

Monterey County (2003)

Chapter 18 HISTORIC PRESERVATION

ARTICLE I. GENERAL PROVISIONS 18.10.000

18.10.010 Title.

This article shall be known as the "Preservation of Historic Resources Code of the County of Monterey".

18.10.020 Findings.

The Board of Supervisors finds and declares that:

- A. Monterey County has a rich history. *Significant* aspects of that history need to be recognized and preserved.
- B. *Preservation* of historic *resources* is important to promote the public health and safety and the economic and general welfare of the people of Monterey County.
- C. Well-preserved and retained historic *resources* are essential to maintain and revitalize the County and stimulate economic activity.
- D. The County's historic structures, sites and other *resources* are irreplaceable and need to be protected from deterioration, inappropriate *alterations*, *demolition* and archeological site damage.
- E. The protection, enhancement, perpetuation, and use of structures and districts of historic, archaeological, architectural, and engineering significance, located within the County are of *cultural* and aesthetic benefit to the community.
- F. It is further found that respect of the heritage of the County will enhance the economic, cultural and aesthetic standing of the County. *Preservation* of Monterey County's historic *resources* enhances the County's economic, cultural, and aesthetic standing, its identity, and its livability, marketability, and character.

18.10.030 Intent and Purpose

The purpose of this Chapter is to promote the general welfare of the public and to:

- A. Identify, protect, and encourage the *preservation* of significant architectural, historic, prehistoric, and cultural structures, sites, *resources* and properties in the County.
- B. Provide a mechanism, through surveys, *nominations* and other available means, to compile, update and maintain an inventory of historic *resources* within the County.
- C. Ensure the *preservation*, protection, enhancement, and perpetuation of historic structures,

sites, and other *resources* to the fullest extent feasible.

D. Encourage, through public or private action, the maintenance or rehabilitation of historic structures, sites and other *resources*.

E. Encourage development that sensitively incorporates the retention, *preservation* and re-use of historic structures, sites, and other *resources*.

F. Safeguard the County's historic *resources*, in both public and private projects.

G. Provide for consistency with state and federal *preservation* standards, criteria, and practices.

H. Protect, enhance, perpetuate and encourage use of structures that represent past eras, events, and persons important in history or which provide significant examples of architectural styles of the past or are *landmarks* in the history of architecture; or which are unique and irreplaceable assets to the County and its communities; or which provide for this and future generations examples of the physical surroundings in which past generations lived.

I. Enhance property values, stabilize areas of the County, increase economic and financial benefits to the County and its inhabitants, and to promote tourist trade and interest;

J. Preserve and encourage examples of varied architectural styles reflecting the cultural, social, economic, political and architectural phases of its history;

K. Educate and culturally enrich this and future generations by fostering knowledge of our heritage;

L. Promote and encourage continued private ownership and utilization of such structures so the above objectives can be attained under this policy;

M. Enhance property values and increase economic and financial benefits to the County and its inhabitants through the exploration of creative financial incentives for *preservation*;

N. Protect and enhance the County's attraction to tourists and visitors thereby stimulating business and industry;

O. Identify and resolve conflicts between the *preservation* of cultural *resources* and alternative land uses as early as possible in the planning process;

P. Integrate the *preservation* of cultural *resources* into public and private land use management and development processes;

Q. Promote public awareness of the benefits of *preservation* and encourage public participation in identifying and preserving historical and architectural *resources*, thereby increasing community pride in the County's cultural heritage

R. Establish a basis for coordinating the goal of the *preservation* of historic structures with

the need to set standards, and to implement other elements of the County's plans, policies, and programs.

S. Foster civic pride in the character and quality of Monterey County's historic *resources* and in the accomplishments of its people through history.

T. Encourage new development that is aesthetically compatible with historic *resources*.

This Chapter constitutes an alternative process to that contained in Chapter 21.54 of this Code. The procedures and process specified in Chapter 21.54 shall be used for properties which have been zoned as an Historic Resources ("HR") District pursuant to Chapter 21.54. For properties, which have not already been zoned as an Historic Resources ("HR") District, the processes and procedures in this Chapter shall apply.

ARTICLE II DEFINITIONS 18.20.000

Unless the particular provisions or the context requires otherwise, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this Chapter, and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Chapters 18.26 and 21.06 of this Code shall also govern the construction, meaning, and application of words and phrases used in this Chapter.

"Alteration". For purposes of this chapter, alteration means any change, repair, replacement, *demolition*, modification, or new construction to: (1) the exterior of a historic resource; (2) the exterior and interior structural elements which support the exterior walls, roof, or exterior elements of the historic resource; (3) other structures, fencing, landscaping or site features; (4) the significant interior Feature or Characteristic of the historic resource, unless the interior is exempt from *Certificate of Appropriateness* review by the *Historic Resources Review Board*; (5) disturbance of archaeological or cultural *resources*, or (6) placement or removal of site features such as grading, paving, signage, lighting, street furniture, walls, gates, fencing, steps; and cutting or removal of trees, hedges and other landscape features. Alteration does not include *ordinary maintenance* as defined in this chapter. See also "*Minor Alteration*".

"Archaeological site" means a site that has yielded or exhibits the promise of yielding information important in the understanding of human prehistory or history. Such information may consist of evidence of past human life, habitation or activity, as well as material remains.

"Board" means *Historic Resources Review Board* as designated in Article III of this Chapter.

"Building" means any structure created to shelter any form of human activity, such as a house, church, hotel, barn. Building may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house, barn and outbuildings.

"Building Official" means the Building Official designated in Chapter xx.xx of the County Code, and his or her designee(s).

"California Environmental Quality Act" means the California Public *Resources* Code Section 21000 *et seq.* as it may be amended. The California Environmental Quality Act may also be referred to in this Chapter as "CEQA".

"California Register" means the California Register of Historical Resources as defined in California Public Resources Code Section 5020.1 as it may be amended.

"California Register Resource" means a *resource* designated on the *California Register*.

"Certificate of Appropriateness" means the certificate required pursuant to Article X herein prior to undertaking any of the following work or improvements on a *Historic Resource*:

- (1) installation or replacement of exterior windows or doors; or
- (2) construction of new fencing or walls, or alteration of existing fencing or walls; or
- (3) replacement or alteration of exterior paint or other exterior architectural coating or treatment on *Landmark*, where the exterior paint or other exterior architectural coating or treatment has been identified as a significant Feature or Characteristic of a *Landmark*.

"Certified Local Government" (CLG) means a local government that has been certified by the National Park Service to carry out the purposes of the *National Historic Preservation Act* of 1966 (16 U.S.C. Sec. 470 *et seq.*) as amended, pursuant to Section 101 (c) of that Act and the regulations adopted under the Act, which are set forth in Part 61 (commencing with Section 61.1) of Title 36 of the Code of Federal Regulations.

"Character Defining Elements or Features" means EXPAND ON THIS

"Contributing Resource" means a *resource* designated as a Contributing Resource by the Historic Resources Review Board in accordance with Article V this Chapter.

"County's Register" or "County's Register of Historic *Resources*" means the survey of structures and areas adopted by the Board of Supervisors as potentially significant historic *resources*, historic districts, and individually designated *Landmarks*.

"Cultural" means related to the origins or history of humans in Monterey County.

"Cultural Resource" see *Historic Resource*.

"Demolition" means the removal of fifty percent (50%) or more of the exterior walls and interior structural elements which support the exterior walls, roof, or exterior elements of a historic resource. Within this chapter, *Demolition* includes the relocation of a historic resource.

Demolition does not include either :

- (1) the removal and replacement in kind of deteriorated, non-repairable materials required for the restoration or rehabilitation of a historic resource (resulting in no change to its exterior appearance or historic character); or
- (2) removal of non-historic features or additions that may exist on a historic resource.

"Design Criteria" means the criteria that must be followed pursuant to this Chapter to improve or modify an historic resource or a structure within an historic district.

"Development Project" means and includes the following:

- (1) the alteration, modification or rehabilitation of the exteriors of *Landmarks*, *Contributing Resources*, *Non-Contributing Resources* and *buildings* or structures that qualify as "Historic Resources" as defined by *CEQA*; or
- (2) the alteration, modification or rehabilitation of interiors of *Landmarks* and *Contributing Resources* where the interiors constitute "*Features or Characteristics*" as defined herein; or
- (3) new construction within a *Historic District*;

"Designated Site" means that portion of a parcel on which a significant historic resource is or has been situated, which has been listed on the National Register of State Historic Places, the *California Register of Historic Places*, the State Historic Landmark Register, or the Local Register of Historic Sites.

