

HISTORIC PRESERVATION ORDINANCE
For the County of Alameda
*****Draft, 12/06/07*****

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HISTORIC PRESERVATION ORDINANCE For County of Alameda

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ARTICLE I. GENERAL PROVISIONS

1. Findings

The Board of Supervisors finds and declares that:

- A. The County of Alameda has a rich history. Significant aspects of that history need to be recognized and preserved.
- B. 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.
- C. Preservation of county's historic resources enhances the county's economic, cultural, and aesthetic standing, its identity, and its livability, marketability and urban character.
- D. Well-preserved and retained historic resources are essential to maintain and revitalize the county and its neighborhoods and stimulate economic activity, and, further, the preservation and continued use of historic resources are effective tools to sustain and revitalize neighborhoods and business districts within the county.
- E. Preservation of historic resources is important to promote the public health and safety and the economic and general welfare of the people of the county.

2. Purpose

The purpose of this chapter shall be to:

- A. Identify, protect, and encourage the preservation of significant architectural, historic, prehistoric and cultural structures, sites, resources and properties in the county;
- B. Ensure the preservation, protection, enhancement and perpetuation of historic structures, sites and other resources to the fullest extent feasible;
- C. Encourage, through both public or private action, the maintenance or rehabilitation of historic structures, sites and other resources;
- D. Safeguard the county's historic resources, both public and private projects;
- E. Encourage development that sensitively incorporates the retention, preservation and re-use of historic structures, sites and other resources;

F. Foster civic pride in the character and quality of the county’s historic resources and in the accomplishments of its people through history;

G. Provide a mechanism, through surveys, nominations and other available means, to compile, update and maintain a register of historic resources within the county;

H. Protect and enhance the county’s attraction to tourists and visitors;

I. Provide for consistency with state and federal preservation standards, criteria and practices;

J. Encourage new development that will be aesthetically compatible with historic resources.

3. Definitions

“Alameda County Register” means the register created by Article IV of this chapter.

“Board of Supervisors” or “Board” means the Board of Supervisors of the County of Alameda.

“Building official” means the building official designated in Chapter 15.04 of Title 15 of this 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 from time to time.

“California Register resource” means any resource designated on the California Register as it may be amended from time to time.

“Certificate of Appropriateness” shall mean the certificate required pursuant to Article VI herein prior to undertaking any of the following work or improvements on a landmark, contributing resource or non-contributing resource, or pursuant to Section 15.124.190, on a nominated resource:

These may have been intended as internal references to the Ordinance itself. I’ve marked references to all such sections in [yellow].

1. Installation or replacement of exterior windows or doors;
2. Construction of new fencing or walls, or alteration of existing fencing or walls;
3. 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.

“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.

“Commission” means the Parks, Recreation and Historical Commission as designated in Article II of this chapter.

“Comprehensive Survey of Historic Sites” means the survey of historic resources throughout unincorporated Alameda County and adopted by the County in <month 2007>.

“Contributing resource” means a resource designated as a contributing resource by the Board of Supervisors in accordance with Article IV of this chapter.

“Conservation area” means an area designated as a conservation area by the Board of Supervisors in accordance with Article IV of this chapter.

“County” means the unincorporated areas of the County of Alameda.

“Cultural Resources Surveys” means the Cultural Resources Surveys done for the county, including the Preliminary Cultural Resources Surveys for the Ashland & Cherryland Districts, the San Lorenzo Area, and the East Valley Area; the Comprehensive Survey of Historic Sites in unincorporated Alameda County that was conducted in conjunction with the creation of this Ordinance; and any other surveys as they may be completed.

“Dangerous building” means a dangerous building as that term is defined in Section 8.96.110 of this code.

“Development project” means and includes the following:

1. The alteration, modification or rehabilitation of the exteriors of landmarks, contributing resources and non-contributing resources;
2. The alteration, modification or rehabilitation of interiors of landmarks and contributory resources where the interiors constitute “features or characteristics” as defined herein; or
3. New construction within a historic preservation district.

“Feature or characteristic” 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, without limitation, 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 preservation district” means a geographic area designated as a historic preservation district by the Board of Supervisors in accordance with Article IV of this chapter.

“Historic preservation district plan” means a plan adopted by the Board of Supervisors pursuant to Article IV of this chapter or the prior versions of this chapter.

“Historic resource” and “cultural resource” mean, for the purposes of environmental reviews related to CEQA and the county’s compliance with CEQA, those landmarks, contributing resources and historic preservation districts listed in the Alameda County Register as defined herein. “Historic resource” and “cultural resource” shall also include those properties specified as a historic resource or cultural resource by CEQA, by the CEQA guidelines, or by any other provision of California law.

“Immediately dangerous building or structure” means an immediately dangerous building or structure as defined in Section 8.96.120 of this code.

“Inventory of Potential Historic Resources” means the repository of information retained by the Planning Department regarding buildings that have been evaluated for historic significance through an official study. The Inventory includes the resources specified in the Alameda County Register of Historic Resources, but also includes surveyed structures not yet found to be historic resources.

“Landmark” means any historic resources designated as a landmark by the Board of Supervisors in accordance with Article IV of this chapter.

“Listed historic resource” means any resource listed in the Alameda County Register in accordance with this chapter. “Listed historic resource” includes any resource designated by the Board of Supervisors as a landmark, contributing resource, structure of merit or contributor to a conservation area. “Listed historic resource” does not include a non-contributing resource in a historic preservation district.

“Mills Act” means California Government Sections 50280 et seq., as it may be amended from time to time.

“National Environmental Protection Act” means 42 U.S.C. Secs.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. Secs. 470 et seq., as it may be amended from time to time.

“National Register of Historic Places” means the official inventory 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).

“National Register resource” means any resource listed in the National Register of Historic Places.

“Nominated resource” means a resource nominated for placement on the Alameda County Register as provided for in Article IV of this chapter.

“Nomination” means a nomination for placement of a resource on the Alameda County Register pursuant to Article IV of this chapter.

“Non-contributing resources” means all resources within a historic preservation district that are not identified as contributing resources.

“Planning Department” means the Planning Department of the County of Alameda’s Community Development Agency.

“Planning Commission” means the Planning Commission of Alameda County. The Planning Commission is always referred to in this ordinance as “the Planning Commission,” never as “the Commission,” which is reserved for the Parks, Recreation and Historical Commission.

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

“Register” means the Alameda County Register of Historic Resources.

“Secretary of the Interior Standards” means the Secretary of the Interior Standards for Treatment of Historic Properties found at 36 C.F.R. 68.3, as it may be amended from time to time.

“Significant feature or characteristic” means a feature or characteristic identified by the Board of Supervisors as significant from a historical standpoint pursuant to Article IV of this chapter.

“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.

“Structure of merit” means a resource designated as a structure of merit by the Board of Supervisors in accordance with Article IV of this chapter.

“Supportive structures” means those structures identified as “supportive structures” within preservation areas under county ordinance No. 85-076.

“Survey” means a process by which resources are documented for landmark, structure of merit, historic preservation district or conservation area consideration.

“Zoning code” shall mean Title 17 of the county code, as it may be amended from time to time.

ARTICLE II. PARKS, RECREATION AND HISTORICAL COMMISSION

1. Commission—Recognition

There is in the county a “Parks, Recreation and Historical Commission”, hereafter in this chapter referred to as the Commission. (Prior admin. Code section 5-37.01)

2. Commissioners—Terms, Appointment, Qualifications

A. The Commission shall consist of fifteen (15) members appointed by the Board of Supervisors.

B. The members of the Commission shall be residents of the county.

C. Each supervisor shall nominate three Commissioners, one of whom shall be a person with substantial interest in history and/or historical preservation and one with a substantial interest in park and recreation matters.

D. Each member of the Commission shall have demonstrated interest in, competence in or knowledge of historic preservation and, in particular, the historical and cultural resources of the county.

E. Commission members are encouraged to be appointed from among professionals in the disciplines of history, architecture, architectural history, planning, pre-historic and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as urban planning, American studies, American civilization, or cultural geography. To the extent that such professionals are available in the community and interested in serving on the Commission, such members would include:

1. A member who is a landscape architect;
2. A member who is a licensed architect;
3. A member who is a registered structural engineer;
4. A member who has training or experience in real estate development, real estate brokerage, real estate financing, real estate law, or real estate property management;
5. A member who has training or experience in Alameda County area regional history, Alameda County area ethnic history, or Alameda County area cultural development history, and who meets the Secretary of the Interior's professional standards for historians;
6. A member who has training or experience in urban design or planning;
7. A member who has training or experience in architectural history, with a particular emphasis on North American architectural history and development, and who meets the Secretary of the Interior's professional standards for architectural historians.
8. A member who has previously served on a historic resource review body.
9. A member with training or experience as a professional archeologist.

