

DRAFT COPY OF PROPOSED CHANGES
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Chapter 23.76 HISTORIC PRESERVATION

23.76.010 Purpose.

The protection, enhancement, perpetuation and use of structures and neighborhoods of historical and architectural significance located within the city are of cultural and aesthetic benefit to the community. The economic, cultural and aesthetic standing of the city will be enhanced by respecting the city's heritage. The purposes of this chapter are to:

- (a) Preserve, protect, enhance and perpetuate those historic structures and neighborhoods which contribute to the cultural and aesthetic heritage of Pacific Grove;
- (b) Further the city's goals of rehabilitating the existing housing stock and protecting the affordable housing supply through preservation and adaptive reuse of historic buildings;
- (c) Foster civic pride in the beauty and accomplishments of the past;
- (d) Preserve buildings significantly identified with people or events of historical and cultural importance to Pacific Grove's past;
- (e) Enrich the dimensions of human life by serving aesthetic as well as material needs and fostering knowledge of the living heritage of the past;
- (f) Enhance the visual and aesthetic character, diversity and interest of the city by maintaining the existing scale and the eclectic styles of buildings and their settings;
- (g) Control the demolition of historic structures in order to preserve, to the greatest extent feasible, the diverse qualities that define the character of the community of Pacific Grove and that reflect the distinct phases of its cultural and architectural history;
- (h) Enhance property values and increase economic and financial benefits to the city, its inhabitants, and property owners;
- (i) Protect and enhance the city's attraction to tourists and visitors, thereby stimulating business;
- (j) Conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.020 Definitions.

Throughout this chapter, the following definitions shall apply:

- (a) "Addition" means expansion of the size of a historic building by construction physically connected with the existing structure.
- (b) "Alteration" means any exterior change or modification to a structure, ~~which alters fifty percent or less of the total lateral length of the exterior walls,~~

~~including porches and other projections, within a twenty-four month period. However, if the proposed modification alters~~

Alteration of more than twenty-five percent of the surface of all each exterior walls facing that faces a public street, this shall constitute a demolition; see the definition of demolition in subsection (c) below.

Exception: Maintenance and repair as defined in Section 23.76.020(i). Painting is also exempt.

(c) “Demolition” means an act or process which destroys, dismantles or engulfs a building, or a major portion of a building, or impairs its structural integrity. Demolition includes:

(1) Destruction of the entire building.

(2) “Partial Demolition:” all changes alterations to the exterior of a building that exceed twenty-five percent (25%) of the surface of each wall that faces a public street; and/or that removes or obscures more than fifty percent (50%) of the total lateral length of exterior walls within a twenty-four month period. Alterations to windows, doors, porches, and architectural features and projections are included in determining partial demolition calculations. Additions and features that are not original and/or that have not acquired historic and/or architectural significance in their own right will not be included in partial demolition calculations; Sanborn maps, building permit records, photographs, and other acceptable forms of documentation will be used by the Community Development Department in this assessment, including but not limited to moving or removing windows, doorways, walls, or other structural features, if such changes alter more than twenty-five percent of the surface of all exterior walls facing a public street or streets, and/or if these changes alter more than fifty percent of the total lateral length of the exterior walls, including porches and other projections of the building, within a twenty-four month period.

Exception: Maintenance and repair as defined in Section 23.76.020(i).

(d) “Dismantle” means to disconnect or disassemble exterior walls and/or floors either on a temporary or permanent basis.

(e) “Engulfment” means an addition(s) that impedes the ability to visually interpret the exterior characteristics of the historic period as determined by the historic resources committee. Engulfment shall be considered a de facto demolition.

(f) “Historic resources committee” means a committee created to perform certain duties hereunder, as more particularly set out at Section 23.76.021.

(g) “Historic resources inventory” means:

(1) A list of architecturally and/or historically significant structures surveyed and documented by the city of Pacific Grove.

(2) Properties seventy-five (75) years or older may be eligible for the historic resources inventory.