"Feature or Character" means fixtures, components or appurtenances attached to, contiguous with or otherwise related to a structure or property including landscaping, setbacks, distinguishing aspects, roof attributes, overlays, moldings, sculptures, fountains, light fixtures, windows, and monuments. "Feature or Characteristic" may include historically and/or architecturally significant interior areas that are accessible to or made available to the public, including, but not limited to: areas commonly used as public spaces such as lobbies, meeting rooms, gathering rooms, public hallways, great halls, bank lobbies, or other similar spaces. Interior areas that generally are not accessible to or made available to the public, but which occasionally may be visited by business invitees or members of the public, including those on a tour of a facility, do not constitute a "Feature or Characteristic" for purposes of this Chapter.

"Historic District" means an area, which may include public rights-of-way, within the county having special historic and architectural worth and designated as such by the Board of Supervisors pursuant to the provisions of this Chapter. The area may predominantly, though not exclusively, contain historic *resources*.

"Historic Resource" and "Cultural Resource" mean:

- (1). a resource listed in, or determined by the State Historical *Resources* Commission, to be eligible for listing in the *California Register of Historical Resources*; or
- (2). a resource included in the Local Register of historic *resources*, as defined in section 5020.1(k) of the Public *Resources* Code or identified as significant in an historic *resources* survey meeting the requirements of section 5024.1 (g) of the Public *Resources* Code, which is presumed to be historically or culturally significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant; or

(3). any *object, building*, structure, site, area, place, record, or manuscript which the *Historic Resources Review Board* or the *Planning Director* determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or *Cultural* annals of Monterey County may be considered to be "Historically Significant". The criteria for evaluating significance and integrity shall include location, design, setting, materials, workmanship, feeling and association along with one the following :

- a. The resource is associated with events that have made a significant contribution to the broad patterns of our history and cultural heritage; or
- b. Is associated with the lives of persons important in our past; or
- 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; or
- d. Has yielded, or may be likely to yield, information important in prehistory or history.

The fact that a resource is not listed in, or has not yet been determined to be eligible for listing in the *California Register* of Historical Resources, not listed in the *Official Register*, or identified in a historic *resources* survey does not preclude a lead agency from determining that the resource may be a "Historic Resource" as defined in Public Resources Code sections 5020.1(j) or 5024.1.

"Historic Resources Review Board" or "Review Board" means the *Historic Resources Review Board* of Monterey County.

"Immediately Dangerous Building or Structure" means an immediately dangerous *building* or structure as defined in Section .xx.xxx of the Monterey County Code.

"Integrity" means ability of a *Historic Resource* to convey the reason for its significance. Seven aspects of integrity include: location, design, setting, materials, workmanship, feeling and association.

"Landmark" means all *Historic Resources* designated as Landmarks by the Board of Supervisors in accordance with Article V of this Chapter.

"*Listed Historic Resource*" means any *Resource* listed in the *Official Register* in accordance with this Chapter. "*Listed Historic Resource*" includes any *Resource* designated by the Board of Supervisors as a *Landmark* or as a *Contributing Resource*. "*Listed Historic Resource*" does not include a non-contributing resource in a *Historic District*.

"Local Register" means the County's Register of Historic Resources.

"Mills Act" means a multi-year contract between the County Assessor and a property owner under California Government Section 50280 *et seq.*, as those sections may be amended from time to time, for the purpose of providing property tax relief for historic buildings.

"Minor Alteration" means any of the following alterations:

- (1). placement, removal, exterior structural change or modification of a fence, sign, plaque, light fixture, street furniture, steps, platforms, walks or driveways; or
- (2). temporary motion picture, television, and theater stage steps and scenery.

"Mitigation measure" means a project condition or requirement, which substantially reduces the adverse environmental effects of the project to a level of "less than significant".

"National Environmental Protection Act" means 42 U.S.C. Sec. 4321 *et seq.*, as it may be amended from time to time. The National Environmental Protection Act may be referred to in this Chapter as NEPA.

"National Historic Preservation Act" means 16 U.S. Sec. 470 *et seq.*, as it may be amended from time to time.

"National Register of Historic Places" means the official inventory administered by the Keeper of the Register, United States Department of the Interior, of districts, sites, *buildings*, structures and *objects* significant in American history, architecture, archeology and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the *National Historic Preservation Act* of 1966 (16 U.S.C. 470 *et seq.*, 36 C.F.R. Sections 60, 63)

"Nominated *Resource*" means a *Resource* nominated for *Landmark* designation.

"Nomination" means a nomination for placement of a *Resource* on the Official Register pursuant to Article XX of this Chapter.

"Non-Contributing *Resources*" means all *Resources* within a *Historic District* that are not identified as *Contributing Resources*.

"Object" means a tangible item of significant historic value that can be seen or touched, such as an artifact, monument, or work of art.

"Ordinary Maintenance and Repair" means any work for which a building permit is not required by law where the purpose and effect of such work is to prevent or correct any deterioration of or damage to a structure or any part thereof and to restore the structure or part thereof to its condition prior to the occurrence of such deterioration or damage.

"Phase 1" means **EXPAND ON THIS**

"Phase 2" means **EXPAND ON THIS**

"Planning Director" means the Monterey County Director of Planning and Building Inspection, or his designee.

"Preservation" means use of long-term or permanent safeguards to guarantee the viability of man-made *resources*.

"Regulated Permits" means any permit issued for any work on an historic structure, its site, or a structure within any historic district. For the purposes of this Chapter, "regulated permit" does not mean a building permit issued for the *demolition* of a structure.

"Resource" means any *building*, structure, site, area, place, feature, characteristic, appurtenance, landscape, landscape plan, or improvement.

"Secretary" means the *Planning Director*, or his designee, who is the planning staff liaison to the *board*.

"Significant" means a resource listed, or determined to be eligible for listing, on the *California Register* or a resource, which has historic, archaeological, architectural, engineering or community value.

"State Historical Building Code" means the State Historical Building Code as contained in Part 8 of Title 24 (California Building Standards Code) of the California Code of Regulations, as it may be amended from time to time.

"Structure" means a *resource* created principally to shelter or support human activity.

"Survey" means a process by which *resources* are documented for *Landmark* or *Historic District* consideration.

"State Office of Historic Preservation" means the division of the State Department of Parks and Recreation which serve as the staff to the State Historic Preservation Officer, or such other official designated and appointed by the Governor to administer the historic *preservation* programs of the State and which administers the *California Register* of Historic Places.

ARTICLE III. CREATION OF A HISTORIC PRESERVATION COMMISSION 18.30.000

18.30.010 Creation of Commission.

There is created an advisory *board* in Monterey County to be known as the *Historic Resources Review Board* which shall have the powers and duties specified herein.

18.30.020 Members.

The *Historic Resources Review Board* shall be composed of seven members, all of whom shall be residents of the County, and who shall be selected and appointed by the Board of Supervisors.

One member shall be a licensed architect.

Four members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, prehistory and history, archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or other historic *preservation* disciplines, including but not limited to, urban planning, American studies, American civilization, cultural geography, or cultural anthropology, to the extent that such professionals are available in the county.

Two members shall persons from the general public who have demonstrated special interest, competence, experience, or knowledge in historical *preservation*, American studies, cultural anthropology, cultural geography, or other historic-preservation-related discipline.

18.30.030 Terms of Office

Members of the *Historic Resources Review Board* shall be appointed for terms of three years. Terms of office shall expire on December 31 of the last year of each term; however, members shall remain in office until their successors are appointed and qualified.

18.30.040 Officers, Meetings, Rules and Records.

- A. The *Historic Resources Review Board* shall elect from its members a chair and vice-chair to serve in such capacities for a term of one year, and subject to other provisions of law, may elect such other officers as it may determine.

- B. The Director of the Planning and Building Inspection Department, or the designee of the Director shall serve as *Secretary* to the *Historic Resources Review Board* and shall be custodian of the *Board's* records. The *Secretary* shall also generally supervise the technical and clerical work of the *Historic Resources Review Board* and perform such other duties as the *Historic Resources Review Board* may assign and the *Board* of Supervisors may authorize.

- C. The *Historic Resources Review Board* shall hold at least one regular meeting each month.

- D. The *Board* shall adopt rules for the transaction of business, consistent with this code.

- E. A quorum shall be required for the *Board* to take any action. A quorum shall be four (4) members present who have not been required to abstain due to a conflict of interest. The *Board* shall act by a majority vote of the quorum.

