

ORDINANCE NO. 2001-02

REPEALING THE EXISTING CHAPTER 32-72 OF THE DANVILLE MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 32-72 RELATING TO HISTORIC PRESERVATION

The Danville Town Council does ordain as follows:

SECTION 1. REPEALING CHAPTER 32-72 OF THE DANVILLE MUNICIPAL CODE.

Chapter 32-72 of the Danville Municipal Code is hereby repealed in its entirety. However, repeal of this chapter shall not affect the status of properties previously designated as heritage resources.

SECTION 2. ADOPTING A NEW CHAPTER 32-72 OF THE DANVILLE MUNICIPAL CODE.

A new Chapter 32-72 is hereby adopted and added to the Danville Municipal Code to read as follows:

32-72 HISTORIC PRESERVATION

32-72.1 Purpose and Findings.

Danville has a rich heritage that reflects the Town's role in the development of the San Ramon Valley. This heritage is reflected in individual structures and sites as well as historic development patterns, particularly in the Downtown area. In recognition of this historic heritage, the Town's General Plan establishes a goal of preserving historic and cultural resources within the Town and recognizing such resources as an essential part of the Town's heritage. In order to achieve that goal, the Town's General Plan contains a number of policies, including:

- Ensuring that the rehabilitation and restoration of historic buildings respects the historic character and setting of the buildings.
- Ensuring that new construction within the Downtown area is compatible with nearby historic buildings and is consistent with the historic development patterns of the Downtown.
- Ensuring that owners of historic buildings and sites are aware of and provided with appropriate financial and use incentives to ensure the continued economic viability and usefulness of those buildings.

- Promoting public awareness and enjoyment of historic resources within Danville.

The Town Council finds that adopting this chapter will help achieve the goals and policies of the General Plan, that historic preservation will help ensure the economic vitality of the Downtown area, help preserve property values throughout Town and enrich the cultural and educational lives of the Town's residents.

Pursuant to this chapter, the Town will adopt a survey of historically significant resources. Those properties identified as historically significant resources will receive protection from demolition or exterior alterations. In addition, property owners may request that their properties be designated as heritage resources, which are eligible for economic and land use incentives.

32-72.2 Definitions.

As used in this chapter, the following words and phrases have the following meanings:

Alteration shall mean any demolition, exterior change or modification to a historically significant resource or heritage resource or of a contributing property located within an historic district including, but not limited to:

1. Exterior changes to or modifications of structure, architectural details or visual characteristics including paint color and surface texture;
2. Grading or surface paving;
3. Construction of new structures;
4. Cutting or removal of trees and other natural features;
5. Disturbance of archaeological sites or areas; and
6. The placement or removal of any exterior objects including signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories that affect the exterior visual qualities of the property.

Architectural feature shall mean the architectural elements embodying style, design, general arrangements and components of the exterior of any building or structure, including, but not limited to, the kind, color and texture of the building materials and the style and type of all windows, doors, lights, signs and other fixtures.

Certificate of Approval shall mean a certificate issued pursuant to this chapter approving any proposed alteration to a historically significant resource, a heritage resource or a contributing property located within a historic district.

Contributing property shall mean a building, structure, site, feature or object within an historic district that embodies the significant physical characteristics and features, or adds to the historical associations, historic architectural qualities or archaeological values identified for the historic district, and was present during the period of significance, relates to the documented significance of the property, and possesses historic integrity or is capable of yielding important information about the period.

Design guidelines shall mean the "Town of Danville Design Guidelines for Heritage Resources" adopted by the Town and as may be amended from time to time.

Heritage resource shall mean a structure, site, improvement or natural feature that has been designated for heritage preservation pursuant to Section 32-72.6.

Heritage Resource Commission (HRC) shall mean the Town's Heritage Resource Commission established pursuant to the provisions of this Code.

Historic Design Review Committee (HDRC) shall mean the advisory committee appointed pursuant to this chapter to review proposed alterations to designated heritage resources. The HDRC shall be composed of five members as follows: the Heritage Resource Commission /Planning Commission liaison, two other Heritage Resource Commission members, one Planning Commission liaison to the Design Review Board and one other Design Review Board member not on the Planning Commission.