3. Board—Term of Office, Vacancies

The members of the Commission shall serve at the pleasure of the Board of Supervisors and shall have terms of four years. Their terms shall be staggered so that no more than four terms expire in any one year, and so that no supervisor makes more than one appointment in one year, except to fill an unexpired vacancy. No one member shall serve more than three successive four-year terms. Any vacancy on the Commission shall be filled by the board of supervisors; persons appointed to fill vacancies shall serve for the unexpired term of the persons they succeed. (Prior admin. Code section 5-37.02)

4. County Historian

The post of county historian is currently empty, but may be filled in the future. Once filled, the county historian shall act as a nonvoting, unpaid member of the Commission to provide advice on historical matters to the Commission. The positions shall not fall within the term stipulation or attendance stipulation of appointed members. Mileage stipend of appointed Commissioners for meeting attendance shall be paid to the county historian for Commission meetings. (Prior admin. Code section 5-37.03)

5. Commission Staff and Operating Requirements

The Board of Supervisors shall furnish the Commission with necessary quarters, personnel, equipment and supplies, together with usual and necessary operating expenses in accordance with the reestablished public policy of budget and personnel. (Prior admin. Code section 5-37.05).

6. Organization—Meeting Place—Attendance—Rules and Regulations

A. The Commission shall annually select one of its members to serve as the chair and one of its members to serve as the vice chair and shall appoint a secretary. The secretary shall be a member of the Commission or a county employee. In the event that the chair falls vacant for any reason, the vice chair shall automatically succeed to the chair, and the vice chair shall be filled by election at the next meeting.

B. A quorum shall be required for the Commission to take any action. A quorum shall consist of a majority of the members appointed to the Commission who have not been required to abstain due to a conflict of interest. The Commission shall act by a majority vote of the quorum.

C. The Commission shall conduct regular meetings as specified in its adopted rules and regulations for the conduct of Commission business. Special meetings may be called at any time by the chair or by a quorum of the Commission.

D. The appointments of any members who have been absent from three successive regular or special meetings or who have not attended at least two-thirds of the regular or special meetings in a twelve-month period without the approval of said Commission shall be automatically terminated, and the Board of Supervisors shall appoint their successors. Members whose appointments have been terminated due to nonattendance shall not be reappointed to the Commission.

E. The Commission shall adopt rules and regulations for the conduct of its business not consistent herewith, and any such rules and regulations shall be published and made available to the public. (Prior admin. Code section 5-37.04) The Commission shall be subject to, and shall comply with, the requirements of the Brown Act.

7. Commission—Duties and Powers

Unless otherwise specified herein the powers and duties of the Commission shall be as follows:

A. 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 preservation district plans, landmark and historic preservation district nominations, and other activities that encourage the preservation of the county's historic resources.

B. Ensure that all historical resources in the County are recognized as such by: completing and updating Historic Surveys and Inventories; making recommendations to the Board of Supervisors for the inclusion or deletion of landmarks, structures of merit, historic preservation districts and conservation areas in the Alameda County Register using the criteria stated in Article IV of this chapter; and making recommendations to the State Office of Historic Preservation regarding nominations of property located within the county to the State Points of Interest, National Register of Historic Places, or California Register of Historical Resources.

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

D. Recommend appropriate additions to and deletions from the Register, and initiate other implementation measures it finds appropriate.

E. Actively attempt to secure funding from all local, state, federal, and private sources to further historical preservation in the county, and shall work with county historical societies as a coordinating body, particularly in regard to funding historical projects. The Commission shall make recommendations on requests for funding from the Alameda County Board of Supervisors.

F. Review all requests for historical zoning and advise the Board of Supervisors as to the historical significance of the property in question. On request, it shall advise other public agencies and private groups as to the historical significance of properties in the county.

G. Publicize historical preservation efforts in the county and ensure that information concerning the location of historical facilities is made available to all residents of the county.

H. Review all legislation relative to historical resources and report its recommendations to the Board of Supervisors. The Commission also may take its own stand supporting or opposing legislation.

I. Review and advise the Board of Supervisors, or other appropriate agency, regarding all requests for county funds for historical facilities or programs. The Commission shall advise the Board of Supervisors on distribution of other funds which are available to the county, including bond act funds. The Commission also shall assist the coordination of applications for funding from others sources, such as the land and water conservation fund, between the various local, regional and county agencies, and shall advise the Board of Supervisors as to interest of the county affected by the dispersal of any such funds.

- J. Make recommendations to the Board of Supervisors regarding the historic element of the county's general plan.
- K. Hear appeals of Planning Department actions as provided for in this chapter.
- L. Approve, approve with conditions and/or mitigation measures, or disapprove applications for development projects.
- M. Certify and/or ratify applicable environmental documents, or when acting in an advisory capacity, recommend certification or ratification of environmental documents, in accordance with CEQA or NEPA.
- N. Make recommendations to the Board of Supervisors, the Planning Commission, county departments, or any other entity, for purposes of providing historic preservation incentives, including, without limitation, procedural, economic and tax incentives, acquisition of property, development rights, preservation easements, conservation easements, land use, zoning, development restrictions, penalties and sanctions, fee adjustments, and negotiated settlements.
- O. 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.
- P. 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.
- Q. Evaluate and comment upon proposals and environmental reviews pending before other public agencies affecting the physical development, historic preservation and urban design in the county.
- R. Make recommendations to the Board of Supervisors for enforcement and penalties concerning matters covered in this chapter.
- S. Make recommendations to the building or planning department(s) concerning repairs, stabilization, weatherization or demolition or partial demolition of listed historic resources;
- T. Assume duties assigned to the Commission 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 Commission 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, including but not limited to private and public projects undertaken within Alameda County involving one or more landmarks or historic preservation districts.
- U. Consider, in accordance with the nomination process provided in Article IV of this chapter, nominations for addition(s) or deletion(s) to the Alameda County Register, designation of landmarks, structures of merit and historic preservation districts, expansion or alteration of the boundaries of any historic preservation district or conservation area, and the identification of

contributing resources and non-contributing resources in historic preservation districts and conservation areas;

V. Carry out any other duties dealing with historical resources, recreation and parks in the county which the Board of Supervisors may from time to time assign to it. (Prior admin. Code section 5-37.07)

9. Planning Department—Duties and Powers

The Planning Department of Alameda County's Community Development Agency is responsible for implementing the county's historic preservation program and assisting the Commission in the performance of its historic preservation duties pursuant to this chapter. The Planning Department shall have the authority to:

A. Advise the Board of Supervisors, the Planning Commission, the Parks, Recreation and Historical Commission, and other county offices and staff on historic preservation issues;

B. Conduct surveys and updates of surveys, throughout the county, as may be required by California law, or more often at the Planning Department's choosing, and maintain a list of resources eligible for landmark, contributing resource and historic preservation district consideration;

C. Consult with county departments regarding rehabilitation standards and historic resources surveys performed in conjunction with development projects;

D. Consult with county departments regarding potential protections, mitigations, thresholds of significance and standards suitable for historic resources involved in a development project, or other discretionary actions;

E. Make recommendations to the Parks, Recreation and Historical Commission, Planning Commission, and Board of Supervisors regarding development projects.;

F. Implement the county's historic preservation program;

G. Take such steps, including training, as are necessary for the county to become and remain a certified local government. This shall include undertaking review and comment upon those projects on which the county has an obligation, as a certified local government, to provide review and comment under the National Historic Preservation Act;

H. Make preliminary determinations regarding nominations for inclusion on the Alameda County Register and proposals for deletion from the Alameda County Register;

I. Take appropriate steps to ensure that the Alameda County Register is properly maintained and regularly updated and made available for public review and use. The Planning Department shall also take appropriate steps to maintain and regularly update a list or compilation of resources within the county that are on the California Register of Historical Resources or the National Register of Historic Places, and to make the list or compilation available for public review and use;

J. Perform such other functions as are provided for in this chapter or any other applicable law.

ARTICLE III. CULTURAL RESOURCE SURVEYS

A. The survey is the accepted method of systematically studying historic resources. It includes a physical description and a photograph of each historic resource, legal information from title or assessment records, statements of significance according to the criteria in this ordinance, and a statement of any threat to the integrity or continued existence of the resource. There are two levels of survey: a Cultural Resource Survey and an Intensive Survey. A Cultural Resource Survey is an overview survey to identify properties that qualify for an Intensive Survey. An Intensive Survey identifies whether a property meets the criteria for placement on the Alameda County Register as specified in Article IV. The County will maintain a list of all adopted surveys and will use the survey information to identify and protect potentially historic resources as outlined in this Ordinance. All surveys set forth in this section, shall be prepared by or under supervision of a an architectural historian satisfying the professional qualification standards for architectural historians specified in the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation.

