

## **DIVISION 6. HISTORIC PRESERVATION REGULATIONS**

### **10-1-925: PURPOSE:**

This Division may be referred to as the “Historic Resource Management Ordinance.” The intent of this Division is to recognize, preserve, and protect historic Resources in the interest of the health, prosperity, social and cultural enrichment, and general welfare of the people. The purpose of this Division is to:

- A. Safeguard the heritage of the City by preserving Resources that reflect elements of the City’s history;
- B. Encourage public understanding and involvement in the historic, cultural, architectural, archaeological, and social heritage of the City;
- C. Promote the private and public use and preservation of historic Resources for the education, appreciation and general welfare of the people;
- D. Promote the conservation, preservation and enhancement of historic Resources;
- E. Promote the conservation of energy and natural resources through the preservation and maintenance of historic Resources;
- F. Discourage the demolition, destruction, alteration, misuse or neglect of Designated Historic Resources which represent an important link to Burbank’s past;
- G. Provide economic benefits to owners of qualifying historic Resources to ensure their continued maintenance and preservation; and
- H. To make all information about historic Resources and historic preservation accessible and available to the public. [Added by Ord. No. 3381, eff. 10/15/94; Amended by Ord. No. 3812, eff. 6/24/11.]

### **10-1-926: CRITERIA FOR DESIGNATION OF HISTORIC RESOURCES:**

Prior to any Resource being approved as a Designated Historic Resource, the City Council shall find that the Resource satisfies one or more of the following criteria.

The Resource:

- A. Is associated with events that have made a significant contribution to the broad patterns of Burbank’s or California’s history and cultural heritage.
- B. Is associated with the lives of persons important in the past.
- C. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- D. Has yielded, or may be likely to yield, information important in prehistory or history. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-927 and Amended by Ord. No. 3812, eff. 6/24/11.]

## **10-1-927: PROCEDURE FOR DESIGNATION OF HISTORIC RESOURCES:**

### **A. ELIGIBLE HISTORIC RESOURCES.**

1. The Director may maintain a list of Eligible Historic Resources. The purpose of the list is to inform City staff, decision makers, and the public for future planning and decision making, and to inform property owners about the potential historic significance of their properties.
2. Identification as an Eligible Historic Resource does not impose any obligations or requirements not otherwise required by law. Determination of eligibility and inclusion on the list does not constitute a determination of significance for the purposes of environmental review under the California Environmental Quality Act.
3. Any person may request that the Director investigate a Resource to determine its eligibility. The request shall be made in writing, in a form deemed appropriate by the Director. The Director may require the requestor to submit information regarding the historic significance of the Resource including but not limited to photographs, plans, deeds, and any other materials that may provide information regarding the Resource. A fee for filing the request may be required if so specified in the Fee Resolution.
4. If determined eligible, the Director shall identify the Resource as an Eligible Historic Resource.

### **B. APPLICATION FOR DESIGNATION.**

The owner of an Eligible Historic Resource may apply to have the Resource approved as a Designated Historic Resource. Such application shall be made in writing, in a form deemed appropriate by the Director. The application shall include the owner's consent to the designation and agreement to abide by the requirements of this Division through the execution of a covenant. The Director may require the owner to submit information regarding the historic significance of the Resource including but not limited to photographs, plans, deeds, and any other materials that may provide information regarding the Resource. An application fee may be required if so specified in the Fee Resolution.

### **C. HERITAGE COMMISSION REVIEW AND RECOMMENDATION.**

Applications for approval of Designated Historic Resources shall be reviewed by the Heritage Commission at a public meeting. The Commission shall determine whether the Resource meets one (1) or more of the criteria for approval as a Designated Historic Resource and, based on this determination, shall recommend to the City Council that the application be approved or denied. The Heritage Commission shall adopt a resolution stating its recommendation, focusing on the criteria set forth in Section 10-1-926, and incorporating its reasons in support or denial of the application.

### **D. COUNCIL DESIGNATES RESOURCE.**

Following the Heritage Commission's consideration of the application, the City Council shall hold a public hearing to consider the application. The applicant shall be provided with at least 15 days notice of the hearing date. Following the public hearing, the City Council shall adopt a resolution to approve or deny the application based on the criteria specified in Section 10-1-927. If the application is approved by the City Council, the Designated Historic Resource shall be added to the City's Register of Historic Resources.

**E. COVENANT TO BE RECORDED.**

If the application is approved by the City Council, the City shall record a signed covenant in the office of the County Recorder at the Resource owner's expense. The covenant, which shall run with the land and be binding on successors and assigns, shall specify which elements of the Designated Historic Resource are to be protected; and state that any alteration or removal of these elements shall be done in accordance with Section 10-1-928. This covenant shall serve as notice of the approval as a Designated Historic Resource, and shall not be removed from the property without the consent of the City Council. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-928 and Amended by Ord. No. 3812, eff. 6/24/11.]

**10-1-928: PROCEDURES AND CRITERIA FOR ACTIONS SUBJECT TO REVIEW:**

**A. PERMIT REQUIRED.**

No person shall demolish, construct, move, change the appearance of or make alterations to any Designated Historic Resource without first obtaining a Permit to Alter a Designated Historic Resource. No building, demolition, or similar permit for such work shall be issued unless a Permit to Alter a Designated Historic Resource has been approved pursuant to this Section.

