



Planning Commission **STAFF REPORT**

Bob Spears, Chair
John Hutt, Vice-Chair
Joseph Catalano, Commissioner
Thomas Denison, Commissioner
Manish Desai, Commissioner
Gina Frierman-Hunt, Commissioner
William Pevsner, Commissioner

Vincent Gonzalez, Director
Planning & Community Preservation

DATE: December 14, 2017

TO: Planning Commission

FROM: Vincent Gonzalez, Director of Planning & Community Preservation

PREPARED BY: Leticia Cardoso, Planning Manager

SUBJECT: Municipal Code Text Amendment 17-07 (MCTA 17-07) amending Chapter 17.56 – Nonconforming Uses Ordinance and Chapter 17.82 – Historic Preservation Ordinance.

BACKGROUND

The Nonconforming Uses Ordinance, codified under Chapter 17.56 of the Sierra Madre Municipal Code, regulates land uses and structures that were conforming at the time of their establishment and/or construction, but have since become non-conforming due to amendments to the City's zoning code. However, the adopted ordinance is inadequate in addressing a variety of non-conforming issues that commonly arise, it has not been updated for many years, and is difficult to apply in most instances, therefore hindering the ability of property owners to use and improve existing buildings that have become nonconforming over time. Consequently, the City Council directed staff to seek Planning Commission input regarding amendments to correct these deficiencies.

In addition, the Implementation Program adopted as part of the 2015 General Plan Update requires that the ordinance be amended in 2017 pursuant to the following Implementation Measure:

IM-44 The City shall amend the Nonconforming Uses Ordinance (SMMC Chapter 17.56) as necessary to allow reconstruction of existing non-conforming structures that must be replaced due to deterioration or hazard such as fire and earthquakes. (2017)

APPOINTMENT OF SUBCOMMITTEE

At the regular meeting held on August 17 2017, the Planning Commission formed a three-member subcommittee that included Chair Spears and Members Hutt and Frierman-Hunt. The subcommittee was tasked with providing recommendations for a complete overhaul of Chapter 17.56 as it was agreed that the existing ordinance was extremely inadequate in addressing most of the nonconforming issues that come before staff on a normal basis. To help inform the discussion, staff provided a list of nonconforming issues that it recommended be addressed in the revised ordinance, and provided a number of sample ordinances from other cities, including the City of Pasadena, which the Commission felt would be a good template for the amended ordinance due to its comprehensiveness and formatting.

The subcommittee also recommended revisions to the Historic Preservation Ordinance (Chapter 17.82) regarding adaptive reuse of structures in residential zones.

The Planning Commission reviewed and discussed the draft recommendations from the subcommittee at their meetings on August 3, August 17, November 2, and November 16, 2017; at the last meeting, the Commission directed staff to return with a draft ordinance incorporating all of the changes agreed upon and a draft resolution for their review and recommendation to the City Council.

PROPOSED REVISIONS

Nonconforming Uses Ordinance – Chapter 17.56

The Commission is recommending an extensive overhaul of the existing ordinance to cover a wide range of nonconforming issues that staff is asked to address on an ongoing basis, and which are not included in the adopted ordinance. The amended ordinance includes sections specifying the purpose and applicability of the ordinance, restrictions on nonconforming uses and structures, continuation and abatement of uses and structures, reconstruction after involuntary damage, limitations on alterations and/or additions to nonconforming uses and structures, exemptions from nonconforming determination, nonconformance with respect to conditional use permit requirements, and regulations regarding unlawful uses and structures as well as nuisance abatement. The existing sections regarding public utility exemptions and nonprofit organizations/places of worship were slightly revised but generally maintained in the amended ordinance.

Historic Preservation Ordinance – Chapter 17.82

In addition to addressing nonconforming uses, the Commission is also recommending a few changes to the section on adaptive reuse of historic structures, including amendments to Section 17.82.030 (“Definitions”) allowing the adaptive reuse of

multifamily historic properties up to 12 units as bed and breakfast inns (the ordinance currently limit allowable conversions to single-family homes), and to require an innkeeper for this type of use; this amendment makes the ordinance consistent with a recent amendment to the R-3 zoning ordinance.

The amendments also include the expansion of potential adaptive reuses to allow commercial uses such as small entrepreneurial business, service and professional offices as adaptive reuse of historic residential structures under Section 17.82.065 (“Conversion of single-family residences to bed and breakfast inns”), subject to the approval of a conditional use permit; the title of the section would also be revised to “Adaptive reuse of historic landmarks”.

PURPOSE OF AMENDMENTS AND CONSISTENCY WITH THE GENERAL PLAN

The amendments are generally consistent with the goals, policies, and objectives of the General Plan in that they would help the preservation of the City’s distinct character by providing for the upgrade and preservation of existing structures and uses and promoting the health and safety of the community.

CEQA FINDINGS

Adoption of the amendments qualify for an exemption from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations as it can be seen with certainty that there is no possibility that the adoption of this ordinance may have a significant effect on the environment, because it will provide regulations to help retain existing structures and uses in place, and impose certain limitations on their expansion; the amendments also apply to conversion of historic residential structures and are exempt for numerous reasons: all historic landmarks in the city that are single- or multi-family residences are located in residentially zoned areas; given the limited number of such structures, the number of conversions should be extremely limited; such conversions should include few, if any, modifications to the exterior of such structures, and only if such changes would not be detrimental to the historic or architectural character of the historical landmark.

FINANCIAL REVIEW

There is no financial impact related to the proposed code text amendments. Staff time was incurred in the preparation of the report and draft ordinance.

PUBLIC NOTICE PROCESS

This item has been noticed through the regular agenda notification process. Notice of the hearing was published consistent with the requirements of Government Code Section 65090 and 65091 including publication of a notice of public hearing in the local adjudicated newspaper. Notice of the hearing was also published on the City's website at www.cityofsierramadre.com. Copies of this report are available at the City Hall public counter, on the City of Sierra Madre website, and the Sierra Madre Public Library.

ALTERNATIVES

The Planning Commission can consider the following alternatives:

1. Adopt MCTA 17-07 recommending approval of MCTA 17-07, pursuant to Resolution 17-10.
2. Adopt MCTA 17-07 recommending approval with modifications.
3. Recommend denial of MCTA 17-07.
4. Continue the matter and provide direction to Staff.

RECOMMENDATION

Staff recommends that the Planning Commission recommend approval to the City Council of Municipal Code Text Amendment 17-07 (MCTA 17-07), amending Chapter 17.56 – Nonconforming Uses Ordinance and Chapter 17.82 – Historic Preservation Ordinance, pursuant to Planning Commission Resolution 17-10 attached herein as Exhibit A.

Prepared By:



Leticia Cardoso
Planning Manager

Attachments (4):

- Exhibit A: Planning Commission Resolution 17-10
- Exhibit B: Draft City Council Ordinance
- Exhibit C: Nonconforming Uses Ordinance – Chapter 17.56 (Existing)
- Exhibit D: Historic Preservation Ordinance – Chapter 17.82 (Redlined)

EXHIBIT A

Planning Commission Resolution 17-10

Amendments to S.M.M.C.
Chapter 17.56 – Nonconforming Uses and
Chapter 17.82 – Historic Preservation

PC RESOLUTION 17-10

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SIERRA MADRE RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ORDINANCE NO. _____ AMENDING CHAPTER 17.56 NONCONFORMING USES ORDINANCE AND CHAPTER 17.82 HISTORIC PRESERVATION ORDINANCE.

