting of Historical Resources**
- 21.06 Historic Preservation Districts – HPDs**
- 21.07 Alterations of Historical Resources**
- 21.08 Discretionary Projects and Demolition of Historical Resources**
- 21.09 Maintenance and Repair of Historical Resources**
- 21.10 Incentives, Benefits and Exemptions**
- 21.11 Enforcement and Penalties**
- 21.12 Notice, Fees and Appeals**
- 21.13 Severability**



Chapter 21.02

GENERAL PROVISIONS

Sections:

- 21.02.010 Title.
- 21.02.015 Enabling authority.
- 21.02.020 Purpose and intent.
- 21.02.030 Historic preservation authority.

21.02.010 Title.

This title shall be known as the City of Chula Vista historic preservation ordinance (HPO). (Ord. 3196 § 3, 2011).

21.02.015 Enabling authority.

This chapter is enacted pursuant to California Government Code Section 37361(b); California Constitution Article I, Section 7; and United States Code of Federal Regulations Title 36, Part 61. (Ord. 3196 § 3, 2011).

21.02.020 Purpose and intent.

The Chula Vista City Council (Council) declares that the identification, recognition, preservation, protection and adaptive reuse of historical resources are essential for the health, prosperity, social and cultural enrichment, and general welfare of the citizens who live in, work and visit Chula Vista. The purpose and intent of the HPO is to serve, protect and enhance the public health, safety and welfare through the following:

- A. Serve as the regulatory document of the City's historic preservation program (HPP);
- B. Promote and accomplish the historic preservation goals, policies, and strategies of the City's General Plan;
- C. Promote the recognition, preservation, protection and use of historical resources through historical resource surveys and the designation of historical resources;
- D. Preserve and enhance those historical resources that give Chula Vista its identity by utilizing the Secretary of the Interior's Standards for Treatment of Historic Properties;
- E. Honor Chula Vista's rich history and heritage by designating significant historical resources and historic preservation districts that are associated with important historical events, persons, significant architecture, and landscape elements;
- F. Provide strong and safe neighborhoods by encouraging harmony as to style, form, proportion, and material between historical resources and new

construction that are located within designated historic preservation districts;

G. Provide for a sustainable environment through the preservation and protection of resources and neighborhoods that have historical significance;

H. Carry out the provisions of the National Historic Preservation Act and the certified local government program established under said Act;

I. Establish the use of incentives and benefits for the protection, retention and preservation of historical resources; and

J. Promote the recognition, preservation, protection and use of historical resources through education and an HPP that is maintained up to date and valid. (Ord. 3196 § 3, 2011).

21.02.030 Historic preservation authority.

There is created a Historic Preservation Commission (HPC) pursuant to Chapter 2.49 CVMC. The HPC governs processes and activities presented in this title as further defined in Chapter 2.49 CVMC. The discretionary project review responsibility of the HPC shall include the review of major alterations, historical resource demolition applications, historic determinations and appeals, and consistency of said projects with the City's HPP, applicable historic district guidelines, and this title. (Ord. 3196 § 3, 2011).

Chapter 21.03**DEFINITIONS**

Sections:

- 21.03.001 Generally.
 21.03.002 Alteration.
 21.03.004 Archaeological resource.
 21.03.006 Architectural significance.
 21.03.008 Association.
 21.03.010 Building.
 21.03.012 California's State Historical Building Code.
 21.03.014 Reserved.
 21.03.016 Certificate of appropriateness (COA).
 21.03.018 Certified local government.
 21.03.020 Character-defining feature.
 21.03.022 Chula Vista register of historical resources.
 21.03.024 City staff.
 21.03.026 Commission.
 21.03.028 Contributing resource.
 21.03.030 Council.
 21.03.032 Criteria.
 21.03.034 Cultural landscape.
 21.03.036 Demolition.
 21.03.038 Design.
 21.03.040 Determination of eligibility.
 21.03.042 Reserved.
 21.03.044 Eligible historical resource.
 21.03.046 Eligibility.
 21.03.047 Eligibility determination.
 21.03.048 Evaluation.
 21.03.050 Event.
 21.03.052 Exceptional historical resource.
 21.03.054 Exempt alteration(s).
 21.03.056 Expert professional.
 21.03.058 Expert technical analysis.
 21.03.060 Exterior features.
 21.03.062 Feeling.
 21.03.063 Geographic historic preservation district.
 21.03.064 Historic context.
 21.03.066 Historical landscape.
 21.03.067 Historic preservation fund.
 21.03.068 Historic preservation district (HPD).
 21.03.069 Historic preservation modifying district.
 21.03.070 Historic preservation program (HPP).
 21.03.074 Historical resource.
 21.03.075 Historical resource survey.
 21.03.076 Historical significance.
 21.03.078 Identification.
 21.03.080 Important person.
 21.03.082 Incentives.
 21.03.084 Integrity.
 21.03.085 Inventory.
 21.03.086 Local register.
 21.03.088 Location.
 21.03.090 Major alteration.
 21.03.092 Materials.
 21.03.094 Minor alteration.
 21.03.095 Modifying district.
 21.03.096 Noncontributing resource.
 21.03.100 Object.
 21.03.102 Period of significance.
 21.03.104 Potential historical resource.
 21.03.106 Preservation.
 21.03.108 Qualified historical resource.
 21.03.110 Reconstruction.
 21.03.112 Rehabilitation.
 21.03.113 Relocation.
 21.03.114 Resource.
 21.03.116 Restoration.
 21.03.118 Secretary of the Interior (SOI).
 21.03.120 Secretary of the Interior standards and guidelines (SOIS).
 21.03.122 Setting.
 21.03.124 Significance.
 21.03.125 Significant.
 21.03.126 Site.
 21.03.128 State Historic Building Code.
 21.03.130 Structure.
 21.03.131 Thematic historic preservation district.
 21.03.132 Theme.
 21.03.134 Workmanship.
 21.03.135 Zoning Administrator (ZA).
- 21.03.001 Generally.**
 For the purpose of this title, the following definitions shall govern the meaning of words contained herein unless the context indicates otherwise. (Ord. 3196 § 3, 2011).
- 21.03.002 Alteration.**
 "Alteration" means a change in the character, composition, or structure of a potential historical resource or historical resource which is not classified as work exempt from building permits (Building Permit Form 4551) or those activities that are exempt pursuant to CVMC 21.03.054. (Also see the City's HPP Section 4.0, Historic Preservation Projects, and Appendix – Preservation Brief 14: New Exterior Additions to Historic Buildings.) (Ord. 3196 § 3, 2011).

21.03.004 Archaeological resource.

"Archaeological resource" means subsurface or above-ground material remains of past human life or activities that are at least 100 years of age, and may yield additional information about prehistory or history. (Ord. 3196 § 3, 2011).

21.03.006 Architectural significance.

"Architectural significance" means the importance of a resource based upon the distinctive characteristics of a period, style, type, period or method of construction. (Also see the City's HPP Appendix – National Register Bulletin: How to Evaluate and Apply Criteria, Section VI.) (Ord. 3196 § 3, 2011).

21.03.008 Association.

"Association" means the direct link between an important historic event or person and a historical resource. Association is one of the seven aspects of integrity. (Ord. 3196 § 3, 2011).

21.03.010 Building.

"Building" means a structure that has a roof and walls and stands more or less permanently in one place, such as a house, barn, church, hotel, office or similar construction that is created to shelter any form of human activity. "Building" may also refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. (Ord. 3196 § 3, 2011).

21.03.012 California's State Historical Building Code.

"California's State Historical Building Code" means California Health and Safety Code Section 18950 et seq., and a regulation of Part 8 of Title 24, of the California Code of Regulations. This code provides alternative standards and regulations intended to facilitate repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, safety, moving, or continued use of a qualified historical building or structure. (Also see State Historical Building Code and the City's HPP Appendix – California's State Historical Building Code.) (Ord. 3196 § 3, 2011).

21.03.014 Reserved.

Reserved. (Ord. 3196 § 3, 2011).

