

Attachment 1

Sunnyvale Municipal Code						
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Title 19. ZONING						
Article 6. DISCRETIONARY PERMITS AND PROCEDURES						

Chapter 19.96. HERITAGE PRESERVATION**19.96.010. Findings and purpose.**

(a) The city council finds that the character and history of the city are reflected in its cultural, historical, and architectural heritage, that these historical and cultural foundations should be preserved as living parts of community life and development to build an understanding of the city's past so that future generations may have a genuine opportunity to appreciate, enjoy, and understand the rich heritage of the city, that with ever increasing pressures of modernization and urbanization, city landmarks, neighborhoods, and other areas of historical and cultural interest are threatened with demolition, and that pursuant to the provisions of the National Historic Preservation Act of 1966, as amended, the city of Sunnyvale joins with private concerns, the state of California, and the United States Congress to develop preservation programs and activities to give maximum encouragement to agencies and individuals undertaking preservation of the city's unique architectural, historical, aesthetic, and cultural heritage. The provisions of this chapter identify and prescribe specific procedures and requirements for the filing, processing and consideration by the heritage preservation commission. These provisions shall be used in conjunction with the general requirements and procedures identified in Chapter [19.98](#) including requirements and procedures for applications, fees, notification, appeals, conditions of approval, modifications, expiration, extensions, revocation and infractions.

(b) The purpose of this chapter is to promote the public health, safety, and general welfare, and

(1) To safeguard the city's unique cultural heritage as embodied and reflected in the city's architectural history and patterns of cultural development;

(2) To encourage and facilitate public knowledge, understanding, and appreciation of the city's historic past and unique sense of place and to encourage public participation in identifying heritage resources;

(3) To promote the enjoyment, celebration, and use of heritage resources appropriate for the educational, cultural, recreational as well as material needs of people;

(4) To preserve diverse architectural styles, patterns of development, and design preferences reflecting phases of the city's history and to encourage complementary contemporary design and construction and inspire a more livable urban environment;

(5) To enhance property values and to increase economic and financial benefits to the city and its inhabitants through incentives for preservation;

(6) To protect and enhance the city's attraction to tourists and visitors thereby stimulating business and industry;

(7) To identify as early as possible and resolve conflicts between the preservation of heritage resources and alternative land uses by integrating the preservation of heritage resources into the comprehensive planning, management and development processes for both public and private property;

(8) To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment;

(9) To stabilize neighborhoods through the preservation of heritage resources and establishment of heritage resource districts; and

(10) To develop and maintain appropriate settings and environments for heritage resources. (Ord. 2623-99 § 1; prior zoning code § [19.80.005](#)).

19.96.020. Heritage preservation commission.

The heritage preservation commission is established and functions pursuant to Article X of the City Charter. The members of the heritage preservation commission shall have a demonstrated interest in the heritage of the city. Strong consideration shall be given applicants with a background in architecture, design, history, museums, urban preservation, planning, construction, real estate or structural engineering. (Ord. 2623-99 § 1; prior zoning code §§ [19.80.010](#), [19.80.020](#)).

19.96.030. Responsibilities.

The heritage preservation commission shall have the responsibility to:

- (a) Recommend criteria for and supervise a comprehensive survey of improvements, buildings, structures, signs, features, landscape, trees, sights, places, areas or other artifacts of architectural, artistic, cultural, engineering, aesthetic, political or social significance to the citizens of Sunnyvale;
- (b) Provide recommendations and other assistance concerning development and maintenance of a local inventory of the above described heritage resources of the city including the nomination of neighborhoods to be considered by the city council for HH heritage housing district consideration;
- (c) Recommend criteria for designation of heritage resources, landmark sites, and landmark districts;
- (d) Recommend heritage resources for landmark site or landmark district status;
- (e) Review and comment upon the conduct of matters undertaken by the city, county or state which have a bearing upon heritage resources including, but not limited to, land use, municipal improvement, and housing;
- (f) Assist in the preparation of standards for the commission to use in reviewing applications for permits which significantly affect any landmark or landmark district, including permits to construct, change, alter, modify, remodel, or demolish the foregoing;
- (g) Review all applications for permits regarding heritage resources, heritage resource districts, landmark site or landmark district designated structures that involve changing use, exterior alteration or demolition, and approve, disapprove, or approve as modified said applications. All related environmental documentation shall also be reviewed;
- (h) Participate in, promote, and conduct public information and explanatory programs pertaining to heritage resources;
- (i) Cooperate with other interests and programs that are developed by both public and private agencies in the fields of museums and the development of city archives;
- (j) Promote the restoration, maintenance and operation of heritage resources owned by the city;
- (k) Investigate and report to the city council on public or private fund sources and mechanisms available to promote preservation of heritage resources in the city;
- (l) Recommend to the city council the purchase of appropriate interests in property for purposes of preservation of heritage resources;
- (m) Make other recommendations, perform studies and make deliberations deemed desirable or necessary to the effective functioning of the commission;

- (n) Encourage citizen participation in support of heritage resources;
- (o) Make available to the public copies of all recommendations, studies, standards and criteria produced in the exercise of the above functions;
- (p) Approve demolitions and new construction of replacement structures in any HH heritage housing district. (Ord. 2780-05 § 1; Ord. 2623-99 § 1; prior zoning code § 19.80.040).

19.96.040. Definitions.

For the purpose of this chapter, the following definitions apply:

- (a) “Alteration” means any exterior change or modification to an improvement or site which affects the exterior architectural features of property.
- (b) “Designated heritage resource” means a heritage resource which has specific elements which are expressly found to meet one or more of the Criteria of the National Register of Historic Places as established by the Secretary of the Interior and incorporated by reference into this code and which has been designated and determined to be appropriate for preservation by the city council, and has been recognized by the state or the nation to be historically significant.
- (c) “Designated heritage resource district” means a heritage resources district which has specific elements which are expressly found to meet one or more of the Criteria of the National Register of Historic Places as established by the Secretary of the Interior and incorporated by reference into this code and which has been designated and determined to be appropriate for preservation by the city council, and has been recognized by the state or the nation to be historically significant.
- (d) “Exterior architectural feature” means the architectural elements embodying style, design, general arrangement and components of all of the outer surfaces of an improvement. This includes such visual characteristics as paint, color, surface texture, grading, surface paving, materials, accessory structures, trees and other natural features, and exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories.
- (e) “Heritage housing combining district” means a heritage resource district consisting of residential properties which has been zoned as a heritage housing combining district for the purposes of preserving, protecting, enhancing and perpetuating the appearance of the district which contributes to the cultural or aesthetic heritage of the city.
- (f) “Heritage resource” means improvements, buildings, portions of buildings, structures, signs, features, sites, scenic areas, views and vistas, places, areas, landscapes, trees, or other natural objects or objects of scientific, aesthetic, educational, political, social, cultural, architectural, or historical significance to the citizens of the city, the Santa Clara Valley region, the state, or the nation, which are designated and determined to be appropriate for preservation by the city council.
- (g) “Heritage resource district” means any geographically definable area containing a concentration or continuity of heritage resources which are thematically related, or which contribute to each other and are unified by a special character, historical interest, aesthetic value, or which represents one or more architectural periods or styles typical to the city, and that has been designated and determined to be appropriate for preservation by the city council, pursuant to provisions of this chapter.
- (h) “Improvement” means any building, structure, place, parking facility, fence, gate, wall, work of art, or other object constituting a physical betterment of real property, or any part of such betterment.
- (i) “Local landmark” means a heritage resource which is significant in that the resource materially benefits the historical character of a neighborhood or area, or the resource in its location represents an

established and familiar visual feature of the community or city, and has been designated and determined to be appropriate for preservation by the city council.

(j) “Local landmark district” means a heritage resources district which demonstrates a higher collective integrity of location, design, setting, materials, workmanship, feeling, and association which is essential to the sustained value of the separate individual resources and which has been designated and determined to be appropriate for preservation by the city council. A local landmark district possesses a significant concentration or continuity of heritage resources unified by past events, or aesthetically by plan or physical development; or the collective value of the local landmark district as a whole may be greater than the value of each individual heritage resource within it.

