

City of Eureka (1997)

Chapter 157 Historic Preservation

157.01 Definitions. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Alteration. Any modification to the exterior of a structure that would be visible from a public way and for which a building permit is required, other than a demolition.

Appraisal. An appraisal of the fair market value of a property or structure performed by an appraiser selected jointly by the city and the owner of the property or structure being appraised or, if the city and the owner do not agree on a joint selection within 15 days after an appraiser is first proposed, an appraisal performed by an appraiser selected by the owner from a panel of three appraisers nominated by the city.

Demolition. The destruction or removal of a structure, or parts of a structure substantially equivalent to the whole.

Designated Property. Any lot, and any structures on that lot, designated pursuant to §§ 157.04 and 157.05 of this chapter.

District Property. Any lot, and any structures on that lot, which is or are wholly or partly within a preservation district.

Effective Date. The date, inserted by the City Clerk in this section, on which this chapter becomes effective under the Charter; that is, April 19, 1996.

Eligible Property. Each lot, and any structures on that lot, listed in Exhibit A which includes properties listed in "Eureka, An Architectural View," by the Eureka Heritage Society, Inc., and each lot, and any structures on that lot, in a preservation district.

Emergency. A sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services.

Historic Preservation Commission. The Historic Preservation Commission created pursuant to § 157.02 of this chapter.

HPC. The Historic Preservation Commission created pursuant to § 157.02 of this chapter.

Preservation District. Each of the districts described or listed in Exhibit B, and any district within the city which is designated pursuant to §§ 157.04 and 157.05 of this chapter.

Taking. A restriction under this chapter which affects the value or use of a property so severely that the city would be required to compensate the owner of the property under the Fifth Amendment to the U.S. Constitution; Article 1, Section 19 of the California Constitution; or other applicable law. (Ord. 607-C.S., passed 3-19-96)

157.02 Historic Preservation Commission.

- A. There is hereby created an Historic Preservation Commission, which shall consist of the following seven members:
 1. The Director of Community Development or the Director's designee;
 2. The Building Inspector or the Inspector's designee; and,
 3. Five other members, who, together with an alternate for each position meeting the same qualifications, shall all be appointed by the Mayor, subject to the approval of the Council. The members, and alternate members shall have demonstrated experience in historic preservation or land use issues, or other qualifications satisfactory to the Mayor. The terms of the initial five appointed members and initial five alternates shall begin upon Council approval of their respective appointments. Two of the five initial appointed members and the corresponding alternates shall be appointed for terms expiring on December 31 of the first even-numbered year beginning after the year in which their appointments become effective; the remaining three initial appointed members and corresponding alternates shall be appointed for terms expiring on December 31 of the first odd-numbered year beginning after the year in which their appointments become effective. The terms of subsequently appointed members and alternates shall begin on January 1, immediately following expiration of their respective predecessors' terms or upon Council approval of their respective appointments, whichever occurs later, and shall expire on December 31 two years after the expiration of their predecessors' terms.
- B. The Historic Preservation Commission shall select a secretary who may be a member of the city staff. The Board may establish rules and regulations for its own organization, procedure, and meetings.
- C. None of the five appointed members or alternates shall serve more than two consecutive terms. The availability of each position shall be advertised in advance of the expiration of its term and

applications for membership shall be accepted by the City Clerk following the advertisement. (Ord. 607-C.S., passed 3-19-96)

157.03 Authority and Responsibilities of Historic Preservation Commission.

- A. In addition to the responsibilities conferred by other provisions of this chapter, the Historic Preservation Commission shall:
1. Review applications to alter or demolish all or part of any structure which is located on a designated property under §§ 157.04 and 157.05 of this chapter.
 2. Adopt maximum times for its historic preservation review, which if exceeded, may be treated as causing automatic HPC approval or HPC disapproval.
- B. The HPC shall, to the extent it deems action appropriate, have the authority to:
1. Negotiate with owners of properties having special characteristics for, and may recommend to the City Council the approval of, contracts to restrict the use of such property and to retain such characteristics.
 2. Establish and maintain a list of structures, other physical features, sites, and areas considered deserving of official recognition although not given regulatory protection. The purposes of the list shall be to recognize the merit of and encourage the protection, enhancement, perpetuation, and use of such structures, other physical features, sites, and area. For these purposes, the Commission may authorize such steps as it deems desirable, including but not limited to the issuance of certificates of recognition and the authorization of plaques.
 3. Carry out or assist studies and programs designed to identify and evaluate structures, other physical features, sites, and areas which are worthy of preservation.
 4. Inspect and investigate structures, other physical features, sites, and areas which may be worthy of preservation.
 5. Consider methods other than those described above for encouraging and achieving preservation of worthy structures, other physical features, sites, and areas, including exploring means of financing the restoration or maintenance thereof.
 6. Make appropriate recommendations on the general subject of preservation to the Planning Commission, City Council, other public and private agencies and bodies, and the general public. (Ord. 607-C.S., passed 3-19-96)