21.03.016 Certificate of appropriateness (COA).

"Certificate of appropriateness (COA)" means a permit required for the alteration, restoration, con-

struction, demolition, removal, and/or relocation in whole or in part, of or to any historical resources. (Also see the City's HPP Section 4.0, Historic Preservation Projects Certificate of Appropriateness). (Ord. 3196 § 3, 2011).

21.03.018 Certified local government.

"Certified local government" means a local government officially certified by the National Park Service and the State Office of Historic Preservation to carry out the purposes of the National Historic Preservation Act. (Also see the City's HPP Section 1.0, Preface and Acknowledgements – Certified Local Government.) (Ord. 3196 § 3, 2011).

21.03.020 Character-defining feature.

"Character-defining feature" means the architectural, street and landscape features of a building, structure, object, or historic preservation district which help to convey historical significance. (Also see "historical significance.") (Ord. 3196 § 3, 2011).

21.03.022 Chula Vista register of historical resources.

"Chula Vista register of historical resources" means a comprehensive list of designated historical resources, commonly referred to as the "local register." (Also see the City's HPP Appendix – Local Register.) (Ord. 3196 § 3, 2011).

21.03.024 City staff.

"City staff" means an employee from any department or agency of the City of Chula Vista which may be called upon to assist in the proper administration of the City of Chula Vista's historic preservation program, including this title. (Ord. 3196 § 3, 2011).

21.03.026 Commission.

"Commission" means the City of Chula Vista Historic Preservation Commission (HPC). (Ord. 3196 § 3, 2011).

21.03.028 Contributing resource.

"Contributing resource" means a resource within the boundaries of a proposed or designated historic preservation district which contributes to, physically conveys, and supplements the identified historical significance of that historic preservation district. (Ord. 3196 § 3, 2011).

21.03.069 Historic preservation modifying district.

Historic preservation modifying district: see "modifying district." (Ord. 3196 § 3, 2011).

21.03.070 Historic preservation program (HPP).

"Historic preservation program" means a reference resource and procedural guide for historic preservation in Chula Vista, which may be amended, and which is comprised of the application forms, guidelines and procedures that will:

- A. Meet the requirements for certified local government status; and
- B. Align with the policies of the General Plan; and
- C. Implement this title. (Ord. 3196 § 3, 2011).

21.03.074 Historical resource.

"Historical resource" means any eligible historical resource or any resource that is designated on the Chula Vista register of historical resources (local register), the California Register of Historical Resources, or the National Register of Historic Places. (Also see "eligible resource.") (Ord. 3196 § 3, 2011).

21.03.075 Historical resource survey.

"Historical resource survey" means a systematic, detailed examination of an area designed to gather information about historic properties pursuant to Chapter 21.04 CVMC. The information and analysis shall be contained within state-prescribed forms for recording historical resources, currently referred to as the Department of Parks and Recreation (DPR) 523 Series Form, as may be amended from time to time, and shall conform to the state historic preservation guidelines for recording historical resources as made a part of the City's HPP. (Also see "inventory" and the City's HPP Section 3.0, Historical Resources – Historical Resource Surveys.) (Ord. 3196 § 3, 2011).

21.03.076 Historical significance.

"Historical significance" means the importance for which a resource has been evaluated within a historic context and found to meet local, state or national criteria. (Also see "character-defining feature" and the City's HPP Appendix – National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation, Section VI, How to Identify the Type of Significance of a Property.) (Ord. 3196 § 3, 2011).

21.03.078 Identification.

"Identification" means the process through which information is gathered about historical resources. (Ord. 3196 § 3, 2011).

21.03.080 Important person.

"Important person" means an individual who has made significant contributions on a local, regional, state or national level, including but not limited to history, architecture, archaeology, engineering, and/or culture. (Ord. 3196 § 3, 2011).

21.03.082 Incentives.

"Incentives" means preservation incentives that include, but may not be limited to: federal rehabilitation tax credits, Mills Act agreements and permit streamlining. (Also see the City's HPP Section 6.0, Incentives and Benefits.) (Ord. 3196 § 3, 2011).

21.03.084 Integrity.

"Integrity" means the authenticity of a resource's historic identity, evidenced by the survival of physical characteristics that existed during the resource's historic or prehistoric period. Within the concept of "integrity" there are seven recognized aspects or qualities that in various combinations define integrity. The seven aspects of integrity are location, design, setting, materials, workmanship, feeling, and association. (Also see the City's HPP Appendix – National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation, Section VIII, How to Evaluate the Integrity of a Property Historical Resource.) (Ord. 3196 § 3, 2011).

21.03.085 Inventory.

"Inventory" means a list of historical resources determined to meet specified criteria of significance. (Also see "historical resources survey.") (Ord. 3196 § 3, 2011).

21.03.086 Local register.

"Local register" means a list of the City's designated historical resources. (Also see "Chula Vista register of historical resources" and the City's HPP Appendix – Local Register of Historical Resources.) (Ord. 3196 § 3, 2011).

21.03.088 Location.

"Location" means the place where the historical resource was constructed or the place where the historic event occurred. Location is one of the seven aspects of integrity. (Ord. 3196 § 3, 2011).

21.03.090 Major alteration.

"Major alteration" means those alterations that are not exempt or do not qualify as minor alterations, which include, but may not be limited to:

- A. Demolition (CVMC 21.03.036);
- B. Installation or alteration of windows, doors, or other historical features where the original opening is proposed to be enlarged, reduced or altered (also see the City's HPP Appendix – National Park Service Preservation Brief 09: The Repair of Historic Windows);
- C. Removal of historical landscapes;
- D. Additions to a structure or site that exceed 499 square feet;
- E. New construction, exterior remodels that require a major COA, or additions that exceed 499 square feet within a historic preservation district;
- F. Relocation (CVMC 21.03.113);
- G. Reconstruction (CVMC 21.03.110).

Also see the City's HPP Section 4.0, Historic Preservation Projects – Certificate of Appropriateness, and Appendix – National Park Service Preservation Brief 14: New Exterior Additions to Historic Buildings: Preservation Concerns. (Ord. 3196 § 3, 2011).

21.03.092 Materials.

"Materials" means the physical elements that were combined, used, or deposited during a particular period of time and in a particular pattern or configuration to form a historical resource. Materials are one of the seven aspects of integrity. (Ord. 3196 § 3, 2011).

21.03.094 Minor alteration.

"Minor alteration" means alterations that require a building permit but do not affect the historical significance of the historical resource, such as:

- A. The installation of exterior features such as awnings, roofs, and garage doors.
- B. Installation or alteration of windows, doors or other historical features where the original opening will not be enlarged, reduced or altered.
- C. Additions that are greater than 144 square feet and less than 499 square feet.

Also see the City's HPP Section 4.0, Historic Preservation Projects – Certificate of Appropriateness, and Appendix – National Park Service Preservation Brief 14: New Exterior Additions to Historic Buildings: Preservation Concerns. (Ord. 3196 § 3, 2011).

21.03.095 Modifying district.

For purposes of this title, a historic preservation (HP) modifying district may be applied only to properties within historic preservation district(s) (HPD) to permit special regulations where appropriate or necessary in addition to or in lieu of the development regulations otherwise set forth in the underlying zoning. (Also see the City's HPP Section 5.0, Design Guidelines – Historic Preservation Modifying Districts.) (Ord. 3196 § 3, 2011).

21.03.096 Noncontributing resource.

"Noncontributing resource" means a resource within the boundaries of a proposed or designated historic preservation district which does not contribute to or physically convey the historical significance of a proposed or designated historic preservation district. These resources may or may not be limited to those resources less than 45 years old, properties older than 45 years old that have been significantly altered, or properties not associated with the period of significance or historic context of the proposed or designated historic preservation district. (Ord. 3196 § 3, 2011).

21.03.100 Object.

The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment. Objects should be in a setting appropriate to their significant historic use, roles, or character. Examples of objects include boundary markers, fountains, monuments, statuary, sculptures, and mileposts. (Ord. 3196 § 3, 2011).

21.03.102 Period of significance.

"Period of significance" means the span of time in which a resource attained historical significance. (Also see the City's HPP Section 1.0, Preface and Acknowledgements – Periods of Significance.) (Ord. 3196 § 3, 2011).