(k) “Local register of heritage resources” means a list of heritage resources officially designated or recognized by the city.

(l) “Preservation” means the identification, protection, conservation, enhancement, perpetuation or rehabilitation of any heritage resource that prevents the deterioration, alteration, destruction or removal of such resource. (Ord. 2780-05 § 1; Ord. 2623-99 § 1; prior zoning code § [19.80.050](#)).

* **Editor’s Note:** The definitions in Section [19.96.040](#) also appear in Ch. 19.12.

19.96.050. Criteria for evaluation and nomination of heritage resources.

Any improvement, building, portion of buildings, structures, signs, features, sites, scenic areas, views, vistas, places, areas, landscapes, trees, or other natural objects or objects of scientific, aesthetic, educational, political, social, cultural, architectural, or historical significance can be designated a heritage resource by the city council and any area within the city may be designated a heritage resource district by the city council pursuant to provisions of this chapter if it meets the Criteria of the National Register of Historic Places, or one or more of the following:

(a) It exemplifies or reflects special elements of the city’s cultural, social, economic, political, aesthetic engineering, architectural, or natural history;

(b) It is identified with persons or events significant in local, state, or national history;

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

(d) It is representative of the work of a notable builder, designer, or architect;

(e) It contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related grouping of properties which contribute to each other and are unified aesthetically or by plan or physical development;

(f) 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 of Sunnyvale;

(g) It embodies elements of architectural design, detail, materials, or craftsmanship that represents a significant structural or architectural achievement or innovation;

(h) It is similar to other distinctive properties, sites, areas, or objects based on a historic, cultural, or architectural motif;

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

(j) It is one of the few remaining examples in the city, region, state, or nation possessing distinguishing characteristics of an architectural or historic type or specimen;

(k) With respect to a local landmark, it is significant in that the resource materially benefits the historical character of a neighborhood or area, or the resource in its location represents an established and familiar visual feature of the community or city;

(l) With respect to a local landmark district, a collective high integrity of the district is essential to the sustained value of the separate individual resources;

(m) With respect to a designated landmark and designated landmark district, the heritage resource shall meet Criteria of the National Register of Historical Places, which are incorporated by reference into this chapter. (Ord. 2623-99 § 1; prior zoning code § [19.80.060](#)).

19.96.060. Heritage resources and heritage resource districts designation procedures.

Heritage resources and heritage resource districts shall be designated by the city council in the following manner:

(a) The heritage preservation commission, city council, or owners or the authorized agents of the owners of property for which designation is requested may request the designation of an improvement as a heritage resource or a heritage resource district, as the case may be, by submitting an application for such designation to the director of the department of community development.

(b) Each proposal shall be considered by the heritage preservation commission at a noticed public hearing. In addition to the requirements of Section [19.98.040](#) (Public notice), notice of the time and place of each public hearing by the heritage commission shall be provided by certified mail to the owners of property for which designation is requested.

(c) The commission may continue a hearing but not in excess of thirty days from the date originally established for such hearing provided that such thirty day period may be extended by mutual consent of the commission and the party submitting the application. A party's consent to an extension of such period shall be presumed unless timely objection is made thereto within the thirty day period by the party or at the time the matter is continued beyond such period. A record of pertinent information presented at the hearing shall be maintained and made available to the public as a public record.

(d) The heritage preservation commission shall recommend to the city council approval, disapproval or approval with modifications of the application for designation.

(e) Prior to recommending approval or approval with modifications, the heritage preservation commission shall find:

- (1) That the proposed heritage resource, or heritage resource district, has significance;
- (2) That the proposed designation may be made without imposing an undue hardship upon the owner(s) of the property; and
- (3) That approval or approval with modification(s) of the application is consistent with the purpose and criteria of this chapter.

