

CHAPTER 25.35 – HISTORIC RESOURCES (ADMINISTRATIVE DRAFT)

DRAFT

25.35.010 – Purpose and Applicability

- A. Purpose.** A key defining element of Burlingame is the variety and character of its buildings. These include a range of periods and styles, providing a setting that is unique. The notion that older buildings or districts can have meaning for cities has been proven in cohesive historic neighborhoods, in renewed commercial districts, and in the conservation of landmark structures. The renovation and adaptive reuse of these historic buildings is often a benefit to the community as a whole and the owners of surrounding properties.

Authority for local governments to establish local historic preservation programs is granted in California Government Code Section 37361(b). The purpose of this Chapter is to implement the policies contained in Chapter 6.0-Historic Preservation of the Burlingame Downtown Specific Plan and historic preservation policies in the General Plan through a voluntary program that provides property owners with fiscal benefits or zoning and code incentives to preserve historic properties in Burlingame.

- B. Applicability.** The City of Burlingame's Historic Resource Preservation Program shall apply citywide or as otherwise may be directed by the Council.

25.35.020 – Definitions

Specific terms used in this Chapter shall have the particular meanings established in Article 8 (Definitions), Section 25.108.090 ("H" Definitions), heading "Historic Resources" of this Title.

25.35.030 – City of Burlingame Historic Preservation Commission

- A. Membership.** The members of the City of Burlingame Planning Commission shall act as the Historic Preservation Commission.
- B. Quorum.** A quorum of the Commission shall be defined as four voting members. A majority of the voting members, exclusive of absences and recusals, on any item shall be required to carry a motion.
- C. Powers and Duties.** The Commission shall have the following powers and duties:
1. Adopt procedural rules for the conduct of its business in accordance with the provisions of this Title.
 2. Recommend in accordance with the criteria set forth in Section 25.35.XX (XXX) the designation of historic resources, including historic districts, landmark sites, and landmarks within the City, including all information required for each designation.
 3. Maintain a local register of historic resources consistent with the National Register of Historic Places criteria, including historic districts, landmark sites, and landmarks within the City, including all information required for each designation.
 4. Adopt prescriptive standards to be used by the Commission in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any designated historic resource.

5. Make recommendations to the Council on the use of various federal, State, local, or private funding sources and mechanisms, such as the Mills Act and State Historic Building Code, available to promote historic resource preservation in the City.
6. Approve or disapprove, in whole or in part, or approve with conditions, applications for permits pursuant to Section 25.35.XXX (Exterior Alteration of Designated Historic Resources).
7. Review all applications for permits, environmental assessments, environmental impact reports, environmental impact statements, and other similar documents, as set forth in this Title, pertaining to designated and potential historic resources. The Community Development Department shall forward such documents to the Commission for review as appropriate.
8. Review and comment on actions and environmental documentation associated with City-sponsored actions, programs, capital improvements, or activities as they relate to designated and potential historic resources.
9. Cooperate with local, county, State, and federal governments in the pursuit of the objectives of historic resource preservation.
10. Provide opportunity for direct public participation in historic resource preservation responsibilities.
11. Confer recognition upon the owners of landmarks or property or structures within historic districts by means of certificates, plaques, or markers, and from time to time issue commendations to owners of historic resources who have rehabilitated their property in an exemplary manner.
12. Undertake any other action or activity necessary or appropriate to the implementation of its powers or duties to fulfill the objectives of historic resource preservation as delineated in this Chapter.

25.35.040 – City of Burlingame Historic Architectural and Places Resources Register

- A. Duty to Create and Maintain.** The City shall create and maintain a register of historic architectural resources and historic places. Such register shall contain a listing of properties that: 1) contain an officially designated historic resource, whereby such designation has been applied by a formal process by a federal, State, or local government agency; and 2) have been identified as having a resource with characteristics that qualify it for receiving an official designation historic resource designation. Such register shall be continuously maintained and updated to include any properties that, through professionally accepted methods of research and reporting and in accordance with professionally accepted criteria, are subsequently identified as a historical architectural resource or historic place.
- B. Downtown Specific Plan Inventory.** The October 6, 2008 Inventory of Historic Resources-Burlingame Downtown Specific Plan (Inventory) identifies resources in the City which may be considered historical for purposes of this Title. That Inventory, as it may be amended from time to time, is considered part of the Historical Architectural and Places Resources Register, as defined in A, above.
- C. Criteria for Including Resources in the Register.** The National Register of Historic Places Guidelines (Guidelines) shall be used for determining historical resources. The criteria in subsection (j) of the Guidelines and at least two of the other criteria shall be utilized to determine the significance of a property when considering its inclusion in the Register.
 1. Buildings, structures, or places that are important key focal or pivotal points in the visual quality or character of an area, neighborhood, or survey district.