B. Three Cultural Resource Surveys of portions of Alameda County were conducted prior to creation of this Ordinance:

1. Preliminary Cultural Resources Survey, Ashland & Cherryland Districts, San Lorenzo, Alameda County (April 1998)
2. Unincorporated San Lorenzo Historic Building Survey, Alameda County (November 2000)
3. Historical and Cultural Resource Survey, East Alameda County (June 2005)

C. A Comprehensive Survey of Historic Sites in unincorporated Alameda County was conducted in conjunction with the creation of this Ordinance. This survey verified and incorporated the findings of the previous three surveys and evaluated potential historic resources throughout the remainder of unincorporated Alameda County. The landmarks, contributing buildings and historic preservation districts identified in this survey provided the basis for the Alameda County Register.

D. Inventory of Potential Historic Resources. All properties evaluated in the above surveys, regardless of the conclusions as to their historic significance, will go into an Inventory of Potential Historic Resources. This Inventory shall also include the results of any future historic resource surveys, including historic resource evaluations done in conjunction with completion of any Environmental Impact Reports (EIRs) in the County.

ARTICLE IV. THE ALAMEDA COUNTY REGISTER, THE CRITERIA AND REQUIREMENTS FOR PLACEMENT ON, OR DELETION FROM, THE ALAMEDA COUNTY REGISTER, AND NOMINATION AND HEARING PROCESS

1. Alameda County Register

A. The ordinances adopting designations and deletions of landmarks, contributing resources, historic preservation districts, structures of merit, and conservation areas shall be known, collectively, as the Alameda County Register.

B. The original Alameda County Register and any subsequent amendments, inclusions, or deletions thereto shall be on file with the county clerk. The county clerk shall deliver a copy of the Alameda County Register, as it is amended, to the director of the Planning Department, the building official, the county office of environmental affairs, the code enforcement manager, the neighborhood area directors, the head of the county's geographic information systems, the Parks, Recreation and Historical Commission, and the manager of the Alameda County central library.

C. Initially, the Alameda County Register shall include:

1. Properties deemed likely significant in previous surveys (properties rated "Y" in the Ashland & Cherryland survey, "1" in the San Lorenzo survey and "K" in the East Alameda survey) that, as part of the Comprehensive Survey of Historic Sites in unincorporated Alameda County, were verified to merit continued listing;
2. All landmarks, contributing buildings and historic preservation districts identified in the Comprehensive Survey that were not identified in any of the three previous surveys;
3. Properties identified by the Commission that meet the structure of merit criteria set forth below in Section IV.2.D.
4. Areas identified by the Commission that meet the conservation area criteria set forth below in Section IV.2.E.

D. The Planning Department shall take appropriate steps to ensure that the Alameda County Register is properly maintained and regularly updated. The Planning Department shall also take appropriate steps to maintain and regularly update a list or compilation of resources within the county that are on the California Register of Historical Resources or the National Register of Historic Places, and to make the list or compilation available for public review and use.

2. Criteria and Requirements for Placement on, and Deletion from, the Alameda County Register

The criteria and requirements for placement on, or deletion from, the Alameda County Register as a landmark, contributing resource, historic preservation district, structure of merit or conservation area are as follows:

A. Addition to the Alameda County Register—Landmarks. Landmarks are intended to be properties in unincorporated Alameda County (or county-owned buildings in an incorporated area of Alameda County) of exceptional historical or architectural value that are clearly eligible individually for the California Register of Historical Resources, including those that are especially fine examples of an important style, type, or convention, or which are intimately associated with a person, organization, event, or historical pattern of major importance at the

local level or of moderate importance at the state or national level. A nominated resource shall be added to the Alameda County Register as a landmark 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 nominated resource meets one or more of the following criteria:
 - i. It is associated with events that have made a significant contribution to the broad patterns of the history of the county, the region, the state or the nation;
 - ii. It is associated with the lives of persons significant in the county's past;
 - iii. It embodies the distinctive characteristics of a type, period or method of construction;
 - iv. It represents the work of an important creative individual or master;
 - v. It possesses high artistic values; or
 - vi. It has yielded, or may be likely to yield, information important in the prehistory or history of the county, the region, the state or the nation.
- b. The nominated resource has integrity of location, design, setting, materials, workmanship, feeling and association. Integrity shall be judged with reference to the particular criterion or criteria specified in "a" above;
- c. The nominated resource has significance historically or architecturally, and its designation as a landmark is reasonable, appropriate and necessary to promote, protect and further the goals and purposes of this chapter.

2. Factors to be Considered. In determining whether to place a nominated resource on the Alameda County 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 fifty (50) years are eligible if such properties are of exceptional importance.

B. Addition to the Alameda County Register—Contributing Resources. Contributing Resources are intended to be properties of secondary importance to Landmarks. Properties generally appropriate to be Contributing Resources include those having sufficient historical or visual/architectural value to warrant limited recognition but which do not appear individually eligible for the California Register of Historical Resources, including (1) properties that are superior or visually important examples of a particular style, type or convention, (2) most buildings which were constructed prior to 1906, and (3) properties that are not individually distinctive but which are typical or representative examples of an important style, type, convention or historical patterns. A nominated resource shall be added to the Alameda County 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 nominated resource is within a historic preservation district;
2. The nominated resource either embodies the significant features and characteristics of the historic preservation district or adds to the historical associations, historical architectural qualities or archaeological values identified for the historic preservation district;
3. The nominated resource was present during the period of historical significance of the historic preservation district and relates to the documented historical significance of the historic preservation district;
4. The nominated resource either possesses historic integrity or is capable of yielding important information about the period of historical significance of the historic preservation district; and
5. The nominated 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.

C. Addition to the Alameda County Register—Historic Preservation Districts. A geographic area nominated as a historic preservation district shall be added to the Alameda County Register as a historic preservation 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 area is a geographically definable area;
 - b. The area possesses either:
 - i. A significant concentration or continuity of buildings unified by: a) past events; or b) aesthetically by plan or physical development; or
 - ii. The area is associated with an event, person, or period significant or important to county history
 - c. The designation of the geographic area as a historic preservation 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 Alameda County Register as a historic preservation district, the following factors shall be considered:

- a. A historic preservation district shall have integrity of location, design, setting, materials, workmanship, feeling and association.
- b. The collective historic value of the buildings and structures in a historic preservation district taken together may be greater than the historic value of each individual building or structure.

D. Addition to the Alameda County Register—Structures of Merit. A nominated resource shall be added to the Alameda County Register as a structure of merit if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that it satisfies one or more of the following criteria:

1. It represents in its location an established and familiar visual feature of the neighborhood, community or County; or
2. It materially benefits the historic, architectural or aesthetic character of the neighborhood or area; or
3. It is an example of a type of building that once was common but is now rare in its neighborhood, community or area; or
4. It is connected with a business or use which was once common but is now rare; or
5. It contributes to an understanding of the contextual significance of a neighborhood, community or area.

E. Addition to the Alameda County Register—Conservation Areas. A geographic area nominated as a conservation area shall be added to the Alameda County Register as a conservation area if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that the nominated area is a geographically definable area that has a distinctive character that conveys (1) its history and (2) a sense of cohesiveness through its design, architecture, setting, materials or natural features.

The conservation area designation shall be reserved for areas that do not satisfy the historic preservation district criteria specified above (see IV.2.C), but nevertheless are culturally, historically or visually significant.

Nothing in this section shall be deemed to prohibit adoption of design guidelines or other specialized zoning regulations applicable to one or more designated conservation areas.

F. Deletions from the Alameda County Register. An application to delete a listed historic resource from the Alameda County 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, contributing resource or structure of merit 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.

3. Procedures for Nomination of Resources for Placement on Alameda County Register and for Requests for Deletion of Resources from the Alameda County Register.

A. Process for Nominating Resource for Placement on Alameda County Register. The Board of Supervisors and the Parks, Recreation and Historical Commission shall have the authority to nominate resources for placement on the Alameda County Register as landmarks, historic preservation districts, contributing resources, structures of merit, or conservation areas subject to compliance with the requirements of this section.

1. The Parks, Recreation and Historical Commission shall initiate landmark, contributing resource, historic preservation district, structure of merit and conservation area nominations by adopting a resolution of intent to consider a nomination either on its own motion, or at the request of the Planning Department or members of the public. The Board of Supervisors may nominate landmarks, contributing resources, historic preservation districts, structures of merit and conservation areas by adopting a resolution identifying the nominated resource and transmitting its resolution to the Parks, Recreation and Historical Commission. The Parks, Recreation and Historical Commission shall adopt a resolution of intent to consider nominations for resources nominated by the county Board of Supervisors.

a. Notice of Hearings. Written notice shall be given by first class, prepaid mail not less than ten (10) days prior to the hearing before the Commission on whether to adopt a resolution of intent to nominate a resource for placement on the Alameda County Register to the following individuals: The owner(s) of the resource(s) proposed for nomination, as shown on the latest tax roll. In the case of a nomination regarding a historic preservation district, the notice shall be provided to all property owners within the proposed district, as shown on the latest tax roll.

b. Form and Content of Notice. Notice shall include:

- i. Common address and assessors parcel number, if any, of the resource proposed for nomination.
- ii. A general explanation of the requirements, benefits and restrictions associated with a nomination.
- iii. The date and place of the public hearing or hearings before the Commission.