(3) Other properties determined by the historic resources committee to be of architectural and/or historical significance. Owner consent is not required.

The historic resources inventory is a ~~the~~ list of existing structures initiated in 1978 through a matching grant from the State Office of Historic Preservation and adopted by the city of Pacific Grove. The list was updated by the Heritage Society and the city of Pacific Grove to include structures built prior to 1927. This date was chosen because of the existence of two separate sources of verification, the 1926 Sanborn maps and the 1926 county assessor's records. Each structure was visited and viewed to determine its suitability for the list. Poor condition was not a reason for exclusion. However, inappropriate and/or irreversible external alterations which resulted in a structure's loss of integrity led to the exclusion of the structure from the list.

(h) "Integrity" means the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's historic period.

(i) "Maintenance and repair" means the act or process of conserving or repairing a structure without modifying the form, detail, or type of material. Maintenance and repair includes the placement of a concrete foundation for buildings and structures listed on the city's historic resources inventory.

(j) "Reconstruction" means the process of reproducing by new construction the exact form and detail of a vanished structure, or part thereof, as it appeared during a specific period of time.

(k) "Rehabilitation" means the process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

(l) "Relocation" means any change in the location of a structure on its site or to another site.

(m) "Replication" means when the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(n) "Restoration" means the process of returning a building to a documented prior condition.

(Ord. 01-25 § 1 (part), 2001; Ord. 97-23 § (1 (part), 1997).

23.76.021 Historic resources committee.

(a) The historic resources committee shall consist of seven members having a demonstrated interest in and knowledge of historic preservation and the cultural resources of Pacific Grove. One of the members shall be a licensed architect with preservation experience, one shall be a licensed general contractor with preservation experience, and one shall be a representative of the Heritage Society.

(b) The mayor, with approval of the council, shall appoint all members, provided that the Heritage Society shall appoint its member. Terms of all members shall be two years. Three of the committee members shall be appointed for terms ending on

January thirty-first in even-numbered years and four shall be appointed for terms ending on January thirty-first in odd-numbered years.

(c) The committee shall select one of the membership to be chairperson for a one-year term, to commence at the first meeting in February.

(d) All meetings shall be open to the public and shall be held at a time and place determined to facilitate public convenience and involvement.

(e) The committee shall meet no less frequently than once a month.

(f) Powers and duties of the committee shall be as follows:

(1) Determination of additions and deletions from the historic resources inventory, per Section 23.76.030;

(2) Participate in development, ~~and distribution, and presentation of~~ public information materials related to the City's historic resources inventory and historic preservation goals and policies.

(3) Make recommendations for the update of the historic preservation ordinance.

(4) Other duties as set out in this chapter or as directed by the city council.

(g) An affirmative vote of a majority of the total four or more members of the historic resources committee shall be required for any action by the committee.

(Ord. 02-30 § 13, 2002; Ord. 01-25 § 1 (part), 2001; Ord. 97-23 § 1 (part), 1997).

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23.76.025 Evaluation criteria.

The following shall be utilized as criteria as required in this chapter.

(a) Whether the structure has significant character, interest or value as part of the development, heritage or cultural characteristics of the city of Pacific Grove, the state of California, or the United States;

(b) Whether it is the site of a significant historic event;

(c) Whether it is strongly identified with a person who, or an organization which, significantly contributed to the culture, history or development of the city of Pacific Grove;

(d) Whether it is a particularly good example of a period or style;

(e) Whether it is one of the few remaining examples in the city of Pacific Grove possessing distinguishing characteristics of an architectural type or specimen;

(f) Whether it is a notable work of an architect or master builder whose individual work has significantly influenced the development of the city of Pacific Grove;

(g) Whether it embodies elements of architectural design, detail, materials or craftsmanship that represent a significant architectural innovation;

(h) Whether it has a unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community, or of the city of Pacific Grove;

(i) Whether it retains the integrity of the original design;