WHEREAS, the City Council adopted a General Plan Update in July 2015 and as part of the General Plan Implementation Program, the City is currently in the process of amending various ordinances in the Municipal Code, including the Nonconforming Uses Ordinance;

WHEREAS, the existing Nonconforming Uses Ordinance was adopted to regulate nonconforming uses in the City in consideration of the fact that within all zones in the city, there exist land uses and structures that were lawful before the adoption or amendment of the zoning code, but which would be prohibited, regulated, or restricted under the current zoning requirements; and

WHEREAS, in the process of reviewing the existing ordinance, the Planning Commission has determined that it is inadequate in addressing a variety of non-conforming issues that commonly arise, it has not been updated for many years, and is difficult to apply in most instances, therefore hindering the ability of property owners to use and improve existing buildings that have become nonconforming over time; and

WHEREAS, the fully amended ordinance provides a detailed list of requirements to address those issues and regulate the long-term continuance of nonconformities of uses and structures;

WHEREAS, the Planning Commission has also determined that in the interest of promoting and encouraging the protection of historic resources in the City and to ensure consistency with the R-3 Multiple Family Zone Ordinance, the Historic Preservation Ordinance should be amended to allow the adaptive reuse of multifamily historic properties as bed and breakfast inns up to 12 units; and

WHEREAS, the Planning Commission also determined that limited commercial uses such as small entrepreneurial business, service and professional offices, should be allowable as adaptive reuse of historic residential structures subject to the approval of a conditional use permit; and

WHEREAS, the Planning Commission discussed these revisions at four meetings and wish to recommend to the City Council the subject municipal code text amendment as the proposed changes will help preserve the City's existing buildings and uses, including those that are historically designated by expanding the opportunities for their adaptive reuse; and

WHEREAS, The amendments are generally consistent with the goals, policies, and objectives of the General Plan in that they would help the preservation of the City's distinct character by providing for the upgrade and preservation of existing structures and uses and promoting the health and safety of the community; and

WHEREAS, the Planning Commission has received the report and recommendations of staff; and

WHEREAS, the Planning Commission finds that adoption of the amendments qualify for an exemption from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations as it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment, because it will provide regulations to help retain existing structures and uses in place, and impose certain limitations on their expansion; the amendments also apply to conversion of historic residential structures and are exempt for numerous reasons: all historic landmarks in the city that are single- or multi-family residences are located in residentially zoned areas; given the limited number of such structures, the number of conversions should be extremely limited; such conversions should include few, if any, modifications to the exterior of such structures, and only if such changes would not be detrimental to the historic or architectural character of the historical landmark; and

WHEREAS, notice was duly given of the public hearing on the matter, which public hearing was held before the Planning Commission on December 14, 2017, with all testimony being received being made part of the public record; and

NOW, THEREFORE, in consideration of the evidence received at the public hearing, and for the reasons discussed by the Commissioners at said hearing, the Planning Commission resolves as follows:

Recommend that the City Council approve the ordinance attached hereto as Exhibit A amending Chapters 17.56 and 17.82 of the Municipal Code.

APPROVAL RECOMMENDED, this 14 day of December 2017, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Bob Spears
Chair, Planning Commission

ATTEST:

Vincent Gonzalez
Director, Planning & Community Preservation

EXHIBIT B

Draft City Council Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SIERRA MADRE AMENDING CHAPTER 17.56 NONCONFORMING USES ORDINANCE AND CHAPTER 17.82 HISTORIC PRESERVATION ORDINANCE.

THE CITY COUNCIL OF THE CITY OF SIERRA MADRE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 17.56 (“Nonconforming Uses”) of Title 17 (“Zoning”) is hereby amended to read as follows:

Chapter 17.56 – Nonconforming Uses and Structures

Sections:

- 17.56.010 - Purpose of Chapter
- 17.56.020 - Application of Regulations
- 17.56.030 - Restrictions on Nonconforming Uses and Structures
- 17.56.040 - Continuation of Nonconforming Uses and Structures
- 17.56.050 - Limitation on Other Uses
- 17.56.060 - Abatement and Termination
- 17.56.070 - Repair and Maintenance
- 17.56.080 - Alterations and/or Additions to Nonconforming Uses and Structures
- 17.56.090 - Exemptions and Exceptions
- 17.56.100 - Uses Requiring Conditional Use Permits
- 17.56.110 - Condemnation of a Portion of a Lot
- 17.56.120 - Nonprofit organizations and places of worship.
- 17.56.130 - Unlawful Uses and Structures
- 17.56.140 - Nuisance Abatement

17.56.010 - Purpose of Chapter

This chapter establishes uniform provisions for the regulation of nonconforming land uses and structures.

- A. Within the zoning districts established by this title, there exist land uses and structures that were lawful before the adoption or amendment of this title, but which would be prohibited, regulated, or restricted differently under the current terms of this title or under future amendments.
- B. It is the overall intent of this chapter to regulate the long-term continuance of nonconformities and to:
 - 1. Limit the number and extent of specific nonconforming uses and structures that conflict with the provisions of this title by prohibiting their reestablishment after abandonment or, in some cases, their enlargement;

2. Allow for the reconstruction of nonconforming structures that are involuntarily damaged or destroyed, with certain limitations and regulations;
3. Allow for the continuation and maintenance of specific nonconforming uses and structures;
4. Establish procedures and criteria for evaluating the allowable enlargement of specific nonconforming uses and structures;
5. Limit the alteration, enlargement, or relocation of nonconforming structures in a manner that would further increase the difference between existing nonconforming conditions and the current provisions of this title; and
6. Ensure that current building and zoning standards do not unreasonably inhibit the adaptive reuse of existing structures or their the seismic and other structural upgrading

17.56.020 - Application of Regulations

The provisions of this chapter shall apply to all nonconforming uses and structures located within any zoning district in the City. This chapter does not apply to land uses and structures that were illegally established, constructed, or modified. These are instead subject to code enforcement and nuisance abatement provisions of this code.

17.56.030 - Restrictions on Nonconforming Uses and Structures

The following provisions shall apply to all nonconforming uses and structures existing as of the effective date of this chapter:

A. Maintained and continued.

1. Nonconforming use. A nonconforming use may be maintained and continued; provided there is no increase or enlargement of the area, space, or volume occupied or devoted to the nonconforming use, except as allowed by this chapter.
2. Nonconforming structure. A nonconforming structure may be maintained and continued; provided there is no physical change other than necessary maintenance and repair to the structure, except as allowed by this chapter.

B. Change of use. Any part of a structure or land occupied by a nonconforming use which is changed to or replaced by a conforming use shall not again be used or occupied by a nonconforming use.

C. Replacement of a nonconforming use prohibited. The nonconforming use of a structure or site shall not be changed to another nonconforming use.

17.56.040 - Continuation of Nonconforming Uses and Structures

Each and every nonconforming use or structure may be continued and maintained, provided that there is no addition, alteration, or enlargement to any use or structure, except as allowed by this chapter, or unless ordered discontinued, modified, or removed as a public nuisance.

17.56.050 - Limitation on Other Uses

So long as a nonconforming use or structure exists upon a lot, no new use or structure may be constructed, established, or installed on the lot, except as allowed by this chapter.