2. The owner(s) of properties nominated as landmarks, contributing resources or structures of merit and the owner(s) of properties within the geographic area nominated as a historic preservation district or conservation area shall be notified in writing within a reasonable period of time, not to exceed twenty (20) days, of the Parks, Recreation and Historical Commission Commission'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 tax rolls.

Notice given pursuant to this provision shall include at least the following:

- a. Notification that the resource has been nominated for placement on the Alameda County Register as a landmark, contributing resource or structure of merit, as appropriate. In the case of a nomination of a historic preservation district or conservation area, 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;
- b. 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 Department;
- c. A general explanation of the effect of being a nominated resource, including the restrictions on alteration and demolition;
- d. A general explanation of the hearing process for determining whether the nominated resource qualifies as a landmark, contributing resource or structure of merit, or in the case of a proposed historic preservation district or conservation area, the hearing process for determining whether the geographic area qualifies as a historic preservation district or conservation area; and
- e. A general explanation of the effect of placement on the Alameda County Register, including the restrictions on alteration and demolition, as well as the general benefits from placement on the register.

3. Pursuant to Section 15.124.190, resources nominated as landmarks or contributing resources, or resources within a historic preservation district shall be considered to be landmarks, contributing resources, or resources within a historic preservation district for purposes of Article VI, and shall be subject to the restrictions of Article VI following adoption of the resolution of intent, for the time period specified in Section 15.124.190.

Note: as currently written, the provisions of Article VI have not been extended to structures of merit or conservation areas.

B. Process for Proposing Deletion from Alameda County Register. The procedure for proposing deletion of a listed resource from the Alameda County Register shall be as follows:

1. Application by Owners of Landmarks, Contributing Resources and Structures of Merit:
 - a. Application for Deletion—Landmarks, Contributing Resources and Structures of Merit. The owner(s) of a landmark, contributing resource or structure of merit may propose deletion of the listed historic resource from the Alameda County Register.
 - b. All applications to delete a listed resource from the Alameda County Register shall be submitted to the Planning Department. The Planning Department shall

determine if an application is or is not complete, and the date that the application nomination is or is not complete.

c. Notice of Application for Deletion. Where an application is filed for deletion of a listed resource from the Alameda County 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 tax roll, within five hundred (500) feet of the nominated resource(s). In the case of a nomination regarding a historic preservation 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 Commission secretary requested notice of the nomination.

d. Preliminary Determination of Planning Department. Within such time that is reasonable and practicable after the Planning Department has determined that an application for deletion is complete, the Planning Department shall make a preliminary determination on whether the listed historic resource is eligible for consideration for deletion from the Alameda County Register. The Planning Department shall find that the listed historic resource is eligible for consideration for deletion from the Alameda County Register if the Planning Department finds that there is a reasonable likelihood that the listed resource will be deleted from the Alameda County Register, following completion of the notice and hearing requirements of this chapter, for its failure to meet the criteria specified in Section 32.04.402 above. The Planning Department shall submit to the Parks, Recreation and Historical Commission a written summary of its preliminary determination as to whether the listed resource is eligible for consideration for deletion from the Alameda County Register. The Commission will review the Planning Department's preliminary determination and make a recommendation to the Board of Supervisors regarding the listed resource's eligibility for deletion from the Alameda County Register. The Board of Supervisors will then determine whether or not the listed resource is eligible for deletion from the Register.

e. Prior to the Parks, Recreation and Historical Commission recommending to the Board of Supervisors approval of deletion of a listed resource from the Alameda County Register, and prior to the Board of Supervisors endorsing the recommendation, each shall find:

- i. That the listed resource no longer has significant aesthetic, cultural, architectural, or engineering interest or value of an historical nature; and
- ii. That approval or modified approval of the application to delete a listed resource from the Alameda County Register is consistent with the purposes and criteria of the County's historic preservation policies set forth herein.

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

g. Appeal. The owner(s) who apply to delete a listed historic resource from the Alameda County Register shall have the right to appeal to the Board of Supervisors a determination that a listed resource is not eligible for consideration for deletion, in accordance with the provisions of Article VIII herein. The Board of Supervisors may refer the matter to the Parks, Recreation and Historical Commission for a recommendation.

h. If the Board of Supervisors finds the listed historic resource to be eligible for deletions from the Alameda County Register, the general public shall be notified through publication in a local daily newspaper.

2. Deletions of Historic Preservation Districts or Conservation Areas Proposed by Planning Department, Parks, Recreation and Historical Commission and Board of Supervisors. The Parks, Recreation and Historical Commission may initiate a proceeding to delete a historic preservation district or conservation area by adopting a resolution of intent to delete a historic preservation district or a conservation area, either on its own motion or at the request of the Planning Department or the Board of Supervisors. The Board of Supervisors may adopt a resolution identifying the historic preservation district or conservation area proposed for deletion, and transmitting its resolution to the Parks, Recreation and Historical Commission. No other person may propose deletion of a historic preservation district.

Persons who own at least fifty-one percent of the parcels of land included in a conservation area may propose deletion of that conservation area.

3. Periodic Deletion of Structures No Longer Eligible for the Alameda County Register. The Planning Department shall periodically propose and process for deletion from the Alameda County Register those listed historic resources which have been lawfully removed, demolished or disturbed to such an extent that, in the Planning Department's opinion, they no longer qualify for placement on the register. Such proposals shall be made to the Parks, Recreation and Historical Commission and approved by the Commission before deletions are processed.

4. Nominated Resource Protections Pending Final Decision

A. 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 for purposes of Article VI herein, and it shall be subject to the restrictions and protections of Article VI as if it were a landmark or contributing resource. Any geographic area proposed for consideration as a historic preservation district shall be considered to be a historic preservation district for purposes of Article VI herein, and the resources located within the proposed historic preservation district shall be subject to the restrictions and protections of Article VI as if they were located within a historic preservation district.

B. The restrictions of Subsection A above shall apply for a period of one hundred eighty (180) days from the date of adoption by the Commission of a resolution of intent to consider a nomination of a property as a landmark, a contributing resource or a property within a historic preservation district. After one hundred eighty (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 preservation 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 one hundred eighty (180) day limit to consider the nomination. The Board of Supervisors may extend the time period an additional one hundred eighty (180) days.

C. Listed historic resources proposed for deletion from the Alameda County 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 Alameda County Register.

5. Process for Evaluating Nominations for Placement on the Alameda County Register and Proposals for Deletion from the Alameda County Register

The Board of Supervisors shall hear and decide nominations for placement on the Alameda County Register and proposals for deletion of listed historic resources from the Alameda County Register. Prior to the Board of Supervisors hearing a nomination for placement on the Alameda County Register or proposal for deletion from the Alameda County Register, the Commission shall hold a hearing and make a recommendation to the Board of Supervisors for inclusion on, or deletion from, the Alameda County Register.

6. Hearing by the Commission: Notice and Form of Notice

The Commission shall conduct a public hearing or hearings on nominations for placement on the Alameda County Register and proposals for deletion from the Alameda County Register. At the conclusion of the hearing(s), the Commission shall make a recommendation to the Board of Supervisors on the nomination or proposal.

A. Notice of Hearing. Notice of the hearing before the Commission shall be provided as follows:

1. Written notice shall be given not less than twenty (20) days prior to the hearing to the following individuals:

a. The owner(s) of the nominated resource(s) or the owner(s) of the listed resource proposed for deletion, as shown on the latest tax roll. In the case of a nomination or proposal for deletion regarding a historic preservation district, the notice shall be provided to all property owners within the proposed district or the district proposed for deletion, as shown on the latest tax roll.

b. Where the resource is proposed for inclusion on, or deletion from the register as a landmark, all property owners within five hundred (500) feet of the resource, as shown on the latest tax roll. In the case of a nomination regarding a historic

preservation district, the nomination notice shall be provided to all property owners within the proposed district and to all property owners whose property abuts property proposed for inclusion in the historic preservation district.

c. Anyone who has in writing to the Commission secretary requested notice of the nomination.

2. In the event of a nomination or proposed deletion of a historic preservation district, the Planning Department shall also send a copy of the notice to the secretary of the Planning Commission. The Planning Commission may review the proposed designations and boundaries of the historic preservation district, or the proposed deletion, and may forward its recommendations to Commission for the Commission's consideration. Failure of the Planning Commission to provide comments shall not prevent the Commission from acting on the nomination or proposed deletion.

3. In the case of a nomination or application for deletion of a resource other than a historic preservation district, the Commission secretary shall also post the notice on the nominated resource or resource proposed for deletion, or in a location in the public right-of-way in a location adjacent to the resource.