(j) Whether it contributes to the architectural aesthetics and continuity of the street;

(k) Whether it is located within a geographically definable area possessing a concentration of historic properties which visually contribute to each other and are unified aesthetically.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.030 Historic resources inventory — ~~Additions and deletions~~Maintenance of the List

(a) Properties may be scheduled for added review by the historic resources committee for determination of inventory status either by written request of the property owner, the Heritage Society of Pacific Grove, the Community Development Department staff, or a vote of three members of the historic resources committee. The historic resources committee shall determine, following hearing, whether or not the property should be added based on at least one of the criteria listed in Section 23.76.025.

(b) Property owners, the Heritage Society of Pacific Grove, the Community Development Department staff, or a vote of three members of the historic resources committee may request that their a property be deleted from the historic resources inventory by submitting a written request to the historic resources committee. The historic resources committee shall determine, following hearing, whether or not the property should be deleted based on the criteria listed in Section 23.76.025.

(c) Administrative changes to the historic resources inventory necessary to correct errors or due to address changes shall not be subject to public hearing and shall be completed by Community Development Department staff and approved by the Community Development Director. Administrative changes shall be reported to the historic resources committee at its next scheduled meeting.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.040 State Historic Building Code.

The California State Historic Building Code (SHBC) provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of structures designated as cultural resources. As required by state law, the SHBC shall be used for buildings on the historic resources inventory in the city's building permit procedure.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.050 Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent ordinary maintenance and repair of a building on the historic resources inventory. Repair and reuse of existing materials is strongly encouraged. Replication is a secondary option. (Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.060 Incentive — Exceptions to land use regulations.

Following notice of hearing (ten days published and posted), the architectural review board may grant an historic preservation permit for an exception to zoning district regulations when such exception is necessary to permit the preservation or restoration of, or improvements to, a building listed on the historic resources inventory. Such exceptions may include, but not be limited to, parking, yards, height and coverage regulations. Such exceptions shall not include approval of uses not otherwise allowed by the zoning district regulations. In considering an application for such exception, the architectural review board shall be directed and guided by the list of purposes found in Section 23.76.010 and by Section 23.04.010.

Projects that conform to the *Architectural Review Guidelines*, the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, and the "Design Criteria" of the City of Pacific Grove or succeeding document(s) may be exempt from architectural review.

An historic preservation permit will not be granted when the proposed alterations change the building in such a way that it no longer qualifies for inclusion on the historic resource inventory based on the criteria listed in Section 23.76.025.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.070 Unsafe or dangerous conditions.

None of the provisions of this chapter shall be construed to prevent construction, alteration, demolition or relocation necessary to correct the unsafe or dangerous conditions, as defined in applicable building codes, of any structure feature, or part thereof, when such condition has been declared unsafe or dangerous by the chief building inspector, where such unsafe or dangerous condition cannot be rectified through the use of the State Historic Building Code, and where the proposed measures have been declared necessary by such official to correct the said condition. However, only such

work as is necessary to correct the unsafe or dangerous condition may be performed and only after obtaining any required building permit. In the event any structure or other feature is damaged by fire or other calamity, the chief building inspector may specify, prior to any required review by the historic resources committee, or the architectural review board, the amount of repair necessary to correct an unsafe condition. Such determination shall be made in conformance with the provisions of Public Resources Code Section 5028.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.080 Additions and alterations to historic structures.

The following shall apply to additions and alterations made to historic structures in the city of Pacific Grove:

(a) No person shall carry out or cause to be carried out on a building listed in the city of Pacific Grove historic resources inventory, any addition to, or exterior alteration of, any such building without first obtaining approval by the architectural review board, or administrative architectural approval by the Community Development Department. This provision applies to changes not requiring building permits as well as to changes requiring a building permit. Without limitation, examples of proposed exterior changes that must be approved by the architectural review board before they are carried out include: changing the profile of the building; closing or changing the dimensions of existing window or door openings; adding windows or doors, changing window or door framing materials, changing the type of roof or exterior wall materials and/or trim materials.

