

**ORDINANCE NO. 4322**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF POMONA APPROVING A CODE AMENDMENT (FILE NO. CODE-018684-2022) AMENDING SECTION .5809-13 OF THE CITY OF POMONA ZONING ORDINANCE PERTAINING TO HISTORIC PRESERVATION**

**WHEREAS**, the Historic Preservation Commission of the City of Pomona has proposed a Code Amendment to amend Section .5809-13 of the City of Pomona Zoning Ordinance pertaining to review of properties 50 years old or older to determine if they are historic prior to demolition, and to provide regulations for the demolition of historic properties citywide;

**WHEREAS**, the City Council of the City of Pomona, has, after giving notice thereof as required by law, held a public hearing concerning the proposed code amendment (File No. CODE-018684-2022);

**WHEREAS**, the City Council has carefully considered all pertinent testimony, including the staff report and presentation, public comments, both written and oral, received and/or submitted at or prior to the public hearing, supporting and/or opposing the request, all related documents received and/or submitted at or prior to the public hearing.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Pomona as follows:

**SECTION 1.** Pursuant to the guidelines for implementation of the California Environmental Quality Act, the project is exempt per Section 15061(b)(3) the California Environmental Quality Act since the proposed amendment makes it more difficult to demolish an historic resources it will not have a significant effect on the environment. A Notice of Exemption has been prepared and the Historic Preservation Commission hereby recommends the City Council approve the exemption.

**SECTION 2.** Section .5809-13 of the City of Pomona's Zoning Ordinance shall be amended to read as follows:

**Sec. .5809-13. Historic Preservation.**

A. Purpose and Intent. The purpose of this section is to preserve the city of Pomona's cultural, historical, and architectural heritage and resources as living parts of community life which will benefit and enrich the lives of its present and future residents. To these ends, this section is intended to accomplish the following:

1. Preserve the diverse architectural styles reflecting phases of the city of Pomona's history and encourage complementary contemporary development to inspire a more livable urban environment;

2. Build civic pride by promoting the understanding, appreciation, and enjoyment of the city's rich heritage and cultural resources;
3. Enhance property values and increase economic and financial benefits to the city;
4. Enhance the city of Pomona for residents, tourists and visitors thereby stimulating business and industry; and
5. Conserve valuable material and energy resources by fostering ongoing use and maintenance of the existing built environment.

B. Applicability. This section shall apply to all designated historic landmarks on private and public property, and to all designated historic districts (which may include private and public property) within the city of Pomona.

C. Definitions.

1. "Alteration" means any exterior change or modification, through public or private action, to the character-defining or significant physical features of properties affected by this section. Such changes or modifications may be made to structures, architectural details, or visual characteristics, grading or surface paving. Also, changes or modifications may include the addition of new structures; cutting or removal of trees, landscaping, or other natural features; disturbance of archaeological sites or areas; and the placement or removal of visually or architecturally significant signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings, or landscape accessories.
2. "Applicant" means an individual or an organization (private or public) submitting an application for a certificate of appropriateness for any proposed work on any designated historic landmark, or on any building, structure, or improvement on private or public property within a designated historic district.
3. "Certificate of appropriateness" is a certificate issued by the historic preservation commission approving such plans, specifications, statements of work, and any other information which is reasonably required by the commission to make a decision on any proposed exterior alteration, restoration, rehabilitation, construction, removal, relocation or demolition, in whole or in part, of or to a designated resource, designated site, or to a building or structure within a historic district.
4. "Commission" shall mean the historic preservation commission of the city of Pomona.
5. "Conservation zone" means an area within the city of Pomona, whether commercial, residential or institutional, including streets, sidewalks, public parks, public streetscape, public buildings and public structures with a majority of buildings and structures fifty years old or older, which the city of Pomona wishes to maintain and revitalize so as to emphasize

such buildings' and structures' importance to the past, present, and future of the city of Pomona.