- F. The *Board* shall be subject to, and shall comply with, the requirements of the Brown Act.

ARTICLE IV. A STATEMENT OF POWERS AND AUTHORITIES 18.40.000

18.40.010 Powers and Duties.

The *Historic Resources Review Board* shall have the following powers and duties:

- A. Maintain a Official Register of historic and cultural *resources* consistent with the *California Register* of Historical *Resources* Criteria, including but not limited to: historic districts, *landmark* sites, and *landmarks* within the county. The Official Register shall include all information required for each designation.

- B. Make recommendations to the Board of Supervisors regarding the Historic Preservation Element of the County's General Plan.
- C. Review and recommend to the Board of Supervisors the inclusion or deletion of *Landmarks* and *Historic Districts* in the Official Register using the criteria stated in Article V of this Chapter.
- D. Approve with conditions, and/or *mitigation measures*, or deny applications for development projects subject to appeal to the Board of Supervisors within ten (10) days.
- E. Perform, supervise, review, and distribute surveys of historic properties and cultural heritage *resources* in the unincorporated areas of the County, in conformance with State standards, as may be authorized by the Board of Supervisors.
- F. Recommend to the Board of Supervisors the adoption of, or update to, specific guidelines, consistent with those of the California Office of Historic Preservation, for the designation of historic *resources* and historic districts and adopt prescriptive standards, consistent with such guidelines to be used by the *Historic Resources Review Board* in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any historic resource as identified in Chapter 18.100.000 of this Code.
- G. Recommend to the Board of Supervisors the purchase of interests in property (including less than fee interests), transfer of development rights, easements, or other mechanisms, for the purpose of historical or cultural *preservation*.
- H. Investigate and report to the Board of Supervisors on the use of various federal, state, and local or private funding sources and mechanisms available to promote historical and cultural resource *preservation* in Monterey County.
- I. Cooperate with and assist federal, state, and local government entities in the pursuit of historic and cultural *preservation* objectives of the County.
- J. Advise and assist property owners, on request, on the restoration, rehabilitation, *alteration*, decoration, landscaping, or maintenance of any historical or cultural resource.
- K. Review and comment upon the conduct of land use, housing and redevelopment, municipal improvement, and types of planning and programs undertaken by any agency of the County or State, as they relate to historic *resources* or historic structures as identified in Chapter 18.50.000 of this code or maintained on property zoned as an Historic Resources Zoning District ("HR") pursuant to Chapter xx.xxx.xx of this Code.
- L. Encourage and render advice and guidance to property owners or occupants on procedures for inclusion of a historical or cultural resource on the *National Register of Historic Places* and the *California Register of Historical Resources*.
- M. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to historical and cultural *resources preservation*.
- N. Review and comment on National Register and *California Register* nominations submitted for

properties within the County and provide recommendations to the State on whether each property meets the National Register or *California Register* criteria.

O. Review Form DPR 523 for demolition of every building over Forty Five (45) years old if the DPR 523 Form identifies the structure as a potential historic resource under CEQA definitions.

P. Provide assistance to Planning Staff regarding mitigation issues and CEQA issues upon request by planning staff.

Q. Make recommendations to the Board of Supervisors, the Planning Commission, or any other entity, for purposes of providing historic preservation incentives, including, but not limited to: procedural, economic and tax incentives (i.e., "*Mills Act*"); acquisition of property, development rights, *preservation* easements, and conservation easements; land use, zoning, and development restrictions; penalties and sanctions, fee adjustments, and negotiated settlements.

R. Make recommendations to the Board of Supervisors regarding the periodic update of the County's *preservation* program, standards, procedures, and criteria, including revisions to this Chapter.

S. Recommend standards for review of *Development Projects* in addition to those standards set forth herein and forward the recommended standards to the Board of Supervisors for the Board of Supervisors' consideration and adoption.

T. Evaluate and comment upon proposals and environmental reviews pending before other public agencies affecting the physical development, historic *preservation* and historic character in the County.

U. Make recommendations to the Board of Supervisors for enforcement and penalties concerning matters covered in this Chapter.

V. Coordinate with, and make recommendations to, other governmental agencies regarding historic *preservation* matters.

W. Assume duties assigned to the *Board* by the Board of Supervisors pursuant to the *Certified Local Government* provisions of the *National Historic Preservation Act* of 1966, or duties that may be assigned to the *Board* through any agreement(s) approved by the Board of Supervisors. This shall include undertaking review and comment upon those projects on which the County, as a *Certified Local Government*, has an obligation or opportunity to provide review and comment under the *National Historic Preservation Act*.

X. Encourage and foster public participation regarding the historic *preservation* program, participation in the surveying of historic *resources*, developing *preservation* components in neighborhood plans and in other planning documents, the preparation or development of *Landmark* Project review standards guidelines and *Historic District* Plans, *Landmark* and *Historic District*

nominations, and other activities that encourage the *preservation* of Monterey County's historic *resources*.

Y. Consider, in accordance with the nomination process provided in Article VIII of this Chapter, nominations for addition(s) or deletion(s) to the Official register, designation of *Landmarks* and *Historic Districts* expansion or alteration of the boundaries of any *Historic District*, and the identification of *Contributing Resources* and *Non-Contributing Resources* in *Historic Districts*.

Z. Any other powers and such other duties as may be required by this code or conferred upon the *Historic Resources Review Board* by the Board of Supervisors.

ARTICLE V. CRITERIA FOR DESIGNATION OF LANDMARKS AND/OR HISTORIC DISTRICTS

18.50.000

18.50.010 Review Criteria

General. An improvement, natural feature, or site may be designated an historical resource and any area within the County may be designated a historic district if such improvement, natural feature, site, or area possesses *integrity* to physically convey its reason for significance and meets the criteria for listing on the Natural Register of Historic Places, the *California Register of Historic Resources*, or one or more of the following conditions are found to exist:

A. Historical and Cultural Significance.

1. The resource or district proposed for designation is particularly representative of a distinct historical period, type, style, region, or way of life.
2. The resource or district proposed for designation is, or contains, a type of *building* or *buildings* which was once common but is now rare.
 - a. All pre-1875 adobe *buildings* are presumed to possess both cultural and/or architectural significance.
3. The resource or district proposed for designation was connected with someone renowned.
4. The resource or district proposed for designation is connected with a business or use which was once common but is now rare.
5. The resource or district proposed for designation represents the work of a master builder, engineer, designer, artist, or architect whose talent influenced a particular architectural style or way of life.
6. The resource or district proposed for designation is the site of an important historic event or is associated with events that have made a meaningful contribution to the nation, state, or community.
7. The resource or district proposed for designation has a high potential of yielding

information of *archaeological* interest.

8. A resource with historical or cultural significance should have *integrity* of design, setting, materials, workmanship, feeling and association.

B. Architectural and Engineering Significance.

1. The resource or district proposed for designation exemplifies a particular architectural style or way of life important to the county.
2. The resource or district proposed for designation exemplifies the best remaining architectural type of a community.
3. The construction material or engineering methods used in the resource or district proposed for designation embody elements of outstanding attention to architectural or engineering design, detail, material or craftsmanship.
4. A resource with historical or cultural significance should have *integrity* of design, setting, materials, workmanship and association.

C. Community and Geographic Setting.

1. The proposed resource materially benefits the historic character of the community.
2. The unique location or singular physical characteristic of the resource or district proposed for designation represents an established and familiar visual feature of the community, area, or county.
3. The resource has *integrity* of location, design, setting, materials, workmanship and association. *Integrity* shall be judged with reference to the particular criterion or criteria specified in "A" above;
4. The resource has significant historic or architectural worth, and its designation as a *Landmark* is reasonable, appropriate and necessary to promote, protect and further the goals and purposes of this Chapter.
5. Factors to be considered: In determining whether to place a resource on the Official register as a *Landmark*, the following factors shall be considered:
 - a. A structure removed from its original location is eligible if it is significant primarily for its architectural value or it is the most important surviving structure associated with a historic person or event.
 - b. A birthplace or grave is eligible if it is that of a historical figure of outstanding importance and there is no other appropriate site or structure directly associated

- with his or her productive life.
- c. A reconstructed *building* is eligible if the reconstruction is historically accurate, if the structure is presented in a dignified manner as part of a restoration master plan; and if no other, original structure survives that has the same association.
- d. Properties that are primarily commemorative in intent are eligible if design, age, tradition, or symbolic value invest such properties with their own historical significance.
- e. Properties achieving significance within the past Forty-Five (45) years are eligible if such properties are of exceptional importance.

