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## Chapter 10.86 HISTORIC PRESERVATION

### 10.86.010 Purpose.

It is the intent and purpose of the Manhattan Beach City Council in passing this Chapter to:

A. Safeguard the City's heritage by encouraging the recognition and protection of landmarks representing significant elements of the City's history and culture;

B. Foster civic and neighborhood pride and a sense of identity based on appreciation of the City's past;

C. Strengthen the economy of the City by identifying and recognizing historical and cultural landmarks which may be of interest to both residents and visitors.

### 10.86.020 Definitions.

The following terms when used in this Chapter shall have the meaning set forth in this Section, unless a different meaning clearly appears from the context:

“Alteration” means any act or process that modifies a historic landmark or contributing resource that either: (1) requires a building or other permit and changes one or more of the features of a landscape or structure including, without limitation, the erection, construction, reconstruction, or relocation of any structure or any part of a structure; or (2) significantly changes any feature of a landscape or exterior of a structure that relates to its status as a historic landmark or contributing resource, regardless of whether such act or process requires a building or other permit.

“Commission” means the City of Manhattan Beach Historic Preservation Commission.

“Community Development Director” or “Director” means the Community Development Director of the City of Manhattan Beach or his or her designee.

“Contributing resource” means any site, sign, structure, building, landscape, object, area, place, or feature within a historic district or conservation district that is either a separately designated historic landmark or designated as a resource that contributes to the district’s historic, cultural, or architectural significance.

“Demolition” means any act or process that destroys, in whole or in part, a building, structure, or site or permanently impairs its structural integrity.

“Historic landmark” means any structure, any site, sign, building, landscape, object, area, place, or feature designated as a historic landmark pursuant to this Chapter.

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“Inventory of historic resources” means the inventory adopted by the Commission of potentially historic sites, structures, buildings, landscapes, areas, and places in the City.

“Ordinary maintenance and repair” means any work for the purpose and effect of which is to correct any deterioration of, or damage to, an improvement or natural feature or any part thereof and to restore the same to its condition prior to the occurrence of such deterioration or damage.

“Manhattan Beach Cultural Heritage Conservancy” or “Conservancy” shall mean a group comprised of voluntary members of the community that assist in increasing public awareness and community appreciation of Manhattan Beach history.

“Register of historic resources” means the inventory adopted by the Commission of historic landmarks, points of historic interest, and conservation districts designated pursuant to this Chapter.

“Rehabilitation” means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural significance.

“Restoration” means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period, which may include the limited and sensitive upgrade of mechanical, electrical, and plumbing systems and other code-required work to make the property functional and safe.

“Secretary’s Standards” means the Standards for the Treatment of Historic Properties adopted by the United States Secretary of the Interior, and all guidelines adopted for the implementation of the same.

“State Historical Building Code” means California Health & Safety Code, Section 18950 *et seq.* and the California Historical Building Code, codified at Part 8, Title 24 of the California Code of Regulations, as either of these may be amended from time to time.

## **10.86.030 Historic Preservation Commission.**

A. There is hereby created the Historic Preservation Commission of the City of Manhattan Beach. The Planning Commission shall act as the Historic Preservation Commission and shall be vested with all functions, rights, powers, and duties of the Historic Preservation Commission.

B. Powers and Duties: The Commission shall have the following powers and duties in addition to any other duties specified in this Chapter:

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1. Administer the provisions of this Chapter.
2. Advise the Council in all matters pertaining to historical preservation.
3. Maintain a current register of designated historic resources for public use and information.
4. Maintain a current inventory of potentially historic resources for public use and information.
5. Recommend the designation of historical resources, as hereinafter provided by this Chapter.
6. Review and hold public meetings on applications for Certificates of Appropriateness, as hereinafter provided.
7. Review and comment on the decisions and documents, including but not limited to environmental assessments, Environmental Impact Reports, and Environmental Impact Statements, prepared by other public agencies when such decisions or documents might affect designated or potential historical resources within the City.
8. Participate in, promote, and conduct public informational, educational, and interpretive programs pertaining to historical resources.
9. Recommend and encourage the protection, enhancement, appreciation, and use of structures of historical, cultural, architectural, community or aesthetic value that have not been designated as historical resources but are deserving of recognition.
10. Perform any other functions that may be designated by resolution or action of the Council.

C. Secretary: The Community Development Director shall act as Secretary to the Commission and shall be custodian of its records, conduct official correspondence, and generally coordinate the clerical and technical work of the Commission in administering this Chapter.

