

# City of Oceanside

## Chapter 14A HISTORICAL PRESERVATION

### Sec. 14A.1. Title.

This chapter of the Oceanside City Code shall be known as the Historical Preservation Ordinance of the City of Oceanside.

(Ord. No. 82-41, § 1, 9-8-82)

### Sec. 14A.2. Policy and purpose.

(a) *Policy.* It is hereby declared as a matter of public policy that the recognition, preservation, enhancement, perpetuation and use of structures, landscape features, sites and areas within the City of Oceanside having historical, architectural, archeological, cultural or aesthetic significance is required in the interest of the economic prosperity, cultural enrichment and general welfare of the people.

(b) *Purpose.* The purpose of this chapter is to:

- (1) Safeguard the heritage of the City of Oceanside by providing for the protection of historical sites and areas representing significant elements of its history;
- (2) Encourage public knowledge, understanding and appreciation of the city's past;
- (3) Enhance the visual character of the city by encouraging and regulating the compatibility of architectural styles within historical areas reflecting significant architectural traditions;
- (4) Foster civic and neighborhood pride and a sense of identity based on the recognition and use of historical areas and sites;
- (5) Strengthen the economy of the city by protecting and enhancing the city's attractions to residents, tourists and visitors;
- (6) Stabilize and improve property values and increase economic and financial benefits to the city and its inhabitants;
- (7) Identify as early as possible and resolve conflicts between the preservation of historical areas and sites and alternative land uses; and
- (8) Promote the private and public use of historical areas and sites for the education, prosperity and general welfare of the people.

(Ord. No. 82-41, § 1, 9-8-82)

### Sec. 14A.3. Areas of application.

This chapter shall apply to all historical areas and sites designated as such by resolution of the city council pursuant to the provisions set forth herein.

(Ord. No. 82-41, § 1, 9-8-82)

### Sec. 14A.4. Definitions.

(a) *Alteration* means any change or modification, through public or private actions, of any historical site or of any property located within an historical area including, but not limited to, changes to or modification or structure, architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new structures, cutting or removal of trees and other landscape features, disturbance of

archeological sites or areas, and the placement or removal of any objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape features affecting the visual qualities of the property.

(b) *Architectural feature* means the architectural elements embodying style, design, proportions, general arrangement and components of all surfaces of an improvement, including but not limited to, the kind, color or texture of the building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such improvement.

(c) *Commission* means the historical preservation advisory commission.

(d) *Historical area* means any area which:

(1) Contains improvements which:

a. Have a special character or special historical or aesthetic interest or value; and  
b. Represent one or more periods or styles of architecture typical of one or more areas in the history of the city; and

(2) Has been designated as an historical area pursuant to the provisions of this chapter.

(e) *Historical site* means a parcel or part thereof on which improvements, buildings, structures, signs, landscape features or other objects are situated of scientific, aesthetic, educational, cultural, architectural or historical significance due to its association with such things as noted past events, historical persons or distinguishing architectural characteristics and that has been designated as such pursuant to the provisions of this chapter.

(f) *Improvement* means any building, structure, place, work of art or other object constituting a physical betterment of real property, or any part of such betterment.

(g) *Landscape feature* means any grade, body of water, stream, rock, plant, shrub, tree, path, walkway, road, plaza, fountain, sculpture or other form of natural or artificial landscaping.

(h) *Object* means a material thing of functional, aesthetic, cultural, symbolic or scientific value, usually by design or nature movable.

(i) *Ordinary repairs and maintenance* means any:

(1) Work done on any improvement or landscape feature for which a permit is not needed pursuant to subsection 14A.8(2).

(2) Replacement of any part of an improvement or landscape feature; for which a permit issued by the building department is not required by law or by subsection 14A.8(2) where the purpose and effect of such work or replacement is to correct any deterioration or decay of or damage to such improvement or landscape feature or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage.

(j) *Preservation* means the identification, study, protection, restoration, rehabilitation or enhancement of historical areas and sites.

(k) *Qualified historic property* means a property listed on any federal, state, county, or city register, including the National Register of Historic Places, a California Register of Historical Resources, California Historical Landmarks, State Points of Historical Interest, and locally designated landmarks. Owner-occupied family residences and income-producing commercial properties may qualify for the Mills Act Program, subject to local regulations.

(Ord. No. 82-41, § 1, 9-8-82; Ord. No. 07-OR0438-1, § 1, 8-1-07)

Sec. 14A.5. Historical preservation advisory commission.