D. Historic Districts

A geographic area nominated as a *Historic District* shall be added to the Official Register as a Historic District if the Board of Supervisors finds, after holding the hearing(s) required by this Chapter, that all of the requirements set forth below are satisfied:

1. Requirements

- a. The district is a geographically definable area, urban or rural possessing a significant concentration or continuity of site, *buildings*, structures, or *objects* unified by past events, or aesthetically by plan or physical development.
- b. The area possesses either:
 - i. A significant concentration or continuity of *buildings* unified by:
 - a. past associations; or
 - b. aesthetically by plan or physical development; or
 - ii. The area is associated with an event, person, or period significant or important to Monterey County history; or
 - iii. The designation of the geographic area as a *Historic District* is reasonable, appropriate and necessary to protect, promote, and further the goals and purposes of this Chapter and is not inconsistent with other goals and policies of the County.

2. Factors to be Considered: In determining whether to place a geographic area on the Official Register as a *Historic District*, the following factors shall be considered:

- a. A *Historic District* should have *integrity* of design, setting, materials, workmanship and association.
- b. The collective historic value of the *buildings* and structures in a *Historic District* taken together may be greater than the historic value of each individual *building* or structure.

E. Additions to the Local Register:

Contributing *Resources*: A resource shall be added to the Official Register as a *contributing resource* if the Board of Supervisors finds, after holding the hearing(s) required by this Chapter, that all of the following requirements are satisfied:

1. The resource is within a *Historic District*;
2. The resource either embodies the *Significant Features and Characteristics* of the *Historic District* or adds to the historical associations, historical architectural qualities or archaeological values identified for the *Historic District*;
3. The *Resource* was present during the period of historical significance of the *Historic District* and relates to the documented historic significance of the *Historic District*;
4. The resource either possesses historic *Integrity* or is capable of yielding important information about the period of historical significance of the *Historic District*; and
5. The resource has important historic or architectural worth, and its designation as a *contributing resource* is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this Chapter.

F. Deletions from the Local Register:

An application to delete a *Listed Historic Resource* from the Official Register may be approved if the Board of Supervisors finds, after holding the hearings required by this Chapter, that the *Listed Historic Resource* no longer meets the requirements set forth above; provided that where a *Landmark* or *Contributing Resource* is proposed for deletion due to a loss of *Integrity*, the loss of *Integrity* was not the result of any illegal act or willful neglect by the owner or agent of the owner.

ARTICLE VI. PRESERVATION INCENTIVES 18.60.000

18.60.010 Incentive Programs.

The *Board* is authorized to develop and implement *preservation* incentive programs that are consistent with this Chapter.

18.60.020 California State Historical Building Code.

The *Building Official* is authorized to use and shall use the *State Historical Building Code* for projects involving *Landmarks* and *Contributing Resources*. The *Board* and the *Planning Director* are authorized to and shall utilize the *State Historical Building Code* for *Preservation Projects*.

18.60.030 Mills Act Contracts.

- A. *Mills Act* contracts granting property tax relief shall be made available by Monterey County only to owners of properties listed in the Official Register (either as *Landmarks* or as *Contributing Resources* within *Historic Districts*), as well as properties located within Monterey County that are listed in: (1) the *National Register of Historic Places* (either as individual listings or as contributing properties within National Register historic districts); or (2) the *California Register of Historical Places*. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed shall not be eligible for a *Mills Act* contract with the County.
- B. *Mills Act* contracts shall be made available pursuant to California law. The *Planning Director* shall make available appropriate *Mills Act* application materials.
- C. *Mills Act* contract applications shall be made to the *Planning Director* who shall, within sixty (60) days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the Board of Supervisors. A fee for the application, to cover all or portions of the costs of the preparation of the contract in the amounts set by the Board of Supervisors Resolution may be charged.
- D. The Board of Supervisors shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the Board of Supervisors fail to act on the proposed contract within one (1) year of its receipt of the proposal, the proposal shall be deemed denied.
- E. A *Mills Act* contract application that has failed to be approved by the Board of Supervisors cannot be resubmitted for one (1) year from the date of Board of Supervisors action, or where the Board of Supervisors fails to take action, within one year from the date that the application is deemed denied pursuant to (D) above.

18.60.040 Categorical Exemption, CEQA revision ***EXPAND ON THIS***

ARTICLE VII. MINIMUM MAINTENANCE REQUIREMENTS 18.70.000

18.70.010 Minimum Maintenance Requirements.

The owner, lessee or other person legally in possession of a *Listed Historic Resource* shall comply with all applicable codes, laws and regulations governing the maintenance of property. Additionally, it is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of *Listed Historic Resources* and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. *Listed Historic Resources* shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

- A. Façades which may fall and injure members of the public or property;
- B. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
- C. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;

- D. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
- E. Defective or insufficient weather protection for exterior wall covering, including failure or lack of paint or other protective covering;
- F. Any fault or defect in the *building* which renders it not properly watertight or structurally unsafe.

ARTICLE VIII. PROCEDURES AND CRITERIA FOR NOMINATION AND DESIGNATION OF LANDMARKS. 18.80.000

18.80.010 Designation of Historic Resources and Districts

A. Designation of historic *resources* and districts may be initiated by the Board of Supervisors, the Planning Commission, the *Board*, the *Planning Director*, or upon application of the owner of the property for which designation is requested, or the authorized representative of the owner.

B. A property determined by the Board of Supervisors, Planning Director or Board as meeting the criteria of the California Register shall be treated as a Historic Resource as defined by CEQA. No property shall be listed on the Official Register without the consent of the property owner.

C. Any such proposal shall be filed with the *Planning Director* and may include the following information:

1. Assessor's parcel number of site of the structure proposed for designation or legal description of the district proposed for designation;
2. Description detailing the structure or district proposed for designation;
3. Description of special aesthetic, cultural, architectural, or engineering qualities which justify such designation;
4. Sketches, drawings, photographs, or other descriptive material;
5. Statement of condition of structure or district;
6. Statement of architectural and historic significance of the structure or district; and,
7. Other information requested by the *Planning Director* or the *Board*.

D. All applications by property owners for historical designation shall be filed with the *Planning Director* on forms prescribed by the *Board*, and shall be accompanied by all data required pursuant to subsection A of this Section. *Where such application is submitted for designation of*

an historic district, the Board will deny the application if owner opposition to the historic district designation exceeds fifty percent of the owners.

- E. No *building, alteration, demolition*, or removal permits for any improvement, *building*, or structure relative to any proposal for designation as a historic *resource* or within an area proposed for designation as a historic district shall be issued between the date on which the proposal was initiated and date the Board of Supervisors takes final action on such proposal, unless a permit pursuant to Chapter 18.xx.xxx has been secured.
 - 1. Notice of Hearing: Written notice shall be given by first class, prepaid mail not less than ten(10) days prior to the hearing before the *Board* on whether to adopt a resolution of intent to nominate a *Resource* for placement on the Official Register to the following individuals:
 - 2. The owner(s) of the *Resource(s)* proposed for *Nomination*, as shown on the latest equalized assessment roll. In the case of a nomination regarding a *Historic District*, the notice shall be provided to all property owners within the proposed district *and immediately adjacent to it*, as shown on the latest equalized assessment roll.

- F. The owner(s) of properties nominated as *Landmarks* or *Contributing Resources* and the owner(s) of properties within the geographic area nominated as a *Historic District* shall be notified in writing within a reasonable period of time, not to exceed twenty (20) days, of the *Board's* adoption of a resolution of intent. Notice shall be given by first class, prepaid mail sent to owners at the addresses shown on the latest equalized assessment rolls. Form of notice: Notice given pursuant to this provision shall include at least the following:
 - 1. Notification that the *Resource* has been nominated for placement on the Official Register as a *Landmark* or *Contributing Resource*, as appropriate. In the case of a *Nomination* of a *Historic District*, the notice shall include a description of the proposed boundaries of the District, and whether the owner(s)' property is proposed to be added as a Contributing or Non-Contributing *Resource*;
 - 2. A general explanation of the *Nomination* process and the effect of being nominated, and the opportunity for appeal of the Preliminary Determination of the *Planning Director*;
 - 3. A general explanation of the effect of being a *Nominated Resource*, including the restrictions on *alteration* and *demolition*;
 - 4. A general explanation of the hearing process for determining whether the *Nominated Resource* qualifies as a *Landmark* or *Contributing Resource*, or in the case of a Proposed *Historic District*, the hearing process for determining whether the geographic area qualifies as a *Historic District*; and