## **10.86.040 Designation of Historic Landmarks**

A. Automatic Designation. Any property within the City that is listed in the National Register of Historic Places or the California Register of Historic Resources is automatically designated as a historic landmark for purposes of this Chapter.

B. Prior Designations. Any historic landmark previously designated as a culturally significant landmark, a historic landmark, by the City on or before the effective date of this Chapter shall not automatically be designated a historic landmark for

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purposes of this Chapter, but shall require review to determine if the designation is consistent with the provisions of this chapter.

C. New Designations. The Council may designate any structure, property, or properties as a historic landmark, or contributing resource subject to the criteria and procedures set forth in this Chapter.

D. Amendment or Rescission. The Council may amend or rescind the designation of any historic landmark, historic district, or conservation district for purposes of this Chapter, subject to the same procedures required for their designation, including without limitation meeting and recommendation of the Commission.

## **10.86.040 Designation Criteria for Historic Landmarks.**

A. The Council may designate a property as a historic landmark if it meets the requirements of both paragraphs B and C of this Section.

B. Historic landmarks must meet at least one of the following criteria:

1. It is or was once associated with events that made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States.

2. It is or was once associated with persons important to local, California, or national history.

3. It embodies the distinctive characteristics of a type, period, or method of construction.

4. It represents the work of a master, possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction.

5. It has yielded or has the potential to yield information important to the prehistory or history of the local area, California, or the nation.

In addition, historic landmarks must also meet the following criteria:

6. It is 45 years old at the time of consideration for designation.

C. Historic landmarks must retain integrity from their period of significance with respect to its location, design, setting, materials, workmanship, feeling, association, or any combination of these factors. A proposed landmark need not retain all such original aspects, but must retain sufficient integrity to convey its historic, cultural, or architectural significance. Neither the deferred maintenance of a proposed landmark nor its dilapidated condition shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the property's eligibility.

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## **10.86.050 Designation Criteria for Historic Districts.**

A. The Council may designate a property or collection of properties as a historic district if the proposed district meets the requirements of both paragraphs B and C of this paragraph Section.

B. A historic district must meet at least one of the following criteria:

1. It has an identifiable, clear, and distinct boundary that possesses a significant concentration of structures sharing common historical, visual, aesthetical, cultural, archaeological, or architectural plan or physical development; or

2. It demonstrates character, interest, or value as part of the development, heritage, or cultural characteristics of the community, state, or country; or

3. It is the site of a significant local, state, or national event; or

4. It is associated with the lives of persons important to local, state, or national history; or

5. It is identifiable as the work of a master builder, designer, architect, artist, or landscape architect whose individual work has influenced the development of the community, county, state, or country.

C. Historic districts must retain integrity from their period of significance with respect to their location, design, setting, materials, workmanship, feeling, and association. Not all properties or structures in a proposed district need to retain all such original aspects, but a substantial number of such properties and structures must retain sufficient integrity to convey the historic, cultural, or architectural significance of the district. Neither deferred maintenance within a proposed district nor the dilapidated condition of its constituent buildings and landscapes shall, on its own, be equated with a loss of integrity. Integrity shall be judged with reference to the particular characteristics that support the district's eligibility.

## **10.86.060 Owner Consent.**

Owner consent is not required for a structure or property to be designated as a point of historic interest, historic landmark, or a contributing resource to a historic district. However, a structure or property cannot be designated as either a historic landmark or a contributing resource over the owner's objection, unless the Council makes all of the following findings:

D. The structure or property possesses exceptional architectural, historical, aesthetic, or cultural qualities;

E. Designation will preserve or protect the exceptional qualities of the structure or property.

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A. **Designation Procedures – Historic Landmarks** Application. The City Council, Historic Preservation Commission, the Manhattan Beach Cultural Heritage Conservancy, or the owners of the subject property or their authorized agents, may apply for a historic landmark or point of historic interest designation. In the event the Council or Commission initiates the application, the Community Development Director shall complete the required application. All applications shall be made on a form prescribed by the Community Development Director and shall include the following data:

1. The assessor's parcel number and legal description of the site;
2. A description of the historic landmark or point of historic interest, including the current condition and its special aesthetic, cultural, architectural, or engineering interest, or value of a historic nature;
3. Sketches, drawings, photographs, or other descriptive material;
4. The signature of the property owner(s) or their authorized agents.
5. Such other information as requested by the Community Development Director.

B. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.140, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness on a proposed historical landmark for which an application has been filed until the Council has taken final action denying the application.

C. **Survey.** Within 90 days after the date a designation application is deemed complete, the Community Development Director shall prepare, or cause to be prepared, a survey to document all potentially historic features of the subject property and prepare a report to the Commission. Such survey may be conducted by a qualified historic preservation consultant.