17.56.060 - Abatement and Termination

Nonconforming uses and structures shall be subject to abatement and termination of the use, in the following manner:

- A. Termination for violation of or change of use. Whenever any of the following facts are found to exist with reference to a nonconforming use, the nonconforming protection/benefits provided by this chapter shall cease, and the use shall be abated, except as otherwise allowed by this chapter.
 1. Material violation of any applicable law;
 2. A change from a nonconforming use to another nonconforming use;
 3. A change from a nonconforming use to a conforming use;
 4. An increase or enlargement of the area, space, or volume of the structure or land occupied by or devoted to the nonconforming use. No new additions or alterations shall increase existing nonconformities; or
 5. A structural alteration, except as required by law.

- B. Termination of nonconforming uses by discontinuance.
 1. Without any further action by the City, a nonconforming use shall lose its nonconforming status and shall not be reestablished if the nonconforming use is discontinued for any reason for a continuous period of at least 24 months.
 2. A nonconforming use within a structure shall also lose its nonconforming status if the structure is demolished or removed from the site.
 3. The determination of discontinuance (aka abandonment) shall be supported by evidence, satisfactory to the director (e.g. the actual removal of equipment, furniture, machinery, structures, or other components of the nonconforming use and not replaced, the turning off of the previously connected utilities, or where there are no business receipts/records or any necessary licenses available to provide evidence that the use is in continual operation).
 4. In an appeal of the director's determination that the use has lost its nonconforming status by discontinuance, the appellant shall be required to present evidence satisfactory to the director showing that the use is in continual operation.
 5. The use of the site after the discontinuance or removal of a nonconforming use shall comply with all current requirements of this title and the subject zoning district.

17.56.070 - Repair and Maintenance; Reconstruction after Involuntary Damage

A. Ordinary repair and maintenance.

1. Ordinary repair and maintenance may be performed on a structure or site, the use of which is nonconforming; and
2. Ordinary repair and maintenance of a nonconforming structure shall be allowed.

B. As used in this chapter:

1. "Involuntary damage" shall mean involuntary damage or destruction of a structure, either in whole or in part, by a catastrophic event (e.g., fire or other calamity, by act of God, or by the public enemy) or over the course of time (e.g., termite infestation, dry rot, or mold).
2. "Date of involuntary damage" shall mean the date of the catastrophic event that caused the involuntary damage, or for involuntary damage caused over time, the date that the City deems the damaged structure to be unsafe or irreparably deteriorated.

C. Nonresidential uses or structures. Whenever a nonconforming nonresidential structure or a structure occupied by a nonconforming use is involuntarily damaged:

1. The structure may be repaired, reconstructed or replaced with a new structure, and its use resumed, provided that:
 - a. The applicant provides documentation satisfactory to the director supporting the claim that the damage occurred involuntarily;
 - b. The replacement structure matches the original structure in terms of exterior materials, height, setbacks, size and building configuration;
 - c. The replacement structure is in compliance with the City's adopted building code; and
 - d. A building permit for the reconstruction is issued within 24 months after the date of involuntary damage and the construction is diligently pursued to completion.
2. If the preceding requirements are not met, the replacement structure shall comply with all current requirements of this code in effect on the date a building permit is issued.

D. Residential uses or structures.

1. Nonconforming single- and multi-family dwelling units (including the residential component of a mixed-use project) that have been involuntarily damaged may be repaired, reconstructed or replaced with a new structure using the same development standards applied to the damaged or destroyed structures (e.g., setbacks, square footage, building height, and density standards) in compliance with State law (including Government Code Section 65852.25), provided:
 - a. The applicant provides documentation satisfactory to the director supporting the claim that the damage occurred involuntarily;
 - b. No expansion of the gross floor area occurs;
 - c. The replacement structure is in compliance with City's adopted building code; and
 - d. A building permit is issued within 24 months after the date of involuntary damage and the construction is diligently pursued to completion.
2. If the preceding requirements are not met, the replacement structure shall comply with all current requirements of this code in effect on the date a building permit is issued.

17.56.080 - Alterations and/or Additions to Nonconforming Uses and Structures

Nothing in this chapter shall be deemed to prevent the construction, enlargement, expansion, extension, or reconstruction (hereafter referred to as "work") of a nonconforming use or structure in the following manner:

- A. Elimination of nonconformity. The work shall be allowed in order to render the use or structure in conformity with this title;
- B. Reduction of nonconformity. Work that reduces, but does not entirely eliminate a nonconformity, shall be allowed in the following circumstances:
 - 1. Work which reduces the nonconformity of residential setbacks shall be allowed provided that the modified setback is at least ten feet if in the front yard, five feet if in the rear yard, and three feet if in the side yard; or
 - 2. Any other work provided that an administrative design review permit covering such work is approved in accordance with Chapter 17.60.
- C. Compliance with laws. The work shall be allowed in order to comply with any law enacted after December 31, 2017.
- D. Seismic retrofitting/building code compliance. Repairs or alterations otherwise required by law shall be allowed in the following circumstances:
 - 1. Reconstruction required to reinforce unreinforced masonry structures shall be allowed, provided the retrofitting is limited exclusively to compliance with earthquake safety standards in compliance with Chapter 15.44 (Earthquake Hazard Reduction in Existing Buildings); and
 - 2. Reconstruction required to comply with the City's adopted building code requirements shall be allowed, provided the retrofitting/code compliance is limited exclusively to compliance with earthquake safety standards and/or other applicable building code requirements, including State law (e.g., Title 24, California Code of Regulations, etc).
- E. Alteration or enlargement of a nonconforming structure.
 - 1. A nonconforming structure shall not be altered or enlarged so as to further increase the difference between existing conditions and the current development standards identified for the subject zoning district, unless a variance is obtained in compliance with Chapter 17.60. Alteration and enlargement may occur, but only in compliance with the current applicable development standards, or as otherwise allowed in this section.
 - 2. A nonconforming structure shall not be enlarged or moved unless the enlargement or new location conforms to the current development standards identified for the subject zoning district, or as otherwise allowed in this section.
- F. Alteration or enlargement of a nonconforming use shall require a permit.
 - 1. A nonconforming use may not be altered or enlarged unless a minor conditional use permit is first obtained, in accordance with Chapter 17.60.

2. The use shall comply with the performance standards and applicable development standards for the subject zoning district.
3. There shall be no expansion of a nonconforming use onto an additional lot, adjacent or otherwise.

G. Conforming Uses. A conforming use may be established, expanded and/or enlarged notwithstanding that a nonconforming structure (or on a lot with multiple uses, a nonconforming use) is located upon the same lot as such conforming use.

17.56.090 - Exemptions and Exceptions

A. Nonconformance with loading, parking, screening standards, and residential density. A use that does not conform with the loading, parking, planting area, screening standards or residential density of the zoning district in which it is located shall not be deemed a nonconforming use solely for these reasons.