**B. PROCEDURES FOR REVIEWING A PERMIT TO ALTER A DESIGNATED HISTORIC RESOURCE.**

1. An application for a Permit to Alter a Designated Historic Resource shall be filed with the Director. The application shall be made in writing in a manner deemed appropriate by the Director. The Director may require the applicant to submit such additional information and materials as may be necessary for a complete review of the application by the Heritage Commission. An application fee may be required if so specified in the Fee Resolution.
2. The Heritage Commission shall consider the application for a Permit to Alter a Designated Historic Resource at a public meeting. The Commission shall not approve the application unless it makes all of the following findings.
  - a. The proposed alteration is consistent with the purpose and intent of the City's Historic Resource Management Ordinance.
  - b. The proposed alteration will not adversely affect the significance or value of the Designated Historic Resource.

c. The architectural style, design, arrangement, massing, texture, painted and unpainted surfaces, materials, and any other significant factors will not be affected in a way that detracts from the Designated Historic Resource or otherwise decreases the value of the Designated Historic Resource to the community.

3. In approving an application, the Heritage Commission may impose conditions or restrictions as it deems necessary or appropriate for the purpose of making the above findings. These conditions may require changes to the proposed alterations. The Heritage Commission shall adopt a resolution stating its decision and any imposed conditions.

4. A decision of the Heritage Commission regarding an application for a Permit to Alter a Designated Historic Resource may be appealed by any person to the City Council. Such appeal shall be submitted in writing in a form deemed appropriate by the Director and shall be accompanied by payment of an appeal fee if specified in the Fee Resolution. Any appeal shall be submitted within 15 days of the date the Heritage Commission adopts its resolution to approve or deny the permit.

5. The City Council shall hold a public hearing to consider an appeal of the Heritage Commission's decision. Notice of the hearing shall be provided to the Resource owner, permit applicant, and appellant at least 15 days prior to the hearing. Upon conclusion of the hearing, the City Council shall adopt a resolution approving or denying the application and imposing any conditions deemed appropriate.

### C. EXEMPTIONS TO REQUIREMENT FOR PERMIT TO ALTER A DESIGNATED HISTORIC RESOURCE.

#### 1. Ordinary Maintenance and Repair.

A Permit to Alter a Designated Historic Resource is not required for the ordinary maintenance and repair of any Designated Historic Resource, so long as such maintenance and repair does not involve a change in exterior design, material, or appearance. The Heritage Commission may authorize staff to develop and implement a procedure to approve ordinary maintenance and repair activities meeting the above description.

#### 2. Public Health and Safety.

A Permit to Alter a Designated Historic Resource is not required for construction, reconstruction, alteration, restoration or demolition that the Building Official certifies is required to protect public health or safety because of an unsafe or dangerous condition.

#### 3. Economic Hardship.

The owner of a Designated Historic Resource may request to be exempted from the permit requirement and carry out work that may adversely affect the value or significance of a Designated Historic Resource on the basis of extreme financial

hardship or adversity. Such request shall be submitted by the owner and considered by the Heritage Commission (and City Council if appealed) in the same manner as an application for a Permit to Alter a Designated Historic Resource. The Director may require the owner to furnish material evidence supporting the request for exemption.

The Heritage Commission, and City Council if appealed, shall approve the request for exemption only if all the following findings are made:

- a. Requiring the owner to obtain a permit, or preventing the owner from carrying out the requested work, would deprive the owner of all reasonable use of, or economic return on, the property on which the Designated Historic Resource is located.
- b. Requiring the owner to obtain a permit or preventing the owner from carrying out the requested work would cause an immediate hardship because of conditions unique to the specific Designated Historic Resource involved.
- c. The damage to the owner would be unreasonable in comparison to the benefit conferred to the community by the Designated Historic Resource. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-929 and Amended by Ord. No. 3812, eff. 6/24/11.]

**10-1-929: DUTY TO MAINTAIN STRUCTURES AND PREMISES:**

The owner, lessees, and any other responsible persons shall take all steps necessary to maintain the Designated Historic Resource in good condition, and to prevent any deterioration or decay that would adversely affect the value or integrity of the Designated Historic Resource. Failure to maintain the Designated Historic Resource in accordance with this Section is a violation of the Burbank Municipal Code and is subject to prosecution. [Added by Ord. No. 3381, eff. 10/15/94; Formerly numbered Section 10-1-930 and Amended by Ord. No. 3812, eff. 6/24/11.]

**10-1-930: CRITERIA FOR DESIGNATION OF HISTORIC DISTRICTS:**

Prior to any area being approved as a Historic District, the City Council shall find that a minimum of 60 percent of the parcels of land in the proposed Historic District satisfy one (1) or more of the same criteria listed below, which criteria form the basis for designation of the proposed Historic District:

1. The contributing resources embody the distinctive characteristics of a type, period, region, or method of construction, represent the work of a master, or possess high artistic values.
2. The contributing resources reflect significant geographical patterns, including those associated with different areas of settlement and growth; particular transportation modes; or distinctive examples of a park landscape, site design, or community planning.
3. The contributing resources are associated with, or are unified by, events that have made a significant contribution to the broad patterns of Burbank's history.

4. The contributing resources are associated with the lives of persons important to local, state, or national history. [Renamed and Amended by Ord. No. 3826, eff. 8/17/12.]

**10-1-931:**

[Added by Ord. No. 3779, eff. 5/7/10; Deleted by Ord. No. 3812, eff. 6/24/11.]