(f) After receiving a recommendation from the commission, the city council shall hold a public hearing. In addition to the requirements of Section [19.98.040](#) (Public notice), notice of the time and place of the city council hearing shall be provided by certified mail to the owners of property for which designation is requested.

(g) Upon the conclusion of the hearing, the city council may approve, disapprove, or approve with modifications the proposed designation as a heritage resource or heritage resource district.

(h) Following approval of the designation, the director of community development shall send to the owner of the property so designated a letter outlining the basis for such designation, and the regulations resulting from such designation. The director may also forward a copy of the letter to any other department or agency requesting it or that the director considers affected by the designation. (Ord. 3043-14 § 11; Ord. 2623-99 § 1; prior zoning code §§ [19.20.330](#), [19.80.070\(a\)](#)).

19.96.065. Ranking of heritage resources, alteration process.

(a) Within the overall category of historic resources, the city recognizes three levels of significance, ranked in descending from most significant as follows:

- (1) Local landmark resource/local landmark district;
- (2) Designated heritage resource/designated heritage resource district; and
- (3) Heritage resource/heritage resource district.

(b) Designated heritage resources and heritage resource districts are those resources that have been designated by both the city and the state or federal government as historically significant. Any person desiring to reconstruct, demolish, relocate or modify a designated heritage resource/district must first apply for a resource alteration permit, as described in Section [19.96.090](#), as well as comply with all state or federal requirements.

(c) No person shall carry out or cause to be carried out on a landmark or in a landmark district any material change in exterior appearance of such landmark or landmark district through alteration, construction, relocation, or demolition without a landmark alteration permit issued by the heritage preservation commission as described in Section [19.96.090](#).

(d) No person shall carry out or cause to be carried out on a heritage resource or in a heritage resource district any material change in exterior appearance of such resource or district through alteration, construction, relocation, or demolition without a resource alteration permit issued by the heritage preservation commission as described in Section [19.96.095](#). Minor modifications to heritage resources or heritage resource districts may be processed by city staff through the miscellaneous plan permit process set forth in Section [19.82.030\(a\)](#) of this code; provided, however, that appeal of such decision shall be made to the heritage preservation commission rather than the planning commission, and the decision of the heritage preservation commission shall be final. (Ord. 3050-14 § 10).

19.96.070. Change of use or multiple residential uses of landmark or landmark district.

The use of any landmark or landmark district shall not be changed, nor shall any multiple residential use be allowed of a landmark or of or in a landmark district unless a special development permit is first issued by the city. (Ord. 2623-99 § 1; prior zoning code § [19.80.080](#)).

19.96.080. Landmarks and landmark districts—Exceptions for reconstruction or additions.

Exceptions from dimensional requirements may be granted by the heritage preservation commission in conjunction with a landmark alteration permit filed in accordance with Section [19.96.090](#).

(a) Reconstruction of a landmark or a structure within a landmark district shall be exempt from setback and height requirements if rebuilt as originally constructed.

(b) Additions to landmarks or structures within landmark districts may be granted exceptions from dimensional requirements provided that the following findings can be made:

(1) The proposed work will not adversely affect the exterior architectural characteristics or other features of the landmark, nor adversely affect the character of historical, architectural or aesthetic interest or value of the landmark and its site; and

(2) In landmark districts, the proposed work will not adversely affect the exterior architectural characteristics, nor adversely affect its relationship in terms of harmony and appropriateness, with its surroundings, including neighboring structures, nor adversely affect the character, architectural or aesthetic interest or value of the district. (Ord. 2623-99 § 1; prior zoning code § 19.80.085).

19.96.090. Construction, demolition, relocation, or material change to landmark or landmark district.

(a) No person shall carry out or cause to be carried out on a landmark or in a landmark district any material change in exterior appearance of such landmark or landmark district through alteration, construction, relocation, or demolition without a landmark alteration permit issued by the heritage preservation commission.

(b) The department of community development shall maintain with the building inspection division a current record of designated landmarks and landmark districts. When an application for a permit which indicates possible material change to the exterior architectural features of the building, structure or landmark is received, an application for a landmark alteration permit shall be required.