B. Parking requirements for reuse of existing structures and residential additions.

1. In order to meet required parking pursuant to Chapter 17.68 or otherwise by this code, a nonresidential use occupying an existing structure (whether conforming or nonconforming) shall be credited with the largest number of parking spaces of:
 - a. The actual number of parking spaces provided;
 - b. The number of parking spaces required for the use last occupying the structure or applicable portion thereof; or
 - c. For uses in the C zone occupying under 2,500 square feet of floor area, the number of parking spaces required for the proposed use.
2. A nonresidential use occupying an existing structure (whether conforming or nonconforming) which is credited with fewer than the number of parking spaces required pursuant to Chapter 17.68 or otherwise by this code may nonetheless be approved with a minor conditional use permit in accordance with Chapter 17.60 upon the additional finding by the reviewing authority that such parking deficit will not unreasonably overload street parking or public parking facilities nor create a nuisance.
3. An addition or alteration to an existing residential structure for which additional parking spaces are required pursuant to Chapter 17.68 or otherwise by this code but does not provide any or all of such additional parking spaces may nonetheless be approved with a minor conditional use permit in accordance with Chapter 17.60 upon the additional finding by the reviewing authority that such parking deficit will not unreasonably overload street parking or public parking facilities nor create a nuisance.

C. Public utilities exempt. The foregoing provision of this chapter concerning the required removal of nonconforming uses and structures, and the reconstruction of nonconforming structures partially damaged or destroyed, shall not apply to a public utility structure that distributes a utility service (e.g., electric distribution and transmission substations, gas storage, metering, and valve control stations, steam electric generating stations, water wells and pumps, etc.); nor shall any provision of this chapter be construed or applied to prevent the expansion, modernization, or replacement of public utility structures, equipment, and features as

are used directly for the delivery of or distribution of the service; provided that this section shall not exempt the uses from the provisions of this chapter covering nonconformity of the uses or structures not immediately related to the direct service to consumers (e.g., storage yards, warehouses, etc.).

17.56.100 - Uses Requiring Conditional Use Permits

Notwithstanding the other provisions of this code, no use identified in this title as a "conditional use" that was lawfully in existence as of the effective date of these regulations, shall be deemed nonconforming solely by reason of the application of the minor conditional use permit/conditional use permit procedural requirements, in compliance with Chapter 17.60; provided, that:

- A. Use allowed with use permit approval. A land use that was legally established without a use permit, but would be required by current code provisions to have minor conditional use permit or conditional use permit approval, shall not be altered or enlarged in any way unless the applicable use permit is first obtained.
- B. Use no longer allowed with use permit approval. A land use that was established with minor conditional use permit or conditional use permit approval, but is not allowed with such approval by the current code, may continue only in compliance with the original use permit. If the original use permit specified a termination date, then the use shall terminate in compliance with the requirements of the use permit.

17.56.110 - Condemnation of a Portion of a Lot

- A. Failure to meet minimum requirements. A nonconforming structure located on property acquired for public use may be relocated on the same lot even though the current minimum lot area or setback requirements of this title cannot reasonably be complied with. Where a part of the structure is acquired for public use, the remainder of the structure may be reconstructed, remodeled, or repaired with the same or similar kind of materials used in the existing structure. However, the materials shall conform to the requirements of the City's adopted building code.
- B. Involuntary damage. A nonconforming structure, or portion thereof, located on the lot remaining after acquisition of the property for public use which is thereafter involuntarily damaged, may be rebuilt or reconstructed on the same lot even though the current minimum lot area or setback requirements of this title cannot reasonably be complied with. However, the floor area and cubical contents of the structure, or portion thereof, shall not be increased.
- C. Does not apply to uses. The provisions of this section shall not apply to a nonconforming use existing at the time of acquisition of the property for public use.

17.56.120 - Institutional Uses.

Institutional uses in commercial zones, in existence on November 8, 1994, shall be permitted to remain subject to conditions of existing conditional use permits or other

approvals, as long as the use is continued in existing facilities or is for expansion on properties upon which such existing facilities are located.

17.56.130 - Unlawful Uses and Structures

- A. Violations. Uses and structures that did not comply with the applicable provisions of this title or prior planning and zoning regulations when established are violations hereof and are subject to code enforcement and nuisance abatement provisions of this code.
- B. Illegal uses and structures prohibited. This chapter does not grant any right to continue occupancy of property containing an illegal use or structure.
- C. Permits required. The illegal use or structure shall not continue unless/until permits and entitlements required by this code are first obtained.

17.56.140 - Nuisance Abatement

In the event that a nonconforming use or structure is found to constitute a public nuisance, appropriate action shall be taken by the City, in compliance with Chapter 8.16 and other applicable codes and laws.

SECTION 2. Section 17.82.030 (“Definitions”) of Chapter 17.82 (“Historic Preservation”) of Title 17 (“Zoning”), is hereby amended to read as follows:

“Bed and breakfast inn” is a hotel that: (i) if in a converted single-family dwelling, has up to six units for transients, or if in a converted multi-family property, has up to twelve units for transients; (ii) has one unit for resident innkeeper(s); and (iii) which may include food or drinking service as permitted by a conditional use permit. The terms “hotel” and “transient” in this definition have the same definitions as set forth in Chapter 5.50, “Uniform Transient Occupancy Tax.”

SECTION 3. Section 17.82.065 (“Conversion of single family residences to bed and breakfast inns”) of Chapter 17.82 (“Historic Preservation”) of Title 17 (“Zoning”), is hereby amended to read as follows:

17.82.065 – Adaptive reuse of historic landmarks.

Notwithstanding any other provision of this code to the contrary, any historic landmark in a residential zone may be converted into a bed and breakfast inn, small entrepreneurial business, or service or professional office if a conditional use permit is issued in accordance with Chapter 17.60 and if all of the following additional findings are made:

- A. The proposed use will be consistent with the historic preservation objectives of the general plan,
- B. The proposed use will not be detrimental to the historic or architectural character of the historic landmark, and
- C. The proposed use is compatible with the neighborhood in which it is located.

SECTION 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared by a court of competent jurisdiction to be

unconstitutional or otherwise invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council declares that it would have adopted this ordinance and each subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, phrases, or portions be declared invalid or unconstitutional.

SECTION 5. Continuity. To the extent the provisions of this ordinance are substantially the same as previous provisions of the Sierra Madre Municipal Code, these provisions shall be construed as continuations of those provisions and not as new enactments.

SECTION 6. CEQA Finding. The City Council hereby finds that adoption of the amendments qualify for an exemption from California Environmental Quality Act review pursuant to Title 14, Section 15061(b)(3) of the California Code of Regulations as it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment, because it will provide regulations to help retain existing structures and uses in place, and impose certain limitations on their expansion; the amendments also apply to conversion of historic residential structures and are exempt for numerous reasons: all historic landmarks in the city that are single- or multi-family residences are located in residentially zoned areas; given the limited number of such structures, the number of conversions should be extremely limited; such conversions should include few, if any, modifications to the exterior of such structures, and only if such changes would not be detrimental to the historic or architectural character of the historical landmark.

SECTION 7. Effective Date. This ordinance is adopted by the City Council and shall take effect 30 days after adoption. This Ordinance and the City Clerk's certification, together with proof of publication, shall be entered in the Book of Ordinances of the City Council.

SECTION 8. Certification. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.

PASSED, APPROVED AND ADOPTED, this ____ day of _____, 2018

Rachelle Arizmendi, Mayor

ATTEST:

Melinda Carrillo, City Clerk

I, Melinda Carrillo, City Clerk of the City of Sierra Madre, California, do hereby certify that the foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Sierra Madre held on the ____ day of _____ 2018, and was adopted at its regular meeting of _____, 2018 by the following vote:

AYES:

NOES

ABSTAIN:

ABSENT:

EXHIBIT C

Nonconforming Uses Ordinance
(Existing)

Chapter 17.56 - NONCONFORMING USES

Sections:

17.56.010 - Nonconforming use limits.