**10-1-932: PROCEDURE FOR DESIGNATION OF HISTORIC DISTRICTS:**

**A. APPLICATION FOR DESIGNATION.**

An application for Historic District designation may be submitted by the owner of a parcel of land within the boundaries of the proposed Historic District. Such application shall be made in writing, on a form provided by the Director, and shall include a map of the proposed Historic District and photographs of the properties to be included in the Historic District. The Director may require the owner to submit supplemental information regarding the historic significance of the proposed Historic District. An application fee may be required if so specified in the City of Burbank Fee Resolution.

**B. COMMUNITY MEETING.**

Once an application has been deemed complete, the Community Development Director will host a community meeting prior to any action being taken to approve or deny the application. The purpose and intent of the community meeting is to provide information about the proposed Historic District and designation process. Mailed notice shall be provided to every occupant and owner of property, as shown on the latest equalized assessment roll, within the proposed Historic District and within 1000 feet of the proposed Historic District. Such notice shall be mailed no less than ten (10) business days prior to the scheduled community meeting date and shall include information about the proposed Historic District.

**C. HERITAGE COMMISSION PRELIMINARY DETERMINATION.**

1. The Heritage Commission shall hold a public hearing to preliminarily consider the application for Historic District designation.
2. Notice of the public hearing shall be provided to property owners and occupants consistent with Section 10-1-932(B).
3. The Heritage Commission shall preliminarily determine whether the proposed Historic District meets one (1) or more of the criteria for approval set forth in Section 10-1-930 without consideration of whether 60 percent of the parcels of land within the proposed Historic District individually meet such criteria. Based on this determination, the Heritage Commission may authorize circulation of a Petition Requesting a Historic Resource Survey. The Heritage Commission shall adopt a resolution stating its preliminary determination, focusing on the criteria set forth in Section 10-1-930, and incorporating its findings in support or denial of the application.
4. The determination of the Heritage Commission shall be provided to property owners and occupants consistent with Section 10-1-932(B).

5. The determination of the Heritage Commission is appealable to the City Council.

D. PETITION REQUESTING A HISTORIC RESOURCE SURVEY.

1. Within 90 days of a preliminary determination of eligibility by the Heritage Commission, or the City Council's action on appeal, the applicant shall submit a Petition Requesting a Historic Resource Survey to the Director on a form provided by the Director. The petition shall be signed by owners of at least 25 percent of the parcels of land in the proposed Historic District. Should the applicant fail to provide a petition with sufficient signatures within 90 days, the application shall be deemed denied and may not be re-submitted for a period of six (6) months following the date of denial.

2. A 90 day extension may be granted at the discretion of the Director. Any request for an extension must be made prior to the expiration of initial 90 day period.

3. For the purpose of this section, for a signature to be considered valid, the petition shall be signed by one (1) of the following, as shown on the latest equalized assessment roll:

a. Where the property is held by a single individual, that individual shall sign the petition;

b. Where the property is held by multiple owners, including joint tenancy, tenants in common, tenants in partnership or community property, each property owner shall sign the petition;

c. Where the property is held by a business entity, such as a corporation, limited partnership, general partnership, or limited liability, an authorized agent of such business entity shall sign the petition;

d. Where the property is a common interest development, as defined in California Civil Code Section 1351, the authorized agent of the homeowners association or other agent designated in the common interest development's governing documents shall sign the petition; or

e. Where the property is held in trust, all co-trustees shall sign the petition unless the California Probate Code allows otherwise.

4. Properties owned by any public agency shall not be considered, either as signatories or when determining the total number of properties, in judging whether a petition has sufficient signatures.

5. Upon receipt of the Petition Requesting a Historic Resource Survey, the Director shall verify that the petition contains the required number of signatures and that all signatures are valid. If budget authorization is required, the Director shall forward a funding request to the City Council for its approval. Notice of the Director's decision will be provided to properties consistent with Section 10-1-932(B).

#### E. PREPARATION OF HISTORIC RESOURCE SURVEY.

Staff will prepare, or cause to be prepared, a Historic Resource Survey consistent with the Department of Interior's standards for local surveys. The Historic Resources Survey shall identify within the boundaries of the proposed district the contributing resources and non-contributing resources.

#### F. PREPARATION OF DESIGN GUIDELINES.

Pursuant to Section 10-1-933(A), the Secretary of Interior Standards for the Treatment of Historic Properties will be used as design guidelines for the review of work proposed for properties within any adopted Historic District. Concurrent with the preparation of the Historic Resource Survey, staff will determine whether there is a need for local design guidelines as a supplement to the Secretary of Interior Standards. In the event local design guidelines are necessary for a proposed Historic District, draft local guidelines will be developed for consideration by the Heritage Commission, Planning Board and City Council during their respective reviews.

#### G. HERITAGE COMMISSION REVIEW OF SURVEY AND LOCAL DESIGN GUIDELINES.

1. Following preparation of the Historic Resource Survey and any draft local Historic District design guidelines, the Heritage Commission shall hold a public hearing to consider the Historic Resources Survey and any local design guidelines.
2. Notice of the public hearing shall be provided to property owners and occupants consistent with Section 10-1-932(B).
3. The Commission shall determine the following:
  - a. Whether the Historic Resources Survey is consistent with the Department of Interior's standards for local surveys;
  - b. Whether the Historic Resource Survey confirms the eligibility of the proposed Historic District based upon the criteria set forth in Section 10-1-930;
  - c. Whether any proposed local design guidelines are necessary and appropriate for the proposed Historic District;
  - d. Identification of the contributing resources and non-contributing resources; and
  - e. Whether to authorize circulation of a Petition Requesting a Historic District Designation.
4. The Heritage Commission shall adopt a resolution stating its determination and incorporating its findings in support or denial of the Historic Resources Survey and the authorization for a Petition Requesting a Historic District Designation.