- G. Process for Proposing Deletion from the Official Register:
The procedure for proposing deletion of a Listed *Resource* from the Official Register shall be as follows:
 - 1. Application by Owners of *Landmarks* and *Contributing Resources*:

a. Application for Deletion: *Landmarks and Contributing Resources*: The owner(s) of a *Landmark* or *Contributing Resource* may propose deletion of the *Listed Historic Resource* from the Official Register.

b. All applications to delete a *Listed Resource* from the Official Register shall be submitted to the *Planning Director*, or his designee. The *Planning Director* shall determine if an application is or is not complete, and the date that the application *Nomination* is or is not complete. The *Planning Director* shall determine the date that the application is complete.

c. Notice of Application for Deletion: Where an application is filed for deletion of a *Listed Resource* from the Official Register, notice shall be given to the following persons within a reasonable period of time following receipt of the application:

i. All property owners, as shown on the latest equalized assessment roll, within five hundred (500) feet of the *Nominated Resource(s)*. In the case of a *nomination* regarding a *Historic District*, the *Nomination* Notice shall be provided to all property owners within the proposed district and within five hundred (500) feet of the boundary of the proposed district.

ii. Anyone who has in writing to the *Planning Director* requested notice of the *Nomination*.

d. Preliminary Determination by *Historic Resources Review Board*: Within such time that is reasonable and practicable after the *Board* has determined that an application for deletion is complete, the *Board* shall make a preliminary determination on whether the *Listed Historic Resource* is eligible for consideration for deletion from the Official Register. The *Board* shall find that the *Listed Historic Resource* is eligible for consideration for deletion from the Official Register if the Board finds that there is a reasonable likelihood that the *Listed Resource* will be deleted from the Official Register, following completion of the notice and hearing requirements of this Chapter, for its failure to meet the criteria specified in 32.04.402 above. The *Board* shall issue a written decision on their preliminary determination whether the *Listed Resource* is eligible for consideration for deletion from the Official Register.

e. Notice of Preliminary Determination: Written notice of the Preliminary Determination of the *Board* shall be given to the owner(s) and others who received notice of the application for deletion pursuant to (c) above.

f. Appeal: The owner(s) who apply to delete a *Listed Historic Resource* from the Official Register shall have the right to appeal to the *Board*, and thereafter the Board of Supervisors, a preliminary determination that a *Listed Resource* is not eligible for consideration for deletion, in accordance with the provisions of Article VIII herein.

2. Deletions of *Historic Districts* Proposed by Planning Director, *Board*, and Board of Supervisors. The *Board* may initiate a proceeding to delete a *Historic District* by adopting a

resolution of intent to delete a *Historic District*, either on its own motion or at the request of the *Planning Director* or the Board of Supervisors. The Board of Supervisors may adopt a resolution identifying the *Historic District* proposed for deletion, and transmitting its resolution to the *Board*. No other person may propose deletion of a *Historic District*.

3. Periodic Deletion of *Structures* No Longer Eligible for the Official Register: The *Planning Director* shall periodically propose and process for deletion from the Official Register those *Listed Historic Resources* which have been lawfully removed, demolished or disturbed to such an extent that, in the *Planning Director's* opinion, they no longer qualify for placement on the Register.

18.80.020 Nominated Resources: Protections Pending Final Decision.

Subject to the time limits set forth in Subsection B below, any *Nominated Resource* proposed for consideration as a *Landmark* or *Contributing Resource* shall be considered to be a *Landmark* or *Contributing Resource*, and it shall be subject to the restrictions and protections of Article IX or X as if it were a *Landmark* or *Contributing Resource*. Any geographic area proposed for consideration as a *Historic District* shall be considered to be a *Historic District* for purposes of Article IX or X herein, and the *Resources* located within the proposed *Historic District* shall be subject to the restrictions and protections of Article IX or X as if they were located within a *Historic District*.

The restrictions of Subsection A above shall apply for a period of 180 days from the date of adoption by the *Board* of a resolution of intent to consider a *nomination* of a property as a *Landmark*, a *Contributing Resource* or a property within a *Historic District*. After 180 days have elapsed from the date of the resolution of intent, if the Board of Supervisors has not adopted an ordinance designating the *nominated Resource* as a *Landmark*, *Contributing Resource* or *Historic District*, the restrictions and protections established by Subsection A above shall no longer apply unless the Board of Supervisors has adopted an ordinance to extend the 180-day limit to consider the *nomination*. The Board of Supervisors may extend the time period an additional 180 days.

Listed Historic Resources proposed for deletion from the Official Register shall be subject to the restrictions and protections of Article VI unless and until a final decision is made by the Board of Supervisors to delete the *Listed Historic Resources* from the Monterey Register.

18.80.030 Review Board Hearing

Each proposal or application for designation shall be considered by the *Review Board* at a public hearing. The time and place of such hearing shall be set by the *Secretary*.

Notice of the time, place, and purpose of such hearing shall be mailed to the owner of the property proposed for designation at the address shown on the application, and published once in a local newspaper of general circulation, not less than ten (10) days prior to the date of the hearing. The *Secretary* may also give such additional notice as the *Secretary* deems desirable and practicable.

At the conclusion of the public hearing, but in no event more than thirty (30) days from the date set for the initial public hearing on the proposal or application for designation, the *Review Board* shall recommend to the Board of Supervisors approval, approval with conditions, disapproval, or

modification of the proposal. The Review *Board's* recommendation shall be in writing and shall include findings of fact relating to the criteria for designation contained in Section 18.xx.xxx of this Code that constitute the basis for the Review *Board's* recommendation.

Within ten (10) days of the receipt of the Review *Board's* recommendation, the Clerk to the Board of Supervisors shall set a hearing date at which the Board of Supervisors shall consider the recommendation of the Review *Board*. The owner of the property shall thereafter be given notice of the time and place of the Board of Supervisors hearing at least ten (10) days prior to the hearing date, together with a copy of the Review *Board's* recommendation to the Board of Supervisors.

18.80.040 Board of Supervisors Hearing

The sole authority to designate an historic resource or historic districts shall be vested in the Board of Supervisors.

Within thirty days following receipt by the Clerk to the Board of Supervisors of the Review *Board's* recommendation or as soon thereafter as is practicable, a hearing shall be set by the Clerk to the Board of Supervisors and held by the Board. Following such hearing, the Board of Supervisors shall adopt, modify, or reject the designation recommended by the Review *Board*. In the alternative, the Board of Supervisors may continue its consideration of the matter, or refer the proposed designation to the Review *Board* for further hearings, consideration, or study within a period to time designated by the Board. Adoption of the designation shall be made by resolution which shall contain findings of facts as specified in Section 18.100.020. If the Board of Supervisors fails to act within the thirty (30) day period, the recommendation of the Review *Board* for designation shall be deemed approved.

Within ten days of the Board of Supervisors decision, notice thereof shall be mailed by the *Secretary* to the record owner of the property proposed for designation at the address shown on the application, the *State Office of Historic Preservation*, and to such other persons that the *Secretary* may deem appropriate. Such notice shall include the basis for any historical designation and a summary of the regulations which result from such designation.

18.80.050 Nomination and Designation on the Basis of a Survey

Designation on the Basis of a *Survey*

ARTICLE IX. TYPES OF ACTIONS THAT ARE REVIEWABLE BY THE HISTORIC RESOURCES REVIEW BOARD 18.90.000

18.90.010 Proposed Alteration, Demolition or Relocation of Buildings or Structures that are at Least Forty-Five Years Old but not Listed on Official Register

A. If a permit is sought to demolish or relocate a *building* or structure that was constructed at least forty-five years prior to the date of application for *demolition* or relocation, and that *building* or

structure is not currently on the Official Register, the *Planning Director* shall make a preliminary determination on whether the structure is eligible for consideration by the Review *Board* for placement on the Official Register. The Review *Board* can request that the *building* or structure be nominated for placement on the Official Register or approve the issuance of the *demolition* or relocation permit.

Exception:

Buildings and *Structures* within *Surveyed Areas*: To the extent that surveys have been prepared and the Board of Supervisors has approved and adopted these surveys, the Supervisors may provide, by resolution or ordinance, that this section shall apply only to those *buildings* or structures that the survey has identified as potential *Landmarks* or *Contributing Resources*.