While a nonconforming use exists on any lot, no additional use may be established thereon, even though such use would be a conforming use.

(Prior code § 9775)

17.56.020 - Removal of nonconforming buildings or change in status of nonconforming use.

If any nonconforming building is removed, every future use of the land on which the building is located shall conform to the provisions of this chapter. If a nonconforming use vacates and is succeeded by another and more restrictive use, it is presumed that the heavier nonconforming use has ended and thereupon immediately loses any vested right as such.

- A. If the substitute use is itself nonconforming, the degree of nonconformity shall not subsequently be increased by changing to a less restricted use.
- B. Required accessory buildings (garages, carports, etc.) which become nonconforming or are removed, destroyed or demolished by "act of God," "city abatement," or mandated or voluntary "rehabilitation" must be reconstructed and be made whole and conforming within one hundred eighty days of such nonconformity.
- C. Sites rendered nonconforming by reason of the conditions of subsections A and B of this section and by reason of the application of this section to such site, where same has occurred within the last thirty months (two and one-half years), shall conform with the provisions of this chapter within twelve months (one year) of the effective date of this chapter.

(Ord. 1011 § 1, 1983: prior code § 9776)

17.56.030 - Applicability.

The provisions of this chapter shall apply to buildings, lands and uses which hereafter become nonconforming due to any reclassification of zones under this chapter.

(Ord. 1011 § 1, 1983: prior code § 9777)

17.56.040 - Nonconforming use of land—No structure involved—Abatement.

In any zone the nonconforming use of land wherein no structure is involved shall be abated within five years from October 1, 1955, and any further use of such land shall conform to the provisions of this chapter. If the nonconforming use of land existing on October 1, 1955, is thereafter discontinued for six months or more, any future use of such land shall conform to the provisions of this chapter.

(Prior code § 9778)

17.56.050 - Nonconforming use of conforming buildings.

- A. In R or C Zones. All nonconforming uses of a conforming building in any of the R or C zones shall be discontinued within one year from the date of formal notice to the owner by the planning commission.

- B. In M Zones. The nonconforming use of a conforming building which is devoted to any residential purpose, hospital (except emergency hospitals), hotel, institution or home for the treatment of convalescent persons, alcoholics, the wounded or mentally infirm, lodgings, schools, trailers used for human habitation, or trailer parks shall be completely removed before the expiration of a ten-year period measured from the date this chapter becomes applicable to it.

(Prior code § 9779)

17.56.060 - Nonconforming use of nonconforming buildings.

The nonconforming use of a nonconforming building may be continued, and may be expanded or extended throughout such building so long as such nonconforming building remains nonconforming, provided no structural alterations are made except those required by law. A nonconforming use of a nonconforming building may be changed to another use of the same or more restricted classification.

(Prior code § 9780)

17.56.070 - Required removal of nonconforming buildings.

- A. In R Zones. Every nonconforming building in any of the R zones, except residential buildings, churches and schools, which nonconforming building was designed or intended for a use not permitted in the R zone in which it is located, shall be completely removed or altered to structurally conform to the uses permitted in the zone in which it is located within the herein specified times upon notice from the planning commission, which time is measured from the date of construction. In no case shall this period of time be less than five years from the date of notification by the planning commission. As used in this section, the designations "Type 1 Building," "Type 2 Building," "Type 3 Building," "Type 4 Building" and "Type 5 Building" are employed as defined in the existing building title.
1. If property is occupied by structures of a type for which the existing building ordinance does not require a building permit, one year;
 2. Type 4 or Type 5 buildings (light combustible frame and wood frame), forty years;
 3. Type 2 or Type 3 buildings (heavy timber construction and ordinary masonry):
 - a. Apartments, offices, hotels or residences having stores or offices below and apartments or offices above, thirty-five years,
 - b. Warehouses, stores, garages, lofts, thirty-five years,
 - c. Factories and industrial, forty-five years;
 4. Type 1 building (fire resistant):
 - a. Offices and hotels, forty-five years,
 - b. Theaters, fifty years,
 - c. Warehouses, lofts, stores, garages, forty-five years,
 - d. Industrial, thirty-five years.
- B. In M Zones.
1. In the M zones, any residential structures existing on October 1, 1955, shall be considered as nonconforming uses, but, as such, shall be subject only to that provision of this chapter which provides that a nonconforming building removed or destroyed shall not be replaced by other than a conforming building.

2. Every nonconforming building in the M zones which is used for, or devoted to, any hospital (except emergency hospitals), hotel, institution or home for the treatment of convalescent persons, alcoholics, the wounded or mentally infirm, lodgingshouses, schools, trailers used for human habitation, or trailer parks, and which nonconforming building was designed or intended for a use not permitted in the M zone in which it is located, shall be completely removed or altered to structurally conform to the uses permitted in the zone in which it is located within the herein specified times upon notice from the planning commission, which times are measured from the date of construction, except that in no case shall this period of time be less than five years from the date of such notice. As used in this section, the designations "Type 1 Building," "Type 2 Building," "Type 3 Building," "Type 4 Building" and "Type 5 Building" are employed as defined in the existing building title.
 - a. Where property is unimproved except for structures of a type for which the existing building title does not require a building permit, one year,
 - b. Type 4 or Type 5 buildings (light combustible frame and wood frame), forty years,
 - c. Type 2 or Type 3 buildings (heavy timber construction and ordinary masonry):
 - i. Apartments, offices, hotels or residences having stores or offices below and apartments or offices above, thirty-five years,
 - ii. Warehouses, stores, garages, lofts, thirty-five years,
 - iii. Factories and industrial, forty-five years,
 - d. Type 1 buildings (fire resistant):
 - i. Offices and hotels, forty-five years,
 - ii. Theaters, fifty years,
 - iii. Warehouses, lofts, stores, garages, forty-five years,
 - iv. Industrial, thirty-five years.

(Prior code § 9781)

17.56.080 - Commission to determine conditions of abatement.

When any nonconforming condition exists in any zone, other than the nonconforming use of land when no structure is involved, it shall be the responsibility of the planning commission, on its own initiative, to fix a date upon which the nonconforming building was established. It shall also be the responsibility of the planning commission to determine whether, by reason of structural alterations or enlargements, or the installation of major equipment designed into the building prior to the date this chapter becomes applicable thereto, it is deemed necessary to establish a later date for abatement than that prescribed herein for the building itself in order to assure that the investment represented by such structural alterations, enlargements or equipment installations may be amortized. In performing this function, the commission shall consider all pertinent data in connection therewith to provide the opportunity for the owner of record, or lessee, if there be such, to present such evidence as they may possess and which properly relates to such case. When the date of abatement has been determined the commission, by resolution, shall establish such date and shall set forth such facts as bear upon the case upon which the determination of such date of abatement is based, and shall formally notify the owner of such nonconforming property of the action of the commission by mailing to such owner a copy of the formally adopted resolution not later than ten days following the date of subject action by the planning commission.

(Prior code § 9782)

17.56.090 - Reconstruction of nonconforming building destroyed.