- (a) *Establishment.* There is hereby established in the city an historical preservation advisory commission (hereinafter referred to as the "commission") consisting of seven (7) unpaid members appointed by the mayor and approved by the city council.
- (b) *Members.* The members of the commission should include:
- (1) One member who is a licensed architect;
  - (2) One member who is a licensed civil engineer or is specially qualified by reason of training or experience in structural rehabilitation;
  - (3) One member knowledgeable in local history, architecture and cultural development;
  - (4) One member who is, and has been, the owner of his or her residence within the city for more than thirty (30) years; and
  - (5) Three (3) members who are current residences of the city.
- (c) *Appointment; terms.* The original appointment of the members of the commission shall be as follows: Three (3) for one year; two (2) for two (2) years; and two (2) for three-year terms.
- (d) *Expiration date of terms.* The expiration date of a term is hereby designated as July 1.
- (e) *Meetings.* The commission shall establish the time and place of its meetings. All meetings of the commission shall be conducted in accordance with the provisions of the Ralph M. Brown Act.
- (f) *Rules and regulations.* The commission shall make and adopt its own rules and regulations for conducting its business consistent with the laws of the state. Such rules and regulations shall be reduced to writing and be on file with the secretary of the commission at all times. The commission shall appoint such officers as may be necessary.
- (g) *Records.* The commission shall keep a record of its proceeding, which shall be open for inspection by any member of the public.
- (h) *Secretary.* The city manager shall designate an employee who shall serve as the secretary of the commission. The city clerk shall be responsible for the maintenance of all its permanent records.
- (i) *Quorum.* Four (4) members shall constitute a quorum. A majority vote of a quorum of the commission is required for the commission to take action on any matter, including but not limited to the adoption, amendment or repeal of any rules and regulations of the commission.
- (j) *Vacancy, removal, absences.*
- (1) In the event of a vacancy occurring during the term of a member of the commission, the mayor shall make an interim appointment to fill the unexpired term of such member, and where such member is required to have special qualifications, such vacancy shall be filled by interim appointment, in the manner herein prescribed, with a person having such qualifications.
  - (2) The provisions hereinabove notwithstanding, a member may be removed, at any time, with or without cause, by a majority vote of the city council.
  - (3) Any member who is absent, without having been excused by a majority of the members present, from three (3) successive meetings of the commission which such member was required to attend shall be deemed to have vacated his or her office.

- (k) *Duties.* The commission shall undertake and have the following duties, responsibilities, and functions together with all powers reasonably incidental thereto:
- (1) To meet from time to time as may be specified in the rules and regulations of the commission or upon request of the city council.
  - (2) To recommend to the city council:
    - a. Sites and areas to be considered for designation;
    - b. Criteria for guidelines to be used in a comprehensive survey of properties within the city;
    - c. The hiring of staff or consultants to conduct a comprehensive survey of properties with the boundaries of the city to identify potential historical sites and areas;
    - d. Adoption of standards to be used by the commission in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any historical area or site;
    - e. The approval or disapproval, in whole or in part, of applications for permits pursuant to sections 14A.8 and 14A.9 of this chapter;
    - f. The hiring of staff or consultants to conduct studies that the commission deems desirable or necessary;
    - g. The purchase of fee or less-than-fee interests in property for purposes of historical preservation;
    - h. Participation in and the promotion and dissemination of public information, educational and interpretive programs pertaining to historical areas and sites; and
    - i. Cooperation with local, county, state and federal governments in the pursuit of the objectives of historical preservation.
  - (3) The commission shall:
    - a. Review and comment upon the conduct of land use, housing and redevelopment, municipal improvement, and other types of planning and programs undertaken by any agency of the city, the county, or state, as they relate to the historical preservation of the community;
    - b. Publicize and periodically update survey results;
    - c. Maintain a local register of historical areas and sites within the city;
    - d. Investigate and report to the city council on the use of various federal, state, local, or private funding sources and mechanisms available to promote historical preservation in the city;
    - e. Render advice and guidance, upon the request of the property owner or occupant, on the restoration, alteration, decoration, landscaping or maintenance of any historical area or site; and
    - f. Perform any other functions that may be designated by the city council.
- (Ord. No. 82-41, § 1, 9-8-82)

Sec. 14A.6. Historical area or site designation criteria.

For the purposes this chapter, an historical area or site may be designated as such by resolution of the city council pursuant to section 14A.7 if it meets the following criteria:

- (a) It exemplifies or reflects special elements of the city's cultural, social, economic, political, aesthetic, engineering, or architectural history; or
- (b) It is identified with persons or events significant in local, state, or national history; or

- (c) It embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
  - (d) It is representative of the notable work of a builder, designer, or architect; or
  - (e) It is found by the council to have significant characteristics which should come under the protection of this chapter.
- (Ord. No. 82-14, § 1, 9-8-82)

Sec. 14A.6.1. Preservation incentives.