B. Form and Contents of Notice.

1. Common address and assessors parcel number, if any, of the nominated resource or the resource proposed for deletion;

2. A general explanation of the proposed designation or proposed deletion, and in the case of a nomination, the requirements and/or benefits thereof;

3. For nominations, the reasons for the proposed designation, in terms of the historic, architectural, and cultural significance of the nominated resource(s), including a description of the proposed significant features and characteristics of the proposed historic resource. The identification of significant features and characteristics in the notice shall not be considered binding on the Commission or Board of Supervisors, and nothing shall prevent or preclude the Commission or Board of Supervisors from identifying different, additional or fewer significant features and characteristics;

4. The date and place of the public hearing or hearings before the Commission.

7. Proposed Designations for Inclusion on, and Proposed Deletions from, the Alameda County Register

A. If the Commission determines that the resource under consideration is eligible for inclusion on, or deletion from, the Alameda County Register based upon the criteria, considerations and assessment of integrity and significance outlined in this chapter, the Commission shall then make its recommendation to the Board of Supervisors as to whether the resource should be included as a landmark, contributing resource, structure of merit, historic preservation district or conservation area on the Alameda County Register, or be deleted from the Alameda County

Register. In its recommendation to the Board of Supervisors, the Commission shall specify the significant features or characteristics of the nominated resource.

B. In the case of historic preservation district recommendations, the Commission shall identify as “contributing resource(s)” all properties, structures, features or other resources within the proposed historic preservation district that it determines contribute to the district’s designation as a historic preservation district. Properties, structures, features or other resources that happen to be located within the recommended historic preservation district boundaries, but which have no relevance to the area’s identified significance, significant physical features or identifying characteristics shall be deemed non-contributing resources.

8. Action by Board of Supervisors

A. The Commission secretary shall transmit to the county clerk for review by the Board of Supervisors the Commission’s recommendations on inclusion(s) or deletion(s) to or from the Alameda County Register.

B. Upon receipt of the recommendations of the Commission, the Board of Supervisors shall hold a public hearing thereon and may adopt, modify or reject the action(s) recommended by the Commission. In the alternative, the Board of Supervisors may refer the proposed action(s) to the Commission for further hearings, consideration or study. Adoption of any inclusion on or deletion from the Alameda County Register shall be made by uncodified ordinance which shall contain findings of fact in support of each designation. The uncodified ordinance shall identify significant feature(s) or characteristic(s) of resources added to the Alameda County Register, and shall identify contributing resources and non-contributing resources in a historic preservation district.

C. Notice of the Board of Supervisors hearing pursuant to this section shall be mailed to the owner of the affected nominated resource(s), and the person nominating the nominated resource(s), not less than twenty (20) days prior to the date of the hearing. In addition, notice shall be published once not less than twenty (20) days before the hearing in an official newspaper of the county.

9. Frequency of Nominations

When a nomination for placement of a resource on the register has been denied, no new nomination for placement of the same or substantially the same resource may be filed or submitted for a period of three years from the effective date of the final denial of the nomination, except that an owner of a resource may file a new nomination following the passage of one year from the date of final denial. Where a nomination for deletion of a listed historic resource from the register has been denied, no new application to delete the same listed historic resource may be filed or submitted for a period of one year from the effective date of the final denial.

10. Proposed Demolition or Relocation of Buildings or Structures that are At Least Fifty Years Old: Review for Nomination for Placement on Alameda County Register

A. If a permit is sought to demolish or relocate a building or structure that was constructed at least fifty (50) years prior to the date of application for demolition or relocation, and that building or structure is not currently on the official register, is not the subject of a pending nomination, has not been nominated for placement on the official register or reviewed pursuant to this section within the past three years, the permit application shall be referred to the Planning Department to allow the Department to make a preliminary determination whether the structure should be nominated for placement on the official register. For purposes of this section, a building or structure for which a building permit issued and construction commenced not less than fifty (50) years prior to the date of application for a demolition or relocation permit shall be considered to have been constructed not less than fifty (50) years ago, regardless of when the construction was completed, and regardless of whether the building or structure was thereafter expanded, modified or otherwise altered. Absent sufficient evidence to the contrary, the date of issuance of the building permit shall be considered to be the date on which construction commenced.

1. Exceptions: To the extent that surveys have been prepared, and the Board of Supervisors has approved and adopted these surveys, the Board of 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. Upon receipt of an application to demolish or relocate a structure pursuant to Paragraph A above, the Planning Department shall make a preliminary determination on whether the structure is eligible for consideration by the Commission and Board of Supervisors for placement on the Alameda County Register, and shall provide notice to the property owner(s) of the preliminary determination. Notice shall be provided by first-class, prepaid mail. The Planning Department 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 Department 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. For purposes of this section, the decision shall be considered to have been made on or before the date of mailing of the notice.

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

D. The preliminary determination of the Planning Department may be appealed by the owner or applicant pursuant to the Commission, and thereafter to the Board of Supervisors, pursuant to the provisions of Article VIII.

E. If an appeal of the preliminary determination of the Planning Department is filed by the owner or applicant, the Parks, Recreation and Historical Commission shall hear and decide that appeal within thirty (30) days of the date of filing of the appeal. Notice of the appeal shall be given in the manner specified in Article VIII. Failure of the Commission 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, and that decision shall be subject to appeal to the Board of Supervisors by the owner or applicant for the permit at any time thereafter, up to the date that the Commission in fact issues a decision on the appeal. If the owner or applicant for the permit has not filed an appeal to the Board of Supervisors, the issuance by the Commission of a decision on the appeal more than thirty (30) days after the date of the filing of the appeal shall be subject to appeal to the Board of Supervisors in the manner specified in Article VIII.

F. Pending a final decision on the preliminary determination of whether the building or structure is eligible for nomination for placement on the Alameda County Register, and for a period of forty-five (45) days after a final decision that the building or structure is eligible, the building or structure shall be treated as a nominated resource and shall be subject to the provisions of Section 15.124.190. The forty-five (45) day time period shall commence on the date that the preliminary determination, including any appeals, is considered final. During the forty-five day (45) period, the Commission shall consider whether to initiate nomination proceedings; and if the Commission adopts a resolution of intent pursuant to Section 15.124.180, the provisions of Section 15.124.190 shall apply from the date of adoption of the resolution of intent.

ARTICLE V. HISTORIC PRESERVATION DISTRICTS (Prior Chapter 17.20)

A. (Prior 17.20.010) Purpose. Historical preservation districts, hereinafter designated as HP districts, are established to further preservation of historical resources in the county by encouraging development within the district which makes their preservation economically and physically viable and by restricting development inconsistent with or detrimental to their historical nature. Regulation of uses within the district is intended to be compatible with the historical nature of the resource and with the district. Regulation may extend to structural or other alteration, including painting, of structures within the district to maintain compatibility with historical values, and any other regulations which may be necessary to properly preserve the historical resource. (Prior gen.code section 8-35.0) Establishment of any HP district, and regulations adopted therein, shall be consistent with this purpose. (Ord.93-15 Section 1:prior gen.code section 8-35.3)

B. (Prior 17.20.020) Permitted uses. All such uses permitted by the regulations of any of the districts of this title and authorized by the land use and development plan adopted for each HP district established are permitted in the HP district. (Prior gen.code section 8-35.1)

C. (Prior 17.20.030) Establishment. An HP district shall be established by the adoption of an ordinance by the Board of Supervisors reclassifying the described property to an HP district and adopting a land use and development plan constituting the regulations for the use, improvement, and maintenance of the property within the boundaries of the district. (Prior gen.code section 8-35.2)

D. (Prior 17.20.040) Requirements. In order to be classified in the HP district, at least part of the property or one of the structures on the property must be:

1. Listed on the Alameda County Register, or otherwise specifically recognized by the Alameda County general plan; or

2. Designated a Point of Historic Interest or State Historical Landmark, or be eligible for or listed on the National Register of Historic Places, California Register of Historical Resources, or some state or federal inventory of historical resources; or

3. Of special importance due to its historical association, basic architectural merit, its embodiment of a style or special type of construction, or other special character, interest, or value.

E. (Prior 17.20.50) Initiation. Any amendment to establish this district may be initiated in conformance with Section 17.54.730 of this title. The boundaries of the district may include any or all of the areas which relate to the specific historical resource. The proposed amendment shall be in the form of a land use and development plan which specifies the uses of land and other regulations that are to apply in the district. (Prior gen. Code section 8-35.4)

F. (Prior 17.20.060) Procedure—Referral to Parks, Recreation and Historical Commission. The petition or the land use and development plan proposed by the planning commission in the case of a planning commission initiated reclassification, shall be referred to the county Parks, Recreation, and Historical Commission for recommendation. The recommendation shall include a determination as to whether or not the property meets the requirements of item 4 above (Prior Section 17.20.040), whether or not reclassification to an HP district is an appropriate means of preserving the property, and whether or not the proposed uses and any proposed alterations to the property are detrimental to its historical value. The Parks, Recreation, and Historical Commission may also make recommendations to the planning commission as to appropriate modifications in the proposal, including the boundaries of the district. The Parks, Recreation, and Historical Commission review shall be completed and transmitted to the planning commission within forty-five days of receipt, or such longer time as may be agreed to by the planning commission, or the above determination shall be made by the planning commission. (Prior gen. Code section 8-35.5)

ARTICLE VI. DEVELOPMENT PROJECT AND DEMOLITION REVIEW

1. General: Review Required for Development Projects Involving Landmarks, Contributing Resources and Non-Contributing Resources, and for Demolition of Landmarks and Contributing Resources

A. Planning Department Determination. The Planning Department shall review and determine whether a development project application involving a landmark or contributing resource is subject to review by the Commission or by the Department. The determination of the Planning Department on this issue shall be final and shall not be subject to appeal. The decision of the Commission or Planning Department on the development project application shall be subject to appeal pursuant to Article VIII.