5. The determination of the Heritage Commission shall be provided to property owners and occupants consistent with Section 10-1-932(B).

6. The determination of the Heritage Commission is appealable to the City Council.

#### H. PETITION REQUESTING HISTORIC DISTRICT DESIGNATION.

1. Within 180 days of the Heritage Commission's, or the City Council's action on appeal, the applicant shall submit a Petition Requesting a Historic District Designation to the Director on a form provided by the Director. The petition shall be signed by owners of at least 50 percent plus one (1) of the parcels of land in the proposed Historic District. Should the applicant fail to provide a petition with sufficient signatures within 180 days, the application shall be deemed denied and may not be re-submitted for a period of six (6) months following the date of denial.

2. A 90 day extension may be granted at the discretion of the Director. Any request for an extension must be made prior to the expiration of the initial 180 day timeframe.

3. Upon receipt of the Petition Requesting a Historic District Designation, the Director shall verify that the petition contains the required number of signatures and that all signatures are valid consistent with Section 10-1-932(D)(3).

#### I. MODIFICATIONS TO HISTORIC DISTRICT APPLICATION.

If at any time during the application process the applicant requests to modify the application for Historic District designation, the revised application shall be reviewed by the Director to determine if additional noticing to potentially affected residents is necessary. Revised applications may merit additional consideration by the Heritage Commission to determine if the proposed changes are consistent with eligibility determinations, require additional survey, or require additional petition signatures.

#### J. HERITAGE COMMISSION REVIEW AND RECOMMENDATION.

If a Petition Requesting Historic District Designation is verified to contain 50 percent plus one (1) owner approval as required under Subsection H above, the Heritage Commission shall hold a public hearing to consider the proposed application and recommend approval or denial to the City Council. Notice shall be provided to properties consistent with Section 10-1-932(B). In making its recommendation, the Commission shall determine the following:

- a. Whether the proposed Historic District meets the criteria set forth in Section 10-1-930;
- b. Whether the Historic Resources Survey is consistent with the Department of Interior's standards for local surveys;
- c. Whether the proposed local design guidelines, if any, are necessary and appropriate for the proposed Historic District; and

- d. Identification of the contributing resources and non-contributing resources.

The Heritage Commission shall adopt a resolution stating its recommendation and incorporating its findings in support or denial of the application.

#### K. PLANNING BOARD REVIEW AND RECOMMENDATION.

Following the Heritage Commission's consideration of the application pursuant to Subsection J above, the Planning Board shall hold a public hearing to consider the application and recommend approval or denial to the City Council. Notice shall be provided to properties consistent with Section 10-1-932(B). In making its recommendation, the Planning Board shall determine the following:

- a. Whether the proposed Historic District meets the criteria set forth in Section 10-1-930;
- b. Whether the Historic Resources Survey is consistent with the Department of Interior's standards for local surveys;
- c. Whether the proposed local design guidelines, if any, are necessary and appropriate for the proposed Historic District; and
- d. Identification of the contributing resources and non-contributing resources.

The Planning Board shall adopt a resolution stating its recommendation and incorporating its findings in support or denial of the application.

#### L. COUNCIL DESIGNATES DISTRICT.

Following the Planning Board's consideration of the application, the City Council shall hold a public hearing to consider the application to designate a Historic District. Notice shall be provided to properties consistent with Section 10-1-932(B). The Council shall make the following determinations:

- a. Whether the proposed Historic District meets the criteria set forth in Section 10-1-930;
- b. Whether the Historic Resources Survey is consistent with the Department of Interior's standards for local surveys;
- c. Whether the proposed local design guidelines, if any, are necessary and appropriate for the proposed Historic District; and
- d. Identification of the contributing resources and non-contributing resources.

The Historic District shall be adopted by Ordinance and incorporated into the Zoning Ordinance. The Ordinance shall, at a minimum:

- a. Establish the boundaries of the new Historic District;
- b. Identify the contributing and non-contributing resources; and

- c. Establish any necessary and appropriate local design guidelines.

If the application is approved by the City Council, the Historic District shall be added to the City's Register of Historic Resources.

#### M. MODIFICATION OR DELETION OF A HISTORIC DISTRICT.

The procedures for modification or deletion of a Historic District shall follow the procedures outlined in this Section and elsewhere in the Burbank Municipal Code as applicable. [Added by Ord. No. 3826, eff. 8/17/12; Amended by Ord. No. 13-3,844, eff. 11/22/13.]

### **10-1-933: PROCEDURES AND CRITERIA FOR ACTIONS SUBJECT TO REVIEW:**

#### A. DESIGN GUIDELINES

The Secretary of Interior Standards for the Treatment of Historic Properties, as may be amended from time to time, are incorporated herein by this reference. These standards shall be used as design guidelines for the review of work proposed for properties within any adopted Historic District. Any local design guidelines approved by the City Council for a Historic District shall apply in addition to the Secretary of Interior Standards for the Treatment of Historic Properties.

#### B. REVIEW OF CONFORMING WORK.

1. The Director shall review all zoning clearances for Contributing Resources within a Historic District to determine each of the following:

- a. If the proposed work is for ordinary maintenance and repair of any exterior architectural feature which does not involve a change in design, material, outward appearance, excluding changes to paint color;
- b. If the proposed work is for interior renovation and/or modifications that do not adversely affect elements which form the basis for the designation of the Historic District;
- c. If the proposed work is an addition, the work does not increase the height of the original structure and is not taller than the original structure, is not visible from the public right-of-way and does not adversely affect elements which form the basis for the designation of the Historic District ;
- d. If any demolition is in response to a natural disaster; and
- e. If the proposed work is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and any local design guidelines for the Historic District.