B. In making the preliminary determination, the Preservation Director shall apply the eligibility criteria and factors specified above. The *Planning Director* shall find that the nominated resource is eligible for consideration for placement on the Official Register if the Director finds that there is a reasonable likelihood that the nominated resource will be placed on the Official Register following completion of the notice and hearing requirements of this Chapter

C. Upon determining that the *building* or structure is eligible for consideration by the Review *Board* for placement on the Official Register, the *Planning Director* shall provide notice to the property owner(s) of the preliminary determination. Notice shall be provided by first class, prepaid mail. The *Planning Director* shall make the preliminary determination within forty five-(45) days of the date that the application for the permit to demolish or relocate a *building* or structure is filed and determined or deemed to be complete. Failure of the *Planning Director* to act within the forty-five (45) day period determination shall be considered to be a determination that the structure is not eligible for placement on the Register.

D. The preliminary determination of the *Planning Director* may be appealed by the owner or applicant pursuant to the Review *Board*, and thereafter to the Board of Supervisors.

E. If an appeal of the preliminary determination of the *Planning Director* is filed by the owner or applicant, the *Board* shall hear and decide that appeal within thirty (30) days of the date of filing of the appeal. Failure of the *Board* to act within this time period may be treated by the owner or applicant for the permit to demolish or relocate as a denial of the appeal of the Preliminary Determination that the *building* is eligible for consideration for placement on the Official Register.

F. Pending a final decision on the preliminary determination of whether the *building* or structure is eligible for *nomination* for placement on the Official Register, and for a period of forty-five days after a final decision that the *building* or structure is eligible, the *building* or structure shall be treated as a listed resource. The forty-five day time period shall commence on the date that the preliminary determination, including any appeals, is considered final. During the forty-five day period, the *Board* shall consider whether to initiate *nomination* proceedings; and if the *Board* adopts a resolution of intent pursuant to 18.90.010, the provisions of Section 18.90.010 shall apply from the date of adoption of the resolution of intent.

18.90.020 Proposed Alteration, Demolition or Relocation of Buildings or Structures which are Individually Listed on the Official Register

A. If a permit is submitted for the *demolition*, relocation or major *alteration* to a *building* or structure listed on the Official Register, the *Planning Director* shall transmit the application to the *Review Board* for review. The *Review Board* may require that the application for permit be supplemented by such additional information or materials as may be necessary for a complete review by the *Review Board*. The *Review Board* may impose such reasonable conditions or restrictions as it deems necessary or appropriate on a case-by-case basis to promote or achieve the purpose of this code. If a permit applicant provides evidence that the cost of complying with a condition of approval is not economically feasible, the *Review Board* may require that all conditions be met within a period of up to five years. The *Review Board* shall not approve a request for *demolition* except upon written findings after a public hearing that denial of the requested *demolition* will deprive the owner of substantially all reasonable use of the property, or that *demolition* will not have a significant effect on the achievement of the purpose of this chapter.

B. Upon approval of a *demolition* permit by the *Review Board*, the *Planning Director* will delete the *building* from the Official Register.

C. *As a general rule, a demolition permit shall not be approved for the demolition of a pre-1875 adobe. The loss of a historic adobe to the historic fabric of Monterey County is generally not possible to mitigate by measures proportional to the adverse effect of the demolition.*

18.90.030 Development Projects Involving Landmarks and Contributing Resources

A. *Board Review*: The Historic Resources Review Board shall review and act on the following *Development Projects* and requests for *demolition* and relocation involving *landmarks* and *Contributing Resources*:

1. Any *Development Project* involving a *landmark* or *Contributing Resource* where the *Planning Director* determines that the *Development Project* involves work on *Significant Features or Characteristics* or involves work that could affect the eligibility of the *Listed Historic Resource* as a Monterey County *Landmark*.

2. Except as provided below, all applications for *demolition* or relocation of *landmarks* and *Contributing Resources*.

Exception:

The *Planning Director* shall have authority to review and act upon applications for *demolition* or relocation of accessory *buildings* and structures which are not identified as *Significant Features or Characteristics* of the *landmark* or *Contributing Resource*.

B. *Planning Director Review*: The *Planning Director* shall review and act on all *Development Projects* involving *landmarks* and *Contributing Resources* not subject to review by the *Review Board* pursuant to section A, above.

C. *Planning Director Determination*: The *Planning Director* shall review and determine whether a

Development Project application involving a *landmark* or *Contributing Resource* is subject to review by the *Review Board* or by the Director is appropriate under sections A and B, above. The determination of the *Planning Director* on this issue shall be final and shall not be subject to appeal. The decision of the *Review Board* or Director on the *Development Project* application shall be subject to appeal pursuant to Article Appeals.

D. Review and approval by the *Review Board* or *Planning Director* shall be required prior to commencement of the following:

1. Any *Development Project* involving a *landmark*, *Contributing Resource*, *Non-Contributing Resource* or any *building* or structure over forty-five years old which has not been evaluated for significance and which requires issuance of a County permit, including without limitation the following:
 - a. Building Permits, including but not limited to building permits for rehabilitation, new construction and *demolition*;
 - b. Building move and building relocation permits;
 - c. Sewer and septic connection or disconnection permits, except for those disconnections for repair or maintenance of existing sewer and septic connections;
 - d. Sign permits;
 - e. Certificates of Occupancy;
 - f. Grading Permits;
 - g. Demolition permits, whether for full, major or partial *demolition*; or
 - h. Encroachment permits.
2. Any of the following work or improvements undertaken on a *landmark*, *Contributing Resource* or *Non-Contributing Resource* or *building* or structure over Forty Five (45) years old which has not been evaluated for significance;
 - a. Installation or replacement of exterior windows or doors;
 - b. Construction of new exterior fencing or walls, or *alteration* of existing fencing or walls;
 - c. Replacement or *alteration* of exterior paint or other exterior architectural coating or treatment on a *landmark*, where the exterior paint or other exterior architectural coating or treatment has been identified as a significant Feature or Characteristic of a *landmark*;

Pursuant to Section 18.100.030, a *Certificate of Appropriateness* approved by the *Review Board* shall be required prior to undertaking any of the work specified in (a) through (c) above.

E. Review by the *Review Board* shall not be required for the following:

1. *Demolition* or relocation of a *Non-Contributing Resource*
2. *Demolition* of an immediately dangerous *building*, provided the provisions of Article XII of this Chapter shall be satisfied prior to *demolition*.
3. The following minor projects, provided the work is determined by the *Planning Director* to be consistent with the Secretary of the Interior's Standards:
 - a. *Demolition* or removal of insignificant features of a historic resource, including noncontributory additions, garages or accessory structures, replacement windows and later siding material;
 - b. Any undertaking requiring a permit that does not change the exterior character-defining features of a historic resource, including, but not limited to, re-roofing if the re-roofing

material has a similar appearance to the existing or original roofing material and the existing roofing material is infeasible to repair; replacement of windows and doors if the replacements match the existing or original windows and doors and it is infeasible to repair the existing doors or windows.

c. Any addition of less than two hundred (200) square feet on side or rear elevations that are not visible from the public right-of-way;

d. Any undertaking required by or related to health and safety needs that does not materially alter significant features of a historic resource or have an adverse effect on the significance of a historic resource;

e. Any other undertaking determined by the *Planning Director* to be minor that does not materially alter significant features of a historic resource or have an adverse effect on the significance of a historic resource.

Projects proposed for consideration as minor projects shall be reviewed by the *Review Board* or *Planning Director* prior to issuance of a building permit to determine if the work meets all of the requirements to be treated as a minor project as defined above. No hearing shall be required, and the decision of the *Planning Director* or designated representative shall be final and not subject to appeal. If the *Planning Director* or designated representative determines that the project does not constitute a minor project as defined above, the project shall be subject to formal review by the *Review Board* or the *Planning Director*.

4. Work and repairs required as a matter of law.

5. *Alteration, demolition, or relocation* proposed for a *building* or structure which is at least forty five years old but which the *Planning Director* determines has already been altered or relocated and no longer possesses *integrity* to reflect a reason for significance.

F. It shall be unlawful and a violation of this Chapter for any person to commence or continue work on a *Development Project* involving a *landmark* or *Contributing Resource*, or a *Non-Contributing Resource* in a *Historic District* unless review and approval pursuant to this Chapter has occurred.

18.90.040 Review of Development Projects Involving Non-Contributing Resources in Historic Districts.

The *Review Board* shall act on *Development Project* applications involving new construction on vacant parcels within *Historic Districts*. The Director shall act on all other *Development Project* applications involving *Non-Contributing Resources* in *Historic Districts*.