2. Structures that help retain the characteristics of the town with respect to the immediate surroundings.
3. Structures that contribute to the unique urban quality of a downtown, for properties located within the Downtown Specific Plan.
4. Structures contributing to the architectural continuity of the street.
5. Structures that are identified with a person or person who significantly contributed to the culture and/or development of the City, State, or nation.
6. Structures that represent an architectural type or period and/or represent the design work of known architects, draftsmen, or builders whose efforts have significantly influenced the heritage of the City, State, or nation.
7. Structures that illustrate the development of California locally and regionally.
8. Buildings retaining the original integrity of and/or illustrating a given period.
9. Structures unique in design or detail, such as, but not limited to, materials, windows, landscaping, plaster finishes, and architectural innovation.
10. Structures that are at least 50 years old or properties that have achieved significance within the past 50 years, at the time the determination is made, if they are of exceptional importance.
11. Places that have been visited by a person or persons important to City, State, national, or international history or prehistory.

- D. Property Owner Permission Required.** Inclusion of a private property on the Historic Register shall only occur upon request of the property owner.
- E. Resources Not Subject to Chapter.** Resources are not subject to any provisions of this Chapter as result of being included in the Register. The intent of the Register is only to identify resources which are eligible for official designation.
- F. No Prejudice.** Properties identified in the Register shall not be prejudiced in any form as result of being included in the Register.
- G. Incentives.** Owners who place their historical resource(s) on the Register are eligible for incentives detailed in Section 25.35.080 (Preservation Incentives).

25.35.050 – City of Burlingame Official Designation

- A.** A structure or resource becomes locally designated only as result of the property owner submitting a Historical Preservation Application to the Community Development Department and having it approved by the Commission.
- B.** Any properties that are presently included on the California Register of Historic Places and/or the National Register of Historic Places shall automatically be included on the City's Register as a locally designated resource.

25.35.060 – Historic Resource Designation Procedures

A. Historic Resource Designation Procedures. Property owners may request placement of resources on the City of Register in the following manner:

1. Owner(s) of resources included may request inclusion in the Register by submitting to the Director a Historical Resource Application, along with an historic resource assessment for the property prepared by a qualified architectural historian.
2. Structures which were identified in the Downtown Specific Plan Inventory or through a historic resources evaluation as being potentially eligible for the National Register of Historic Places are, upon adoption of the ordinance codified in this Chapter, considered locally significant and may be included in the City's Register when included on the National Register of Historic Places, at the request of the property owner.
3. Historic resource applications shall be made to the Director, who shall, within 30 days of receipt of a completed application, prepare and make recommendations for consideration by the Historic Preservation Commission. The application shall be considered at the next Commission meeting following receipt of the Director's recommendations for which appropriate notice may be given, or at such later meeting as requested or agreed by the applicant and Director.
4. The Commission shall determine at a regular public meeting based on the documentation provided as to whether the nomination application is appropriate for and shall determine whether to approve the application in whole or in part. Failure to pass a motion approving the application in whole or in part shall constitute a denial of the application.
5. The Council may also initiate such proceedings on its own motion for resources on public property.