- A. Nonresidential Structures. A nonconforming nonresidential building destroyed to the extent of not more than fifty percent of its value at the time of its destruction by fire, explosion or other casualty or act of God or the public enemy, may be restored and occupancy or use of such building or part thereof which existed at the time of such destruction may be continued subject to all other provisions of this title.
- B. Residential Structures. A nonconforming residential building destroyed by fire, explosion or other casualty or act of God or the public enemy, may be restored and occupancy or use of such building or part thereof which existed at the time of such destruction may be continued subject to all other provisions of this title. If reconstruction of a residential structure lawfully existing on a residentially zoned parcel at the time of its destruction cannot be accomplished in compliance with all other provisions of this title, then the city shall grant such variances as are necessary to allow reconstruction of a residence on the site to the same size, scope and footprint as existed previously, as necessary to avoid denying the property owner a reasonable economic use of the parcel.

(Ord. 1256 § 1 (Exh. A (part)), 2006: prior code § 9783)

17.56.100 - Alteration of nonconforming buildings—Inadequate yards.

Where a building or buildings, and customary accessory building, are nonconforming only by reason of substandard yards or open spaces, the provisions of this chapter prohibiting structural alterations or enlargements shall not apply, provided that any structural alterations of an existing building shall not increase the degree of nonconformity of yards or open spaces and any enlargements shall observe the yards and open spaces required on such lot.

(Prior code § 9784)

17.56.110 - Public utility exemptions.

The foregoing provisions of this chapter concerning the required removal of nonconforming buildings and uses, and the reconstruction of nonconforming buildings partially destroyed, shall not apply to public utility buildings and structures when such buildings and structures pertain directly to the rendering of the service distribution such as power-generating plants and electrical distribution substations, water wells and pumps, gas storage metering and valve control stations. Nor shall anything in this chapter be construed or applied so as to prevent the expansion, modernization or replacement of such public utility buildings, structures, equipment and features as are used directly for the delivery or distribution of the service, provided the provisions of this section shall not exempt from the provisions covering nonconformity of such buildings, structures or uses as do not immediately relate to the direct service by consumers such as warehouses, storage yards and the like.

(Prior code § 9785)

17.56.120 - Nonprofit organizations and places of worship.

Nonprofit organizations and places of worship in commercial zones, in existence on November 8, 1994, shall be permitted to remain subject to conditional use permits, and may renew conditional use permits, as long as the use is continued in existing facilities or is for expansion on existing properties which have tax-exempt status.

(Ord. 1135 § 6, 1996: Ord. 1116 § 5, 1994: Ord. 1115 § 5, 1994)

EXHIBIT D

Historic Preservation Ordinance
Chapter 17.82
(Redlined)

Chapter 17.82 - HISTORIC PRESERVATION

Sections:

17.82.010 - Scope.

- A. This chapter shall be known as the historic preservation ordinance by the city of Sierra Madre.
- B. This chapter shall be voluntary and, notwithstanding any other provision of this chapter, shall be so interpreted so as not to impose any burden, limitation or restriction of property rights (or with regard to procedures with regard thereto) without prior consent of the respective property owners, provided that once a property has been designated by the city council, with the consent of the property owner, as a historical landmark then this chapter shall no longer be voluntary and all provisions shall apply.

(Ord. 1134 § 2 (part), 1997)

17.82.020 - Purpose and intent.

Whereas, the city council has determined:

- A. That the character and history of the city are reflected in its cultural, historical and architectural heritage;
- B. That these historic 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;
- C. That the city's total number of public, commercial and residential structures is fewer than three thousand five hundred units, and that without diligent efforts to minimize the demolition and loss of the city's historical landmarks, the rich heritage of the city will be eroded over time;
- D. That pursuant to the provisions of the National Historic Preservation Act of 1966, as amended, the city of Sierra Madre, 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 and historical heritage;
- E. Therefore, the purpose of this chapter is the protection, appreciation and preservation of the historic landmarks of the city through a partnership between the cultural heritage commission and the property owners/residents, the business sector and the community at large to retain and protect those historic landmarks which preserve and enhance our small town atmosphere and:
 - 1. To safeguard the city's unique historic heritage as embodied and reflected in the city's diverse architectural and cultural history,
 - 2. To encourage and facilitate public knowledge, understanding and appreciation of the city's historic past and unique sense of place,
 - 3. To foster civic and neighborhood pride and a sense of identity based on the recognition and use of historic resources,
 - 4. To promote the enjoyment, celebration and use of historic resources appropriate for the education and recreation of the people of the city,
 - 5. 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 environment,

6. To enhance property values and to increase economic and financial benefits to the city and its inhabitants through the exploration of creative financial incentives for preservation,
7. To protect and enhance the city's attraction to tourists and visitors thereby stimulating commerce,
8. To identify as early as possible and resolve conflicts between the preservation of historic landmarks and alternative land uses,
9. To integrate the preservation of historic landmarks into public and private land use management and development processes,
10. To conserve valuable material and energy resources by ongoing use and revitalization of the existing built environment,
11. To stabilize neighborhoods through the preservation of historic landmarks,
12. To encourage public awareness and participation in identifying and preserving historical and architectural landmarks, thereby increasing community pride in the city's historical heritage,
13. To identify and make available the economic benefits of preservation of historic resources to the city and its inhabitants,
14. To take all reasonable and necessary steps to safeguard the property rights of owners of properties which are subject to this chapter.

(Ord. 1134 § 2 (part), 1997)

17.82.030 - Definitions.

As used in this chapter:

"Alteration" means any change or modification through public or private action, to the exterior historical character defining or significant architectural features of properties affected by this chapter. This is in contrast to "ordinary repairs and maintenance," as defined below.

"Appeal" is a written request submitted to the city clerk by a person not satisfied with the decision or determination of the commission. Appeals will be heard before the city council at a public hearing.

"Bed and breakfast inn" is a hotel that: (i) ~~if in a converted single-family dwelling,~~ has up to six units for transients ~~and, or if in a converted multi-family property, has up to twelve units for transients;~~ (ii) ~~has~~ one unit for ~~any~~ resident innkeeper(s); ~~(ii) is a converted single-family dwelling;~~ and (iii) which may include food or drinking service as permitted by a conditional use permit. The terms "hotel" and "transient" in this definition have the same definitions as set forth in Chapter 5.50, "Uniform Transient Occupancy Tax."

"Certificate of appropriateness" is a certificate issued by the commission approving such plans, specifications, statements of work, or any other information which is reasonably required by the commission to make a decision on any proposed alteration, restoration, rehabilitation, construction, removal, relocation or demolition, in whole or in part, of or to a historic landmark.

"Certificate of economic hardship" is a certificate authorizing work described in the accompanying certificate of appropriateness granted by the commission because of extreme financial impact or adversity and in accordance with the procedures and findings of this chapter.

"Character defining feature" means an identifiable manmade or natural element, style, design arrangement, detail or material, or landscape arrangement, which embodies or contributes to the recognizable historic value, consistent with the designation criteria in this chapter.

"Demolition" means any act or process that destroys or damages in part or in whole, an historic landmark, or property identified as a potential historic resource.

"Designation statement" means a document prepared by the commission which contains a specific description of the designated historic landmark or historic district, containing the following information:

1. Assessor's parcel number(s);
2. Site address;
3. Identification of the specific elements, improvements or natural features to be included in the designation and subject to the provisions of this chapter, per Section 17.82.040(B).

"Historic landmark" means any improvement or natural feature that meets the criteria listed in this ordinance and is designated by the city council pursuant to this ordinance or nominated to the National Register of Historic Places. Until the designation is finalized, the property shall be referred to as a "potential historical resource" as defined below.