Historic district shall mean any delineated geographic area having a significant number of structures, sites, improvements or natural features of historical significance, special character or aesthetic value which are united historically or aesthetically by plan or physical development, and which has been found by the Town Council to meet the criteria of preservation set forth in Section 32-72.5 of this chapter.

Historically significant resource shall mean a structure, site, improvement or natural feature identified by survey of the Town as being significant to the history and/or development of the Town and that meets the criteria for designation as a heritage resource set forth in Section 32-72.4.

Improvement shall mean a structure, parking facility, fence, gate, wall, work of art or other object constituting a physical feature that is not a natural feature.

Integrity shall mean the ability of a structure, site, improvement or natural feature to convey its significance through the survival of key elements of its original style, scale, materials and detailing.

Major alteration shall mean a modification to one or more of the following items:

1. Additions to a structure;
2. Construction of a new structure;
3. Exterior building materials other than those defined as minor alterations;
4. Grading;
5. Natural features designated as a heritage resource;
6. Renovation, rehabilitation or restoration of an existing structure.

Minor alteration shall mean a modification to one or more of the following items:

1. Building color;
2. Signs;
3. Light fixtures;
4. Plant materials, landscape, tree removals, hardscape, or paving not including natural features designated as a heritage resource;
5. Street furniture;
6. Awnings;
7. Doors, windows, and chimneys;
8. Interior building modifications that affect the exterior appearance of a structure;
9. Any other similar alteration to a designated heritage resource deemed appropriate by the Town's Chief of Planning.

Natural feature shall mean a landform, body of water, tree, significant landscaping feature, geological formation or other object of the native landscape

Non-contributing property shall mean a structure, site, improvement or natural feature located within the boundaries of a designated historic district that is not identified as a contributing property within the district.

Ordinary maintenance or repair shall mean any work, the sole purpose and effect of which is to prevent or correct deterioration, decay or damage, including repair of damage caused by fire or other disaster and which does not result in a change in the historic appearance and materials of a property.

Owner shall mean the person or entity whose name appears as the owner of real property on the most recent assessment roll of Contra Costa County.

Planning entitlement shall mean any request for a development plan, subdivision, land use permit or other discretionary permit allowing for physical development of land or change in use of property.

Preservation shall mean the identification, study, protection, restoration, rehabilitation, reconstruction, relocation or enhancement of buildings, structures, sites, improvements or natural features.

Register of heritage resources shall mean the list of all structures, sites, improvements or natural features designated as heritage resources by the Town Council pursuant to Section 32-72.6.

Site shall mean a parcel or portion of real property.

Secretary of Interior's Standards for Rehabilitation shall mean the U.S. Secretary of the Interior's Standards for Rehabilitation of Historic Buildings, issued by the National Parks Service, together with the accompanying Interpretive Guidelines for Rehabilitating Historic Buildings, as they may be amended from time to time.

State historical building code shall mean the State Historical Building Code adopted by the State of California.

Structure shall mean any building or anything else constructed or erected that requires a permanent location on the ground.

Survey of historically significant resources shall mean the list approved by the Town Council that identifies structures, sites (or portions of a site), improvements or natural features that are significant to the history and/or development of the Town and that meet the criteria for designation as a heritage resource pursuant to Section 32-72.4.

Town shall mean the Town of Danville.

32-72.3 Survey of Historically Significant Resources.

(a) The Town shall establish and maintain a survey of historically significant resources. The survey shall consist of structures, sites (or portions of a site), improvements or natural features that, based upon the information available to the Town, are significant to the history and/or development of the Town and that meet the criteria for designation as a heritage resource pursuant to this chapter. The survey shall be prepared and reviewed in accordance with procedures set forth in section 5024.1(g) of the California Public Resources Code. The survey shall be updated periodically to add or remove properties as appropriate. Updates of the survey may be initiated by a property owner, the HRC or any organization with a recognized interest in historic preservation.