(c) The director of community development shall forward all applications to the heritage preservation commission. Upon receipt of an application for a landmark alteration permit, the commission shall hold a public hearing. Notice of the time and place of each public hearing by the heritage preservation commission shall be provided in accordance with Section 19.98.040 (Public notice).

(d) The commission in considering the appropriateness of the landmark alteration application shall consider, among other things, the purposes of this chapter and the historic architectural value and significance of the landmark or landmark district, as well as present and prospective effects or hardships upon the owners and occupants of the affected properties. The commission shall take into consideration exterior architectural features of the building or structure in question, other buildings within a landmark district, and the position of such building or structure in relation to the street or public way and to other buildings and structures. The United States Secretary of the Interior's "Guidelines for Rehabilitation" shall provide base criteria for evaluating proposed alterations to a landmark structure.

(e) The commission may approve, approve with modifications, or disapprove the application.

(f) Prior to the approval, or approval with modifications, the commission shall find that:

(1) The action proposed is consistent with the purposes of this chapter; and

(2) The action proposed will not be detrimental to a structure or feature of significance as a heritage resource;

(3) The applicant has demonstrated that the action proposed is necessary to correct an unsafe or dangerous condition on the property pursuant to Section 19.96.110; or

(4) The applicant has demonstrated that denial of the application will result in immediate, undue, or substantial hardship pursuant to Section 19.96.120.

(5) If all of the findings in subsections (f)(2) through (f)(4) of this section are not made, the permit shall be denied.

(g) The commission may continue action on landmark alteration permits for two meetings, not to exceed fifty-five days from the date of the public hearing for purposes of reaching a mutually acceptable solution in keeping with the criteria of this chapter. If at the end of that time a mutually acceptable solution has not been achieved, the application shall be finally granted or denied.

(h) Within seven days following upon approval of an application, the commission shall issue a landmark alteration permit, one copy of which shall be forwarded to the applicant, one copy of which shall be retained in the files of the department of community development and one copy of which shall be forwarded to the building inspection division. In addition, a copy shall be forwarded to any other requesting department or agency which will be affected by the permit.

(i) The applicant may appeal the action of the commission to the city council. (Ord. 3043-14 § 12; Ord. 2623-99 § 1; prior zoning code §§ 19.80.090(a), (b), 19.80.090(d), 19.80.090(e)–(j)).

19.96.095. Construction, demolition, relocation, or material change to heritage resource or heritage resource district.

(a) No person shall carry out or cause to be carried out on a heritage resource or in a heritage resource district any material change in exterior appearance of such resource or district through alteration, construction, relocation, or demolition without a resource alteration permit issued by the heritage preservation commission.

(b) The department of community development shall maintain with the building inspection division a current record of heritage resources and districts. When an application for a permit which indicates possible material change to the exterior architectural features of the building, structure or district is received, an application for a resource alteration permit shall be required.

(c) The director of community development shall forward all applications to the heritage preservation commission. Upon receipt of an application for a resource alteration permit, the commission shall first consider whether the resource is historically or culturally significant, based upon evidence submitted by staff and the applicant to aid its determination. In the event the commission finds the resource is not culturally or historically significant, it shall return the application to the department of community development for processing in accordance with other relevant city procedures.

(d) If the commission finds the resource to be culturally or historically significant, it shall schedule a public hearing to be held on the matter in accordance with the procedures set forth in Section 19.96.090 for landmark alteration permits. (Ord. 2780-05 § 1).

19.96.100. Inventoried structures—Notice prior to demolition.

(a) Applicants for permits authorizing demolition of any structure listed within the latest edition of the city of Sunnyvale's Local Register of Heritage Resources shall show, prior to issuance of such a permit, that they have advertised such structure as being available for removal or relocation intact.

(b) A program of advertising shall be considered to meet the requirements of this section if it continues for sixty consecutive days, both: (1) as a display or classified advertisement of a character commensurate with the significance of the affected structure, published not less frequently than once each week during the sixty-day period within one or more Bay Area daily periodicals having substantial circulation within the South Peninsula area; and (2) as one or more signs on the affected premises, legible from the public right-of-way. Each such advertisement or sign shall indicate the Sunnyvale director of community development, or the director's designee, and the telephone number of such official, as a source of further information.