6. "Construction" shall mean the act of constructing an addition to an existing building or structure or the erection of a new principal or accessory structure or building on a lot or property.
7. "Contributor" shall mean any property which contains an improvement or natural feature included in the application for an historic district which provides substance to the district's character. A contributor shall be considered an historic landmark in all respects.
8. "Cultural resource" means improvements, buildings, structures, signs, features, sites, scenic areas, views and vistas, places, areas, landscapes, trees, or other objects of scientific, aesthetic, educational, cultural, architectural, archaeological objects, or historical significance to the citizens of the city of Pomona, the state of California, the Southern California region, or the nation which may be eligible for landmark status, and therefore, appropriate for historic preservation by the historic preservation commission and the city council, pursuant to the provisions of this section.
9. "Demolition" means any act or process that destroys in part or in whole an individual cultural resource, a contributor to an historic district, or any other primary structure legally constructed that is 50 years old or older, notwithstanding the provisions of subsection M.
10. "Design guidelines" are the principles contained in a document which illustrate appropriate and inappropriate methods of rehabilitation and construction. The purpose of using a set of design guidelines is to aide design and decision-making with regard to retaining the integrity of scale, design intent, materials, feeling, patterns of development, and historical character of a landmark building or historic district. These principles are listed in the Secretary of Interior's Standards for Rehabilitation, set forth by the United States Department of the Interior.
11. "Designated historic landmark" means any improvement or natural feature that has special historical, cultural, aesthetic, or architectural character, archeological importance, interest, or value as part of the development, heritage or history of the city of Pomona, the state of California, or the nation, that has been designated a historic landmark of the city of Pomona and placed on the Pomona historic register.
12. "Development standards," as set forth in Section .5809-12-G-4 F-5, are standards or regulations for new construction in historic districts or in areas where several historic landmarks exist in close proximity.
13. "Economic hardship" shall mean a substantial economic burden placed upon the property owner in order to comply with a certificate of appropriateness. Such a hardship shall be determined by the commission/council based upon a showing of extreme financial impact or deprivation in accordance with the procedures and findings of this section.

14. "Exempted properties" means properties which are specifically exempted by the city council during consideration of a historic district designation. For purposes of determining district boundaries, such properties shall be considered part of the subject historic district. Property owners at the time of exemption shall be exempt from the provisions of the historic preservation ordinance so long as they retain ownership of the property. Transfer of ownership between relatives shall constitute a change of ownership.
15. "Historic district" means any area containing a concentration of improvements that has a special character, archeological importance, historical interest, or aesthetic value, which possesses integrity of location, design, setting, materials, workmanship, feeling, and association or which represents one or more architectural periods or styles typical to the history of the city of Pomona, and that has been designated an historic district pursuant to this section or has been placed on the National Register of Historic Places.
16. "Improvement" means any fixture or emblems affixed to public or private real property such as a building, structure, fence, gate, landscaping, tree, wall, parking facility, streetscape, sidewalk, paving, street light, street sign, bollard, park furniture, work of art, or other object constituting a physical feature of real property or any part of such feature.
17. "Natural feature" means any tree, plant life, or geographical or geological site or feature subject to the provisions of this section.
18. "Noncontributing structure" means any building or structure which is located within a designated historic district but does not contribute nor add to the district's historic character.
19. "Ordinary maintenance and repair" means any work for which a building permit is not required by law, in which the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.
20. "Potential historic landmark or historic district" means a building or district which is listed on the Pomona historic resources survey as having the potential for achieving landmark status, but which has not been officially placed on the Pomona historic register. It may also mean a building or district that could be placed on the register when: (1) more research becomes available regarding its eligibility; or (2) the resource is restored to its original condition and integrity; or (3) the resource becomes one of the few remaining examples of its type in the city.
21. "Preservation" means the identification, study, protection, restoration, rehabilitation, or acquisition of historic landmarks.
22. "Secretary of Interior's Standards for Rehabilitation" means the guidelines prepared by the National Park Service of the United States Department of the Interior for rehabilitating historic buildings.

23. "Significant feature" means the natural or man-made elements which are indicative or representative of an historic landmark's exterior style, type, design, or general arrangement including, but not limited to, the kind, and texture of the building materials, and the type and style of all windows, doors, lights, signs, and other fixtures which are a part of such improvement.
24. "Sponsor" means an individual or an organization (private or public) submitting an application for designation of an historic landmark or an historic district to the city's planning division.