If the proposed work does not meet the applicable criteria, listed above, then a Permit To Alter a Contributing Resource shall be pursuant to Section 10-1-933 (C).

2. The Director shall review all zoning clearances for Non-Contributing Resources within a Historic District to determine each of the following:

- a. If any exterior modifications or additions are generally consistent with the massing, size, scale, architectural features and historic character of the Historic District and do not adversely affect elements which form the basis for the designation of the Historic District; and
- b. If the proposed work is for interior renovation and/or modifications and do not affect the exterior of the structure.

If the proposed work does not meet applicable criteria, listed above, then a Permit To Alter a Non-Contributing Resource shall be necessary pursuant to Section 10-1-933 (D).

3. Determinations made by the Director are appealable to the Heritage Commission.

#### C. REVIEW OF PERMIT TO ALTER A CONTRIBUTING RESOURCE.

1. Work on a Contributing Resource that is not specified in Section 10-1-933(B)(1) is considered non-conforming work.
2. All non-conforming work to a Contributing Resource shall require a Permit to Alter a Contributing Resource.
3. An application for a Permit to Alter a Contributing Resource shall be filed with the Director. The application shall be made in writing in a manner deemed appropriate by the Director. The Director may require the applicant to submit such additional information and materials as may be necessary for a complete review of the application by the Heritage Commission. An application fee may be required if specified in the City of Burbank Fee Resolution.
4. The Heritage Commission shall consider the application for a Permit to Alter a Contributing Resource at a public meeting. The Commission shall not approve the application unless the project complies with the Secretary of the Interior's Standard for the Treatment of Historic Properties and any local design guidelines. The Commission shall also find that the work shall not adversely affect elements which form the basis for the designation of the Historic District.
5. Determinations made by the Heritage Commission are appealable to the City Council.

#### D. REVIEW OF PERMIT TO ALTER A NON-CONTRIBUTING RESOURCE.

1. Work on a Non-Contributing Resource other than that specified in Section 10-1-933(B)(2) is considered non-conforming work.
2. All non-conforming work to a Non-Contributing resource shall require a Permit to Alter a Non-Contributing Resource.

3. An application for a Permit to Alter a Non-Contributing Resource shall be filed with the Director. The application shall be made in writing in a manner deemed appropriate by the Director. The Director may require the applicant to submit such additional information and materials as may be necessary for a complete review of the application by the Heritage Commission. An application fee may be required if specified in the Fee Resolution.

4. The Heritage Commission shall consider the application for a Permit to Alter a Non-Contributing Resource at a public meeting. The Commission shall not approve the application unless the project complies with any design guidelines applicable to Non-Contributing Resources and the following findings:

a. The design of new construction shall subtly differentiate the new construction from the surrounding historic built fabric, and shall be contextually compatible with the massing, size, scale, and architectural features of nearby structures in the Historic District; and

b. the work shall not adversely affect elements which form the basis for the designation of the Historic District.

5. Determinations made by the Heritage Commission are appealable to the City Council.

#### E. EXEMPTIONS TO REQUIREMENT FOR PERMIT TO A CONTRIBUTING OR NON-CONTRIBUTING RESOURCE.

##### 1. Prior Designation.

A Designated Historic Resource within a Historic District shall be subject to the requirements for a Permit to Alter a Historic Resource in Section 10-1-928(B), unless the proposed improvement is exempted from the requirement pursuant to Section 10-1-928(C).

##### 2. Public Health and Safety.

A Permit to Alter a Contributing or Non-Contributing Resource is not required for construction, reconstruction, alteration, restoration, or demolition that the Building Official certifies is required to protect public health or safety because of an unsafe or dangerous condition.

##### 3. Economic Hardship

The owner of a property within a Historic District may request to be exempted from the permit requirement and carry out work that may adversely affect the value or significance of the Historic District on the basis of extreme financial hardship or adversity. Such request shall be submitted by the owner and considered by the Heritage Commission (and City Council if appealed) in the same manner as an application for a Permit to Alter a Contributing or Non-Contributing Resource. The Director may require the owner to furnish material evidence supporting the request for exemption.

4. The Heritage Commission, and City Council if appealed, shall approve the request for an exemption only if all of the following findings are made:
  - a. Requiring the owner to obtain a permit, or preventing the owner from carrying out the requested work, would deprive the owner of all reasonable use of, or economic return on, the property.
  - b. Requiring the owner to obtain a permit or preventing the owner from carrying out the request work would cause an immediate hardship because of conditions unique to the property.
  - c. The damage to the owner would be unreasonable in comparison to the benefit conferred to the community by maintaining the overall aesthetic of the Historic District. [Added by Ord. No. 3826, eff. 8/17/12.]

**10-1-934: DUTY TO MAINTAIN STRUCTURES AND PREMISES:**

The owner, lessees, and any other responsible persons shall take all steps necessary to maintain properties within the Historic District in good condition and to prevent any deterioration or decay that would adversely affect the value, integrity or elements, which form the basis of the Historic District. Failure to maintain properties within the Historic District in accordance with this Section is a violation of the Burbank Municipal Code, and shall constitute a nuisance. [Added by Ord. No. 3826, eff. 8/17/12.]