"Improvement" means any manmade physical object or structure, or manmade alteration of terrain or plantings, constituting a physical feature of real property.

"Natural feature" means any geographical or geological site or feature subject to the provisions of this chapter.

"Ordinary maintenance and repair" means any work, for which a building permit is not required by law, where the purpose and effect of such work is upkeep, or correction of deterioration or damage to an historic resource or any part thereof, and to restore the same to its condition prior to the occurrence of such deterioration or damage. This is in contrast to "alteration," as defined above.

"Potential historic resource" means a property which has been identified on a survey conducted by the city and adopted by the city council which contains a list of properties and all relevant corresponding documentation indicating that the identified properties meet the criteria for "historic landmark" as defined herein.

"Preservation" means the identification, study, protection, restoration, rehabilitation or acquisition of historic landmarks.

"Register of historic landmark" means the list of properties located within the city that identifies the properties designated as historic landmarks.

"Rehabilitation" means the act or process of returning an improvement or site to a condition of utilization, through repair, remodeling or alteration, that makes possible an efficient contemporary use while preserving those portions or features of the improvement or site that are significant to its historic values.

"Restoration" means the act or process of accurately recovering the form and details of an improvement or natural feature and its setting as it appeared at a particular period of time, by means of removal of later additions to, by replacement of missing earlier portions of, and the correction of deteriorated conditions in, the improvement or natural feature.

"Secretary of the Interior Standards and Rehabilitation" means the guidelines prepared by the National Park Service for Rehabilitating Historic Buildings and the Standards for Historic Preservation Projects prepared by the Park Service with Guidelines for Applying the Standards.

"Substantial adverse change" means demolition, destruction, relocation or alteration such that the significance of an historical resource would be impaired.

"Survey" means a list of properties for which the city has obtained verifiable documentation that said properties meet the designation criteria contained in Section 17.82.070 herein, and, which the city council has (with the consent of the owners) adopted as the official survey of the city.

(Ord. 1134 § 2 (part), 1997)

(Ord. No. 1329, § 1, 5-22-2012)

17.82.040 - Classification of landmarks and inclusion of previous designations.

- A. Historic landmarks shall be classified as potential historic resources or historic landmarks.
- B. Provisions of this chapter shall be applicable to exterior elements of properties affected by this chapter, and expressly do not apply to building interiors. As part of the designation statement, the commission shall identify the particular elements, improvements or natural features to be included in the designation, and which will be subject to the provisions of this chapter as having historical value.
- C. The ordinance codified in this chapter is adopted without designating any property as a historic landmark. Ordinance No. 1036 is repealed except for the list of properties designated as historic landmarks thereunder. Properties designated as historic landmarks under Ordinance 1036 shall remain as such until property designations thereunder are de-designated or de-listed by appropriate procedures according to law.

(Ord. 1134 § 2 (part), 1997)

17.82.050 - Designation criteria.

For the purposes of this chapter, an improvement, natural feature, or site may be designated a historic landmark by the city council upon a recommendation by the commission if it meets at least one of the following criteria:

- A. Historic. It was the site of, or is associated with local, state or national cultural, social, economic, political or natural history, events or persons significant to the history of Sierra Madre, or 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.
- B. Architectural. It is representative of the work or is one of a few remaining examples of a notable builder, designer or architect, or, it embodies distinctive characteristics of a style, type, period or method of construction, or, is a valuable example of architectural achievement or innovation such as the use of indigenous materials or craftsmanship.

(Ord. 1134 § 2 (part), 1997)

17.82.060 - Benefits and conditions of designation.

- A. Conditions for Benefits.
 - 1. Benefits shall only be available for structures listed on the city's register of historic landmarks and subject to this chapter at time for which application for financial benefits is made.
 - 2. Historic landmarks must be maintained in reasonable condition in accordance with the Secretary of Interior's Standards for Rehabilitation.
 - 3. In order to qualify for benefits, owners of historic landmarks must submit plans for rehabilitation or restoration to the commission for review to ensure that the work is undertaken in accordance with the Secretary of the Interior's Standards for Rehabilitation. Ordinary repair and maintenance is exempted, per Section 17.82.130 of this chapter.
- B. The property owner of a historic landmark in compliance with the above conditions may receive benefits including the following and any others established as policy of the city council:
 - 1. Waiver of city building permit and plan check fees as established by resolution of the city council;

2. Use of the State Historical Building Code (SHBC) as the governing building code. The SHBC provides alternative building regulations to facilitate rehabilitation, preservation, restoration or relocation;
3. Mills Act contracts approved by the city council;
4. Change of use, subject to a conditional use permit granted by the planning commission pursuant to Section 17.60, to facilitate adaptive reuse of historic landmarks.

(Ord. 1134 § 2 (part), 1997)

(Ord. No. 1329, § 2, 5-22-2012)

17.82.065 - ~~Conversion of single family residences to bed and breakfast inns~~ Adaptive reuse of historic landmarks.

Notwithstanding any other provision of this code to the contrary, any ~~single family residence that is a~~ historic landmark in a residential zone may be converted into a bed and breakfast inn, small entrepreneurial business, or service or professional office if a conditional use permit is issued ~~pursuant to Section~~ in accordance with Chapter 17.60-040 and if all of the following additional findings are made:

- A. The proposed use will be consistent with the historic preservation objectives of the general plan~~;~~
- B. The proposed use will not be detrimental to the historic or architectural character of the historic landmark~~;~~ and
- C. The proposed use is compatible with the neighborhood in which it is located.

(Ord. No. 1329, § 3, 5-22-2012)

17.82.070 - Designation procedures.

Historical landmarks shall be established by the city council in the following manner:

- A. Any person or group may request the designation of an improvement, natural feature or site as a historic landmark by submitting a nomination application for such designation to the commission. The nomination application shall contain sufficient documentation and information indicating how the nominated resource meets the criteria for designation as indicated in this chapter. The commission or city council may also initiate such proceedings on their own motion.
- B. Notification of the nomination shall be sent to the property owner(s) and occupant(s) of the property within thirty days of the receipt of the nomination. No application shall be accepted or processed unless accompanied by the written consent of the property owner.
- C. The commission shall schedule a public hearing, for the earliest possible meeting of the commission.
- D. No permits shall be issued by the city for demolition, alteration or building, while the public hearing or any appeal related thereto is pending.
- E. Notice of the public hearing, including its place, date, time and purpose, shall be given by first class mail, return receipt requested, at least thirty days prior to the date of the public hearing, and also shall be advertised at least once in a newspaper of general circulation. Mail notification shall be provided to the applicant and all other owners and occupants of properties with the proposed resource, using the name and address of such owners as shown on the latest equalized assessment rolls.

- F. At the conclusion of the public hearing, but in no event more than sixty days from the date set for the initial public hearing, the commission shall make a recommendation to the city council, which shall include findings of fact relating to the criteria for designation in Section 17.82.050 that constitute the basis for its decision and shall transmit its recommendation to the city council, the property owner, and the applicant. The recommendation can be as follows:
 - 1. Adoption of a designation statement, prepared pursuant to the public hearing, with approval in whole or in part;
 - 2. Disapproval in whole or in part, of the application.
- G. The city council, within thirty days of receipt of the recommendations of the commission, shall either adopt the designation statement by resolution or shall by motion disapprove it in its entirety.
- H. Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation. The commission and council may also give such other notice as they may deem desirable and practicable.
- I. The city shall record such designation with the county recorder of Los Angeles County with the written consent of the owner.
- J. Designations hereunder shall not excuse such property from any other provisions of the municipal code.