B. Commission Review. The Commission 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 Department 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 for the Alameda County Register.

Except as specified herein, this includes any of the following work or improvements undertaken on either: a) a landmark, contributing resource or non-contributing resource; or b) pursuant to Sections 15.124.200 and 15.124.320, a nominated resource:

- a. Installation or replacement of exterior features including but not limited to windows, doors, and siding;
 - b. Construction of new exterior features, fencing or walls, or alteration of existing features, fencing or walls;
 - c. Replacement or alteration of exterior paint or other exterior architectural coating or treatment on a landmark or contributing resource, where the exterior paint or other exterior architectural coating or treatment has been identified as a significant feature or characteristic;
 - d. Alteration of character-defining interior features of public buildings.
2. Except as provided below, all applications for demolition or relocation of landmarks and contributing resources;

C. Planning Department Review. The Planning Department shall review and act on all development projects involving landmarks and contributing resources not subject to review by the Commission pursuant to Subsection A above. In particular, the Planning Department shall have authority to review and act upon applications for demolition or relocation of accessory buildings and structures that are not identified as significant features or characteristics of the landmark or contributing resource.

D. Exceptions. Notwithstanding Subsection A above, review by the Commission or Planning Department pursuant to this chapter 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 Section 15.124.410 of this chapter shall be satisfied prior to demolition;
3. The following minor projects, provided the work is determined by the Planning Department 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 Department 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.
- f. Projects proposed for consideration as minor projects pursuant to this subsection shall be reviewed by the Planning Department 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 Department shall be final and not subject to appeal. If the Planning Department determines that the project does not constitute a minor project as defined above, the project shall be subject to formal review by the Commission or Planning Department pursuant to Subsection A above and Section 15.124.300.

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

E. Review Required. 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 preservation district unless review and approval pursuant to this chapter has occurred; provided that development projects lawfully commenced prior to <date>, either with or without review under the previous version of this chapter, shall not be subject to any further review under this chapter or title.

2. Certificates of Appropriateness

A certificate of appropriateness approved by the Parks, Recreation and Historical Commission shall be required to undertake any of the work specified in Section 15.124.280. This requirement shall be in addition to any other permit or requirement required by this code. The Commission shall, in the manner specified in Section 15.124.330, notice and hold a hearing on the application to undertake work specified in Section 15.124.280.

In reviewing a Certificate of Appropriateness, the Commission must conclude its review by making a finding that the proposal does or does not result in a significant impact upon, or is potentially detrimental to, any resource (including historic districts) listed in the Alameda County Register. If the Commission finds that the proposal would not have a significant impact on, or is not potentially detrimental to, any resource (including historic districts) listed in the

Alameda County Register, a Certificate of Appropriateness is issued. Appeals of Commission actions related to Certificates of Appropriateness may be made to the Board of Supervisors, pursuant to Article VIII herein.

3. Applications

The building official shall forward to the Planning Department all applications for permits or other entitlements in which all or part of the work to be performed thereunder is subject to the review of the Commission or Planning Department.

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

The Commission shall act on development project applications involving new construction on vacant parcels within historic preservation districts. The Planning Department shall act on all other development project applications involving non-contributing resources in historic preservation districts.

5. Review of Development Projects Involving Nominated Resources and Requests for Demolition of Nominated Resources

A. Resources Nominated as Landmarks and Contributing Resources. For purposes of this chapter, resources nominated as potential landmarks and contributing resources shall be treated as if they are landmarks and contributing resources on the Alameda County Register, and development projects and requests for demolition or relocation involving these resources shall be subject to review by the Commission or Planning Department pursuant to Section 15.124.300.

B. Other Resources within Nominated Historic Preservation Districts. Resources within geographic areas nominated for consideration as historic preservation districts which are not nominated or identified as potential contributing resources shall be treated as non-contributing resources, and development projects and requests for demolition or relocation involving these resources shall be subject to review by the Commission or Planning Department pursuant to Section 15.124.300.

6. Notice and Hearing

At least one public hearing shall be held by the Commission or Planning Department, as appropriate, on development project applications and other matters for which Commission or Planning Department review is required pursuant to this chapter. Notice of the hearing shall be given as follows:

A. Notice.

1. **Written Notice.** Written notice of the hearing before the Planning Department or the Commission shall be given not less than ten (10) days prior to the hearing to the

following: <Although it doesn't quite make sense to have the Planning Department hold hearings, we need to figure out ways the Planning Department can take some of these responsibilities off the shoulders of the PRHC.>

- a. The project applicant;
- b. All owners of property located within five hundred (500) feet of the property which is the subject of the hearing, using for notification purposes the names and mailing addresses as shown on the latest tax roll in existence on the date the application is filed.

2. Posting. Notice of the hearing shall also be posted on the property which is the subject of the hearing in a conspicuous place for at least seven days prior to the date of the hearing.

B. Form of Notice. The notice shall provide a general description of the development project or proposal, and the date and place of the public hearing(s) before the Planning Department or Commission.

7. Standards

The Commission or Planning Department, 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's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings;
- B. When the project involves a resource located within a historic preservation district, the applicable provisions of the historic preservation district plan, if any;
- C. The goals and policies of this chapter;
- D. The goals and policies of the general plan and any applicable specific or community plan; and
- E. The California State Historical Building Code.

In applying and considering these guidelines, the Commission or Planning Department, as appropriate, shall focus development review on potential impacts to the publicly visible portions of identified historic resources.

8. Decision and Findings

A. Projects not involving the Demolition or Relocation of a Landmark or Contributing Resource. For projects not involving the demolition or relocation of a landmark or contributing resource, the Commission or Planning Department shall not approve the application unless the Commission or Department makes one or more of the following findings concerning the project, as it may have been conditioned or modified:

1. The proposed work will neither adversely affect the exterior architectural features of any landmark nor adversely affect the character or historical, architectural, or aesthetic interest or value of any such resource and its site. With regard to any property located within a historic district, the proposed work conforms to the prescriptive standards for the district adopted by the Commission and does not adversely affect the character of the district.
2. The project is consistent with the Secretary of Interior Standards and the goals and policies of this chapter;
3. The project is not fully consistent with the Secretary of Interior standards, due to economic hardship or economic infeasibility, but the project is generally consistent with, and supportive of, the goals and policies of this chapter. The applicant shall have the burden of proving economic hardship or economic infeasibility;
4. The project is not fully consistent with the Secretary of Interior standards, but is consistent with and supportive of identified goals and policies of the general plan or applicable community or specific plan(s); and the project is either generally consistent with, and supportive of, the goals and policies of this chapter, or if not, the benefits of the project and furthering the identified goals and policies of the general plan or applicable community plan outweigh any impacts on achieving the goals and policies of this chapter.

B. 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 Commission or Planning Department shall not approve the application unless the Commission or Department 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 community 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;
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;
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 the 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.

C. 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.

D. Stays of Demolition. The Commission shall have the power, as part of its decision-making process, to delay a demolition decision for up to 180 days to allow for negotiations and exploration of other preservation opportunities, including documentation and relocation. If no satisfactory progress has been made at the end of that set time period, the Board of Supervisors shall have the power to extend the stay of demolition for an additional 180 days to further explore preservation opportunities.

E. Sample Mitigation Measures.

Projects having a substantial adverse impact on historic resources shall, prior to project approval, incorporate one or more measures to mitigate that impact. Such mitigations may include, but are not limited to, the following:

1. Conformance with Secretary of Interior's Standards. For any proposed exterior alteration of, or other modification to, an identified historic resource that the County determines through the CEQA-required Initial Study review process may cause a "substantial adverse change" to that resource, the County and applicant shall incorporate measures that would seek to improve the affected historic resource in accordance with either of the following publications:
 - Secretary of Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings; or
 - Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

This measure would likewise apply to any resources determined through the Initial Study review process to be potentially historically significant. Successful incorporation of these measures would reduce the impact to a less-than-significant level (*CEQA Guidelines* §15126.4(b)).