21.03.104 Potential historical resource.

"Potential historical resource" means any resource 45 years or older that may meet the findings of fact and criteria established in CVMC 21.04.100. (Ord. 3196 § 3, 2011).

21.03.106 Preservation.

"Preservation" is one of the four treatment options specified in the Secretary of the Interior's

standards for the treatment of historic properties and is defined by the Secretary of the Interior (SOI) as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historical resource. Work, including preliminary measures to protect and stabilize the resource, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. (Also see the City's HPP Section 5.0, Design Guidelines – Secretary of the Interior Standards, and Appendix – Preservation Standards.) (Ord. 3196 § 3, 2011).

21.03.108 Qualified historical resource.

"Qualified historical resource" means any building, site, structure, object, district or collection of structures, and their associated sites, deemed of importance to the history, architecture or culture of an area by an appropriate local, state or federal governmental agency. (Also see California Health and Safety Code, Division 13, Part 2.7, Sections 18950 through 18961, and the City's HPP Appendix – California's State Historical Building Code.) (Ord. 3196 § 3, 2011).

21.03.110 Reconstruction.

"Reconstruction" is one of the four treatment options specified in the Secretary of the Interior's standards for the treatment of historic properties and is defined by the Secretary of the Interior as the act or process of depicting, by means of new construction, the form, features, and detailing of a site, landscape, building, structure, or object that no longer exists for the purpose of replicating its appearance at a specific period of time and in its historic location. (Also see the City's HPP Section 5.0, Design Guidelines – Secretary of the Interior Standards, and Appendix – Preservation Standards.) (Ord. 3196 § 3, 2011).

21.03.112 Rehabilitation.

"Rehabilitation" is one of the four treatment options specified in the Secretary of the Interior's standards for the treatment of historic properties and is defined by the Secretary of the Interior as the act or process of making possible a compatible use for a resource through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. (Also see the City's HPP Section 5.0, Design Guidelines – Secretary of the Interior Standards.) (Ord. 3196 § 3, 2011).

21.03.113 Relocation.

"Relocation" means moving a historical resource from its original location. (Also see the City's HPP Section 5.0, Design Guidelines – Relocation Guidelines.) (Ord. 3196 § 3, 2011).

21.03.114 Resource.

"Resource" means any building, structure, object, site, archaeological site, sign or landscape, district or contributing resource. (Ord. 3196 § 3, 2011).

21.03.116 Restoration.

"Restoration" is one of the four treatment options specified in the Secretary of the Interior's standards for the treatment of historic properties and is defined by the Secretary of the Interior as the act or process of accurately depicting the form, features, and character of a resource as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project. (Also see the City's HPP Section 5.0, Design Guidelines – Secretary of the Interior Standards.) (Ord. 3196 § 3, 2011).

21.03.118 Secretary of the Interior (SOI).

The "Secretary of the Interior (SOI)" means the appointed government official that serves as the head of the United States Department of the Interior and who is responsible for establishing standards for all programs under Departmental authority and for advising federal agencies on the preservation of historic properties listed in or eligible for listing in the National Register of Historic Places. (Ord. 3196 § 3, 2011).

21.03.120 Secretary of the Interior standards and guidelines (SOIS).

The "Secretary of the Interior standards and guidelines (SOIS)" means professionally accepted standards used for the treatment of historical resources. These standards and guidelines assist in determining appropriate preservation, rehabilitation, restoration and reconstruction activity. (Also see the City's HPP Section 5.0, Design Guidelines – Secretary of the Interior Standards.) (Ord. 3196 § 3, 2011).

21.03.122 Setting.

“Setting” means the physical environment of a historical resource. Setting refers to the character of the place in which the historical resource played its historical role. Setting is one of the seven aspects of integrity. (Ord. 3196 § 3, 2011).

21.03.124 Significance.

“Significance” means the importance of a historical resource based upon its relationship to a historic context and local, state, regional or national eligibility criteria. (Ord. 3196 § 3, 2011).

21.03.125 Significant.

“Significant” means a resource that has been determined to be important based upon its historic context and local, state, regional or national eligibility criteria. (Ord. 3196 § 3, 2011).

21.03.126 Site.

A “site” is the location of a significant event, a prehistoric or a historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archaeological value regardless of the value of any existing structure. (Ord. 3196 § 3, 2011).

21.03.128 State Historic Building Code.

“State Historic Building Code” means California Health and Safety Code Sections 18950 et seq. and a regulation of Part 8 of Title 24 of the California Code of Regulations. (Also see “California’s State Historical Building Code.”) (Ord. 3196 § 3, 2011).

21.03.130 Structure.

“Structure” means those functional constructions made usually for the purposes other than creating human shelter. Examples of structures include but are not limited to bridges, aircraft, fences and walls, lighthouse, water tank house, brood house, automobile, trolley car, tunnel, windmill, bandstand, apiary, and greenhouse. (Ord. 3196 § 3, 2011).

21.03.131 Thematic historic preservation district.

“Thematic historic preservation district” means a historic preservation district that includes resources related to one another in a clearly distinguishable way by a common theme related to historic context, architectural style, development period, or other characteristics, where visual conti-

nity is not significant and sites are not necessarily located within a geographically definable area. (Ord. 3196 § 3, 2011).

21.03.132 Theme.

“Theme” means a trend or pattern in history or prehistory relating to a particular aspect of cultural development, such as citrus farming. A theme is related to a historic context. (Also see “historic context.”) (Ord. 3196 § 3, 2011).

21.03.134 Workmanship.

“Workmanship” means the physical evidence of the crafts of a particular culture or people during any period in history or prehistory. Workmanship is one of the seven aspects of integrity. (Ord. 3196 § 3, 2011).

21.03.135 Zoning Administrator (ZA).

CVMC 19.14.020 creates a Zoning Administrator, who shall be the Director of Development Services or his authorized designee. The Zoning Administrator may relieve the Historic Preservation Commission of certain routine functions. (Ord. 3196 § 3, 2011).

Chapter 21.04

IDENTIFICATION AND DESIGNATION OF HISTORICAL RESOURCES

Sections:

- 21.04.010 Historical resource surveys (survey).
- 21.04.020 Survey forms.
- 21.04.030 Chula Vista register of historical resources.
- 21.04.040 Historical resources to be included in the local register.
- 21.04.050 Local register maintenance and distribution.
- 21.04.060 Designation – Authority.
- 21.04.070 Designation – Owner consent required.
- 21.04.080 Designation – Owner consent not required – Exceptional historical resource.
- 21.04.090 Historical designation – Application, requirements and procedures.
- 21.04.100 Historical designation – Findings of fact and eligibility criteria.

21.04.010 Historical resource surveys (survey).

Understanding, identifying, evaluating, and protecting those resources which give Chula Vista its individual character and sense of place are important tools in the protection and preservation of historical resources. Historical resource surveys shall be utilized as informational tools by the City of Chula Vista and shall not require owner consent. Surveys may be used by the City of Chula Vista, other municipal departments or agencies, and members of the public for preservation purposes, designation consideration and/or as part of project analysis. Conduct of surveys shall follow the state guidelines for recording historical resources as may be amended from time to time. (Also see the City's HPP Section 3.0, Historical Resources – Historical Resource Surveys, and Appendix – National Register Bulletin 24 – Guidelines for Local Survey.) (Ord. 3196 § 3, 2011).

21.04.020 Survey forms.

All evaluations and recordation of resources shall be made on a form prescribed by the State Historic Preservation Office currently referred to as Department of Parks and Recreation (DPR) 523 Series Form and as may be amended from time to time. The information and analysis contained within the DPR forms shall conform to the state

historic preservation guidelines for recording historical resources. (Also see the City's HPP Appendix – Instructions for Recording Historical Resources.) (Ord. 3196 § 3, 2011).

21.04.030 Chula Vista register of historical resources.

Buildings, structures, objects, sites, signs, landscapes, archaeological sites, historic preservation districts, or contributing resources determined historically or architecturally significant and designated by the City of Chula Vista Historic Preservation Commission shall be compiled on a comprehensive list officially known as the City of Chula Vista register of historical resources and herein shall commonly be referred to as the "local register." (Also see the City's HPP Appendix – Local Register of Historical Resources.) (Ord. 3196 § 3, 2011).