(c) The owner of any affected structure shall be entitled to make its availability contingent upon such reasonable conditions as are calculated to protect the owner, the city of Sunnyvale, and other interested parties from damage or loss of any nature, to protect the structure from excessive damage, and to permit the owner to select among competing relocation or removal proposals.

(d) At least sixty days prior to issuance of a permit authorizing demolition or relocation of any structure described in this section, the owner thereof shall provide written notice of proposed demolition or relocation

plans to the Sunnyvale heritage preservation commission, in care of the director of community development. (Ord. 2623-99 § 1; prior zoning code § [19.80.095](#)).

19.96.110. Unsafe or dangerous conditions.

None of the provisions of this chapter shall be construed to prevent any measures of construction, alteration, removal, demolition or relocation necessary to correct the unsafe or dangerous condition of any structure, other feature, or part thereof, where such condition has been declared unsafe or dangerous by the building official or the chief of the department of public safety; provided, however, that when the structure is a landmark or is in a landmark district, and where the proposed measures have been declared necessary by such official to correct the condition, only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section. The commission shall be informed of such work in advance whenever practicable. (Ord. 2623-99 § 1; prior zoning code § [19.80.100](#)).

19.96.120. Showing of hardship.

The commission may approve a landmark alteration permit or resource alteration permit to carry out construction, demolition, material change or relocation of a landmark or in a landmark district, or heritage resource, or in a heritage resource district, if the applicant presents facts clearly demonstrating to the satisfaction of the heritage preservation commission at a public hearing that failure to receive such approval will cause an immediate undue and substantial hardship. If hardship is found to exist under this section, the commission shall make a written finding to that effect, and shall also specify in writing the facts relied upon in making such finding. (Ord. 2780-05 § 1; Ord. 2623-99 § 1; prior zoning code § [19.80.110](#)).

19.96.130. Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this chapter that does not involve a change in design, material or external appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when the building official certifies to the commission that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the uses of the State Historical Building Code, as set forth in Section 18950 et seq., of the California [Health and Safety Code](#) as the same exists or may hereafter be amended. (Ord. 2623-99 § 1; prior zoning code § [19.80.120](#)).

19.96.140. Duty to keep in good repair.

The owner, occupant, or other person in actual charge of a landmark or an improvement, building or structure in a landmark district shall keep in good repair all of the exterior portions of such improvement, building or structure; all of the interior portions thereof when subject to control by reason of designation or permit; and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature. It shall be the duty of the director of community development to enforce this section. (Ord. 2623-99 § 1; prior zoning code § [19.80.130](#)).

19.96.150. Actions.

Following the filing of an appeal of an action by the heritage preservation commission, the city council shall schedule a public hearing to be held no later than thirty days after the notice of appeal is filed, and shall render its decision within thirty days of the hearing date. (Ord. 2623-99 § 1; prior zoning code § 19.80.140).

19.96.160. Enforcement and penalties.

In addition to the regulations of this chapter, other chapters of the code and other provisions of law which govern the approval or disapproval of applications for permits or licenses covered by this chapter, the director of community development shall have the authority to implement the enforcement thereof by any of the following means:

- (a) Serving notice requiring the removal of any violation of this chapter upon the owner, agent, occupant or tenant of the improvement, building, structure or land.
- (b) Calling upon the city attorney to institute any necessary legal proceedings to enforce the provisions of this chapter, and the city attorney is hereby authorized to institute any legal actions toward that end.
- (c) Calling upon the director of public safety and authorized agents to assist in the enforcement of this chapter.
- (d) In addition to any of the foregoing remedies, the city attorney may maintain an action for injunctive relief to restrain or enjoin or to cause the correction or removal of any violation of this chapter, or for an injunction in appropriate cases. (Ord. 2623-99 § 1; prior zoning code § 19.80.150).

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