B. Deletion from Register. The procedure for deletion of a designated historic resource from the Register shall be as follows:

1. The owner(s) of a designated historic resource may request deletion of the listed resource from the Burlingame Historic Register.
2. Requests to delete a designated historic resource from the Register shall be submitted in writing to the Director, who shall remove the property from the Register unless the request to remove the property from the Register must be referred to the Commission under subsection (B)(4), below. The Director shall report the removal of resources from the Register to the Commission, as deemed necessary by the Director.
3. The Director shall periodically propose and process for deletion from the Burlingame Historic Register those designated historic resources which have been lawfully removed, demolished, or disturbed to such an extent that, in the Director's opinion, they no longer qualify for placement on the Register.
4. Requests to delete a designated historic resource that has benefited from any of the incentives identified in Section 25.35.080 (Preservation Incentives) shall be forwarded to the Commission for review and action and may be subject to penalties deemed appropriate by the commission based on the significance of the resource at the time of the proposed deletion. The Commission shall have the discretion to grant, grant with conditions, or deny the request for removal for such properties.

25.35.070 – Exterior Alteration of Designated Historic Resources

- A. Review Process.** All applications for a building permit for exterior alteration to any designated historic resource shall be reviewed as follows:
1. The Director shall review and approve minor exterior alterations that do not materially alter the historic, character-defining elements of the structure. Minor exterior alterations are those that qualify for Design Review–Minor pursuant to Chapter 25.68 (Design Review).
 2. The Commission shall review and determine whether to approve applications involving modifications to any designated historic resource that qualify for Design Review–Major pursuant to Chapter 25.68 (Design Review).
- B. Application Process.** Requests to conduct exterior alterations to a structure included on the Register shall be subject to the appropriate entitlement application required under Article 6 (Permit Processing Procedures) of the Title.
- C. Standards of Review.** In evaluating applications, the review body shall consider the project design's consistency with the Secretary of Interior Standards for Rehabilitation including, but not limited to, architectural style, design, arrangement, texture, materials and color, and any other pertinent factors. The prime concern should be the exterior appearance of the building site. The proposed alterations shall not adversely affect the historic, character-defining features or the aesthetic value of the building and its site.

25.35.080 – Preservation Incentives

The Commission is authorized to develop and implement preservation incentive programs that are consistent with this Chapter. Incentives shall be made available for properties listed on the Register that undergo maintenance or alteration consistent with the *Secretary of the Interior Standards for Rehabilitation*.

- A. State Historic Building Code.** The Building Official is authorized to use and shall use the California State Historic Building Code (SHBC) for projects involving designated historic resources. The SHBC provides alternative building regulations for the rehabilitation, preservation, restoration, or relocation of structures designated as historic resources. The SHBC shall be used for any designated historic resource in the City's building permit procedure.
- B. Development Standards Flexibility.** The following shall apply to properties officially designated as a historic resource.
1. **Parking Standards**
 - a. Additional floor area may be added to existing single-family residences that are nonconforming due to substandard parking without providing parking according to current standards, provided that the aggregate of all additional floor area constructed following the date of designation of the structure as a historic resource does not exceed 50 percent of the floor area existing as of the date of designation as a resource. For multiple-family residential properties, adding units in accordance with existing zoning standards shall not require the property owner to bring existing nonconforming parking into compliance with current parking requirements, although code-required parking shall be provided for any new units created.

- b. Designated historic commercial and mixed-use structures may add up to an aggregate of 15 percent of the existing floor area as of the date of designation of the property as a historic resource, not to exceed 500 square feet, without providing additional parking and without bringing any existing nonconformity into compliance with the current zoning regulations, subject to review and approval by the Commission. The addition must be removed or otherwise approved under governing procedures if the historic building is demolished.
 2. **Lot Coverage.** For development on properties where an historic resource exists, maximum permitted lot coverage shall be 1.25 times the standard lot coverage for the particular zone district.
 3. **Variances.** Owners of designated properties may apply for variances from development standards applicable to the property pursuant to Chapter 25.xx (Variances) in instances where the deviation from the standard is warranted to preserve the historic character of the property. The property's status as a designated historic resource may be used as a basis for determining whether the property owner is denied privileges enjoyed by other property owners in the vicinity and within the same zoning district.
- C. Adaptive Reuse.** Owners of designated properties may apply for a Conditional Use Permit for any use that is not ordinarily permitted, or conditionally permitted, within the zone in which the designated resource is situated, pursuant to the purpose, findings, and conditions expressed in Chapter 25.XX (Conditional Use Permits) and the following additional findings. These provisions are limited to the adaptive reuse of the resource. Any other development on the property shall comply with the provisions of the zoning district in which the property is located.
1. Use of the property for a purpose other than that for which it was originally designed, and in a manner that would not normally be permitted within the zone in which the resource is situated, is necessary to enhance the economic viability of retaining the resource and its notable characteristics in a manner that ensures the continued maintenance of the resource; and
 2. Any alterations to the resource that are necessary to accommodate the adaptive re-use of the resource shall be designed and completed in a manner consistent with the *Secretary of Interior Standards for Rehabilitation* and shall be subject to any discretionary approvals required by this Title.
- D. Mills Act Contracts**
1. Mills Act contracts granting property tax relief shall be made available by the City only to owners of properties listed in the Burlingame Historic Resources Register, as well as properties located within the City that are listed in the National Register of Historic Places and/or the California Register of Historical Places. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the City.
 2. Mills Act contracts shall be made available pursuant to California law. The Department shall make available appropriate Mills Act application materials. The Mills Act application may be processed concurrently with the historic resource application.
 3. Mills Act contract applications shall be made to the Director or designee, who shall within 60 days of receipt of a completed application prepare and make recommendations on the contents of the contract for consideration by the Council. A fee for the application will be required consistent the City's adopted fee