(b) The HRC shall be responsible for making recommendations to the Town Council for inclusion of significant historical resources in the survey. The HRC shall hold at least one public hearing before making a recommendation regarding any resource. The HRC's recommendations shall be forwarded to the Town Council, which shall hold at least one public hearing before taking action on the recommendations. Owners of resources recommended for inclusion in the survey shall be provided notice at least ten calendar days prior to any HRC or Town Council hearing regarding inclusion in the survey. Once a property owner has received this 10-day notice, no permits, including demolition permits, shall be issued for the property while a decision regarding the HRC recommendation is pending.

(c) Notice of inclusion on the survey shall be provided to the property owner, HRC, Planning Commission, Design Review Board, Chief of Planning, Chief Building Official, San Ramon Valley Historical Society, the Museum of the San Ramon Valley, California State Historic Preservation Officer and Contra Costa County Recorder.

(d) Any alteration to a property on the survey shall require a Certificate of Approval as provided for in Section 32-72.8.

32-72.4 Criteria for Designation of a Heritage Resource.

A structure, site (or portions of a site), improvement or natural feature may be considered for designation as a heritage resource pursuant to section 32-72.6 if it has maintained its historic integrity, is over 50 years of age (less than 50 years if it can be demonstrated that sufficient time has passed to understand the historical significance of the resource), and meets at least one of the following criteria:

(a) Is representative of a particular architectural style or reflects special elements of a distinct historical period, type, style or way of life important to the Town;

- (b) Is a type of building or is associated with a business or use that was once common but is now rare;
- (c) Is representative of the evolution or development or associated with the cultural, religious, educational, political, social or economic growth of the community, region, state or nation;
- (d) Represents the work of a notable builder, engineer, designer, artist or architect;
- (e) Is the site of an historical event or is associated with persons or events that have made a meaningful contribution to the community, region, state or nation;
- (f) Has a high potential for yielding information or archaeological interest;
- (g) Embodies elements of outstanding or innovative attention to architectural or engineering design, detail, craftsmanship or use of materials;
- (h) The unique location or singular physical characteristic represents an established and familiar visual feature of the neighborhood, community or Town;
- (i) Is a geographically definable area, possessing a significant concentration or continuity of site, improvements, natural features or objects unified by past events or physical development; or
- (j) Is an unusual natural feature.

32-72.5 Criteria for Designation of a Historic District.

A geographic area may be considered for designation as a historic district pursuant to section 32-72.6 if a contiguous area that includes a group of parcels that are over 50 years of age (less than 50 years if it can be demonstrated that sufficient time has passed to understand the historical significance of the resource), and at least one of the following criteria apply:

- (a) A significant number of the parcels reflect significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes or distinctive examples of park or community planning; or
- (b) A significant number of the parcels convey a sense of historic or architectural cohesiveness through their design, setting, materials, workmanship or association; or

(c) A significant number of the parcels have historic significance and retain a high degree of integrity; or

(d) The area in general is associated with a historically significant period in the development of the community or is associated with special historical events; or

(e) A significant number of the parcels embody distinctive characteristics of a style, type, period or method of construction, or are a valuable example of the use of indigenous materials or craftsmanship; or

(f) A significant number of the parcels represent the works of notable builders, designers or architects.

32-72.6 Process for Designation of Heritage Resources and Historic Districts.

(a) **Initiation of Process.** Any structure, site (or portions of a site), improvement or natural feature or contiguous group of properties may be nominated for consideration as a heritage resource or historic district. A written nomination may be submitted by the property owner(s), the HRC, or any organization with a recognized interest in historical preservation. The nomination must include the address or location of the resource and any relevant information regarding the applicable criteria for designation. A nomination for a historic district shall include the proposed boundaries of the district with a listing of all contributing properties and any relevant information regarding the applicable criteria for designation.

(b) **Notice of Nomination.** The Town shall notify the owner(s) of affected properties within ten days after a nomination is filed.

(c) **Nomination with Request to Alter a Potential Heritage Resource.** If a property owner submits a nomination accompanied by a request for planning entitlement or other request to alter the property requiring a Certificate of Approval pursuant to Section 32-72.8, the actions shall be processed simultaneously.