D. **Commission Review and Recommendation.** The Commission shall conduct a hearing on the application. After the close of the hearing, the Commission shall adopt a resolution recommending to the Council the approval, conditional approval, or denial of the application.

E. **Council Determination.** After receiving the Commission's recommendation, the Council shall conduct a hearing on the application. The Council shall adopt a resolution approving, conditionally approving, or denying the application. If the Council has not taken action on the application within 180 days of the Commission's recommendation, then the application shall be deemed denied.

F. The Community Development Director shall forward a copy of the resolution approving the designation of a historic landmark or point of historic interest to

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any department or agency that the Community Development Director deems appropriate.

G. Upon designation by the Council, the Community Development Director shall record the location, characteristics, and significance of the historic landmark or point of historic interest on a California Department of Parks and Recreation Historic Resources Inventory Form 523, or current equivalent form, and include therewith a description of the particular features that are to be preserved and the legal description of the historic resource.

H. A designated historic landmark or point of historic interest may be identified by an approved city marker, but such a marker is not required.

## **10.86.070 Designation Procedures – Historic Districts**

A. Procedures for the application and designation of historic districts shall be the same as those applicable to historic landmarks and points of historic interest except as modified by this Section.

B. Applications: In addition to all other information and materials required by Section A(A), all applications for designation of historic districts shall include the following:

1. A petition in support of the application that is signed by at least 51 percent of the owners of the properties within the proposed district. For purposes of the petition requirement, each parcel must have the signatures of all of the owners of that property but only one signature shall be counted per parcel for the purpose of calculating the 51 percent required.

2. A depiction of the district that includes a clear and distinct description of its boundaries and a report describing all contributing and non-contributing resources within the district.

3. A proposed conservation plan to regulate the manner in which the preservation objectives of the district will be attained.

C. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 10.86.140, it shall be unlawful for any person to carry out or cause to be carried out any activity requiring a Certificate of Appropriateness for any property within the boundaries of a proposed historic when an application for designation is pending.

D. Whenever the Council designates a historic district, it shall also adopt: (1) a written description and clear depiction of the district boundaries; (2) a detailed report that identifies and describes the contributing resources for the district; and (3) a conservation plan to regulate the manner in which the preservation objectives of the district will be attained.

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## 10.86.080 Maintenance of Historic Landmarks and Contributing Resources.

A. The owner, occupant, or other person having legal custody and control of a historic landmark or contributing resource shall keep in good repair all exterior portions thereof, all hereof regulated by the applicable designation statement or adopted conservation plan, and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

B. The owner, occupant or other person having legal custody and control of a historic landmark or contributing resource shall promptly repair such building or structure consistent with all other applicable local, state, and federal laws, if it is found to have any of the following defects:

1. Building elements in danger of falling and injuring persons or property.
2. Deteriorated or inadequate foundation.
3. Defective or deteriorated flooring.
4. Walls, partitions, or other vertical supports that split, lean, list, buckle, or are otherwise failing due to defective material or deterioration.
5. Ceilings, roofs, ceiling, roof supports, or other horizontal members that sag, split, buckle, or are otherwise failing due to defective materials or deterioration.
6. Fireplaces or chimneys that list, bulge, settle, or are otherwise failing due to defective material or deterioration.
7. Deteriorated, crumbling or loose exterior plaster.
8. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors; including but not limited to broken windows or doors.
9. Defective or insufficient weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
10. Any fault, defect, or deterioration in the building that renders it structurally unsafe or insufficiently watertight.

C. A Certificate of Appropriateness shall not be issued for the demolition of an historic landmark or a contributing resource because of the failure of the owner to comply with the provisions of this Section.

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## **10.86.090 Certificates of Appropriateness – Requirement.**

A. No person shall carry out or cause to be carried out any alteration, restoration, rehabilitation, construction, removal, relocation, or demolition of any historic landmark or contributing resource unless the City has first issued a Certificate of Appropriateness in accordance with the requirements of this Chapter.

B. Exceptions. A Certificate of Appropriateness shall not be required for any of the following actions.

1. Ordinary maintenance or repair of any exterior architectural feature that does not involve a change in design, material, or external appearance of a historic landmark or contributing resource.

2. Alterations previously identified in an adopted conservation plan for a historic district and designated in such conservation plan for review through the plan check process and approved accordingly.

3. Alterations that comply with the State Historical Building Code.

4. Alterations or actions for which a Certificate of Economic Hardship has been approved.

## **10.86.100 Certificate of Appropriateness – Procedures.**

A. Application. An application for a Certificate of Appropriateness shall be filed with the Community Development Department upon the prescribed form and shall contain the following data:

1. A description of the proposed work and an explanation of how it is compatible with the historical nature of the resource.