schedule, to cover all or portions of the costs of the preparation of the contract or an amount set by Council resolution may be charged.

4. The Council shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Failure to pass a motion approving the application shall be deemed a denial. Should the Council fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.
5. A Mills Act contract application that has failed to be approved by the Council cannot be resubmitted for one year from the date of Council action, or where the Council fails to take action, within one year from the date that the application is deemed denied pursuant to subsection (4), above.

- E. **Preservation Easements.** Preservation easements on the façades of buildings designated as an historic resource may be acquired by the City or nonprofit group through purchase, donation, or documentation pursuant to California Civil Code Section 815.
- F. **Official Recognition/Awards.** The Commission, on an annual basis, may recognize those projects involving designated historic resources that have demonstrated a high level of commitment to maintaining or restoring the historic integrity of the resource. The Department may nominate all projects implemented within a calendar year for award consideration by the Commission.

25.35.090 – Duty to Keep in Good Repair

- A. **Obligation.** The owner, occupant, and any person in actual charge of an officially designated historic resource or an improvement, building, or structure subject to the provisions of this Chapter are jointly and severally obligated to keep in good repair all of the exterior portions of such improvement, building, or structure, all of the interior portions thereof when specified in the action declaring the property a historic resource, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.
- B. **Standards.** Maintenance and repair of designated properties shall be in accordance with the Secretary of the Interior Standards for Rehabilitation.
- C. **Authority.** The Director shall have the authority to enforce this Section, concurrently with the code compliance function of the City, as delineated in Title 1 of the Municipal Code.
- D. **Ordinary Maintenance and Repair.** Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this Section 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 architectural feature when the Director 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 use of the California State Historic Building Code and when such architectural feature can be replaced.
- E. **Emergency Demolition.** Designated historic resources that have been severely damaged as a result of an earthquake, fire, or other disaster, and which require immediate demolition because the building presents an imminent threat to public safety, shall be exempt from the provisions of this Chapter. A determination to demolish an existing building on such grounds shall be made by the Commission acting on the advice and recommendation

of the Building Official. In the absence of a quorum of the Commission, or if exigent circumstances exist such that public safety requires immediate action, such a determination may be made by the Building Official in consultation with the Director.

F. Enforcement and Penalties

1. Any person who violates a requirement of this Chapter or fails to comply with a condition of approval of any certificate or permit issued under this section shall be subject to the penalties and enforcement provisions of Title 1 of the Municipal Code.
2. Any person who constructs, alters, removes, or demolishes a designated historic resource in violation of this Chapter shall be required to restore the building, object, site, or structure to its appearance or setting prior to the violation. Any action to enforce this provision may be brought by the City or any other interested party. This civil remedy shall be in addition to, and not in lieu of, any other remedy provided by law. In the instance of an unlawful demolition of a designated historic resource, or a resource that has been determined to be eligible for historic designation through a historic resource evaluation, the site may not be developed in excess of the floor area or lot coverage of the historic structure for a period of 20 years from the unlawful demolition.