ARTICLE X. THE CRITERIA APPLIED BY THE COMMISSION TO THE ACTION REVIEWED 18.100.000

18.100.010 Standards.

The *Review Board* or the *Planning Director*, as appropriate, shall apply and consider the following

when reviewing a *Development Project* or other matter pursuant to this Chapter:

- A. The Secretary of Interior Standards;
- B. When the project involves a *Resource* located within a *Historic District*, the applicable provisions of the *Historic District Plan*, if any;
- C. The goals and policies of this Chapter; and
- D. The goals and policies of the General Plan and any applicable specific or community plan,
- E. *When the project will have an adverse effect on a historic resource, the mitigation must be roughly proportional to the impacts of the project.*
- F. *The cumulative effect of the proposed project on the integrity of an historic district or the cumulative loss to the County of a specific type of individual historic resource.*

18.100.020 Decision and Findings

A. Projects Involving *Demolition* or Relocation of a *Landmark* or *Contributing Resource*: For projects involving the *Demolition* or Relocation of a *Landmark* or *Contributing Resource*, the Review Board or *Planning Director* shall not approve the application unless the Review Board or *Planning Director* makes one or more of the following findings concerning the project, as it may have been conditioned or modified:

1. Based upon sufficient evidence, including evidence provided by the Applicant, the property retains no reasonable economic use, taking into account the condition of the structure, its location, the current market value, the costs of rehabilitation to meet the requirements of the building code or other county, state or federal law;
2. That the *demolition* or relocation of the *Landmark* or *Contributing Resource* is necessary to proceed with a project consistent with and supportive of identified goals and policies of the General Plan or applicable area or specific plan(s), and the *demolition* of the *building* or structure will not have a significant effect on the achievement of the purposes of this Chapter or the potential effect is outweighed by the benefits of the new project; or
3. In the case of an application for a permit to relocate, that the *building* may be moved without destroying its historic or architectural *Integrity* and importance; or
4. That the *demolition* or relocation of the *Landmark* or *Contributing Resource* is necessary to protect or to promote the health, safety or welfare of the citizens of Monterey County, including the need to eliminate or avoid blight or nuisance, and the benefits of *demolition* or relocation outweigh the potential effect on the achievement of the goals and policies of this Chapter.
5. *Mitigation measures which reduce the adverse effect of the Project on the Landmark or Contributing Resources to a level of less than significant have been required as part of the Project approval.*

B. *Demolition* or Relocation: For purposes of this Section, *demolition* or relocation shall mean the complete *demolition* or relocation of the entirety of the *landmark* or *Contributing Resource*; or the partial *demolition* or relocation of a portion of a *Landmark* or *Contributing Resource*, including where partial *demolition* or relocation that is part of a *Development Project* to remodel or alter the *Landmark* or *Contributing Resource*, where the *demolition* or relocation affects or may affect a *Significant Feature* or *Characteristic*, or where the *demolition* or relocation is other than minor, inconsequential or insignificant and has the potential to affect the historical value of the *Landmark* or *Contributing Resource*.

18.100.030 Certificates of Appropriateness.

A certificate of appropriateness approved by the *Planning Director* shall be required to undertake any of the work specified in Section 18.100.020. This requirement shall be in addition to any other permit or requirement required by the Monterey County Code. The *Planning Director* shall, in the manner specified in Section 18.xxx.xx, notice and hold a hearing on the application to undertake work specified in section 18.100.020.

18.020.040 Appeal.

The decision of the *Planning Director* shall be subject to appeal to the *Review Board* pursuant to Article VIII herein. The decision of the *Review Board*, including the decision of the *Review Board* on an appeal from the *Planning Director*, shall be subject to appeal to the Board of Supervisors pursuant to Article XIII herein.

18.100.050 Expiration of Approval.

Whenever the *Review Board* or the *Planning Director* approves the issuance of a *demolition* permit or a building permit for *demolition* and rights thereunder have not been exercised for a period of one hundred eighty (180) days from the effective date of issuance, said approval shall expire and said permit is void notwithstanding any other provision of the Monterey County Code to the contrary. For purposes of this Section, the term "exercise of rights" shall mean substantial expenditures in good faith reliance upon said permit. The burden of proof in showing substantial expenditures in good faith reliance upon said permit shall be placed upon the permit holder.

18.100.060 County Projects.

A. General: Except as provided below, the provisions of this Chapter 15.124 requiring hearing(s) before the *Review Board* or the *Secretary* shall apply to *Development Projects* involving, or requests for *demolition* or relocation of, *Landmarks*, *Contributing Resources* or *Non-Contributing Resources* which are owned by the Monterey County, provided that the *Review Board* or *Secretary* shall make a recommendation to the Board of Supervisors or other County decision-making body, entity or person, rather than issuing a decision. When acting on County projects, the County decision-making body, entity or person shall apply the same standards, and make the same findings, required by this Chapter for private projects.

Exception:

The Board of Supervisors may, by resolution or ordinance, exempt from review by the Director or Review *Board*, individual County projects or categories of County projects.

ARTICLE XI. CONSIDERATION OF THE ECONOMIC EFFECT OF DESIGNATION OR REVIEW OF AN ACTION 18.110.00

Chapter 18.110.010 Substantial Financial Hardship

A. In the event an applicant presents facts and clear evidence demonstrating to the Review *Board* that failure to approve the application for a permit will cause an immediate and substantial financial hardship because of conditions peculiar to the particular structure or other feature involved, and the damage to the owner of the property is unreasonable in comparison to the benefit conferred to the community, the Review *Board* may approve or conditionally approve such permit even though it does not meet the standards set forth in this Chapter. The burden of establishing substantial financial hardship shall be on the applicant.

B. The Review *Board* shall be authorized to request the applicant to furnish material evidence supporting the applicant's request for a permit on the basis of immediate and substantial financial hardship. Such evidence may include, but need not be limited to, the following:

1. Cost estimate of the proposed construction, *alteration*, *demolition*, or removal, and an estimate of the additional costs that would be incurred to comply with the recommendations of the Review *Board* for issuance of a permit.
2. 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 any rehabilitation.
3. Estimated market value of the property in its current condition; estimated market value after completion of the proposed construction, *alteration*, *demolition* or removal; after any change recommended by the Review *Board*; and, in the case of a proposed *demolition*, after renovation of the existing property for continued use.
4. In the case of proposed *demolition*, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property and its market value for continued use after rehabilitation.
5. For income producing properties, information on annual gross income, operating and maintenance expenses, depreciation deductions, and annual cash flow after debt service, current property value appraisals, assessed property valuations, real estate taxes, and any other information considered necessary by the Review *Board* to determine whether substantial evidence of economic hardship exists.
6. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

7. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
8. Amount paid for the property, 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 is purchased, and any terms of financing between the seller and buyer; any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years.
9. Assessed value of the property according to the two most recent assessments.
10. Real estate taxes for the previous two years.
11. Form of ownership or operation of the property, whether sole proprietorship, for profit or nonprofit corporation, limited partnership, joint venture, or other.
12. Any other information, including the income tax bracket of the owner(s), applicant(s), or principal investors in the property considered necessary by the *Review Board* to make a determination as to whether the property does yield or may yield a reasonable return to the owners.

C. In considering an application for permit based on immediate and substantial financial hardship, the *Review Board* must make a finding that without approval of proposed *demolition, alteration, remodeling, removal, or construction, or 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, family, or financial difficulties, loss of prospective profits, and neighboring violations are not justifiable hardships. In the case of a proposed demolition, the Review Board 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.*

D. In the case of a finding of immediate and substantial financial hardship, this finding shall be accompanied by a plan developed by the applicant to relieve economic hardship. This plan may include, but is not limited to, property tax relief, loans or grants from the County or other private sources, acquisition by fee purchase or eminent domain, use of the State Historic Building Code, redevelopment funds, development fees for historic *preservation* changes in applicable zoning regulations, transfer of unused development rights, or relaxation of the provisions of this Chapter sufficient to allow reasonable beneficial use or return from the property. The *Review Board* and the County shall have a period not to exceed one hundred and twenty (120) days to review 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. If, by the end of this one hundred and twenty (120) day period, the *Review Board* has found that without approval of the proposed work, the property cannot be put to a reasonable economic return therefrom, then the *Review Board* shall issue a permit approving the proposed work. If the *Review Board* finds

otherwise, it shall deny the application for a permit and notify the applicant by mail of the final denial.

E. If approval of a permit will result in the *demolition* of a designated historical resource, the applicant shall be required to provide documentation of the resource proposed for *demolition* to the standards of the Historic American Building Survey. Such documentation may include photographs, floor plans, measured drawings, archaeological survey, or other documentation stipulated by the Review Board.