The city council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve qualified historic properties. Only properties designated as a qualified historic property pursuant to the provisions of the Oceanside Municipal Code Chapter 14A shall be eligible to apply for preservation incentives.

(Ord. No. 07-OR0438-1, § 1, 8-1-07)

Sec. 14A.6.2. Mills Act Program.

Pursuant to California Government Code, Article 12, Section 50280 (The Mills Act), the city council may establish a Mills Act Program providing for contractual agreement with an owner of a qualified historic property as designated by the city council or listed on any official federal, state, or county register for the purpose of preservation, rehabilitation, and maintenance of a qualified historic property. The terms of the Mills Act Agreement allow the owner of qualified historic properties pursuant to Section 14A.9 to receive a reduction in property taxes in exchange for the property owner's commitment to specific repair, restoration and/or rehabilitation improvements and satisfactory maintenance of the qualified historic property. The agreement shall include, but not be limited to, the contract provisions as required under state law, and shall extend for a minimum period of ten (10) years, renewed annually, until and unless a notice of non-renewal or cancellation is filed. The application process, review procedures, and required contract provisions for the Mills Act Agreements shall be established by separate resolution of the city council and shall be implemented by the city planner or his/her designee.

(Ord. No. 07-OR0438-1, § 1, 8-1-07)

Sec. 14A.7. Historical area or site designation procedures.

Historical areas or sites shall be established by the city council in the following manner:

- (a) Any person may request the designation of an improvement or landscape feature as an historical site or the designation of an historic area by submitting a written request for such designation to the commission. The commission or city council may also initiate such proceedings on their own motion.
- (b) The commission shall conduct a study of the proposed designation and make a preliminary determination based on such documentation as it may require, as to its appropriateness for consideration. The commission shall forward a report containing its findings and determinations to the city council and the city clerk.
- (c) Upon receipt of the commission's report, the city clerk shall schedule a public hearing and give notice as set forth in subsection (5) below for a proposed historical site

or subsection (6) below for a proposed historical area. The public hearing shall be held within forty-five (45) days of receipt of the commission's report.

(d) A notice of the scheduled public hearing shall be forwarded to the building department by the city clerk and no building, alteration, demolition or removal permits for any improvement, building, structure or landscape feature within the proposed historical area or relative to a proposed historical site shall be issued while the public hearing or any appeal thereto is pending.

(e) In the case of a proposed historical site, notice of the date, place, time and purpose of the hearing shall be given by first class mail to the owners and occupants of all properties affected at least twenty (20) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls, and shall be advertised once in a daily newspaper of general circulation.

(f) In the case of a proposed historical area, notice of the date, place, time and purpose of the hearing shall be given by first class mail to the owners and occupants of all properties within the proposed area at least twenty (20) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls, and shall be advertised once in a daily newspaper of general circulation.

(g) At the conclusion of the public hearing on the proposed designation, the city council shall, by resolution, designate the area or site, in whole or in part, or the council may make findings regarding its rejection of the proposed designation.

(h) Failure to send any notice by mail to any property owner where the address of such owner is not on the latest equalized assessment roll shall not invalidate any proceedings in connection with the proposed designation.

(i) The time for designation should not exceed two (2) calendar months unless a greater period of time is required as may be determined by the council. The council shall consider, when considering an extension of time, any undue hardship which may result from such extension.

(Ord. No. 82-41, § 1, 9-8-82)

Sec. 14A.8. Permit required to alter, demolish, etc.; exception.

(a) It is unlawful for any person to tear down, demolish, construct, alter, remove, or relocate any improvement or landscape feature, or any portion thereof, which has been designated an historical site pursuant to the provisions of this chapter, or which lies within an historical area, or to alter in any manner any architectural or landscape feature of such an historical site or improvement within an historic area, or to place, erect, alter or relocate any sign within an historic area or on an historical site, without first obtaining a permit, if required by this chapter, in the manner provided for herein.

(b) No board, department or commission shall grant permission or any permit to carry out such work on a designated historical site or within an historical area, without the prior issuance of a permit therefor by the city council except as indicated below. Such permission or permit shall include but not be limited to building permits, demolition permits, construction certificates, grading permits, conditional use permits, variances, development plans, zone changes, and tentative parcel or subdivision maps. No application for any such permission or permit shall be considered complete unless accompanied by a permit as required by this section. For any discretionary permission or

permit, the board, commission, or department with final authority to grant or deny such permission or permit shall not consider any application for such permission or permit until the applicant has obtained a permit as required by this section.