2. Plans describing the size, height, and appearance of the proposed work.

3. A site plan showing all existing buildings and structures and the relationship of the proposed work to the surrounding environment.

4. Relationship to the existing scale, massing, architectural style, site and streetscape, landscaping and signage, for new construction in historic districts.

5. If the application is for demolition, an explanation why the demolition is necessary and an economic feasibility report.

6. Other information deemed necessary by the Director.

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B. Commission Review. The Commission shall conduct a hearing on the application, after which it shall adopt a resolution approving, conditionally approving, or denying the application.

C. Community Development Director Review. Notwithstanding the previous paragraph, the Community Development Director shall approve, conditionally approve, or deny any application for a Certificate of Appropriateness for any of the following types of alterations:

1. Repair or replacement of deteriorated materials with applications or materials of the same kind, type, and texture already in use for roofs, windows, siding material, chimneys and fireplaces, accessory structures, or fencing.

2. Addition or deletion of awnings, shutters, canopies, and similar incidental appurtenances that do not alter the integrity of the historic landmark or contributing resource.

3. Minor additions of square footage, as determined by the Director of Community Development, where such additions are not visible from the public right-of-way or do not impact the historical significance of the property.

D. Upon approval, copies of the Certificate of Appropriateness shall be forwarded to the applicant, the Building Official, the Community Development Director, and any other department or agency that requests one.

E. No Certificate of Appropriateness shall become effective until the time to appeal its approval has expired.

## **10.86.110 Certificate of Appropriateness – Findings.**

A. Standard Findings. A Certificate of Appropriateness shall be approved if the Commission or Director, as appropriate, make all of the following findings:

1. The project will not cause a substantial adverse change in the significance of an historic resource within the meaning of the California Environmental Quality Act.

2. The project is consistent with the purposes of this Chapter.

3. The project is consistent with the Secretary's Standards.

B. Additional Findings for Demolitions: In the case of a Certificate of Appropriateness to allow demolition of part or all of a historic landmark or contributing resource, all of the following additional findings must be made.

1. All efforts to restore, rehabilitate, or relocate the resource have been exhausted.

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2. Restoration or rehabilitation would require extensive alterations that would render the resource unworthy of preservation.

3. Failure to demolish the resource would adversely affect or detract from the character of the neighborhood.

C. Unsafe or Dangerous Conditions. Notwithstanding any other provision of this Section, an application for a Certificate of Appropriateness may be approved if the Commission finds the project is necessary to correct an unsafe or dangerous condition on the subject property that was not caused by a failure to maintain the property as required by this Chapter.

## **10.86.120 Certificate of Economic Hardship.**

A. The Commission may issue a Certificate of Economic Hardship to allow alteration or demolition of a historic landmark or contributing resource where denial of a Certificate of Appropriateness would create an undue hardship upon the owner.

B. Applications. An application for a Certificate of Economic Hardship shall be made on the proscribed form and shall be accompanied by all of the following information if requested by the Community Development Director:

1. The estimated market value of the property in its current condition.
2. The estimated market value of the property after completion of the proposed alteration or demolition.
3. Estimates of the costs of proposed alteration or demolition.
4. In the case of demolition, the estimated market value of the property after renovation of the existing property for continued use and an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
5. A rehabilitation report from a licensed engineer or architect with expertise in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
6. For income-producing properties, information on annual gross income, operating and maintenance expenses, tax deductions for depreciation, and annual cash flow after debt service, current property value appraisals, assessed property valuations, and real estate taxes.
7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

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8. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.

9. The amount paid for the property if purchased within the previous 36 months, the date of purchase, and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

10. Any listing of the property for sale, rent, prices asked, and offers received, if any within the previous two years.

11. Any other information the Community Development Director may reasonably require to determine whether or not the property may yield a reasonable return to the owners.

C. The Commission shall hold a hearing on all applications for a Certificate of Economic Hardship; after which it may approve, conditionally approve, or deny the application. Such hearing may be held concurrently with any related application for a Certificate of Appropriateness.

D. The Commission shall approve any Certificate of Economic Hardship if it can make all of the following findings:

1. Denial of the application would decrease the value of the subject property so as to leave no substantial value.

2. Sale or rental of the property is not financially feasible, when looking at the cost of holding such property for uses permitted in this zone.

3. Adaptive reuse of the property for lawful purposes is prohibited or impractical.

4. Denial of the application would damage the owner of the property unreasonably in comparison to the benefit conferred on the community.