21.04.040 Historical resources to be included in the local register.

The following resources shall be included in the local register:

- A. Those properties previously designated prior to the effective date of the ordinance codified in this title;
- B. Those properties designated by the HPC or Council;
- C. Any Chula Vista resource listed as a National Historic Landmark;
- D. Any Chula Vista resource listed on the National Register of Historic Places;
- E. Any Chula Vista resource listed on the California Register of Historical Resources by the California State Historical Resources Commission. (Ord. 3196 § 3, 2011).

21.04.050 Local register maintenance and distribution.

The Zoning Administrator shall ensure that the register is maintained, updated and distributed pursuant to the guidelines established in the Chula Vista HPP. (Ord. 3196 § 3, 2011).

21.04.060 Designation – Authority.

Upon a recommendation of the Zoning Administrator, the Historic Preservation Commission shall have authority to approve or deny applications for historical designation, excluding designation of exceptional historical resources and publicly owned historical resources which shall require Council approval. All resources that are

approved for designation shall be listed on the local register. (Ord. 3196 § 3, 2011).

21.04.070 Designation – Owner consent required.

A resource shall not be designated without property owner consent unless said designation is undertaken by the Council pursuant to CVMC 21.04.080. Owners of properties which may qualify as a contributing resource to a designated HPD may pursue individual designation without the consent of other property owners within the boundaries of the designated HPD pursuant to CVMC 21.04.090. (Ord. 3196 § 3, 2011).

21.04.080 Designation – Owner consent not required – Exceptional historical resource.

In exceptional circumstances, the HPC may recommend that the Council designate a resource without owner consent pursuant to CVMC 21.04.100(B)(1) through (3). (Ord. 3196 § 3, 2011).

21.04.090 Historical designation – Application, requirements and procedures.

A. Applications and Submittal Requirements. All applications for designation, including exceptional historical resources, shall be made to the Zoning Administrator in writing on a form prescribed by the City's HPP and shall be accompanied by sufficient information to determine that a resource meets the criteria and findings of fact for designation pursuant to CVMC 21.04.100. Designation applications may run concurrent with other permit applications; however, the designation shall be acted upon prior to consideration of any discretionary permits. (Also see City's HPP Section 3.0, Historical Resources – Designation Procedural Guide.)

1. Owner Applicant. A property owner, or authorized agent of the property owner, may seek historical designation without the assistance of an expert unless the City, at its discretion, determines that an expert technical analysis is necessary to provide sufficient information on the historical significance of the resource.

2. Nonowner Applications (Exceptional Historical Resource).

a. Applicants that apply for an exceptional resource designation shall pay all fees and costs associated with the designation of the exceptional historical resource including but not limited to staff

time, expert technical analysis or expert review of documentation.

b. An application for an exceptional resource designation may be initiated in any of the following three ways:

i. By a minimum of 10 City residents (with verifiable signatures); or

ii. Through an HPC recommendation to Council; or

iii. By a majority vote of Council.

3. Publicly Owned Resources – Council Approval Required.

a. Shall require the same application submittal requirements of this section and findings of fact and eligibility criteria of CVMC 21.04.100(A)(1) and (2).

b. Shall require a recommendation from the HPC and Council approval.

c. An application for designation of publicly owned historical resources and historical landscapes may be initiated in any of the following three ways:

i. By any interested citizen who resides in the City of Chula Vista; or

ii. Through an HPC recommendation to Council; or

iii. By a majority vote of Council.

B. Procedures for Historical Designation Consideration.

1. The application review shall follow the City's Development Services Department review process for discretionary permits.

2. Upon determination of completeness, the Zoning Administrator shall prepare, in the form of a staff report, a brief discussion of the resource as presented in the submitted documentation and shall include recommendations to the HPC to either designate or not designate under the findings of fact and eligibility criteria set forth in CVMC 21.04.100.

3. The Zoning Administrator shall schedule the application for consideration and give notice thereof to the applicant and to other interested persons. A public hearing shall be held to review the evidence as presented in order to determine if the resource meets the criteria for designation pursuant to CVMC 21.04.100.

4. If a resource is designated, the property owner or applicant shall be required to record the HPC resolution of designation with the County Assessor's office within 10 business days after the appeal period of said designation.

C. Denial or Delay of Decision.

1. The City shall have the authority to delay consideration of a resource for up to 90 days as part of a request of the applicant for additional information on the subject resource proposed for designation. If the requested information is not provided within 90 calendar days, the application will be closed pursuant to CVMC 19.14.700.

2. If an application is closed pursuant to subsection (C)(1) of this section, or a designation request is denied as a result of the resource not meeting the findings of fact or eligibility criteria set forth in CVMC 21.04.100, the City shall provide a written explanation for the denial within 10 business days of the decision.

3. The applicant may, under a new application and required fees, submit for designation reconsideration of any resource, which has previously been denied, if new information is presented to support a statement of historical significance for the resource.

D. Appeals. All appeals shall be processed pursuant to CVMC 21.12.030. (Ord. 3196 § 3, 2011).

21.04.100 Historical designation – Findings of fact and eligibility criteria.

A. Designation of historical resources, excluding exceptional historical resources, by the HPC may occur when the following findings of fact are made:

- 1. A resource is at least 45 years old; and
- 2. A resource possesses historical integrity defined under CVMC 21.03.084 and the resource is determined to have historical significance by meeting at least one of the following criteria:

Criterion 1: It is associated with an event that is important to prehistory or history on a national, state, regional, or local level.

Criterion 2: It is associated with a person or persons that have made significant contributions to prehistory or history on a national, state or local level.

Criterion 3: It embodies the distinctive characteristics of a style, type, period, or method of construction, or represents the work of a master or important, creative individual, and/or possesses high artistic values.

Criterion 4: It is an outstanding example of a publicly owned historical landscape, that represents the work of a master landscape architect, horticulturist, or landscape designer, or a publicly owned historical landscape that has potential to provide important information to the further study of landscape architecture or history.

Criterion 5: It has yielded or may be likely to yield information important in prehistory or the history of Chula Vista, the state, region, or nation.

B. Designation of an exceptional historical resource may be considered only if:

1. The HPC considers and makes a recommendation to the Council; and

2. It has been demonstrated through expert technical analysis and verifiable evidence that all of the following findings of fact are made:

a. The resource meets criteria and the findings of fact for designation found in subsections (A)(1) and (2) of this section; and

b. The resource is the best representative sample of its kind or the last of its kind; and

c. The resource is an exceptionally important component of the City's history and loss or impairment of the resource would be detrimental to the City's heritage; and

3. Four-fifths vote of the Council vote to designate the resource as an exceptional historical resource. (Ord. 3196 § 3, 2011).

Chapter 21.05**DELISTING OF HISTORICAL RESOURCES**

Sections:

- 21.05.010 Historical resource delisting – Authority.
- 21.05.020 Historical resource delisting – Owner consent not required.
- 21.05.030 Historical resource delisting – Application, requirements, and procedures.
- 21.05.040 Historical resource delisting – Findings of fact.
- 21.05.050 Historical resource delisting – Factors that shall not be considered.
- 21.05.060 Historical resource delisting – Fines and penalties.
- 21.05.070 Delisting – Appeals.

21.05.010 Historical resource delisting – Authority.

Upon recommendation of the HPC, the Council shall consider the delisting of any historical resource that was previously designated. (Ord. 3196 § 3, 2011).

21.05.020 Historical resource delisting – Owner consent not required.

Owner consent shall not be required for delisting a resource. Notwithstanding any other provision of this code, if a Mills Act agreement (California Government Code Section 50280 et seq.) exists for the resource on the subject property, delisting of the resource may only occur in accordance with the cancellation provisions of the subject Mills Act agreement. (Ord. 3196 § 3, 2011).

21.05.030 Historical resource delisting – Application, requirements, and procedures.

A request for delisting may be initiated in any of the following three ways:

- A. By the property owner of record; or
- B. By a recommendation of the HPC to Council; or
- C. By a majority of the Council.

Delisting of a historical resource shall follow the same procedures as those set forth in CVMC 21.04.090. Delisting applications may run concurrent with other permit applications; however, no discretionary decision shall be rendered prior to a delisting determination. (Also see the City's HPP

Section 3.0, Historical Resources – Delisting a Historical Resource.) (Ord. 3196 § 3, 2011).