(d) **Review and recommendation by HRC.** The HRC shall review, at a public hearing, all nominations for conformance with the purposes of this chapter and the criteria for designation found in sections 32-72.4 and 32-72.5. Affected property owners shall be provided with written notice 30 days prior to the HRC's public hearing. Upon conclusion of the public hearing, the HRC shall forward to the Town Council a recommendation for action on the nomination. The HRC recommendation shall identify the applicable criteria for designation of a heritage resource or historic district set forth in this chapter, the key features of the resource or district that should be preserved and the location and boundaries of the site or district.

(e) Consideration by Town Council. The Town Council shall conduct a public hearing to consider the nomination. At the public hearing, the Town Council shall consider the HRC's recommendation, the criteria for designation of a heritage resource or historic district set forth in this chapter, the key features of the resource or district that should be preserved and the location and boundaries of the site or district. Affected property owners shall be provided with written notice 10 days prior to the Town Council's public hearing.

(f) Consent of Property Owner Required. No property shall be designated as a heritage resource or a contributing property within an historic district without the written consent of all affected property owners.

(g) Effect of Designation. Heritage resources and contributing properties within a historic district may be altered only after obtaining a Certificate of Approval as provided for in section 32-72.8. In addition, heritage resources and contributing properties in historic districts are eligible for preservation incentives as provided for in section 32-72.7.

(h) Effect of Disapproval. If a nomination is disapproved, a subsequent nomination for the same potential heritage resource or historic district may not be considered for at least three years unless substantial additional information becomes available, in which case the nomination can be resubmitted after one year. The property owner may submit a new application at any time.

(i) Notice of Designation. Notice of all designations of heritage resources and historic districts shall be provided to the property owner, HRC, Planning Commission, Chief Building Official, San Ramon Valley Historical Society, the Museum of the San Ramon Valley, California State Historic Preservation Officer and Contra Costa County Recorder.

(j) Register of Heritage Resources and Historic Districts. The Town shall maintain a register of all heritage resources and historic districts as designated by the Town Council.

32-72.7 Preservation Incentives.

In order to more effectively and equitably achieve the purposes of this chapter, the Town may offer incentives to the owners of heritage resources and contributing properties in a historic district in order to support the preservation, maintenance and appropriate rehabilitation of those resources. Preservation incentives shall be considered on a case-by-case basis and may include economic assistance, relaxation of otherwise applicable development standards or use restrictions. The HRC shall adopt by resolution a list of potential preservation incentives.

32-72.8 Alterations to Heritage Resources.

(a) No person may alter a historically significant resource, a heritage resource or a contributing property in an historic district without first obtaining a Certificate of Approval as provided for in this section.

(b) **Application Requirements.** Applications for a Certificate of Approval shall include historical information regarding the property, a detailed statement of the proposed alteration, including architectural plans and any other information deemed appropriate by the Chief of Planning. If deemed appropriate by the Chief of Planning, all proposed design and construction plans shall be subject to third party review by a recognized preservation specialist, with the cost to be borne by the applicant.

(c) **Process for reviewing requests for Certificate of Approval.** All requests for a Certificate of Approval shall be processed by the Town as follows:

(1) **Minor Alterations**

If, in the judgment of the Chief of Planning, the proposed minor alteration is consistent with the applicable design standards described in subsection (d) below, the Chief of Planning may approve or conditionally approve the application. If the Chief of Planning finds the proposal is not consistent with the applicable design standards, the application shall be forwarded to the HRC for their review and determination. The Chief of Planning shall refer any request for minor alteration to the Historic Design Review Committee for their review and recommendation.

(2) **Major Alterations**

All proposed major alterations shall be forwarded to the Historic Design Review Committee, which will review the project design and Conditions of Approval and make a recommendation to the HRC. The HRC shall review and make the final determination on all proposed major alterations.

(3) **Alterations Accompanied by Planning Entitlement**

All proposed alterations that are accompanied by a request for planning entitlement shall be acted on by the HRC. In the discretion of the Chief of Planning, the application may be routed to the Historic Design Review Committee and/or the Planning Commission for their review and recommendations to the HRC.