2. Relocation. If preservation of the affected historic resource at the current site in accordance with the Secretary of the Interior's Standards for the Treatment of Historic Properties (Section IV.8.D.1 above) is determined to be impossible, the building shall, if feasible, be stabilized and relocated to other nearby sites appropriate

- to their historic setting and general environment. A moved building or structure that is otherwise eligible may be listed in the California Register if it was moved to prevent its demolition at its former location and if the new location is compatible with the original character and use of the historical resource. After relocation, the building's preservation, rehabilitation, and restoration, as appropriate, shall follow the Secretary of the Interior's Standards to ensure that the building retains its integrity and historical significance.
3. Salvage. If the affected historic resource can neither be preserved at its current site (Section IV.8.D.1) nor moved to an alternative site (Section IV.8.D.2) and is demolished, the project applicant shall consult with the Alameda County Parks, Recreation and Historical Commission (PRHC) and local historical societies regarding salvage of materials from the affected historic resource for public information or reuse in other locations. Demolition may proceed only after any significant historic features or materials have been identified and their removal completed.
 4. Commemoration. If the affected historic resource can neither be preserved at its current site (Section IV.8.D.1) nor moved to an alternative site (Section IV.8.D.2) and is demolished, the project applicant shall, with the assistance of the Alameda County Parks, Recreation and Historical Commission (PRHC) or other professionals experienced in creating historical exhibits, incorporate a display featuring historic photos of the affected resource and a description of its historical significance into the publicly accessible portion of any subsequent development on the site.
 5. Contribution to a Historic Preservation Fund. If the affected historic resource can neither be preserved at its current site (Section IV.8.D.1) nor moved to an alternative site (Section IV.8.D.2) and is demolished, the project applicant may be eligible to mitigate project-related impacts by contributing funds to the County to be applied to future historic preservation activities, including survey work, research and project evaluation. The details of such an arrangement would be worked out on a case-by-case basis. As part of any such arrangement, the project applicant shall clearly demonstrate the economic infeasibility of other mitigation measures that would mitigate impacts to historic resources, including preservation, relocation, and project modification.
 - 6a. Documentation (short version). Documentation of the affected historic resource and its setting shall be prepared. This documentation shall include three components:
 - a. Photographs: An architectural photographer with HABS/HAER experience shall photograph the affected historic resource. If large-format photography is not possible, 35mm photography is acceptable, if the negatives are processed according to HABS standards.
 - b. Drawings: Full-measured drawings are preferable. Less elaborate drawings of minor aspects of the affected historic resources may be deemed acceptable.
 - c. Historical Overview: Documentation shall include a historical overview of the affected resource.

This documentation shall be filed with local libraries and historical societies, as appropriate.

6b. Documentation (long version). In consultation with a Planning Department Preservation Technical Specialist, the project applicant shall have documentation of the affected historic resource and its setting prepared. Generally, this documentation shall be in accordance with one of three documentation levels associated with the Historic American Building Survey (HABS) or Historic American Engineering Record (HAER). The Specialist, possibly in consultation with the National Park Service Regional Office, can decide the most appropriate form of documentation, depending on the significance of the affected resource. The three documentation levels are:

Documentation Level I

1. Drawings: a full set of measured drawings depicting existing or historic conditions.
2. Photographs: photographs with large-format negatives of exterior and interior views; photocopies with large format negatives of select existing drawings or historic views where available.
3. Written data: history and description in narrative or outline format.

Documentation Level II

1. Drawings: select existing drawings, where available, shall be photographed with large-format negatives or photographically reproduced on Mylar.
2. Photographs: photographs with large-format negatives of exterior and interior views, or historic views, where available.
3. Written data: history and description in narrative or outline format.

Documentation Level III

1. Drawings: sketch plan.
2. Photographs: photographs with large-format negatives of exterior and interior views. (If large-format photography is not possible, 35mm photography may be deemed acceptable, if the negatives are processed according to HABS standards.)
3. Written data: one page summary.

For all levels of documentation, material standards regarding reproducibility, durability and size shall be met. The HABS/HAER standards are:

Measured Drawings:

- Readily Reproducible: Ink on translucent material
- Durable: Ink on archivally stable materials
- Standard Sizes: Two sizes: 19" x 24" or 24" x 36"

Large Format Photographs:

- Readily Reproducible: Prints shall accompany all negatives

Durable: Photography must be archivally processed and stored. Negatives are required on safety film only. Resin-coated paper is not accepted. Color photography is not acceptable.

Standard Sizes: Three sizes: 4" x 5", 5" x 7", 8" x 10"

Written History and Description:

Readily Reproducible: Clean copy for xeroxing.

Durable: Archival bond required.

Standard Sizes: 8 1/2" x 11"

Note: Photographic specifications tend to change with changing technologies. The National Park Service document *Photographic Specifications, Historic American Buildings Survey, Historic American Engineering Record* (National Park Service, 1989) provides useful guidelines for photographing historic buildings, including specifications regarding film and processing types. The National Register of Historic Places recently began accepting digital photographs as official documentation, subject to its 75-year permanence standard.

The agreed upon documentation shall be filed with the local libraries and historical societies, as directed by the Alameda County Parks, Recreation and Historical Commission (PRHC).

9. Appeal

The decision of the Planning Department shall be subject to appeal to the Commission pursuant to Article VIII herein. The decision of the Commission, including the decision of the Commission on an appeal from the Planning Department, shall be subject to appeal to the Planning Commission pursuant to Article VIII herein.

10. Expiration of approval

Whenever the Commission or Planning Department 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 this 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.

11. County projects

A. General. Except as provided below, the provisions of this chapter requiring hearing(s) before the Commission or Planning Department 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 county, including public projects within the Alameda County national historic landmark, historic preservation district; provided that the Commission or

Planning Department shall make a recommendation to the county Board of Supervisors or other county decision-making body, entity or person, rather than issuing a decision. When acting on county projects, the Board of Supervisors or other county decision-making body, entity or person shall apply the same standards, and make the same findings, required by this chapter for private projects.

B. Exception. The Board of Supervisors may, by resolution or ordinance, exempt from review by the Planning Department or Commission individual county projects or categories of county projects.

ARTICLE VII. DANGEROUS BUILDINGS AND IMMEDIATELY DANGEROUS BUILDINGS, STRUCTURES OR RESOURCES

1. Notice to Planning Department

The building official, and designees, shall notify the Planning Department 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 preservation district, any nominated resource, any California Register resource, or any National Register resource.

2. Reports to Commission

The secretary of the housing code advisory and appeals Commission and the building official shall forward to the Commission secretary all notices and orders involving any listed historic resource within ten (10) days of any such notices or orders.

3. Demolition of Landmarks and Resources within Historic Preservation Districts

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 this title of this code for the abatement of listed historic resources determined to be immediately dangerous, pursuant to the summary procedures set forth in Chapter 8.96 of Title 8 of the this 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.

A. The person serving as building official shall personally issue any permits authorizing the demolition of structure(s) or other resource(s) on the Alameda County Register 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.

B. 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 Department and the chairperson of the Commission for the purpose of discussing (i) whether the condition of the structure(s) or other resource(s) is immediately dangerous within the meaning of this code; and (ii) 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 as specified in Chapters 8.96 and 8.100 of Title 8 of this code, securing the premises through security fencing or other measures, stabilization, and 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.

4. Lawful Demolition, Removal, or Disturbing of Listed Historic Resource—Deletion—Restrictions

A. When an individually listed landmark on the Alameda County Register, or portion thereof, has been lawfully demolished, removed, or disturbed pursuant to any provisions of this chapter, the county clerk upon notice from the Planning Department, shall cause such landmark, or portion thereof, to be deleted from the Alameda County Register. 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.

B. When a listed historic resource in a historic preservation district, or portion thereof, has been lawfully demolished, removed, or disturbed pursuant to any provisions of this chapter, the county clerk upon notice thereof, shall cause such listed historic resource, or portion thereof, to be downgraded to a non-contributing resource in the historic preservation district. Listed historic resource(s) in a historic preservation 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 VIII. APPEALS

1. Finality of Commission and Planning Department Decisions

Any decision or order of the Commission or Planning Department 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 Commission or

Planning Department is final or any appeal therefrom is disposed of in the manner prescribed by this chapter.

2. Appeal of Planning Department Actions

Except as expressly provide otherwise herein, any person dissatisfied with any decision of the Planning Department under this chapter may appeal the decision to the Commission not later than ten (10) days after the issuance of the Planning Department's notice of decision and findings. Such appeal is taken by filing a notice of appeal with the Commission secretary and paying an appeal fee as established by the Board of Supervisors. Upon receipt of a timely appeal, the Commission secretary shall forthwith transmit to the Commission chairperson all papers and documents on file with the Planning Department relating to the appeal. Notice of the hearing before the Commission shall be given in the manner specified in Section 15.124.330 provided that, to the extent that Section 15.124.330 does not otherwise require that notice be given to the appellant(s), written notice shall be given to the appellant(s).