21.05.040 Historical resource delisting – Findings of fact.

Delisting of a historical resource shall be discouraged unless it is substantiated through an expert technical analysis that one or more of the following findings of fact exist:

A. New evidence provided demonstrates that previously identified historical significance of the historical resource has been reduced or no longer exists such that the resource no longer meets the eligibility criteria; or

B. The resource was designated inaccurately based on incorrect information; or

C. The integrity of the historical resource or the resource itself has been greatly diminished such that it no longer physically conveys its identified historical significance resultant from extensive unintentional damage, fire, flood, or natural disaster.

D. If one or more of the findings of fact exist, the Council may:

1. Delist the resource; or
2. Maintain the previous designation assigned by the HPC or Council; or
3. Delay a decision for up to 90 days in order to obtain additional information regarding the request to delist the historical resource. (Ord. 3196 § 3, 2011).

21.05.050 Historical resource delisting – Factors that shall not be considered.

When considering a request to delist a previous historical resource designation, the following factors shall not be considered to guide or inform a decision:

A. Property maintenance costs associated with minimum code compliance activities for buildings and structures.

B. Costs associated with deferred maintenance by the recorded property owner or by a previous property owner.

C. Costs associated with bringing the designated resource into conformance with adopted City codes.

D. Costs associated with proposed improvements of the site. (Ord. 3196 § 3, 2011).

21.05.060 Historical resource delisting – Fines and penalties.

If a historical resource is recommended for delisting, the Zoning Administrator and the HPC

shall include recommendations for recovery of costs associated with historic preservation incentives and benefits (i.e., financial, development or zoning) provided to the current or previous property owner(s). The recommendation(s) may include the following:

A. The owner of record may be subject to fines and penalties by the City, which may equate up to 100 percent recovery of any financial benefits and incentives received from the City as part of the original listing including but not limited to the Mills Act property tax abatement, reduction of permit fees, waiver of permit fees, issuance of a variance due to the historical status of the resource, or reduction of parking or other local standards or requirements.

B. If it is determined that the historical significance of a resource has been reduced or lost as a result of the actions of the property owner, fines and penalties may be imposed upon the owner equal to the amount necessary to restore or rehabilitate the previously identified historical significance of the resource and other applicable fines and penalties pursuant to CVMC 21.08.050(A)(1) and (2) and CVMC 21.11.010(A) through (C).

C. If it is found that the cause for delisting is at no fault of the current property owner, then the ZA and HPC may make a recommendation to waive any applicable fines and penalties.

D. Notwithstanding the foregoing, if a Mills Act agreement (California Government Code Section 50280 et seq.) exists for the resource on the subject property, any fines and penalties shall be in accordance with the cancellation provisions of the subject Mills Act agreement. (Ord. 3196 § 3, 2011).

21.05.070 Delisting – Appeals.

All appeals shall be processed pursuant to CVMC 21.12.030. (Ord. 3196 § 3, 2011).

Chapter 21.06

HISTORIC PRESERVATION DISTRICTS – HPDs

Sections:

- 21.06.005 Generally.
- 21.06.010 Historic preservation district – Purpose.
- 21.06.020 Historic preservation districts – Authority.
- 21.06.030 Historic preservation district – Owner consent required.
- 21.06.040 Historic preservation district – Application, requirements and procedures.
- 21.06.050 Historic preservation district – Findings of fact and eligibility criteria.
- 21.06.070 Historic preservation modifying district (HP modifying district).
- 21.06.080 Historic preservation modifying district – Purpose.
- 21.06.090 Historic preservation modifying district – Authority.
- 21.06.100 Historic preservation modifying district – Application, requirements and procedures.
- 21.06.110 Historic preservation modifying district – Findings of fact.

21.06.005 Generally.

Groupings of historical resources may qualify for designation as either a geographical historic preservation district (GHD) or a thematic historic preservation district (THD). (Also see the City’s HPP Section 3.0, Historical Resources – Historic Preservation Districts.) (Ord. 3196 § 3, 2011).

21.06.010 Historic preservation district – Purpose.

To identify, designate, and preserve existing neighborhoods and resources grouped either geographically or thematically as defined in CVMC 21.03.063 and 21.03.131. (Ord. 3196 § 3, 2011).

21.06.020 Historic preservation districts – Authority.

Upon recommendation of the HPC, the Council shall consider the designation of either a GHD or THD. (Ord. 3196 § 3, 2011).

21.06.030 Historic preservation district – Owner consent required.

A. GHD – Owner Consent. For the designation of a GHD, owner consent shall be required by 75 percent of all property owners within the proposed GHD boundary.

B. THD – Owner Consent. For the designation of a THD, owner consent is required for each of the individual properties being applied for designation as contributors to the district, and a minimum of 10 contributors shall be required to be considered for a THD. (Ord. 3196 § 3, 2011).

21.06.040 Historic preservation district – Application, requirements and procedures.

A. Application and Submittal Requirements. Applications for HPDs shall be made to the Zoning Administrator in writing on a form prescribed by the City's HPP. All applications shall be accompanied by the following:

1. Sufficient information to determine that an area meets the criteria for HPD designation pursuant to CVMC 21.06.050. (Also see the City's HPP Section 3.0, Historical Resources – Historic Preservation District Procedures and Guidelines.)

2. Property owners may seek designation of an HPD without the assistance of an expert unless the City, at its discretion, determines that an expert technical analysis is necessary to provide sufficient information on the historical significance of the HPD.

3. GHDs. To be considered for a GHD:

a. A City-approved form bearing notarized signatures of support by owners of 75 percent of the parcels within the proposed GHD and an address list of all contributing and noncontributing resources within the proposed GHD, including any vacant parcels, shall be submitted to the City.

b. Public participation and education of the proposed GHD shall be required. (See the City's HPP, Historical Resources Section – Historic Preservation District Procedures and Guidelines.)

4. THDs. To be considered for a THD, an approved form bearing notarized signatures of all properties proposed to be included within the THD shall be submitted to the City. A minimum of 10 individual properties shall be required to be considered for a THD designation.

5. A fee pursuant to CVMC 21.12.020.

6. A written statement that establishes the proposed HPD's significance. (See the City's HPP, Historical Resources Section – National Register

Bulletin Guidelines, Evaluating and Nominating Properties VIII. Properties Within Historic Districts.)

7. A DPR form for all contributing resources within the proposed HPD that includes a map and description of the proposed district, including boundaries and location of contributing and non-contributing resources, the age, setting, and character of the area, significant individual resources within the proposed HPD, urban design and streetscape features as well as any other notable visual features of the proposed historic preservation district.

8. Design guidelines for proposed historic preservation districts shall be adopted concurrently with the designation of the HPD. (Also see the City's HPP, Design Guidelines Section.)

B. Procedures for HPD Consideration.

1. The application review shall follow the City's Development Services Department review process for discretionary permits.

2. Upon determination of completeness, the Zoning Administrator shall prepare, in the form of a staff report, a brief discussion of the HPD as presented in the submitted documentation and shall include recommendations to the HPC and Council to either designate or not designate under the findings of fact and eligibility criteria set forth in CVMC 21.06.050.

3. The Zoning Administrator shall schedule the application for consideration by the HPC and Council and give notice thereof to the applicant, all property owners within the proposed HPD and to other interested persons pursuant to CVMC 21.12.010. A public hearing shall be required to review the evidence as presented in order to determine if the HPD meets the criteria for designation pursuant to CVMC 21.06.050.

4. The HPC shall make a recommendation to the Council for designation of all proposed HPDs pursuant to the findings of fact and eligibility criteria of CVMC 21.06.050.

C. Denial or Delay of Decision.

1. The City shall have the authority to delay consideration of an HPD for up to 90 days as part of a request of the applicant for additional information on the subject HPD proposed for designation. If the requested information is not provided within 90 calendar days, the application will be closed pursuant to CVMC 19.14.700.

2. If an application is closed pursuant to subsection (C)(1) of this section, or a designation request is denied as a result of the HPD not meeting the findings of fact or eligibility criteria set forth in

CVMC 21.06.050, the City shall provide a written explanation for the denial within 10 business days of the decision.