**10-1-935: HISTORIC PRESERVATION INCENTIVES:**

**A. PURPOSE.**

The purpose of this Section is to implement the Mills Act which is set forth in California Government Code Sections 50280 et seq., and California and Revenue Code Section 1161, and as those sections may be amended from time to time (hereafter collectively, the "Mills Act") in order to establish a process to enter into contracts with owners of property that has previously been designated as a qualified historic, as defined in the Mills Act, for property tax relief and for the preservation of those historic properties. The City has imposed a limit of three (3) Mills Act contracts per year or a limit on the estimated unrealized property tax revenue loss at \$30,000 per year; however, the Council may waive the limitation in any specific case or Council may make a contract effective the following year.

**B. APPLICATION REQUIREMENTS.**

1. Application. A property owner shall complete an application form provided by the Director. The application shall include, but not be limited to, the following: a) Historic Property Description; b) detailed proposed preservation work plan narrative which describes the improvements, maintenance and preservation over the life of the contract (which may be Exhibit B to the contract); c) grant deed (with legal description of property which may be Exhibit A to the contract) and property ownership statement; d) Historic Property Inspection report confirming how the work plan is consistent with the historic designation; e) estimated property tax savings; f) estimated cost of improvements and estimated timing for completion of improvements (which also may be used as Exhibit C to the contract); g)

photographs of property. The Director may set deadlines for submittal of applications in order to provide the County Assessor's Office with ample time to process the contract. In the event prioritization ranking is necessary, the Director reserves the right to create such procedures.

2. Fees. The City may charge a fee to recoup all Mills Act contract processing and administrative costs if specified in the Burbank Fee Resolution or if specified in any Mills Act contract.

3. City Review and Heritage Commission recommendation. Once the application is complete, the Director shall, after providing the property owner with at least 15 days notice, request the Heritage Commission to review the application, and to make recommendations to the City Council on the merits of the proposed application. The Commission may propose modifications to the work plan as it deems necessary.

4. City Council Action. The Director shall request Council consideration of the Mills Act contract, after providing the property owner with at least 15 days notice. Council may in its sole and absolute discretion authorize the Director's execution of the Mills Act contract.

#### C. PROVISIONS IN MILLS ACT CONTRACTS.

1. The required provisions of a Mills Act contract between the City and the property owner shall be those specifically required by the Mills Act, as well as any other requests by the City Council, which may include the following:

a. Term: The term of the contract shall be a minimum of ten (10) years. On the anniversary date of the contract, or such other date as specified in the contract, a year shall be automatically added to the initial term of the contract unless a notice of nonrenewal is given to the owner at least 60 days prior to the renewal date. In the event the property owner chooses to terminate the contract, then the property owner shall provide the Director with a notice of nonrenewal at least 90 days prior to the renewal date.

b. Verification of Compliance with Work Plan. The owner will agree to permit periodic examination of the interior (if applicable) and exterior of the property, as may be necessary to verify the owner's compliance with the contract. Owner will agree to allow City to photograph the historic property. Owner further will agree to provide any information requested to ensure compliance with the contract. The City is not obligated to inspect, and annual self certification of compliance may be required as provided for in Subsection (D).

c. Recordation of Contract. The contract shall be recorded by the Los Angeles County Recorder's office and shall be binding on all successors-in-interest of the owner. The City Clerk shall record the contract, at applicant's cost, no later than 20 days after the City enters into the contract.

d. Notice to State. The Owner shall provide written notice of the contract to the State of California Office of Historic Preservation within six (6) months of entering into the contract.

e. Annual Report Required. The contract shall require the owner to file an annual report, on its progress of implementing the work plan or restoration or rehabilitation with the Director until the work has been completed to the satisfaction of the Director. Thereafter, during the term of the contract, on an annual basis, the owner shall provide a report on the maintenance of the property, which report may require documentation of the owner's expenditures and actions taken to maintain the qualified historic property.

f. Cancellation of Contracts. The contract shall expressly provide for the City's authority to cancel the contract if the City determines that the owner has breached the contract either by his or her failure to restore or rehabilitate the property in accordance with the approved plan; by the failure to maintain the property as restored or rehabilitated; or if the owner has allowed its property to deteriorate to the point that it no longer meets the standards for a qualified historic property. No contract can be cancelled until the Council has given notice of, and held a public hearing on, the matter. Notice shall be mailed to the owner and published at least once in a newspaper of general circulation in accordance with the Mills Act.

g. Alternative to Cancellation if breach. As an alternative to cancellation, the City may bring an action for specific performance or other action necessary to enforce the contract.

h. Cancellation Fee. The contract may also reiterate the Mills Act requirement of a cancellation fee. If the City cancels the contract, the owner shall pay the State of California a cancellation fee of 12.5 percent of the current market value of the property, as determined by the county assessor as though the property was free of the contractual restriction.

i. Force Majeure Cancellations. The contract may require that in the event preservation, rehabilitation, or restoration of the qualified historic property becomes infeasible due to damage caused by natural disaster (e.g., earthquake, fire, flood, etc.), the City may cancel the contract without requiring the owner to pay the State of California the above-referenced cancellation fee as a penalty subject to concurrence by the County Assessor. However, in this event, a contract may not be cancelled by the City unless the City determines, after consultation with the State of California Office of Historic Preservation, in compliance with Public Resources Code Section 5028, that preservation, rehabilitation, or restoration is infeasible.

j. Work Plan Amendments including Improvements or Schedule. The contract may provide that modifications to the approved work plan require review and approval by the Heritage Commission.