(b) Repair and reuse of existing materials to the greatest extent feasible is required of all alterations of a building listed on the city of Pacific Grove history resources inventory.

(c) In reviewing applications for additions to, or exterior alteration of, historic buildings, the architectural review board shall ~~consider~~ apply the criteria listed in Section 23.79.025, the Architectural Review Guidelines, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the "Design Criteria" of the City of Pacific Grove or succeeding document(s).

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.090 Demolitions.

Unless they are replaced, units lost from the existing housing supply can adversely affect the availability and affordability of housing. The City encourages preservation of its current housing stock by limiting demolitions and conversions. (City of Pacific Grove General Plan 3.5)

The following shall apply to demolitions and/or partial demolitions of historic structures in the city of Pacific Grove:

(a) Any person desiring to demolish or partially demolish a building listed on the Pacific Grove historic resources inventory shall file an application for a historic demolition permit with the Community Development Department.

Exceptions: Single-story detached garages, sheds, or other accessory buildings with no identified historic, cultural or architectural value, as determined by the Community Development director, shall be exempt from this requirement.

(b) Following ten days' posting and notice of hearing, the architectural review board shall hold a public hearing to consider the application. The following information shall be provided to the architectural review board:

(1) The chief building inspector's evaluation of the stability of the building proposed for demolition;

(2) any other information deemed necessary by the ~~historic resources committee~~ architectural review board to evaluate the application.

(c) Following the public hearing, the architectural review board shall take one of the following actions:

(1) Approve the permit;

(2) Approve the permit subject to a waiting period of up to one hundred eighty days to consider documentation, relocation or other alternatives to demolition, after which waiting period the permit is deemed approved;

(i) During the waiting period, the applicant shall advertise the proposed demolition in a paper of general circulation in the city of Pacific Grove at least once during the first thirty days following the action by the ~~historic resources committee~~ architectural review board. Such advertisement shall include the address at which the structure proposed for demolition is located, information as to how arrangements can be made for relocation and the date after which a demolition permit may be issued. Evidence of this publication must be submitted to the Community Development director prior to issuance of a demolition permit.

(ii) During the waiting period, the architectural review board may recommend the historic resources committee ~~may~~ investigate and suggest preservation measures or documentation such as photographing the building, preparing measured drawings and gathering related historical data.

(3) Deny the permit;

(4) Approve the relocation (within the city of Pacific Grove) of the building as an alternative to demolition.

(d) The architectural review board shall consider the criteria listed in Section 23.76.025 in determining which of the actions listed in subsection (c) of this section applies.

(e) Findings.

(1) Prior to approval or modified approval, the architectural review board shall find that:

(i) the proposed action is consistent with the purposes of historic preservation as set forth in Section 23.76.010 and in the historic preservation element of the general plan; or

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

(iii) there are no reasonable alternatives to the demolition at the time of the hearing.

(2) Prior to denial, the ~~historic resources committee~~ architectural review board shall find that:

(i) The proposed action is not consistent with the purposes of historic preservation as set forth in Section 23.76.010 and in the historic preservation element of the general plan; or

(ii) There are reasonable alternatives to the demolition at the time of the hearing.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.100 Relocation.

Relocating a structure off-site within the city of Pacific Grove may be permitted following the same procedural guidelines described in Section 23.76.090 including the filing of an application for relocation.

Relocating a structure on-site requires approval by the architectural review board which shall apply the criteria listed in Section 23.9.025, the *Architectural Review Guidelines*, the Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*, and the "Design Criteria" of the city of Pacific Grove or succeeding document(s).

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.120 Minimum maintenance.

(a) Minimum maintenance is necessary to prevent an owner, or other person having legal custody and control over a property, from facilitating the demolition of an historic resource by neglecting it. All buildings listed on the historic resources inventory shall be kept in a state of good repair consistent with all other state and city codes so as to preserve them against decay and deterioration.