D. Historic Landmark Designation Criteria. For the purposes of this section, an improvement, natural feature, or site may be designated an historic landmark by the historic preservation commission and city council and any area within the city of Pomona may be designated an historic district pursuant to subsection E of this section, if the building or majority of buildings (in a district) are fifty (50) or more years old or of exceptional quality if less than fifty (50) years old, and it meets one or more of the following criteria:

1. It exemplifies or reflects special elements of the city of Pomona's cultural, social, economic, political, aesthetic, engineering, architectural, or natural history;
2. It is identified with persons or events significant in local, state, or national history;
3. 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;
4. It contributes to the significance of an historic area, being a geographically definable area possessing a concentration of historic or scenic properties or thematically related grouping of properties which contribute to each other and are unified aesthetically by plan or physical development;
5. It is the work of a notable builder, designer, landscape designer or architect;
6. It has a unique location or singular physical characteristics or is a view or vista representing an established and familiar visual feature of a neighborhood, community, or the city of Pomona;
7. It embodies elements of architectural design, detail, materials, or craftsmanship that represent a significant structural or architectural achievement or innovation;
8. It is similar to other distinctive properties, sites, areas, or objects based on an historic, cultural, or architectural motif;
9. It reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning;

10. It is one of the few remaining examples in the city of Pomona, region, state, or nation possessing distinguishing characteristics of an architectural or historical type or specimen.

E. Designation Procedures. Historic landmarks and historic districts shall be established by the city council in the following manner:

1. Designation of an improvement as an historic landmark or the designation of an historic district is begun by a sponsor who may be an individual or organization submitting an application for such designation to the planning division of the economic development department. The application for designation shall contain sufficient documentation and information indicating how the building meets the criteria for designation contained in this section. The commission may also initiate such proceedings on its own motion.
  - a. For designation of historic landmarks for single family structures, the owner of the property shall be notified by certified and first class mail if he or she is not the applicant for designation. The owner's consent must be obtained prior to scheduling a public hearing.
  - b. For designation of historic landmarks for nonresidential structures, the owner of the property shall be notified by certified and first class mail if he or she is not the applicant for designation. The owner's consent must be obtained prior to scheduling a public hearing. It is the city council's discretion to override a property owner objection with a 5/7's majority vote provided a finding can be made that the structure is of unique value and of special interest to the entire community.
  - c. For designation of historic districts all property owners within the proposed district shall be notified of the application by first class mail as described in section E 4 of this ordinance. As part of the application for historic district designation, the sponsor shall provide a set of mailing labels containing the names and addresses of all property owners of properties within the proposed historic district as shown on the latest equalized Los Angeles County assessment rolls.
2. The planning and development services manager shall make a preliminary determination as to the completeness of the application within thirty (30) days of its receipt and shall notify the sponsor(s), owner(s) and/or resident(s) of this determination. Inaction by the city on the determination of completeness of the application within thirty (30) days of its receipt shall automatically deem it as complete. A public hearing shall be scheduled before the commission within thirty (30) days of staff's acceptance as complete, any application for landmark or district designation. Such hearing need not be held within thirty (30) days, but shall be scheduled within such period.
3. In the case of a proposed historic landmark or cultural resource site, notice of the date, place, time, and purpose of the hearing shall be given by first class mail to sponsor(s), owners and occupants of the building or site at least thirty (30) days prior to the date of the commission public hearing and legal notice shall be provided at least ten (10) days prior to

the public hearing in a newspaper of local circulation. The site shall be posted with a sign at least 8 ½" × 14" stating that the property is under consideration for historic designation for a period of at least (10) days prior to the public hearing date.

4. In the case of a proposed historic district, the notice of the proposed district shall be mailed to all property owners thirty (30) days prior to the first scheduled public hearing date. The notice shall include:
  - a. A map illustrating the boundaries of the proposed historic district;
  - b. An explanation of how individual properties will be affected by the adoption of an historic district including any additional review processes that may be required as a result of district designation;
  - c. A description of the historic district designation process including the date, time and place of scheduled public hearings;
  - d. An explanation of how property owners can request that their property be exempted from the provisions of the proposed historic district;
  - e. A form to be returned to City Hall fifteen (15) days prior to the first scheduled public hearing date if the property owner opposes district designation and would like to be exempted from the provisions of the district.
5. Fifteen (15) days prior to the first scheduled public hearing date on the historic district designation application, the returned responses shall be counted. No application for historic district designation shall be noticed for public hearing if fifty percent (50%) of the property owners plus one (1) property owner within the proposed district respond in writing opposing historic district designation of their property.
6. Legal notice of the public hearing shall be provided in a daily newspaper of general circulation at least ten (10) days before any public hearing.
7. If the historic district is approved, the following properties will automatically be exempted from the provisions of the historic district designation until such time as the property ownership changes ownership.
  - a. Properties owned by persons, trusts, institutions or businesses that returned the form indicating their opposition to the proposed historic district designation.
  - b. Properties owned by persons, trusts, institutions or businesses that expressed their opposition to the proposed historic district in writing or verbally at any time prior to the approval of the designation.