3. The applicants may, under a new application and required fees, submit for designation reconsideration of any HPD, which has previously been denied, if new information is presented to support a statement of historical significance for the HPD.

D. Appeals. All appeals shall be processed pursuant to CVMC 21.12.030. (Ord. 3196 § 3, 2011).

21.06.050 Historic preservation district – Findings of fact and eligibility criteria.

Designation of an HPD may occur when all of the following findings of fact are made and it is found that one or more of the established HPD eligibility criteria, as set forth below, apply:

A. HPD Findings of Fact.

1. That the proposed HPD has significant architectural or historical character or cultural value; and

2. That the proposed HPD will preserve and enhance the collective integrity of the contributing resources; and

3. GHDs only: There are at least 60 percent of the individual properties within the boundaries of the proposed GHD that are contributing resources which possess character, interest, or value as part of the heritage of the City and are found to meet one or more of the established criteria as set forth in subsection (B) of this section;

4. THDs only: All properties within the proposed THD possess character, interest, and value Citywide and collectively are found to meet one or more of the established criteria as set forth in subsection (B) of this section.

B. HPD Eligibility Criteria.

Criterion 1: The proposed historic preservation district is identified with an event, person, or group that contributed significantly to the City’s prehistory or history.

Criterion 2: Buildings, structures, objects, sites, signs or landscape elements within the proposed historic preservation district exemplify a particular architectural style, way of life, or period of development in the City.

Criterion 3: Buildings or structures within the proposed historic preservation district are the best remaining examples of an architectural style, or are verified as having been designed or constructed by a master architect, designer or builder, and retain integrity.

(Ord. 3196 § 3, 2011).

21.06.070 Historic preservation modifying district (HP modifying district).

CVMC 19.56.010 and 19.56.300 establish HP modifying districts to permit special zoning regulations within designated historic preservation districts. (Also see the City’s HPP Section 5.0, Design Guidelines – Historic Preservation Modifying Districts.) (Ord. 3196 § 3, 2011).

21.06.080 Historic preservation modifying district – Purpose.

To allow for the establishment of modified development standards from those otherwise applicable by the underlying zoning, where such modifications would protect and preserve the historical significance and historic integrity of an HPD. (Ord. 3196 § 3, 2011).

21.06.090 Historic preservation modifying district – Authority.

HP modifying district applications shall require a recommendation from both the HPC and Planning Commission with final consideration by the Council. (Ord. 3196 § 3, 2011).

21.06.100 Historic preservation modifying district – Application, requirements and procedures.

A. Application and Submission Requirements. A separate application, on a form prescribed by the City’s HPP, for a historic preservation (HP) modifying district shall be required to permit special regulations to designated HPDs and may be filed:

- 1. Concurrent with an HPD application; or
- 2. Subsequent to formation of an HPD, through an application with notarized signatures of 75 percent of property owners within the designated HPD or initiated by the City.

B. Procedures for HP Modifying District Consideration.

- 1. The application review shall follow the City’s Development Services Department review process for discretionary permits.

2. Upon determination of completeness, the Zoning Administrator shall prepare, in the form of a staff report, a brief discussion of the proposed HP modifying district as presented in the submitted documentation and shall include recommendations to the HPC and Planning Commission to recommend to the Council to either approve or not approve the HP modifying district under the findings of fact set forth in CVMC 21.06.110.

3. The Zoning Administrator shall schedule the application for consideration by the HPC, Planning Commission, and Council and give notice thereof to the applicant and to other interested persons. A public hearing shall be required to review the evidence as presented in order to determine if the proposed HP modifying district meets the findings of fact pursuant to CVMC 21.06.110.

C. Denial or Delay of Decision.

1. The City shall have the authority to delay consideration of a historic preservation modifying district for up to 90 days as part of a request of the applicant for additional information on the subject historic preservation modifying district. If the requested information is not provided within 90 calendar days, the application will be closed pursuant to CVMC 19.14.700.

2. If an application is closed pursuant to subsection (C)(1) of this section, or a historic preservation modifying district request is denied as a result of the historic preservation modifying district not meeting the findings of fact set forth in CVMC 21.06.110, the City shall provide a written explanation for the denial within 10 business days of the decision.

3. Applicants may, under a new application and required fees, submit for reconsideration of any historic preservation modifying district, which has previously been denied, if new information is presented to support the request. (Ord. 3196 § 3, 2011).

21.06.110 Historic preservation modifying district – Findings of fact.

The Council, upon recommendation of the HPC and the Planning Commission, may approve the HP modifying district if it finds that all of the following findings of fact exist:

A. The subject HPD is unique by virtue of historical significance and therefore requires special handling of development.

B. The underlying zone regulations do not allow the property owners and/or the City appropriate control or flexibility needed to preserve the historic character of the HPD.

C. The establishment of the modifying district will help preserve the historical significance of an HPD.

D. The HP modifying district is necessary and will help to enhance and protect the public convenience, health, safety and general welfare. (Ord. 3196 § 3, 2011).

Chapter 21.07

ALTERATIONS TO HISTORICAL RESOURCES

Sections:

- 21.07.010 Approvals required.
- 21.07.020 Alterations to historical resources – Potential historical resource eligibility determination required.
- 21.07.030 Alterations to historical resources – Certificate of appropriateness (COA) not required.
- 21.07.040 Alterations to historical resources – Certificate of appropriateness required.
- 21.07.050 Alterations to historical resources – California’s State Historical Building Code.
- 21.07.060 Alterations to historical resources – Concurrent COA processing.
- 21.07.070 Minor alteration COA – Application, requirements and procedures.
- 21.07.080 Major alteration COA – Application, requirements and procedures.

21.07.010 Approvals required.

No person shall make minor or major alterations to a historical resource without first obtaining the appropriate certificate of appropriateness (COA) approvals pursuant to CVMC 21.07.070 and 21.07.080. (Also see the City’s HPP Section 4.0, Historic Preservation Projects – Certificate of Appropriateness.) (Ord. 3196 § 3, 2011).

21.07.020 Alterations to historical resources – Potential historical resource eligibility determination required.

Building permits that propose alteration of any potential historical resource shall require an eligibility determination. (Also see the City’s HPP Section 4.0, Historic Preservation Projects – Historical Resource Eligibility Determination.)

A. The Zoning Administrator shall determine the eligibility of a historical resource from the City’s HPP, surveys, historical databases, and other information available to the City;

B. If the Zoning Administrator is unable to determine the eligibility of a potential historical resource from available information, the Zoning Administrator shall have the authority to require an applicant to provide further documentation on the potential historical resource as necessary to make the determination;

C. If potential historical resources are determined to not be historical resources pursuant to criteria found in CVMC 21.04.100 or are determined to not be a contributing resource as defined in CVMC 21.03.028, then no further review will be required;

D. Potential historical resources determined to be eligible historical resources shall be required to obtain a certificate of appropriateness pursuant to the provisions of CVMC 21.07.070 or 21.07.080. (Ord. 3196 § 3, 2011).

21.07.030 Alterations to historical resources – Certificate of appropriateness (COA) not required.

The following shall not require a COA:

A. Alterations to resources determined not to be historical resources pursuant to CVMC 21.07.020. (Also see the City’s HPP Section 4.0, Historic Preservation Projects – Determination of Eligibility.)

B. Activities that are exempt from City building permits and exempt alterations as defined in CVMC 21.03.054. (Ord. 3196 § 3, 2011).

21.07.040 Alterations to historical resources – Certificate of appropriateness required.

A COA shall be required, if it is determined that the proposed alteration will impact a historical resource and shall follow the requirements and procedures set forth in CVMC 21.07.070 or 21.07.080. (Also see the City’s HPP Section 4.0, Historic Preservation Projects – Certificate of Appropriateness.) (Ord. 3196 § 3, 2011).

21.07.050 Alterations to historical resources – California’s State Historical Building Code.

Owners of historical resources may utilize the State Historical Building Code (SHBC) for alterations, repairs or additions to the historical resources subject to City approval by means of a building permit. (Also see the City’s HPP Section 5.0, Design Guidelines – California’s State Historical Building Code, and Appendix – California State Historical Building Code.) (Ord. 3196 § 3, 2011).