(b) The Community Development director may direct the property owner to maintain the historic property in a manner designed to prevent vandalism and destruction if such property is not occupied.

(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

23.76.120 Appeals — Review.

(a) Any person not satisfied with the action of the architectural review board, made pursuant to the provisions of this chapter, may appeal in accordance with the provisions of Section 23.73.080. Any person not satisfied with an action of the historic resources committee made pursuant to the provisions of this chapter, may, within ten days of the date of the decision of the board, appeal in writing to the planning commission. The fee for such appeal shall be as set by resolution of the council. The planning commission shall consider the matter within thirty days of such appeal. The planning commission may within said thirty-day period affirm or overrule the action of the historic resources committee. ~~Or~~ Any person not satisfied with an action of the planning commission made pursuant to the provisions of this chapter, may appeal such action to the city council. The appeal shall be in writing and shall be accompanied by a fee as set by resolution of the council.

(b) Notwithstanding the time limit for appeal set out immediately above, the council shall always have until their next regularly scheduled meeting occurring at least ten days following architectural review board, historic resources committee or planning commission action to decide to review such action. A vote of three council members shall suffice to call such action for review.

(c) With respect to a matter on appeal or review as provided in subsections (a) and (b) of this section, a hearing de novo shall be held. Posting, notice and public hearing requirements shall be as was required before the board or committee first hearing the matter.

(d) An appeal or review matter hereunder shall be heard within thirty days following the date of filing the appeal or decision to review.

(e) Following hearing on appeal or review the council may affirm, overrule or modify the decision of the board, committee or commission, with conditions as appropriate.

(Ord. 01-25 § 1 (part), 2001; Ord. 97-40 § 1, 1997; Ord. 97-23 § 1 (part), 1997).

23.76.130 Enforcement and penalties.

(a) It shall be the duty of the Community Development director, or the Community Development director's delegate, to administer and enforce the provisions of this chapter.

(b) It is unlawful for a person or entity to alter or demolish or cause to be altered or demolished any building or portion thereof in violation of any of the provisions of this chapter.

(c) Any person or entity who alters or demolishes a building or causes an alteration or demolition in violation of the provisions of this chapter, may be liable civilly in a sum equal to the replacement value of the building in kind, or an amount set at the discretion of the court. This includes de facto demolition caused by maintenance neglect

or engulfment. A minimum of twenty-five percent (25%) of such fees will be allocated to the historic preservation fund.

(d) The city attorney may maintain an action for injunctive relief to restrain or correct a violation, or cause, where possible, the complete or partial restoration, reconstruction or replacement in kind of any building or site demolished, altered or partially demolished, or allowed to fall below minimum maintenance standards in violation of this chapter.

(e) A lot which is the site of alteration or demolition of an historic structure in violation of this chapter shall not be developed in excess of the floor area ratio, or the dwelling unit density, of the altered or demolished structure for a period of five years from the unlawful alteration or demolition. A person or entity may be relieved of the penalties provided in this subsection if, as to an unlawful alteration, the person or entity ~~restores~~ reconstructs the original distinguishing qualities and character of the building destroyed or altered. Such ~~restoration~~ reconstruction must be undertaken pursuant to a valid building permit issued after a recommendation by the architectural review board, and a finding by the city council that the proposed work will effect adequate ~~restoration~~ reconstruction and can be done with a substantial degree of success.

(f) The historic resources committee shall prepare in a timely manner a report for the city council on any violations of this chapter that would include but not be limited to the significance of the property and the loss of the historic structure to the community.

(g) The remedies provided in subsections (b) through (e) of this section are not exclusive.
(Ord. 01-25 § 1 (part), 2001: Ord. 97-23 § 1 (part), 1997).

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- ~~Cross outs~~ = deletions/changes from original ordinance
- Underline = changes in the ordinance from previous drafts
- Red underline = changes/additions new in this draft
- Green type = wording in the original ordinance but moved to a different place