- c. No other properties shall be exempted from the provisions of the historic district designation.
  - d. Within 30 days after City Council approval for the establishment of an historic district within the City of Pomona, the City Council may, upon recommendation of the Historic Preservation Commission, approve a request by a property owner residing in the historic district to withdraw from the historic district only if the property owner can submit proof that they did not receive a "Notice of Application" as outlined in Section .5809-13.E.1 of the—Zoning Ordinance.
8. No exterior building, demolition, or relocation permits for any improvement, building, or structure within the proposed historic district or relative to a nominated historic landmark shall be issued while the nomination process, including public hearing, is pending.
9. At the conclusion of the public hearing, but in no event more than fifteen (15) days from the date set for the commission public hearing for the designation of a proposed historic landmark or historic district, the commission shall recommend approval in whole or in part, or disapproval of the application in writing. The commission's recommendation shall include findings of fact relating to the criteria for designation contained in this subsection that constitute the basis for its decision. The commission shall transmit its recommendation to the city council, the property owner(s), sponsor(s), and the occupant(s).
10. Approval of Commission Recommendations.
- a. For designation of a historic district, within sixty (60) days of receipt of the recommendations from the commission, the city council shall by resolution, approve the nomination in whole or in part, or shall by resolution disapprove it in its entirety.
  - b. For designation of a historic landmark, if the property owner's written consent to the historic landmark designation is on file, within sixty (60) days of receipt of the recommendations from the commission, the city council by majority vote of those present shall by resolution approve the nomination in whole or in part, or shall by resolution disapprove it in its entirety.
11. The nominated building, site, or district, after being officially designated by the city council, shall be placed on the Pomona historic register.
12. The commission shall not recommend that a resource be removed from the Pomona historic register unless it is discovered that the information relied on by the commission and the city council in making the original designation was erroneous or false, or that circumstances wholly beyond the owner's control have rendered the resource ineligible for designation based on the criteria listed in this subsection and it would be infeasible to restore the resource. However, in the case of the moving of the building to another location or the deliberate destruction of the historic and architectural integrity of the resource, the commission may, after a public hearing, remove the resource from the official list.

13. Designations shall be recorded with the Los Angeles County recorder's office.

F. Certificate of Appropriateness.

1. No work including exterior alteration, may be conducted on a designated historic landmark, on existing or new buildings, public streets, public streetscape, public sidewalk, public structures, public buildings, spaces and public works projects within a designated historic district without first obtaining a certificate of appropriateness from the city.
2. Application. An application for a certificate of appropriateness shall be filed by an applicant with the planning division. Applications for all work shall be accompanied by plans and specifications, including drawings that show the relationship of the work to surrounding historic features and properties.
3. Applications for certificate of appropriateness are divided into two (2) categories: (a) minor projects which will be reviewed by the planning and development services manager for administrative denial or approval; and (b) major projects which will be reviewed by the historic preservation commission.
  - a. Minor projects shall include replacement of an element of a structure with similar elements or the addition of elements which are part of a site but not an integral part of an historic landmark structure and shall also include minor repair or replacement work on public buildings, public structures, public sidewalks and public streetscape. A single element of a structure could include replacing windows, replacing exterior doors, replacing a decayed fascia board, replacing a garage door, etc. Adding an element to the site could include a perimeter fence, tiling a patio, placing a new walkway, etc. This category shall also include demolition and/or replacement of accessory structures. Applications for minor alterations shall include the following submittal:
    - (1) An application form signed by the owner(s)' designated agent. Three (3) copies or descriptions or renderings of the replacement material(s) or of elements being added. These shall be of sufficient detail to reasonably determine compliance with the ordinance requirements. For example in many cases specification sheets or catalog pictures are sufficient for submittal purposes.
    - (2) In the event that distinctive features are being replaced such as distinctive doors, windows, a picket fence or trim, then two (2) photographs or detailed renderings of the existing features shall be required for submittal.
  - b. Major projects shall include changes which significantly alter the following: height, proportions, the relationship of the building mass and space, roof shape, scale or distinctive facades of the structure. Examples of major projects shall include, but not be limited to room additions, adding dormers, expanding a garage, adding a porch, removing distinctive shutters or part or all of a structure. This category also includes demolition and/or replacement of primary use buildings or structures, and

construction/installation of new buildings, structures, new public sidewalks, new public streetscape improvements, new street lamps, new public buildings and structures, and development of new public spaces within an historic district. Additional examples shall be established at a later time by the commission. Applications for major projects shall include the following submittal:

- (1) One copy of application form signed by the property owner or his authorized representative;
- (2) Ten (10) sets of scaled plans including site development plan, floor plan, and building elevations, all individually folded to eight and one-half inches by fourteen inches (8 ½" × 14") size;
- (3) One eight and one-half inches by eleven inches (8 ½" × 11") clear film transparency set of plans; and
- (4) A materials sample board, manufacturer's catalogue cut sheets, and/or rendering(s) adequately depicting the nature of the proposed change(s).

4. Procedure.

- a. For minor projects, the planning and development services manager shall review the application for certificate of appropriateness and determine within fifteen (15) days from the date of receipt of a completed application whether to approve or deny the request, and shall make the appropriate findings.
- b. For major projects, the commission shall review the application for a certificate of appropriateness no less than ten (10) days after notice of such hearing has been mailed by first class mail to each applicant and take action on the request no later than seventy-five (75) days from receipt of a completed application by the planning division. Inaction by the commission within the seventy-five (75) day period will deem the application approved. The commission shall approve, conditionally approve, or deny issuance of the certificate of appropriateness for major projects, and shall make the appropriate findings.

5. Design Review. In considering an application for a certificate of appropriateness for exterior alterations or new construction, the planning and development services manager and the commission shall be guided by the following general standards in addition to the most current edition of the Secretary of the Interior's Standards for Rehabilitation:

- a. Height. The height of any proposed construction shall be compatible with the height and bulk of surrounding structures and in conformance with the maximum allowable height for the applicable zoning district.

- b. Proportions of Windows and Doors. The proportions and relationships between doors and windows shall be compatible with the architectural style and character of the surrounding structures, and be of an appropriate material.
  - c. Relationship of Building Masses and Spaces. The resulting relationships between proposed structures and created spaces, or between remodeled structures and created spaces, shall be consistent with the shapes and setbacks of existing adjacent structures.
  - d. Roof Shape. The designs of the roof shall be compatible with the architectural character and style of the surrounding structures. Gables, turrets, and other roof forms shall be incorporated when appropriate to accomplish design compatibility with adjacent structures.
  - e. Scale. The scale of the structure shall be compatible with the architectural character and style of the existing buildings. The new building shall blend in with surrounding buildings through the sensitive use of proper scale and materials.
  - f. Directional Expression/Facades. Facades in an historic district shall blend in with other structures with regard to directional expression. Structures in an historic district shall be compatible with the dominant horizontal and vertical expression of surrounding structures.
  - g. Architectural Details. Architectural details, including materials and textures shall be treated so as to make any new construction compatible with the architectural style and character of the historic district.
  - h. Architectural Rhythm and Articulation. All proposed structures or facade remodeling shall show sufficient and rhythmic repetition of architectural details so as to be compatible with the facade articulation of existing adjacent buildings.
  - i. New additions and adjacent related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
  - j. All exterior mechanical equipment shall be screened from view with appropriately designed screens, parapet walls, landscaping or any other form of screening which the commission or the planning and development services manager may deem acceptable. The design, style, color and texture of the required screening method shall be compatible with the existing or proposed building/facade design.
6. Findings. The planning and development services manager shall issue a certificate of appropriateness for minor projects, or for any form of emergency work necessary to remedy any condition determined to be imminently dangerous and unsafe by the fire department or the building division. The commission shall issue same for major projects,

based upon a determination that the following findings can be made with regards to the proposed work:

- a. The proposed change will not adversely affect any significant historical, cultural, architectural, or aesthetic features of the concerned property or the historic district in which it is located.
  - b. The proposed change is compatible in architectural style with existing adjacent contributing structures in an historic district.
  - c. The proposed change is consistent with the architectural style of the building as specified in subsection 5 herein, Design Review.
  - d. The scale, massing, proportions, materials, textures, fenestration, decorative features, and details proposed are consistent with the period and/or compatible with adjacent structures.
  - e. In case of demolition, the applicant must show that demolition of the subject structure(s) will not adversely affect any significant historical, cultural, architectural, or aesthetic features of the concerned property or the historic district in which it is located.
7. Noncontributing Structures. The commission is not charged with the obligation to induce noncontributing structures in an historic district to conform to the special character or aesthetic value of the historic district. The commission is charged with assuring that significant exterior alterations or additions to noncontributing structures would not markedly detract from the special character, historic interest or aesthetic value of the historic district. If a building permit application is filed for a noncontributing structure within an historic district, staff shall review the permit for its potential to significantly alter the special character or aesthetic value of the district. If the exterior alterations or additions are deemed to have significant impact, then a hearing for a certificate of appropriateness would be required. No fee will be charged for this type of certificate of appropriateness application. Types of improvements would include:
- a. The remodeling of, and/or construction of additions to existing structures;
  - b. The remodeling and/or construction of garages; guest houses and other similar accessory structures.
  - c. New construction.
- G. Appeal Procedure. In accordance with the following provisions, any applicant or other interested person dissatisfied with any decision on the application for a certificate of appropriateness may appeal such decision.

Decisions of the planning and development services manager or designee may be appealed to the commission. Decisions of the commission may be appealed to the city council.

Unless otherwise indicated, all appeals shall be made in writing stating the reason(s) for appeal. Such appeals shall be filed with the planning division within twenty (20) days of the decision on the application for a certificate of appropriateness. The receipt of a written appeal shall stay all actions, or put in abeyance all permits or other discretionary approvals which may have been granted, pending the effective date of the decision on the appeal.

Appeals shall be scheduled for the earliest regular meeting of the hearing body, not less than fifteen (15) days or more than forty-five (45) days after the date of filing an appeal, consistent with the agenda preparation procedures and scheduling of the commission and city council meetings as the case may be.

- H. Economic Hardship. The commission shall not issue certificates of appropriateness which are not in compliance with subsection F-6 unless the findings for economic hardship are met. Application for economic hardship shall be made on a form(s) provided by the planning division and may be filed concurrent with the application for a certificate of appropriateness.
1. The commission shall schedule a public hearing concerning the application and provide notice in the same manner as in subsection F of this section and any person may testify at the hearing concerning economic hardship in the same manner as provided in subsection H-3.
  2. The commission shall review all evidence and information required of an applicant for economic hardship and make a determination within fifty (50) days of receipt of the application whether the denial of a certificate of appropriateness has deprived, or will deprive, the owner of the property of the reasonable use of, or economic return on the property. Written notice of the determination shall be provided in the same manner required by subsection F of this section.
  3. If the applicant presents facts and clear evidence demonstrating to the commission that failure to approve the application for certificate of appropriateness will cause immediate and substantial economic hardship, the commission may then approve in part or in whole the application based upon economic hardship. Economic hardship is defined as a substantial cost to the owner of the property which is patently unreasonable in comparison to the benefit conferred to the community should the owner be limited to following guidelines for preserving or protecting the property. The commission shall hold a public hearing in order to determine whether a certificate of appropriateness shall be approved or denied when economic hardship is involved. If the certificate of appropriateness is approved in such a case a written determination shall state that economic hardship is the reason for its findings.
  4. The commission shall weigh the following factors as appropriate, in evaluating applications for economic hardship:

- a. Denial of the application will affect the value of the subject property so as to diminish substantially its value;
  - b. The sale or rental of the property is impractical when compared to the cost of holding such property for uses permitted in this zone;
  - c. An adaptive reuse study has been conducted and found that utilization of the property for lawful purposes is prohibited or impractical;
  - d. Rental at a reasonable rate is not feasible;
  - e. Denial of the certificate of appropriateness would damage the owner of the property unreasonably in comparison to the benefit conferred on the community; and
  - f. All means involving city sponsored incentives such as tax abatements, financial assistance, building code modifications, amendments to the zoning ordinance, loans, grants, and reimbursements have been explored to relieve possible economic hardship.
5. The commission shall be authorized to request the applicant to furnish material evidence supporting his request for a finding of economic hardship. Evidence shall consist of any of the following as deemed necessary by the commission:
- a. Cost estimates of the proposed work and estimate of the additional cost(s) that would be incurred to comply with the recommendations of the commission.
  - b. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
  - c. Fair market value of the property from an appraiser in its current condition, estimated market value after completion of the proposed construction, exterior alteration, demolition, or removal; after any changes recommended by the commission; and in the case of a proposed demolition, after renovation of the existing property for continued use.
  - d. In the case of a proposed demolition, an estimate from an architect, an appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation, relocation, or reuse of the existing structure on the property.
  - e. For income-producing properties, information on the annual gross income, operating and maintenance expenses, depreciation deductions, and annual cash flow after debt service, and current property taxes.