21.07.060 Alterations to historical resources – Concurrent COA processing.

Upon approval of the Zoning Administrator, applications for COAs may run concurrent with other discretionary permits; however, no planning

approvals or building permits shall be issued prior to COA decisions, except for permits required by the Building Official to maintain or stabilize dangerous conditions or for work that does not affect the exterior integrity of the building or structure, or the historical significance of the building, structure, or site, as determined by the Zoning Administrator. (Ord. 3196 § 3, 2011).

21.07.070 Minor alteration COA – Application, requirements and procedures.

Applications for minor alteration COAs shall be made to the Zoning Administrator in writing on a form prescribed by the City's HPP. The application shall be accompanied by plans and data sufficient to show the detail of the proposed alteration. A fee shall accompany the application pursuant to CVMC 21.12.020. (Also see the City's HPP Historic Preservation Projects Section – Certificate of Appropriateness.)

A. Minor COA – Zoning Administrator Approval.

1. The application review shall follow the City's Development Services Department administrative review process.

2. To substantiate an application for a minor alteration, the ZA shall have the discretion to require that a property owner or authorized agent retain an expert professional to conduct an expert technical analysis.

B. Minor Alterations COA – Findings of Fact. Prior to issuance of a minor COA the Zoning Administrator shall, through evidence presented, make all of the following findings of fact:

1. That the proposed work conforms to the Secretary of the Interior's standards for treatment of historic properties; and

2. That the proposed work is consistent with the General Plan, applicable design guidelines, or other policies adopted by the HPC or Council; and

3. That the proposed work shall not adversely affect the exterior features of the historical resource or its special character, interest or value of other improvements and surroundings, including facade, setback, roof shapes, scale, height and relationship of material, color and texture such that the historic integrity is diminished.

C. Minor Alterations COA – Denial or Delay of Decision.

1. The Zoning Administrator shall have the authority to delay approval of a minor alteration COA for up to 90 days as part of a request of the applicant for additional information. If the

requested information is not provided within 90 calendar days, the application will be closed pursuant to CVMC 19.14.700.

2. If the Zoning Administrator finds that the proposed minor alteration(s) does not meet one or more of the findings of fact as listed in subsection (B) of this section, the Zoning Administrator shall deny the minor alteration COA application.

D. Minor Alterations COA – Appeal. All appeals shall be processed pursuant to CVMC 21.12.030. (Ord. 3196 § 3, 2011).

21.07.080 Major alteration COA – Application, requirements and procedures.

Applications for major alteration COAs shall be made to the Zoning Administrator in writing on a form prescribed by the City's HPP. The application shall be accompanied by plans and data sufficient to show the detail of the proposed alteration. A fee shall accompany the application pursuant to CVMC 21.12.020. (Also see the City's HPP Historic Preservation Projects Section – Certificate of Appropriateness.)

A. Major Alteration COA – HPC Approval.

1. The application review shall follow the City's Development Services Department review process for discretionary permits.

2. To substantiate an application for a major alteration COA, the City shall have the discretion to require that a property owner or authorized agent retain an expert professional to conduct an expert technical analysis.

3. The HPC shall have the authority to delay approval of a major alteration COA for up to 90 days as part of a request of the applicant for additional information. If the requested information is not provided within 90 calendar days, the application will be closed pursuant to CVMC 19.14.700.

B. Major Alteration COA – Findings of Fact. Prior to issuance of a major alteration COA the HPC shall, through evidence presented, make all of the following findings of fact:

1. That the proposed work conforms to the Secretary of the Interior's standards for treatment of historic properties; and

2. That the proposed work is consistent with the General Plan, applicable design guidelines, or other policies adopted by the HPC or Council; and

3. That the proposed alteration shall not adversely affect the exterior features of the historical resource or its special character, interest or value of other improvements and surroundings, including facade, setback, roof shapes, scale,

height and relationship of material, color and texture such that the historical integrity is diminished.

C. Major Alterations COA – Denial. If the HPC finds that the proposed major alteration(s) does not meet one or more of the findings of fact as listed in subsection (B) of this section, the HPC shall deny the major alteration COA application.

D. Major Alterations COA – Appeal. All appeals shall be processed pursuant to CVMC 21.12.030. (Ord. 3196 § 3, 2011).

Chapter 21.08

DISCRETIONARY PROJECTS AND DEMOLITION OF HISTORICAL RESOURCES

Sections:

- 21.08.010 Discretionary projects – Historical resource review required.
- 21.08.020 Discretionary projects – Application, requirements and procedures.
- 21.08.030 Demolition – Historical resource review required.
- 21.08.040 Demolition COA – Application, requirements and procedures.
- 21.08.050 Unlawful demolition of a historical resource.

21.08.010 Discretionary projects – Historical resource review required.

Discretionary projects that propose alteration, demolition or removal of any potential historical resource or historical resource shall require an eligibility determination pursuant to CVMC 21.07.020.

A. A COA shall be required if it is determined that the proposed permit or project will impact a historical resource and shall follow the requirements and procedures set forth in CVMC 21.07.070 or 21.07.080; or

B. If the resource is determined to not be a historical resource pursuant to criteria found in CVMC 21.04.100, or not to be a contributing resource defined in CVMC 21.03.028, then no further review will be required. (Ord. 3196 § 3, 2011).

21.08.020 Discretionary projects – Application, requirements and procedures.

A. If a historical resource exists, the Zoning Administrator shall:

1. Determine if the proposal is a minor or major alteration and shall process minor and major alterations pursuant to CVMC 21.07.070 or 21.07.080; or

2. Have the discretion to require that a property owner or authorized agent retain an expert professional to conduct an expert technical analysis.

B. Discretionary Projects – Findings of Fact. For discretionary projects, the City shall make the findings of fact pursuant to CVMC 21.07.070(B) or 21.07.080(B), as applicable. (Ord. 3196 § 3, 2011).

21.08.030 Demolition – Historical resource review required.

CVMC 15.44.055 requires that demolition applications undergo an eligibility determination pursuant to CVMC 21.07.020. (Also see the City's HPP Section 4.0, Historic Preservation Projects – Demolition and Relocation of a Historical Resource.)

A. A COA shall be required if it is determined that the proposed demolition will impact a historical resource and shall be processed pursuant to the procedures set forth in CVMC 21.07.070 or 21.07.080; or

B. If the resource is determined to not be a historical resource pursuant to criteria found in CVMC 21.04.100, or not to be a contributing resource as defined in CVMC 21.03.023, then no further review will be required. (Ord. 3196 § 3, 2011).

21.08.040 Demolition COA – Application, requirements and procedures.

A COA to demolish any historical resource shall not be considered without an associated application for a building permit for a replacement structure or an application for a project for the historical resource involved.

A. Demolition – Findings of Fact. For demolition of historical resources, the City must first make the findings of fact to delist the resource pursuant to CVMC 21.05.040. (Ord. 3196 § 3, 2011).

21.08.050 Unlawful demolition of a historical resource.

A. If a historical resource is unlawfully demolished without HPC approval, the City shall pursue all or some combination of the following penalties:

1. Injunctive relief to further the provisions of this chapter.

2. No building or development permit shall be issued for the subject parcel of land for a period of three years from the date the City received notification of the demolition, and in no event shall any permit authorize future new construction to exceed the building square footage, lot coverage, and use of the original structure.

3. Issuance of an administrative compliance order to stop an illegal demolition. If a historical resource is altered or demolished as a result, the City may require that the historical resource be restored according to the Secretary of the Interior's standards for the treatment of historic properties within a time frame specified by the City. The City may, at its discretion, hire an expert professional to

oversee the reconstruction project. The property owner shall be responsible to pay the City all costs associated with overseeing the reconstruction project and enforcement of the provisions herein.

4. Fines may be levied against the property owner of record up to \$25,000 for each violation.

B. Unlawful Demolition of a Potential Historical Resource. If a potential historical resource is unlawfully demolished without approval by the City, the City may require the property owner of record to fund a post-demolition expert technical analysis to determine whether the unlawfully demolished resource would have been considered eligible for designation and inclusion on the local register pursuant to the criteria specified in CVMC 21.04.100.