(c) No permit shall be necessary for ordinary maintenance and repair if the proposed work will not alter or change the style, color or design of the site or area and a permit is not required under section 301(b) of the Uniform Building Code nor does this ordinance prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when the building department certifies to the council that such action is required for the public safety due to an unsafe or dangerous condition which cannot be rectified through the use of the California Historical Building Code.

(d) The provisions contained herein shall not apply to work conducted by the city necessary to effect maintenance or repair of streets, sewer systems or similar public endeavors.

(Ord. No. 82-41, § 1, 9-8-82)

#### Sec. 14A.9. Permit criteria.

The city council shall issue a permit for any proposed work, if and only if, it determines:

(a) In the case of a designated historical site, that the proposed work would not detrimentally alter, destroy or adversely affect any architectural or landscape feature; or  
(b) If the owner of a designated historical site or area demonstrates to the city council that such property cannot be economically used and denial of a permit would deprive the owner of all or most of his or her economic interest in the property, the council may issue the permit with an effective date one hundred eighty (180) days from the date of issuance of the permit to allow time for the investigation of alternatives to the work proposed in the permit application such as acquisition of site or improvement by the city or a public interest group.

(c) In the case of construction of a new improvement, building or structure upon an historical site, that the exterior of such improvements will not adversely affect and will be compatible with the external appearance of existing designated improvements, buildings and structures in said site.

(d) That the applicant has presented clear and convincing evidence of facts demonstrating to the satisfaction of the city council that such disapproval will work immediate and substantial hardship on the applicant because of conditions peculiar to the person seeking to carry out the proposed work, whether this be property owner, tenant or resident, or because of conditions peculiar to the particular improvement, building or structure or other feature involved, and that approval of the application will be consistent with the purposes of this chapter.

(Ord. No. 82-41, § 1, 9-8-82)

#### Sec. 14A.10. Permit procedure.

The following procedures shall be followed in processing applications for approval of work covered by this chapter.

(a) Any city department receiving an application for a permit to work on a designated historical site or within a designated historical area shall forward a copy of said application, including the plans and specifications for the proposed work, to the commission.

- (b) The commission shall review the application and make a written report to the city council and the city clerk within thirty (30) days.
- (c) Upon receipt of a copy of the commission's report, the city clerk shall schedule a public hearing and shall advertise said hearing once in a daily newspaper of general circulation. The public hearing shall be held within thirty (30) days of receipt of the commission's report by the city clerk.
- (d) A notice of the scheduled public hearing shall be forwarded to the building department by the city clerk and no building, alteration, demolition or removal permits for any improvement, building, structure or landscape feature within an historical district or relative to an historical site shall be issued while the public hearing or any appeal thereto is pending.
- (e) At the conclusion of the public hearing on the permit application, the city council shall, by resolution, issue or deny, in whole or in part, any permit application. The council's decision shall be in writing and shall state the findings of fact and reasons relied upon in reaching its decision.
- (f) Any permit issued by the council pursuant to the provisions of this section shall be effective ten (10) days after the date of adoption by the council of the resolution granting the permit.
- (Ord. No. 82-41, § 1, 9-8-82)

Sec. 14A.11. Existing improvements.

All repairs, alterations, reconstructions, restorations or changes in use of existing improvements shall conform to the requirements of the California Historical Building Code.

(Ord. No. 82-41, § 1, 9-8-82)

Sec. 14A.12. Duty to keep in good repair.

(a) The owner, occupant or other person legally responsible for an historical site, or an improvement, building, landscape feature or structure in an historic area shall keep in good repair all of the exterior portions of such improvement, building or structure, all of the interior portions thereof when subject to control as specified in the designating ordinance or permit, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

(b) It shall be the duty of the building department to enforce this section.

(Ord. No. 82-41, § 1, 9-8-82)

Sec. 14A.13. Enforcement penalties.

(a) *Enforcement.*

(1) The building director or his designee shall have the authority to enforce the provisions of this chapter.

(2) Whenever any alteration of any improvement or landscape feature is being done contrary to the provisions of this chapter, the building director or his designee may order the alteration stopped by notice in writing served on any person or persons engaged in the doing or causing such alteration, and any such person or persons shall forthwith stop such alteration until authorized by the building director or his designee to proceed with the alteration.



(3) It shall be unlawful for any person to carry out any alteration of any building or structure in violation of a notice stopping such alteration.

(4) Any violation of the provisions of this chapter shall constitute a public nuisance.

(b) *Penalties.* Any person violating any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned for a period not exceeding six (6) months or be so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder. (Ord. No. 82-41, § 1, 9-8-82)

#### Sec. 14A.14. 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 hereby declares that it would have passed this ordinance 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. No. 82-41, § 1, 9-8-82)