- f. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years and any appraisals obtained within the previous two years by the owner or applicant.
  - g. Amount paid for the property, the date of purchase, and the party from whom purchased, including a description of the relationship between the owner of record or applicant and the person from whom the property was purchased; any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years.
  - h. Assessed value of the property according to the most recent assessments and property taxes for the two previous years.
  - i. Form of ownership or operation of the property, whether sole proprietorship, limited partnership, joint venture or other.
  - j. Any other information considered necessary by the commission to make a determination of economic hardship, and to determine whether the property does yield or may yield a reasonable return to the owners.
6. In considering an application for economic hardship, the commission shall make a finding that without approval of the proposed demolition, exterior alteration, remodeling, removal, or construction, the reasonable use of or return from a designated landmark or property within an historic district will be denied a property owner. In this context, personal financial difficulties or loss of quantifiable anticipated profits may be considered, but are not alone justifiable hardships. In the case of a proposed demolition, the commission must make a finding that the designated landmark cannot be remodeled or rehabilitated in a manner which would allow a reasonable use of or return from the property to the property owner.
7. In the case of a finding of economic hardship, this finding shall be accompanied by a plan developed by the city of Pomona and/or applicant to relieve economic hardship. This plan may include, but is not limited to, property tax relief, loans, or grants from the city of Pomona and other sources, acquisition by fee purchase or eminent domain, redevelopment funds, development fees for historic preservation, changes in applicable zoning regulations, transfer of unused development rights or relaxation of the provisions of this section sufficient to allow reasonable beneficial use or return from the property. The commission shall within sixty (60) days, from the date of receipt of a completed application, make recommendations to develop and adopt a plan in order to relieve economic hardship and to allow the applicant a reasonable use of and economic return from, the property or otherwise preserve the subject property. Inaction by the commission on the request within the sixty (60) day period shall result in the request for economic hardship being deemed automatically approved.

8. If, by the end of the aforementioned sixty (60) day period, the commission finds that without approval of the proposed work the property cannot generate a reasonable economic return, then the commission shall issue a finding of economic hardship approving the proposed work.
  9. If the commission finds otherwise, it shall deny the application for a finding of economic hardship and notify the applicant by mail of the final denial.
  10. If approval of a finding of economic hardship will result in the demolition of a nominated or designated historic landmark, the applicant shall be required to provide documentation of the resource proposed for demolition to the standards of the Historic American Buildings Survey. Such documentation may include photographs, floor plans, measured drawings, archaeological survey, or other documentation stipulated by the commission and shall be submitted prior to issuance of a demolition permit.
- I. Historic Preservation Participation Incentives. In order to foster the preservation of Pomona's historic built environment, the following incentives for participation are only available to historic landmarks and contributors to historic districts:
1. State Historic Building Code. Any exterior alteration made for preservation, rehabilitation, restoration, or relocation of such properties shall be made according to the standards of the State Historical Building Code pursuant to the California Health and Safety Code Section 18950 et seq.
  2. Mills Act Contracts. The city council authorizes the use of California Government Code Section 50280 et seq., alternately known as the Historical Property Contracts or Mills Act. Such contracts, which shall be administered by the economic development department, may be entered into at the sole discretion of the city council based on the recommendations of the commission in a form to be approved by the city attorney. The intent of such contracts shall be the continued preservation of historical properties. The subject property must be on the Pomona historic register or located within a designated historic district to which it is a contributor.
  3. Recognition. The commission shall establish a program to recognize historic properties with special plaques, signage etc.
  4. Financial Benefits. Owners of such properties are eligible to apply for local, state and federal financial benefits as available.
- J. Duty to Keep in Good Repair. The owner, occupant, or other person in actual charge of an historic landmark or an improvement, building, or structure in an historic district shall keep it in good repair at all times. All exterior portions of such improvement, building, or structure shall be properly maintained. All of the interior portions thereof of certain public buildings, when such control is specifically designated, shall be properly maintained, when such

maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

K. Unlawful Demolition.

1. The owner of any structure which is demolished without obtaining a required certificate of appropriateness shall be subject to a fine not exceeding the amount of five dollars (\$5.00) per square foot up to the maximum fine allowable by law of structure or portion of structure which was demolished.
2. The amount of penalty to be imposed shall be reviewed for potential adjustment every five (5) years, and if not reviewed shall remain at the level last determined.