D. MILLS ACT CONTRACT.

The Director and the City Attorney shall prepare and maintain a current Mills Act contract with all required provisions specified by state law and this section. [Added by Ord. No. 3381, eff. 10/15/94; Formerly Numbered Section 10-1-931; Formerly Numbered Section 10-1-930 and Amended by Ord. No. 3826, eff. 8/17/12; 3812.]

**DIVISION 7. HISTORIC SIGN REGULATIONS**

**10-1-936: PURPOSE:**

The Historic Sign Regulations are intended to provide for the preservation of Burbank's unique character, history, and identity, as reflected in its historic and iconic signs. The regulations will encourage property owners to preserve the unique signage and provide a clear process for modifying historic signs to meet the contemporary needs of property owners. [Added by Ord. No. 16-3,879, eff. 6/24/16.]

**10-1-937: HISTORIC SIGNS:**

[Added by Ord. No. 16-3,879, eff. 6/24/16.]

**10-1-938: CRITERIA FOR DESIGNATION OF HISTORIC SIGNS:**

Prior to any sign being designated as a Historic Sign the City Council shall find that the Historic Sign satisfies one or more of the following criteria:

- A. Is associated with events that have made a significant contribution to the broad patterns of Burbank's or California's history and cultural heritage.
- B. Is associated with the lives of persons important in the past.
- C. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values.
- D. Has yielded, or may be likely to yield, information important in prehistory or history.
- E. The sign exemplifies the cultural, economic, and historic heritage of Burbank.
- F. The sign exhibits extraordinary aesthetic quality, creativity, and innovation. [Added by Ord. No. 16-3,879, eff. 6/24/16.]

**10-1-939: PROCEDURE FOR DESIGNATION OF HISTORIC SIGNS:**

A. APPLICATION FOR DESIGNATION.

Applications for designation may be submitted by any member of the public or the sign owner and supported by an Historic Sign Treatment Plan. If an application for designation is submitted by a member of the public, the Director must obtain the written consent of the sign owner in order to continue processing the application for designation. Such application shall be made in writing, in a form deemed appropriate by the Director. The application shall include the owner's consent to the designation and agreement to abide by the requirements of this Division through the execution of a covenant. The Director may require the owner to submit information regarding the

historic significance of the potentially historic sign including but not limited to photographs, plans, deeds, and any other materials that may provide information regarding the potentially historic sign. An application fee may be required if so specified in the Fee Resolution.

1. The application for designation as a Historic Sign shall include a Historic Sign Treatment Plan. The Historic Sign Treatment Plan will include the following (but is not limited to):

- a. Description of the Historic Sign, including current address, original address (if different), date of original construction and installation, sign type, original materials, text, and type of illumination (if known).
- b. Historic documentation, including approved permits, site plans, elevations, and dated photographs, as available.
- c. Current photos of the Historic Sign, including views of all visible elevations as well as contextual images of the property as a whole.
- d. Narrative statement of significance against Burbank's local designation criteria.
- e. List of character-defining features.
- f. Existing and proposed elevation drawings of the Historic Sign, drawn to scale, showing height, width, depth, and area.
- g. Dimensioned site plan, with the existing and proposed land use, graphically showing existing and proposed location and setbacks for the proposed Historic Sign and any other existing or proposed signs on the premises, and existing and proposed site improvements.
- h. A list of specific treatments for character-defining features, lists of materials and/or parts to be replaced, and recurring maintenance items.
- i. Photo simulations of the completed sign as viewed from the street and other significant vantage points, as appropriate.
- j. Where an applicant produces physical evidence or documentation sufficient to prove that a proposed Historic Sign included intermittent lighting features (e.g. flashing, blinking, chasing or sequentially lit elements which create the appearance of movement) or moving parts, such sign elements may be repaired or restored conditioned upon a determination by the City that no negative safety issues will result.

## B. HERITAGE COMMISSION REVIEW AND RECOMMENDATION.

Applications for approval of Historic Signs shall be reviewed by the Heritage Commission at a public meeting. The Commission shall determine whether the sign meets one or more of the criteria for approval as a Historic Sign and, based on this

determination, shall recommend to the City Council that the application be approved or denied. The Heritage Commission shall adopt a resolution stating its recommendation, focusing on the criteria set forth in Section 10-1-938, and incorporating its reasons in support or denial of the application.

**C. CITY COUNCIL DESIGNATES THE HISTORIC SIGN.**

Following the Heritage Commission's consideration of the application, the City Council shall hold a public hearing to consider the application. The applicant shall be provided with at least 15 business days notice of the hearing date. Following the public hearing, the City Council shall adopt a resolution to approve or deny the application based on the criteria specified in Section 10-1-938.

**D. COVENANT TO BE RECORDED.**

If the application is approved by the City Council, the City shall record a signed covenant in the office of the County Recorder at the Resource owner's expense. The covenant, which shall run with the land and be binding on successors and assigns, shall specify which elements of the Designated Historic Resource are to be protected; and state that any alteration or removal of these elements shall be done in accordance with Section 10-1-928. This covenant shall serve as notice of the approval as a Designated Historic Resource.

**E. REMOVAL OF HISTORIC DESIGNATION.**

Should the property owner wish to remove the Historic Designation, the designation may be removed by Heritage Commission provided the two findings can be made. These findings include:

1. An attempt has been made to find a suitable donee for the sign.
2. No suitable donee site was able to be found and there are no other economically feasible means to preserve the sign. [Added by Ord. No. 16-3,879, eff. 6/24/16.]