18.110.030 Certificate of Economic Hardship EXPAND ON THIS

ARTICLE XII DANGEROUS BUILDINGS AND IMMEDIATELY DANGEROUS BUILDINGS, STRUCTURES OR RESOURCES 18.120.000

18.120.010 Notice to Planning Director.

The *Building Official*, and designees, shall notify the *Planning Director* upon designation of any of the following as a substandard, dangerous, or immediately dangerous *building*, structure or resource: any Listed Historical *Resource*, any resource in a *Historic District*, any *California Register Resource*, or any National Register *Resource*.

18.120.020 Reports to Review Board.

The Secretary of the Housing Code Advisory and Appeals Board and the *Building Official* shall forward to the Review Board Secretary all notices and orders involving any *Listed Historic Resource* within ten (10) days of any such notices or orders.

18.120.030 Demolition of Landmarks and Resources Within Historic Districts.

A. The provisions of this Chapter shall not be construed to regulate, restrict, limit or modify the authority of the County and the *Building Official* or his or her designee(s) as specified below, to issue *demolition* or other permits under the Building Code set forth in Title xx of the Monterey County Code for the abatement of *Listed Historic Resources* determined to be immediately dangerous, pursuant to the summary procedures set forth in the Monterey County City Code; provided that, prior to approval of a *demolition* permit for the *demolition* of a *Listed Historic Resource* determined to be immediately dangerous, the *Building Official* or in his or her absence, the Code Enforcement Manager, or in the Code Enforcement Manager's absence his or her designee as specified below, shall comply with the review and consultation process specified herein.

B. The person serving as *Building Official* shall personally issue any permits authorizing the *demolition* of structure(s) or other resource(s) on the Monterey County list of historic *resources* determined to be immediately dangerous after complying with the review and consultation process specified herein; provided that if the person serving as *Building Official* is absent or otherwise unavailable, then the Code Enforcement Manager his or her designee, shall be responsible for issuing any permits authorizing the *demolition* of a *Listed Historic Resource* determined to be immediately

dangerous after complying with the review and consultation process specified below.

C. The *Building Official*, Code Enforcement Manager or designee specified, may issue a permit authorizing the *demolition* of a *Listed Historic Resource* determined to be immediately dangerous; provided that prior to issuing the *demolition* permit, the *Building Official* or designee shall first consult with the *Planning Director* and the Chairperson of the *Review Board* for the purpose of discussing

1. whether the condition of the structure(s) or other resource(s) is immediately dangerous within the meaning of the Monterey County Code; and
2. whether there are any feasible alternatives to *demolition* that will protect adequately the health and safety of the public, including but not limited to abatement of the immediate threat through repair, securing the premises through security fencing or other measures, stabilization, or limited *demolition*; and provided further that if the *Building Official* or designee determines that the structure is immediately dangerous and that there is no feasible alternative to *demolition* to abate the immediate and present threat to life, health or safety of the public, the *Building Official*, Code Enforcement Manager, or designee may issue a permit authorizing the *demolition* of the structure without complying with the consultation process, although the *Building Official*, Code Enforcement Manager or designee, shall make all reasonable efforts to comply with the consultation process before issuing such permit.

18.120.040 Deletion of Individually Listed Historic Resource from Official Register.

When an individually listed Monterey County *Landmark*, or portion thereof, has been lawfully demolished, removed, or disturbed pursuant to any provisions of this Chapter, the *Planning Director* shall cause such *Landmark*, or portion thereof, to be deleted from the list of Monterey County *Landmarks*. Upon deletion, the provisions of this Chapter shall not be considered to encumber any remaining property on which the *Landmark* was located. *Landmark(s)* in which a majority of the *Significant Feature(s)* and *Characteristic(s)* are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent, shall be considered lawfully demolished, removed, or disturbed for the purposes of this Section.

18.120.050 Down-grading of Historic Resource within a Historic District to a Non-contributor

When a *Listed Historic Resource* in a *Historic District*, or portion thereof, has been lawfully demolished, removed, or disturbed pursuant to any provisions of this Chapter, the *Planning Director* shall cause such *Listed Historic Resource*, or portion thereof, to be downgraded to a non-contributing resource in the *Historic District*. *Listed Historic Resource(s)* in a *Historic District* in which a majority of the *Significant Feature(s)* and *Characteristic(s)* are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent shall be considered lawfully demolished, removed, or disturbed for the purposes of this Section.

ARTICLE XIII. PROCEDURES FOR APPEALS FROM A PRESERVATION COMMISSION DECISION 18.130.000

18.130.010 Appeal Procedure

A. Any decision relating to the approval, approval with modifications, or denial of an application for any permit pursuant to Sections 18.25.170 and 18.25.190 may be appealed to the Board of Supervisors by the property owner not later than ten days following transmittal of the notice of decision and findings. Such appeal shall be taken by filing a notice of appeal with the Clerk to the Board of Supervisors. An appeal shall not be accepted by the Board of Supervisors unless it is complete and complies with all requirements. The Clerk to the Board of Supervisors shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete.

B. The Clerk to the Board of Supervisors shall cause the appeal to be set for hearing before the Board of Supervisors within thirty days of receipt of the notice of appeal. Not later than ten days prior to the date of the hearing on the appeal, the Clerk to the Board of Supervisors shall notify the appellant and all persons requesting such information in writing, pursuant to the provisions of Section 18.25.050.

C. Following consideration of the appeal, the Board of Supervisors may approve, approve with modifications, or deny the application, or may refer the appeal to the Review *Board* for further consideration.

18.130.020 Finality of Review Board and Planning Director Decisions.

Any decision or order of the Review *Board* or Preservation Director under this Chapter shall become final if no appeal is taken from such order or decision within the time limits prescribed by the applicable appeal provisions of this Chapter. No permit regulated by the provisions of this Chapter shall issue, nor shall any rights therein vest, until the decision of the Review *Board* or Preservation Director is final or any appeal therefrom is disposed of the manner prescribed by this Chapter.

18.130.030 Finality of Board of Supervisors Decision

Any decision of the Board of Supervisors shall be final. Any decision of the Board shall become final if no appeal is taken from such order or decision within the time limits prescribed by the applicable appeal provision of this Chapter. No permit regulated by the provisions of this Chapter shall be issued, not shall any rights vest therein, until the decision of the Board is final or any appeal therefrom is disposed of in the manner prescribed by this Chapter.

ARTICLE XIV. FINES AND PENALTIES FOR VIOLATION OF ORDINANCE PROVISIONS 18.140.000

18.140.010 Application of Chapter and Enforcement Powers.

The Code Enforcement Manager and *Building Official*, and designees, are hereby authorized to enforce the provisions of this Chapter, and, in addition to all other powers available to them, are specifically authorized to utilize the provisions of Chapter 1.28 of Title 1 of the Monterey County Code in the enforcement of this Chapter. The County Attorney is authorized to take such legal actions

as are lawfully available, including but not limited to the remedies set forth in Chapter 1.28 of Title 1 of the County Code.

18.140.020 Prohibitions.

A. No person shall cause, willfully or otherwise, by action or inaction, *alteration* of, environmental change to, damage to or *demolition* of any significant Feature(s) or Characteristic(s) of a *landmark* or all or portion of a *Historic District*, or other *Listed Historic Resource*, or *National Register Resource* or *California Register Resource* without first having obtained a proper County authorization for same.

B. For purposes of this Chapter, each daily violation shall be considered a new and separate offense.

C. Willful violation of this Chapter shall constitute a misdemeanor.

18.140.030 Additional Penalties.

The penalties provided for in this Chapter are designated as nonexclusive, and are in addition to any other remedies the County may have.

18.140.040 Judicial Review.

Judicial review of any final decision under this Chapter shall be filed within thirty (30) days of the date of the decision, and review shall be pursuant to Section xxx.x of the Code of Civil Procedure.

18.140.050 Fees.

The Board of Supervisors may, by resolution, establish the fee(s) for submission of the *Nomination*, and all other applications and submissions made pursuant to this Chapter. In the absence of a Board of Supervisors resolution, the *Planning Director* may establish the fee and charge schedule.

18.140.060 County Code References.

All references in this Chapter to sections of the County Code shall incorporate those sections as such sections may be amended from time to time.

18.140.070 Severability.

Should any section or other portion of this Chapter be determined unlawful or unenforceable by a court of competent jurisdiction, the remaining section(s) and portion(s) of this Chapter shall be considered severable and shall remain in full force and effect.