157.04 Initial Designation of Properties and Districts.

- A. Each of the lots on which one or more of the structures identified in Exhibit A is wholly or partly located, and each lot in a preservation district, shall be an eligible property.
- B. Not later than 30 days after the effective date, the Director of Community Development shall notify, by certified U.S. mail, return receipt requested, at least one owner of record on the latest equalized assessment roll for each eligible property. Each such notice may be recorded in the office of the Humboldt County Recorder. Each such notice shall specify that an owner of record may elect, to exclude that owner's eligible property from the alteration and demolition provisions of § 157.07 of this chapter. The notice shall state what date is the last day to elect exclusion, which shall be the date 120 days after the effective date. The notice shall state how the owner may notify the city of an election to exclude the property.
- C. Each eligible property, except those as to which the city receives notice of exclusion pursuant to division (B) of this section shall be a designated property, beginning 120 days after the effective date. (Ord. 607-C.S., passed 3-19-96)

157.05 Designation after Effective Date; Change in Status.

- A. 1. A property shall cease to be a designated property, following application by the owner of record or initiation by the Historic Preservation Commission, and determination either:
- a. For a designated property which is not a district property, that a change has occurred since the effective date so that on balance the property does not possess sufficient historic or architectural attributes to qualify as a designated property;
 - b. For a district property, that a change has occurred since the effective date so that on balance the property does not possess sufficient historical or architectural attributes to contribute significantly to the character of the preservation district which includes the property; or,
 - c. For any designated property, that a taking would result unless the status of the property is changed.

2. No property shall cease to be a designated property under subdivisions (a) or (b) of this division if that property has applied for and received economic benefits or regulatory relief from the city by virtue of its status as a designated property.
- B. A property which is not a designated property may become a designated property upon application by any person, or initiation by the Historic Preservation Commission, if each of the following conditions is satisfied:
1. If the application is not by the owner of record, the owner of record contents in writing to the designation; and,
 2. The property proposed for designation meets guidelines as in effect at the time the designation is considered. Except to the extent modified by the City Council after the effective date, the guidelines shall be those which would apply to eligibility of the property for listing on the National Register of Historic Places.
- C. 1. A district which is not a preservation district may be made a preservation district upon application by any person, or initiation by the Historic Preservation Commission, if each of the following conditions is satisfied:
- a. The Historic Preservation Commission determines that the district meets guidelines as in effect at the time the designation is considered. Except to the extent modified by the City Council after the effective date, the guidelines shall be those which would apply to eligibility of the district as a historic district on the National Register of Historic Places;
 - b. Notice is given to the owner of each property within the proposed district by taking the actions specified in § 157.04(b) of this chapter, except that notice under this subdivision shall state that an owner of record may elect to approve the district and include the owner's property in the district, shall state what date is the last date to approve and elect inclusion, and shall state how the owner may notify the city of the owner's election; and,
 - c. More than one-half of the properties in the proposed district approve the district and elect inclusion.
2. All lots within such a preservation district shall be designated properties. (Ord. 607-C.S., passed 3-19-96) Penalty, see § 150.999

157.06 Designation, Alteration and Demolition Procedure.

- A. Any application to change the status of a property or district under § 157.05 of this chapter or to alter or demolish a designated property under § 157.07 of this chapter shall be made to the Historic Preservation Commission, in the form (if any) which that commission requires, and shall include such information and materials as that Commission requires. The Commission may itself initiate a change in status of a property or district.
- B. The Historic Preservation Commission shall hold at least one public hearing on each complete application which is received pursuant to division (A) of this section, and on each change in status of a property or district initiated by the Commission. Notice of the hearing shall be given as follows:
1. Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to the owner of each subject property, including all properties within an affected district, or the owner's duly authorized agent, and to the project applicant, if not the owner;
 2. Notice of the hearing shall be mailed or delivered at least 10 days prior to the hearing to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the real property or properties that is or are the subject of the hearing. In lieu of utilizing the assessment roll, the local agency may utilize records of the County Assessor or Tax Collector which contain more recent information than the assessment roll; and,
 3. The notice shall either be:
 - a. Published in at least one newspaper of general circulation within the city, at least 10 days prior to the hearing; or,
 - b. Posted at least 10 days prior to the hearing in at least three public places within the city, including one public place in the area directly affected by the proceeding.
 4. In addition to the notice required by this section, the city may give notice of the hearing in any other manner it deems desirable.
- C. The owner of any affected property or any other person may appeal the decision of the Historic Preservation Commission concerning the status of a property or district to the City Council upon the same terms and conditions as would apply for appeal of a use permit pursuant to § 155.287(A) of this title. Notice of such City Council hearings shall be given and the hearings shall be conducted and

decisions rendered pursuant to the rules contained in §§ 155.288, 155.289 and 155.290 of this title. The owner of any affected property or any person residing in, or person or entity doing business in, the city, may appeal the decision of the Historic Preservation Commission concerning a demolition or alteration pursuant to this chapter.