E. Upon approval, copies of the Certificate of Economic Hardship shall be forwarded to the applicant, the Building Official, the Community Development Director, and any other department or agency that requests one.

F. No Certificate of Economic Hardship shall become effective until the time to appeal its approval has expired.

## **10.86.130 Mitigation/Conditions of Approval.**

Whenever any decision under this Chapter by the Council, Commission, or Community Development Director to approve an application has the potential to diminish or destroy the historic, cultural, or architectural value of a historic landmark or

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contributing resource, the Commission or Community Development Director may impose conditions to mitigate the loss of a historic landmark or contributing resource. Such conditions may include, but not be limited to the following:

A. Documentation of the historic features of the property including, but not limited to, site plans, floor plans, elevations, detailed drawings of character defining features, photographic records of the exterior, interior, and any character defining features, title deed of the original owners, any historical information of person and events associated with the site.

B. Requiring salvage, relocation, donation, or adaptive reuse of significant items or features within or on the property.

## **10.86.140 Unsafe or Dangerous Conditions.**

A. None of the provisions of this Chapter shall be construed to prevent any construction, alteration, removal, demolition or relocation of a historic landmark or contributing resource necessary to correct the unsafe or dangerous conditions of any structure, or feature, or part thereof, where the Building Official, with a report from a registered Engineer or other qualified professional has declared such condition unsafe or dangerous and the proposed construction, alteration, removal, demolition or relocation necessary to correct the unsafe or dangerous condition. Only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this Section.

B. The Building Official shall inform the Commission prior to authorizing any work pursuant to this Section unless he or she determines that such work is immediately necessary to correct the unsafe or dangerous condition; in which case, the Building Official shall report his or her actions to the Commission at its next regular meeting.

C. If work authorized by the Building Official pursuant to his Section is not immediately necessary to correct the unsafe or dangerous condition, the Commission may advise the Building Official of the historic significance of the building and recommend a reasonable period of postponement for the purpose of arranging for rehabilitation, relocation, or salvage of the historic resource or contributing resource. Notwithstanding the foregoing, if no arrangements have been made for rehabilitation, relocation, or salvage within 60 days of an order to abate a nuisance, the Building Official may proceed with the abatement action.

## **10.86.150 Environmental Review.**

If any action required or taken pursuant to this Chapter is subject to the provisions of the California Environmental Quality Act, the time in which such action must be taken shall be extended in order to allow time to comply with said Act, provided, however, that such action is taken within the time limits imposed by the Permit Streamlining Act.

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## **10.86.160 Appeals.**

The owner of the property being considered for designation as a historic landmark or contributing resource, or his or her agent, may appeal any decision by the Director, Commission, or Community Development Director under this Chapter pursuant to the limitations and procedures in Chapter 10.100 of the Municipal Code. Appeals must be filed within 10 calendar days of the date of the decision. All appeals brought under this section shall be accompanied by a filing fee established by the Council. This Section shall not apply to decisions by the Community Development Director whether to initiate a historic landmark designation application in accordance with Section XXXX.B, above.

## **10.86.170 Preservation Incentives.**

To encourage owners to designate, maintain, preserve, rehabilitate, and improve historic landmarks and contributing resources, the City provides the incentives set forth in this Section.

A. Mills Act Contracts. Pursuant to and consistent with California Government Code, Section 50280, the Council may enter into Mills Act contracts with the owner of a historic landmark for the purpose of preservation, rehabilitation, and maintenance of designated historic resources, which shall allow the owner to receive a reduction in property taxes in exchange for a commitment to specific repair, restoration, or rehabilitation improvements and satisfactory maintenance of the property. The agreement shall include, but not be limited to, the contract provisions required under state law, and shall extend for a minimum period of 10 years, renewed annually, until and unless a notice of non-renewal or cancellation is filed. The application process, review procedures, and required contract provisions for Mills Act Agreements shall be established at the sole discretion of the Council based on the recommendations of the Commission in a form to be approved by the City Attorney. The program shall be implemented by the Community Development Director or his designee.

B. Public Recognition: The Commission may establish a program to publicly recognize historic resources, points of historic interest, historic districts, and conservation districts with plaques, signage, and other appropriate forms of recognition.

C. State Historical Building Code: Any alteration made for preservation, rehabilitation, restoration or relocation of historic resources may be made according to the requirements of the State Historical Building Code.

## **10.86.180 Permit Application Filing Fees.**

Before accepting for filing any application described in this Chapter, the Community Development Director shall charge and collect such administrative fees as may be set by resolution of the Council.