(Ord. 1134 § 2 (part), 1997)

17.82.080 - Requests to de-designate.

- A. The application shall set forth the factual basis for the request, including supporting materials, and shall be granted if the finding can be made that the information relied upon by the commission or the city council in making the designation is discovered to be false or substantially erroneous thus rendering the property without historic merit.
- B. The application shall be submitted to the commission, and a public hearing shall be set at the earliest commission meeting after the application is filed. The commission's recommendation shall be forwarded to the city council, which will render a final decision and determine compliance with the California Environmental Quality Act.
- C. Open Period of De-Listing. For a period of one hundred twenty days following the effective date of the ordinance codified in this chapter (or any later court validation thereof), the owner or owners of any property presently listed as an historic landmark under Ordinance 1036 or 1134 may petition the city council for declassification or de-listing from such classification. Application shall be made by written request, properly dated and signed; there shall be no charge for such application.
 - 1. Upon receipt of such petition, the property shall automatically thereafter be declassified from the effects of Ordinances 1036 and 1134 without any further action by the city or the city council.
 - 2. Such declassification or de-listing from the impact of Ordinances 1036 and 1134 shall not affect the application or demolition of the de-listed properties in the future.

(Ord. I-01-1 § 2, 2002; Ord. 1134 § 2 (part), 1997)

17.82.090 - Certificates of appropriateness.

- A. All permits for alteration, restoration, rehabilitation, remodeling, addition, change of use, demolition or relocation of historic landmarks, which alter the exterior appearance as seen from public view shall require a certificate of appropriateness from the commission.

- B. No permits for work on a property in the process of being considered for designation shall be awarded until a certificate of appropriateness, if applicable, has been secured.
- C. All applications for certificates of appropriateness shall be submitted to the director of planning and community preservation for commission approval. The director shall forward the request to the commission within thirty days of receipt. The commission shall have sixty days to render a decision regarding the application. The applicant is encouraged to confer with the commission prior to submitting an application.
- D. The commission shall promulgate and publish such standards as are a necessary supplement to the provisions of this chapter to inform property owners and the general public of those standards of review by which applications for certificates of appropriateness are to be judged.
- E. In evaluating applications for certificates of appropriateness, the commission or the city council upon appeal shall consider the existing and proposed exterior architectural style, design, arrangement, texture, materials, and any other factors with regard to the original distinguishing architectural characteristics of the historic landmark. Using the Secretary of the Interior's Standards for Rehabilitation as a guide, the commission or city council upon appeal shall approve the issuance of a certificate of appropriateness for any proposed work if and only if it makes the following findings:
 - 1. With regard to a historic landmark, the proposed work will neither adversely affect the integrity of the significant architectural features, nor adversely affect the historic character or value of the historic landmark.
 - 2. In the case of construction of a new improvement, addition, building or structure upon a designated historic landmark site, the use and exterior of such improvements will not adversely affect and will be compatible with the use and exterior of the historic landmark.
- F. Any request for the demolition of a designated historic landmark shall be accompanied by application for certificate of appropriateness or a certificate of economic hardship as described in Section 17.82.100.
- G. Demolition of an historic landmark may be approved only in connection with an approval of a replacement project.
- H. Applications for certificates of appropriateness shall be filed with the city's department of planning and community preservation for processing. Applications shall include specific submittal requirements as determined by the commission and made available to the applicant. Where required by the commission, applications shall also show the relationship of the proposed work to the surrounding environs. The application shall be accompanied by any other information that the commission determines is required for them to make an informed judgment of the proposed work according to the standards of review in Section 17.82.090.
- I. After the permit has been issued, the building inspector shall inspect the work approved by the commission in order to assure compliance. If the work is not being performed in accordance with the certificate of appropriateness, a stop work order shall be issued and all work shall cease.

(Ord. 1134 § 2 (part), 1997)

(Ord. No. 1363, § 3, 3-24-15)

17.82.100 - Certificate of economic hardship.

The owner of a historic landmark may apply for a certificate of economic hardship. This request shall be on an application form provided by the city manager.

- A. The owner shall have the burden of proof, by clear and convincing evidence, that the economic hardship caused by designation is disproportionate to the value of the property with the designation in place.

- B. The commission shall consider the cost of the stabilization of the historic elements of the property as it relates to the appraised value, and evidence of the economic return of maintaining the designation versus other proposed uses.
- C. The application shall be submitted to the commission, and a public hearing shall be set at the earliest commission meeting after the application is filed.
- D. After the public hearing, the commission shall recommend in writing that the city council either grant or deny the request. The recommendation shall be based on one or more of the following findings:
 - 1. Sale or lease of the property is impractical in comparison to holding the property;
 - 2. Denial of the request will diminish the value of the property so as to leave substantially no value, or damage the owner unreasonably in comparison to benefits conferred on the community;
 - 3. An adaptive reuse study has been satisfactorily conducted, and found that utilization of the property for other lawful uses is not feasible, or that it would not allow a reasonable rate of return to the owner;
 - 4. A rehabilitation study has been satisfactorily conducted, and that it would not allow a reasonable rate of return to the owner;
 - 5. All means have been explored to relieve possible economic disincentives to no avail, involving city-sponsored incentives as of rights, tax abatements, financial assistance, application of the SHBC, zoning variances, loans, grants or reimbursements;
 - 6. The owner has made every possible effort to find a willing buyer for the property who would agree to restore the historic landmark and has not been able to find a buyer who would offer a purchase price which afforded the owner a reasonable rate of return.

(Ord. 1134 § 2 (part), 1997)

17.82.110 - Substantial alterations.

Any substantial adverse change to an historic landmark shall be subject to the provisions of the Municipal Code governing demolitions.

(Ord. 1134 § 2 (part), 1997)

17.82.120 - Appeals.

Any action by the commission may be appealed by any interested party to the city council including but not limited to the following:

- A. The commission's decision not to hold a public hearing on an application for designation;
- B. A determination made after a public hearing that a property(ies) is not determined to be a historic landmark, potential resource or on any survey list;
- C. The commission's decision to grant or to not grant a certificate of appropriateness or certificate of economic hardship.

Any interested party may appeal by filing a notice of appeal with the city council not later than fourteen days after the commission's written decision has been filed with the city clerk.

(Ord. 1134 § 2 (part), 1997)

17.82.130 - Ordinary maintenance and repair.

- A. Owners shall not be prevented from undertaking ordinary maintenance and repair as defined in this chapter.
- B. For demolition, removal, repairs or alteration for any element covered by this chapter, when the building department certifies to the commission that such action is required for the public safety due to an unsafe or dangerous condition, a permit may be issued under one of the following conditions:
 - 1. The condition cannot be rectified through the use of the California State Historical Building Code;
 - 2. Temporary repairs are necessary on an emergency basis;
 - 3. When the element shall be replaced according to the Secretary of the Interior's Standards for Rehabilitation.

(Ord. 1134 § 2 (part), 1997)

17.82.140 - Severability.

If any section, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council declares that it would have passed the ordinance codified in this chapter and adopted this chapter, and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

(Ord. 1134 § 2 (part), 1997)