- D. Nothing in this section shall prohibit the immediate demolition of a structure that is deemed to be an eminent threat to life or property as the result of an emergency as defined in this chapter. (Ord. 607-C.S., passed 3-19-96)

157.07 Standards for Alterations and Demolitions.

- A. No structure on an eligible property shall be demolished unless the city shall make one of the following findings, following notice to the extent required by § 157.06 of this chapter and hearing(s) pursuant to this chapter.
1. The property is unsafe or a hazard to the public as a result of an unforeseen event such as a fire or earthquake;
 2. Taking into account the potential value to the owner of the property of all available city and other accommodations and incentives (including without limitation transferable development rights, zoning ordinance modifications, alternative building code standards or provisions, loans, grants, reimbursements and tax reductions) either:
 - (a) The current or most recent use of the property is not permitted under the current planning code (except as a nonconforming use) and adaptive reuse is not economically feasible;
 - (b) The adverse impact on the owner of the property is unreasonably large in comparison to the public benefit from denying demolition; or,
 - (c) Denying permission to demolish would result in a taking or would violate state or federal law; or,
 3. Demolition must be allowed pursuant to the State Housing Law (Cal. Health and Safety Code §§ 17900 et seq.) or other applicable state or federal law.
- B. Conditions may be imposed on demolition to the extent authorized by any other applicable law or this chapter, including without limitation the following:
1. Documentation may be required of any structure to be demolished and/or for the property;
 2. Historic Preservation Review and Historic Preservation Commission approval may be required for any subsequent development at the property;
 3. Demolition may be delayed for up to 90 days to allow time to identify a prospective buyer for the property, to identify a third party interested in relocating the affected structure or to allow the city to determine whether to begin eminent domain procedures, and for up to an additional 90 days to allow completion of the purchase or relocation or commencement of a judicial condemnation action if, within the initial 90 days a buyer or third party is identified or the city determines to begin eminent domain procedures. In the case of purchase or relocation by a third party, demolition may be denied where a third party willing and able to purchase the property or relocate the structure within the time established by this subdivision is identified and makes a bona fide offer to purchase the property or structure at fair market value, as determined by appraisal.
 4. With respect to demolition of a structure on a district property, the city shall take into account the importance of an affected structure to the integrity of the district, and may: limit the size of new development to that of the existing structure; require that the scale of new development be harmonious with other structures which contribute to the district's character; require retention or reconstruction of one or more facades; and/or require that any replacement structure be of like kind or quality to the demolished structure and contribute to the integrity of the preservation district.
- C. No structure on an eligible property shall be altered unless the alteration is approved by the city, following notice to the extent required by § 157.06 of this chapter and hearing(s) pursuant to this chapter. The Historic Preservation Commission may adopt guidelines for alterations and review of alteration applications, applicable specifically to designated properties and/or district properties. Except to the extent such guidelines provide differently, a proposed alteration shall be considered in light of its effect on the existing character of the affected structure as it relates to the streetscape. (Ord. 607-C.S., passed 3-19-96) Penalty, see § 150.999

157.08 Denial of Permits as Remedy; Declaration as Nuisance; Enforcement by Citizens.

- A. In addition to all penalties otherwise provided by this code or other applicable law, in the event of a demolition in violation of this chapter, building, zoning and/or use permits may be denied for the affected property for a period not to exceed five years.
- B. Any structure on a designated property which is the subject of an outstanding order to abate a substandard condition pursuant to City Building Code, is hereby declared to be a nuisance. With respect to any such structure, or any structure on a designated property which has been otherwise declared a nuisance under city building regulations. Any person aggrieved by such a nuisance may bring an independent civil action against the owner of the designated property for all appropriate relief, including damages, costs and attorneys' fees. A "person aggrieved" is any person whose quiet use or enjoyment, or ability to rent or successfully conduct lawful activities at another property is interfered with by the substandard or other condition giving rise to a nuisance at the designated property. Every day of such interference is a separate and distinct nuisance. (Ord. 607-C.S., passed 3-19-96) Penalty, see § 150.999