1. If the subject resource is determined to have been eligible for designation and inclusion on the local register, the City may apply all or some combination of the penalties specified in subsections (A)(1) through (4) of this section.

2. If the subject resource is determined to have been ineligible for designation and inclusion on the local register, the City may still enforce any other penalties specified in Chapter 1.20 CVMC.

3. Relief from Subsections (A)(1) Through (4) of This Section. Requests for relief may be granted at the discretion of the Council, with a recommendation from the HPC, if the applicant applies for relief and pays associated fees and the Council finds that one or more of the following facts exist:

a. The subject resource's integrity had been diminished or lost because of natural or unintended disaster and the extant portions of the subject resource have been found pursuant to CVMC 21.09.030 to present a dangerous condition; or

b. Will cause a detriment to public health and safety; or

c. That demolition without replacement will not result in harm to the public. Harm to the public shall be found if the demolition of the subject resource:

i. Results in the loss of low-income housing stock which will not be replaced; or

ii. Is likely to result in nuisance uses of the vacant property; or

iii. Has a significant adverse visual, social or economic impact on the neighborhood. (Ord. 3196 § 3, 2011).

Chapter 21.09

MAINTENANCE AND REPAIR OF HISTORICAL RESOURCES

Sections:

- 21.09.010 Minimum maintenance and repair.
- 21.09.020 Required maintenance for historical resources.
- 21.09.030 Hazardous or unsafe conditions.

21.09.010 Minimum maintenance and repair.

In order to prevent any physical deterioration, loss of historic integrity and other negative impacts to historical resources, the General Plan (Policy LUT 12.10) promotes the maintenance, repair, stabilization, rehabilitation, restoration, and preservation of historical resources in a manner consistent with federal and state standards. (Ord. 3196 § 3, 2011).

21.09.020 Required maintenance for historical resources.

A. All property owners of historical resources shall have the responsibility to preserve and maintain the historical resource, and to avoid neglect by preventing decay and deterioration. Where necessary and feasible to protect the historical resource, the property owner shall be required to restore and rehabilitate the resource, in accordance with the rules and regulations published by the Secretary of the Interior and as amended from time to time. (Also see the City's HPP Section 5.0, Design Guidelines – Secretary of the Interior Standards for Treatment of Historical Properties.)

B. Owner shall maintain all buildings, structures, yards and other improvements in a manner which does not detract from the appearance of the historical resource or the immediate neighborhood. The following are prohibited, which may include but not be limited to:

1. Dilapidated, deteriorating, or unrepaired structures, such as: fences, roofs, doors, walls and windows;
2. Scrap lumber, junk, trash or debris;
3. Abandoned, discarded or unused objects or equipment, such as automobiles, automobile parts, furniture, stoves, refrigerators, cans, containers, or similar items;
4. Stagnant water or excavations, including pools or spas;
5. Any device, decoration, design, structure or vegetation which diminishes the historic charac-

ter due to its height, unsightly condition, or its inappropriate location.

6. In the case that a property owner fails to maintain a historical resource, or historically significant elements thereof, the City shall have the authority to enforce conditions to ensure that maintenance is completed to prevent any further deterioration pursuant to CVMC 21.11.010. The property owner shall be responsible for all costs associated with enforcement of the provisions herein. (Ord. 3196 § 3, 2011).

21.09.030 Hazardous or unsafe conditions.

Regulations established in this chapter shall not prevent alterations, demolition, or removal of a historical resource or historical landscape if the current conditions of said historical resource or historical landscape result in a threat to public safety or public infrastructure or if a distinct hazard, as defined in the California Fire Code, is found to exist. Threats to public safety are to be certified by the City's Building Official pursuant to CVMC 15.18.010 and shall be provided in the form of a written notification to the HPC. The Director of Public Works has such authority over historical landscapes pursuant to CVMC 12.32.160 and the Fire Marshal has authority to certify if a distinct fire hazard exists. In those cases where the hazardous or unsafe condition does not pose an immediate threat to public safety, the HPC shall provide additional input on any proposed alterations or relocation of the subject historical resource. (Also see the City's HPP Section 4.0, Historic Preservation Projects – Fire Protection of Historical Resources.) (Ord. 3196 § 3, 2011).

Chapter 21.10**INCENTIVES, BENEFITS AND EXEMPTIONS**

Sections:

- 21.10.010 Incentives and benefits.
 21.10.020 Historic preservation fund.
 21.10.030 Economic hardship exemption.

21.10.010 Incentives and benefits.

Incentives and benefits for the protection, retention, and preservation of historical resources may be pursued, implemented, offered, and advertised as available under the City of Chula Vista HPP Section 6.0, Incentives and Benefits. (Ord. 3196 § 3, 2011).

21.10.020 Historic preservation fund.

The Council may, at its discretion, establish a historic preservation fund (HPF) from outside grant sources, private donations, fines and fees associated with unlawful demolition or unpermitted alterations to historical resources. Funds from the HPF may be made available at the discretion of the Council, and may support future City-approved preservation activities including but not limited to historical resource survey projects, preparation of expert technical analysis reports or historical landscape studies, building rehabilitation efforts, acquisition of historical resources and other preservation activities that are found to meet the goals and objectives of the City HPP and this title. (Also see the City's HPP, Section 6.0, Incentives and Benefits – Local Incentives.) (Ord. 3196 § 3, 2011).

21.10.030 Economic hardship exemption.

Consideration for an economic hardship exemption from the required fees of this title may be requested pursuant to CVMC 3.45.010. (Ord. 3196 § 3, 2011).

Chapter 21.11**ENFORCEMENT AND PENALTIES**

Sections:

- 21.11.010 Enforcement and penalties.

21.11.010 Enforcement and penalties.

The City shall implement any necessary legal action to enforce the provisions contained in this title. A violation of any provision of this title or failure to comply with a condition of approval is expressly prohibited. Remedies specified under this chapter are in addition to and do not supersede or limit CVMC 19.08.030, 19.08.040, and Chapters 1.20 through 1.41 CVMC. The remedies provided for herein are cumulative and not exclusive. In any such action, the City may seek as appropriate any or all of following remedies:

- A. A temporary or permanent injunction;
- B. Fines pursuant to CVMC 21.08.050(A)(1) through (4) and (B)(1) and (2);
- C. Assessment of the violator for the costs of any investigation, inspection or monitoring survey that led to the establishment of the violation, and for the reasonable costs of preparing and bringing legal action under this subsection. (Ord. 3196 § 3, 2011).

Chapter 21.12

NOTICE, FEES AND APPEALS

Sections:

- 21.12.010 Notice.
- 21.12.020 Fees.
- 21.12.030 Appeals.

21.12.010 Notice.

For actions that require an administrative consideration, notice of the time, place and purpose of such consideration shall follow the City's Development Services Department administrative review process.

For actions that require a public hearing, notice of the time, place and purpose of such public hearing shall be given in the manner set forth in CVMC 19.12.070. (Ord. 3196 § 3, 2011).

21.12.020 Fees.

A fee, in the amount as presently designated or as may be in the future amended in the master fee schedule, shall accompany each application under this title. (Ord. 3196 § 3, 2011).

21.12.030 Appeals.

The applicant or any other interested party may appeal the decision of the Zoning Administrator or HPC within 10 business days after the date of the decision. The matter shall be set for public hearing upon receipt of appeal application, which shall address in writing each of the findings for denial on a form prescribed by the City and shall submit a fee pursuant to CVMC 21.12.020, for appeals of historic preservation matters. All appeals shall be considered by the Council. (Ord. 3196 § 3, 2011).

Chapter 21.13

SEVERABILITY

Sections:

- 21.13.010 Severability.

21.13.010 Severability.

If any section, sentence, clause, phrase, word, portion or provision of this title is held invalid or unconstitutional, or unenforceable, by any court of competent jurisdiction, such holding shall not affect, impair, or invalidate any other section, sentence, clause, phrase, word, portion, or provision of this title which can be given effect without the invalid portion. In adopting this title, the Council affirmatively declares that it would have approved and adopted this title even without any portion which may be held invalid or unenforceable. (Ord. 3196 § 3, 2011).