3. Appeal of Commission Actions

Except as expressly provided otherwise herein, any person dissatisfied with any decision of the Commission under this chapter, including any decision on an appeal of a decision of the Planning Department, may appeal that decision to the Board of Supervisors not later than ten (10) days after the date of the Commission's notice of decision and findings. Such appeal is taken by filing a notice of appeal with the Board secretary. Upon receipt of a timely appeal, the Board secretary shall forthwith transmit to the county clerk and Commission chairperson all papers and documents on file relating to the appeal. Notice of the hearing before the Board of Supervisors shall be given in the manner specified in Section 15.124.330; provided that, to the extent that Section 15.124.330 does not otherwise require that notice be given to the appellant(s), written notice shall be given to the appellant(s).

ARTICLE IX. PRESERVATION INCENTIVES

1. Incentive programs

In order to further the goal of historic preservation in Alameda County and the purposes of this Chapter, the Commission shall develop economic and other incentive programs to support the preservation, maintenance, and appropriate rehabilitation of designated Landmarks and recommend to the Board of Supervisors the adoption and implementation of such programs. Such incentives may include:

A. Zoning Ordinance modifications

1. Allow for greater flexibility or exemptions from ordinance provisions such as parking requirements, use, setbacks, or landscape improvements.

2. Allow flexibility in size limit of secondary dwellings in order to preserve the historic integrity of a designated Landmark proposed for use as a secondary dwelling.
3. Provide development incentives that promote cluster development to direct new development away from sensitive designated Landmarks and their landscapes.
4. Provide for the transfer of development rights.

B. Reduction or waiver of fees for the appropriate permits required to carry out proposed improvements to a designated Landmark;

C. Expedited processing of permit applications involving a designated Landmark;

D. Promotion of Landmarks through listing in the Alameda County Register, brochures or other forms of media;

E. Recognition and plaque program (honorary and educational activity, with no legal ramifications)

1. The Commission may recommend and the Board of Supervisors may formally recognize by resolution historic resources that materially benefit the cultural, historic, architectural or aesthetic character of the local community; represent a type of building or are associated with a use which was once common but is now rare in the local community; and/or possess a distinctive location or physical characteristics that represent an established or familiar visual feature to the local community. Recognition would be accompanied by the presentation of a plaque to be placed on the exterior of the recognized historic resource.
2. Plaques, or other symbols of recognition, may also be awarded for exemplary rehabilitation of designated Landmarks.

F. Historic preservation technical assistance including workshops and education material made available to owners of designated Landmarks.

2. California State Historical Building Code

The County implements the State Historical Building Code, hereafter known as SHBC, through the adoption of Alameda County Code Section <<>>. The SHBC provides alternatives to the standard building regulations for the preservation, rehabilitation, relocation, related construction, change of use or continued use of a Qualified Historical Building or Property. Such regulations are intended to provide alternative solutions for the preservation of a Qualified Historical Building or Property, to provide access for persons with disabilities, to provide a cost effective approach to preservation, and to provide for the reasonable safety of the occupants or users. The SHBC is applicable to the issuance of building permits for changes to the interior and exterior of said Qualified Historical Building or Property.

3. Mills Act Contracts

A. Mills Act (California Govt. Code §§ 50280, et seq.) contracts granting property tax relief shall be made available by the county only to owners of properties listed in the Alameda County Register (either as landmarks or as contributing resources within historic preservation districts), as well as properties located within the county that are listed in: the National Register of Historic Places (either as individual listings or as contributing properties within National Register historic preservation districts); or the California Register of Historical Places. Such owners may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of the property for a minimum ten-year period. 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 Department shall make available appropriate Mills Act application materials.

C. Mills Act contract applications shall be made to the Planning Department, 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 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 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 year from the date of county 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 Subsection D above.

4. Other Government-Sponsored Incentive Programs

The County shall make available information to owners of historic resources regarding where to find more detailed information to pursue the following programs:

A. Federal Historic Preservation Tax Incentives Program. Administered jointly by the U.S. Department of the Interior and the Department of the Treasury, the Federal Historic Preservation Tax Incentives Program makes available a rehabilitation tax credit that equals 20 percent of the amount spent in a certified rehabilitation of a certified historic structure (listed or eligible for listing in the National Register of Historic Places) or 10 percent of the amount spent to rehabilitate a non-historic building constructed before 1936. The rehabilitated structure must be an income-producing property, such as a residential rental property or commercial property.

B. Affordable Housing Tax Credits. The Tax Reform Act of 1986 (IRC Section 42) established an investment tax credit for the acquisition, construction or rehabilitation of low-income housing. The credit is approximately 9 percent per year for 10 years for each unit acquired, constructed or rehabilitated without other Federal subsidies and approximately 4 percent for 10 years for units

involving the 20 percent Federal rehabilitation tax credit, Federal subsidies or tax-exempt bonds. Units must meet tests for cost per unit and number of units occupied by individuals with incomes below area median income. The law sets a 15-year compliance period. Credits are allocated by State Housing Credit Agencies.

C. Historic Preservation Easements. A preservation easement is a voluntary legal agreement that protects a significant historic resource. This resource can be either an entire structure, a portion thereof (such as a façade or interior), or a historic landscape. Under the terms of an easement, a property owner grants a portion of, or interest in, their property rights to a charitable or governmental organization whose mission includes historic preservation. Once recorded, an easement becomes part of the property's chain of title and usually runs with the land in perpetuity binding the owner who grants the easement and future owners. When the owner donates an easement the owner can claim a charitable deduction on federal income tax. The value of the easement is based on the difference between the appraised fair market value of the property prior to conveying an easement and its value with the easement restriction in place. Federal estate taxes for property heirs also may be reduced because the fair market value of the property was reduced during the donor's lifetime by the easement restriction.

ARTICLE X. MINIMUM MAINTENANCE REQUIREMENTS

A. 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. Every historic resource shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve it against decay and deterioration to the extent practicable. 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:

1. Façades that may fall and injure members of the public or damage property;
2. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
3. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
4. Deteriorated, crumbling or loose exterior plaster.
5. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
6. Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;
7. Any fault or defect in the building which renders it structurally unsafe or not properly watertight.

B. If the Commission has reason to believe that a historic resource is being neglected and subject to damage from weather or vandalism, the Commission shall direct the Planning Department to meet with the owner or other person having legal custody and control of the resource and to discuss with them the ways to improve the condition of the property. If no attempt or insufficient effort is made to correct any noted conditions thereafter, the Commission may, at a noticed public hearing, make a formal request that the Planning Department or other appropriate department or agency take action to require corrections of defects in the subject resource in order that such resource may be preserved in accordance with this article.

ARTICLE XI. ENFORCEMENT AND PENALTIES

1. 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 this 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 this code.

C. A certificate of appropriateness shall not be issued for the demolition of a historic resource because of the failure of the owner to comply with the provisions of this section.

2. 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 preservation 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. Any person who violates a requirement of this chapter or fails to obey an order issued by the commission or comply with a condition of approval of any certificate or permit issued under this chapter shall be guilty of a misdemeanor.

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

D. Any alteration or demolition of a historic resource in violation of this chapter is expressly declared to be a nuisance and shall be abated by restoring or reconstructing the property to its original condition prior to the violation. Any person or entity that demolishes or substantially alters or causes substantial alteration or demolition of a structure, in violation of the provisions of this chapter, shall be liable for a civil penalty.

E. Alteration or demolition of a historic resource in violation of this chapter shall authorize the County to issue a temporary moratorium for the development of the subject property for a period

not to exceed twenty-four months from the date the County becomes aware of the alteration or demolition in violation of this chapter. The purpose of the moratorium is to provide the County an opportunity to study and determine appropriate mitigation measures for the alteration or removal of the historic resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures as determined by the Planning Department and Commission shall be imposed as a condition of any subsequent permit for development of the subject property.

F. In the case of demolition, the civil penalty shall be equal to one-half the assessed value of the historic resource prior to the demolition. In the case of alteration, the civil penalty shall be equal to one-half the cost of restoration of the altered portion of the historic resource. Once the civil penalty has been paid, building and construction permits and/or a certificate of occupancy may be issued.

G. The County Attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction or replacement of any structure demolished, partially demolished, altered or partially altered in violation of this chapter.

3. Additional Penalties

The penalties provided for in this chapter are designated as non-exclusive, and are in addition to any other remedies the county may have.

ARTICLE XII. GENERAL PROVISIONS

1. 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 1094.5 of the Code of Civil Procedure.

2. 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 Department may establish the fee and charge schedule.

3. County code references

All references in this chapter to sections of this code shall incorporate those sections as such sections may be amended from time to time.

ISSUE: Consistency of General Ordinance Code with this Ordinance. Sections of the Alameda County General Ordinance Code pertaining to (1) alteration and demolition, and (2) conditional use permits will require some modification in order to properly reference this Ordinance.

Alteration/Demolition Sections

- *15.28 Abatement Procedure*
- *15.08.050 CBC Section 101.3*
- *15.08.550 CBC Section 3403*
- *15.08.560 CBC Section 3404*
- *15.24.170 UHC Section 1103*

Conditional Use Permit Review

- *17.54.130*

4. 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.