**10-1-940: PROCEDURES AND CRITERIA FOR ACTIONS SUBJECT TO REVIEW:**

**A. PERMIT REQUIRED.**

No person shall demolish, construct, move, change the appearance of or make alterations to any Historic Sign without first obtaining a Permit to Alter a Designated Historic Resource pursuant to the procedure set forth in section 10-1-928. [Added by Ord. No. 16-3,879, eff. 6/24/16.]

**10-1-941: HISTORIC SIGN DEVELOPMENT STANDARDS:**

Historic Signs shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties. Historic Signs shall also comply with the following requirements as applicable.

**A. RESTORATION AND OR REPAIR OF HISTORIC SIGNS.**

1. Restoration and or repair of an Intact or nearly intact Historic Signs shall be consistent with a documented appearance that existed during its Period of Significance.
2. Restoration and or repair shall not add typographical or other elements which result in an increase in the size of the restored and or repaired sign.

B. ADAPTIVE REUSE (CHANGE OF COPY) OF HISTORIC SIGNS.

1. Text changes shall not result in changes to character defining features.
2. Text changes shall match or be compatible with existing text in material(s), letter size, font/typography, and color.
3. The sign shall use materials and technology representative of its period of construction.
4. The sign shall be structurally safe or can be made safe without substantially altering its historical appearance.

C. RELOCATION OF HISTORIC SIGNS.

1. Relocation of a Historic sign off site is discouraged unless it is technologically impractical or otherwise infeasible to maintain the Historic Sign in the original location. The burden of proof is upon the applicant and shall be to the satisfaction of the Heritage Commission.
2. Relocation of a Historic Sign shall be to a location within the original premises, or to a location deemed appropriate by the Heritage Commission.
3. If relocated to another premise, the Historic Sign shall display conspicuous text or a plaque, using a template provided by the Director, that indicates that the sign has been relocated, the date of relocation, and the original location.

D. REPLICA HISTORIC SIGNS.

1. A replica Historic Sign may only be installed on the premises where it originally existed.
2. A replica Historic Sign shall be consistent with a documented appearance that existed prior to its Period of Significance.
3. A replica Historic Sign shall utilize historical materials and technologies, or visually matching contemporary materials and technologies.
4. A replica Historic Sign shall display conspicuous text or a plaque, using a template provided by the city of Burbank, which indicates the sign is a contemporary reproduction, and the date of reproduction.
5. A replica Historic Sign shall not replicate an existing sign.

6. A replica Historic Sign shall not be a billboard sign as defined in 10-1-502.
7. Adaptive reuse of a replica Historic Sign is prohibited. [Added by Ord. No. 16-3,879, eff. 6/24/16.]

**10-1-942: DUTY TO MAINTAIN STRUCTURES AND PREMISES:**

The owner, lessees, and any other responsible persons shall take all steps necessary to maintain the Historic Sign in good condition and to prevent any deterioration or decay that would adversely affect the value or integrity of the Historic Sign. Failure to maintain the Historic Sign in accordance with this Section is a violation of the Burbank Municipal Code and is subject to prosecution.

**A. DEMOLITION.**

Demolition of a Historic Sign is only allowed upon approval of a Permit to Alter a Designated Historic Resource or an approved treatment plan. Demolition of a Historic Sign shall be consistent with an approved treatment plan for relocation, or subject to a maximum thirty (30) business day waiting period to facilitate salvage of the sign. The sign owner shall allow reasonable access to the sign to facilitate documentation and salvage activities. A Permit to Alter a Designated Historic Resource is not required for construction, reconstruction, alteration, restoration or demolition that the Building Official certifies is required to protect public health or safety because of an unsafe or dangerous condition. [Added by Ord. No. 16-3,879, eff. 6/24/16.]

**10-1-943: HISTORIC SIGN PRESERVATION INCENTIVES:**

A. The purpose of this Section is to provide tangible incentives to property owners to designate historic and iconic signs that are reflective of the unique character, history, and identity of Burbank, and emphasizes that such resources should be altered only as necessary to meet contemporary needs.

**B. INCENTIVES PROVIDED TO HISTORIC SIGNS.**

1. All Building Permit fees are waived for any work related to the preservation, maintenance or restoration of the Historic Sign.
2. An applicant may request deferral of payment of Building Permit fees for any property with a Historic Sign from the Director.
3. All Building Permit fees associated with a sign, for a property with a Historic Sign shall be reduced by ten percent, with a maximum fiscal year cap of \$5,000 per property.
4. The maximum allowed sign area for a property with a Historic Sign shall be increased by ten percent.
5. The square footage of a Historic Sign does not count towards the maximum allowable signage allowed on a property. However, for properties with Historic Signs, proposed new signage must be reviewed by the Community Development Department to determine that it will not detrimentally affect the historic integrity of

the Historic Sign and must otherwise comply with all other applicable development standards. [Added by Ord. No. 16-3,879, eff. 6/24/16.]

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<sup>1</sup> State law reference: As to airport approaches zoning law in general, see Gov. C. Sections 50485-50485.14. As to authority to adopt, administer and enforce airport zoning regulations, see Gov. C. Section 50485.3. As to policy of state legislature toward airport zoning, see Gov. C. Section 50485.2. As to the incorporation of airport zoning regulations into comprehensive Zoning Ordinance regulating height of buildings, etc., see Gov. C. Section 50485.4. As to the requirement of reasonableness, see Gov. C. Section 50485.7. As to administration and enforcement of airport zoning regulations, see Gov. C. Section 50485.9. As to conflict between airport zoning plan and general zoning plan, see Gov. C. Section 50485.4.