(d) **Standards for Review.** The following standards shall be used in considering any request for a Certificate of Approval:

(1) The proposed alteration should not adversely affect the historically significant exterior architectural features of the designated heritage resource or contributing property in a designated historic district or the special character, interest or value of its neighboring improvements and surroundings, including facade, setback, roof shapes, scale, height and relationship of material, color and texture.

(2) The reviewing body shall rely upon the most current version of the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," the State Historic Building Code and the Town of Danville's Design Guidelines for Heritage Resources.

(e) Appeal. An action of the Chief of Planning or the HRC may be appealed to the Town Council by filing a written notice of appeal with the Town Clerk within 10 days following the determination of the Commission.

32-72.9 Maintenance of Heritage Resources.

(a) The owner of a historically significant resource, a heritage resource or a contributing property within an historic district shall maintain in good condition the exterior of the resource consistent with the Design Guidelines and all interior portions whose maintenance is necessary to prevent deterioration and decay of an exterior feature.

(b) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of an exterior feature that does not involve a change in design, material or external appearance.

32-72.10 Repeal or Amendment of Designation.

(a) The Town Council may repeal or amend a listing on the survey of historically significant resources or a heritage resource designation only if one of the following circumstances exists:

(i) A change of circumstances that results in the resource no longer satisfying the criteria set forth in section 32-72.4;

(ii) The existing designation will cause the property owner immediate and substantial financial hardship; or

(iii) The resource has been damaged by fire or other calamity to such an extent that it cannot reasonably be repaired or restored.

(b) The procedure for repealing or amending a designation shall be the same as for designating a resource under Section 32-72.6. The owner shall have the burden of establishing the circumstances warranting repeal or amendment.

(c) If a heritage resource designation is repealed at the request of the property owner, the Town Council may require reimbursement of any preservation incentives provided to the property owner.

32-72.11 Property owned by public agencies.

Public agencies which own property in the Town shall be notified of the provisions of this chapter and encouraged to seek the advice of the HRC before the construction, alteration or demolition of any potential heritage resources.

32-72.12 Unsafe or Dangerous Conditions.

This chapter shall not be construed to prevent any measures of construction, alteration, restoration, removal or demolition necessary to correct or abate the unsafe or dangerous condition of a structure that has been declared unsafe or dangerous by the Town's Chief Building Official or the Fire Marshal. Only such work as is reasonably necessary to correct the unsafe or dangerous condition may be performed under this subsection.

32-72.13 Violation.

(a) Any violation of this chapter or failure to comply with a condition of approval of any certificate or permit issued pursuant to this chapter shall be a misdemeanor punishable as set forth in this code.

(b) Any person who constructs, alters, removes or demolishes a historically significant resource, a heritage resource or a contributing property in a historic district, shall be required to restore the resource to its appearance prior to the violation to the extent such restoration is physically possible. This civil remedy shall be in addition to, and not in lieu of, any criminal remedies available.

SECTION 3. CODIFICATION.

Section 2 of this ordinance shall be codified in the Danville Municipal Code.

SECTION 4. EFFECT ON PRIOR DECISIONS.

Any and all decisions made by the Town regarding designation of heritage resources and provision of preservation incentive under previous Chapter 32-72 of the Danville Municipal Code are still valid and shall remain in effect.

SECTION 5. SEVERABILITY.

If any section, subsection, subdivision, paragraph, clause or phrase in this ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining

sections or portions of this ordinance or any part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

SECTION 6. PUBLICATION AND EFFECTIVE DATE.

The City Clerk shall have a summary of this ordinance published twice in a newspaper of general circulation, once within five (5) days before its adoption and once within 15 (fifteen) days after adoption. This ordinance shall become effective 30 days after adoption.

The foregoing Ordinance was introduced on May 15, 2001 and approved and adopted by the Danville Town Council at a regular meeting held on June 5, 2001, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

MAYOR
APPROVED AS TO FORM:

ATTEST:

CITY ATTORNEY

CITY CLERK

CLERK'S CERTIFICATE

I, Marie Sunseri, City Clerk of the Town of Danville, hereby certify that the foregoing is a true and accurate copy of Ordinance No. 2001-02 of said Town and that said ordinance was published according to law.

Dated: _____

City Clerk of the
Town of Danville