L. Determination of Historic Eligibility

1. Any property owner may request the Historic Preservation Commission make a determination as to a property's eligibility for historic designation. In addition, any request to demolish a structure 50 years old or older automatically requires review and an eligibility determination.
2. Upon receipt of a request to make an historic resource eligibility determination, staff shall schedule the property for review by the Historic Preservation Commission at their next meeting (subject to noticing requirements).
3. Staff shall research the property and make a recommendation to the Commission as to whether the property meets any of the local, State or National designation criteria and if it has sufficient integrity to warrant designation.
4. The Historic Preservation Commission shall make a determination whether or not the property is eligible for designation.

M. Deconstruction Review of Structures 50 Years Old or Older. The Historic Preservation Commission shall review any property 50 years old, as of the date of the demolition permit application or older to determine the eligibility for historic designation prior to the issuance of a demolition permit. For the purposes of this section, review shall be required for any proposed demolition that will destroy 50 percent or more of the structure. The process is a 2-step process.

1. Step 1: Determination of Historic Eligibility. Any property 50 years old or older proposed for Deconstruction must be evaluated to determine if the property is eligible for historic designation as required in Section .5809-13(L). Properties determined eligible will proceed to step two (2) below. For properties determined not eligible for historic designation, they are no longer in the purview of the Historic Preservation Commission. Any determination by the Commission is subject to appeal per section .5809-13(G).
2. Step 2: Certificate of Deconstruction. Any property determined by the Historic Preservation Commission to be eligible for historic designation must follow the Certificate of Deconstruction requirements in Section .5809-13(N).

N. Deconstruction of Historic Structures (Certificates of Deconstruction). A Certificate of Deconstruction process is established for deconstructions to ensure that any deconstruction of

an eligible or designated Historic Resource complies with the requirements of this chapter to mitigate the impacts of deconstruction.

1. General Requirements

- a. A Certificate of Deconstruction is required for any demolition, in whole or in part, of an Historic Resource.
- b. No permit shall be issued for demolition of an Historic Resource until a Certificate of Deconstruction has been issued in accordance with the provisions of this section.

2. Applications.

- a. All applications for deconstruction shall be filed with the Director. The applicant is encouraged to confer with the Director before submittal of the application.
- b. All Applications shall include:
  - (1) Plans and specifications showing the proposed exterior appearance of the project site following deconstruction and any proposed new construction;
  - (2) Materials and colors to be used on the exterior of structures on the site following the proposed deconstruction;
  - (3) Relationship of the proposed work to the surrounding environment, if necessary;
  - (4) Relationship of proposed new construction to the existing scale, massing, architectural style, site and streetscape, landscaping and signage in an Historic District; and
  - (5) Any other information the Director reasonably determines to be necessary for review of the proposed work.
  - (6) Required Fee(s).

3. Procedures. Applications for a Certificate of Deconstruction shall be processed in accordance Chapter .5809-13(F)(4)(b) of this code.

4. Findings of Fact. One of the following findings shall be made prior to approval of a Deconstruction application:

- a. The proposed, deconstruction, in whole or in part, is necessary because:
  - (1) All efforts to restore, rehabilitate, and/or relocate the resource have been exhausted; and/or,
  - (2) Restoration or rehabilitation is not practical because the extensive alterations required would cause the loss of integrity of the resource; or,
- b. The Applicant has obtained a Certificate of Economic Hardship in accordance with Section .5809-13(H).

**SECTION 3.** The City Clerk shall certify to the passage of this Ordinance, and shall cause same to be posted as required by law, and this Ordinance shall take effect thirty (30) days after its adoption.

**PASSED, APPROVED AND ADOPTED** this 5<sup>th</sup> day of June, 2023.

**CITY OF POMONA:**

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Tim Sandoval  
Mayor

**APPROVED AS TO FORM:**

**ATTEST:**

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Sonia Carvalho  
City Attorney  
STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES  
CITY OF POMONA

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Rosalia A. Butler, MMC  
City Clerk

I, ROSALIA A. BUTLER, MMC, CITY CLERK of the City of Pomona do hereby certify that the foregoing Ordinance was introduced for first reading at a regular meeting of the City Council of the City of Pomona held on April 17, 2023 and was adopted at second reading at a regular meeting of the City Council of the City of Pomona held on June 5, 2023, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

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Rosalia A. Butler, MMC  
City Clerk