

Chapter 18.42 - HISTORIC PRESERVATION

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18.42.010 - Purpose.

The purpose of this chapter is to promote the public welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, signs, features, sites, places, and areas within the city that reflect special elements of the city's historical, architectural, archaeological, cultural, or aesthetic heritage for the following reasons:

- A. To comply with the California Environmental Quality Act (CEQA) statute and guidelines, which mandate local government review of, and mitigation as appropriate for, public and private projects that may cause a substantial adverse change to a historical resource;
- B. To identify as early as possible and resolve conflicts between the preservation of historical resources and proposed new development and alternative land uses;
- C. To enhance the visual character of the city by encouraging new design and construction that complements the city's historical buildings and areas;
- D. To stimulate economic development and rejuvenation of older commercial and residential areas within the city;
- E. To protect property values within the city and increase the economic benefits of historic preservation to the city and its inhabitants;
- F. To enhance the city's attraction to tourists and visitors;
- G. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.
- H. To foster civic pride in the beauty and character of the city and in the accomplishments of the past.

18.42.020 - Applicability.

This chapter shall apply to all historical resources within the city.

18.42.030 - Definitions.

As used in this chapter the following words and phrases have the following meanings.

"Alteration" means any change or modification, through public or private action, to the character-defining or significant physical features of a historical resource.

“Character-defining feature” means a physical element that, singularly or in combination with other physical elements, embodies the style, construction, appearance, or significance of a historical resource.

“Contributing” means any improvement, building, structure, sign, feature, tree, or other that is located within the boundary of a district, and which adds to the historical, architectural, or cultural significance of a district. A contributing property is a historical resource.

“Demolition” means any act or process that destroys in part or in whole an individual historical resource or a contributing property within a historic district.

“Designated” means listed in the National Register of Historic Places or the California Register of Historical Resources, or officially recognized by the City Council as a Landmark or Landmark District.

“District” means the same as “Historic District”.

“Historic District”, pursuant to the California Public Resources Code, means a definable unified geographic entity that possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. A historic district is a type of historical resource.

“Historical resource”, pursuant to the California Public Resources Code, means an object, building, structure, site, area, place, record, or manuscript which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California.

“Integrity” means the ability of a historical resource to convey its physical identity as evidenced by the survival of characteristics or historic fabric that existed during the property's period of significance.

“Landmark” means a historical resource that has been specially designated by the City Council pursuant to the provisions of this chapter, or listed in the National Register of Historic Places or the California Register of Historical Resources.

“Landmark District” means a historic district that has been specially designated by the City Council pursuant to the provisions of this chapter, or listed in the National Register of Historic Places or the California Register of Historical Resources.

“Non-contributing” means any Improvement, building, structure, sign, feature, tree, or other object that is located within the boundary of a district, and which does not add to the historical, architectural, or cultural significance of a district.

“Period of significance” means the date or span of time that a property was associated with important events, activities, or persons, or attained the characteristics that qualify it as a resource.

“Resource” means the same as “historical resource”.

“Significance” means possessing historical, social, architectural, and/or design value that adds to the quality of the physical environment by reflecting the community’s cultural heritage and the accomplishments of the past.

“Substantial adverse change”, pursuant to the California Public Resources Code, means demolition, destruction, relocation, or alteration such that the significance of an historical resource would be impaired.

18.42.040 - Authority.

A commission (“Commission”) shall be authorized by the City Council to carry out the provisions of this chapter. In the absence of a dedicated preservation commission, which may be created by the City Council, this Commission shall be the Planning Commission. If a dedicated preservation commission is created by the City Council, it shall assume the powers and duties of this chapter. The powers and duties of the Commission shall include:

- A. As part of its responsibilities pursuant to the California Environmental Quality Act (CEQA), identify and advise appropriate City departments and governmental entities of known historical resources; assess and advise whether any proposed project would have a substantial adverse change on a historical resource; and recommend appropriate action in compliance with the City’s adopted CEQA review procedures;
- B. Have discretionary authority to review and approve applications and actions to alter, relocate, or demolish historical resources pursuant to the provisions of this chapter;

- C. Adopt standards and guidelines to be used by the City in reviewing applications to preserve, alter, relocate or demolish any historical resource;
- D. Make recommendations to the City Council regarding determinations of historical resources, including surveys and individual property evaluations, in conformance with State Office of Historic Preservation standards and guidelines;
- E. Accept referrals from the Planning Department;
- F. Hear appeals taken from formal interpretations of this chapter made by the Planning Department;
- G. At the direction of the City Council, seek means to protect, retain, and preserve historical resources, such as suggesting legislation and seeking financial support;
- H. Recommend to the City Council the designation of Landmarks and Landmark Districts;
- I. Increase public awareness of the heritage of the City and its cultural resources; and
- J. Encourage public participation in the identification, appreciation, and preservation of significant cultural resources in the City.

18.42.050 - Determination of historical resources.

- A. Methodology for Evaluation. A historical resource must possess significance by qualifying under at least one of the established criteria for evaluating significance pursuant to Section 18.42.050.B of this chapter. In addition to having significance, a historical resource must have integrity from the time in which it is significant pursuant to Section 18.42.050.C of this chapter. Resource evaluations shall be conducted according to the National Park Service's *National Register Bulletin No. 15: How to Apply the National Register Criteria for Evaluation* (1990; last revised for Internet 2002) and the California State Office of Historic Preservation's *Instructions for Recording Historical Resources* (March 1995). Resource evaluations shall be conducted by personnel who meet the Secretary of the Interior's Professional Qualifications Standards, as defined by the National Park Service.
- B. Criteria for Evaluation. The following criteria are established for use in evaluating the significance of a historical resource:
 - 1. The National Register of Historic Places Criteria for Evaluation.
 - 2. The California Register of Historical Resources Criteria for Designation.
 - 3. The City of Yorba Linda criteria for evaluating local significance:
 - a. It exemplifies or reflects special elements of the city's cultural, architectural, aesthetic, social, economic, political, or artistic heritage; or
 - b. It is identified with persons, entities or events significant in local, state, or national history; or
 - c. It embodies distinctive characteristics of style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
 - d. It is representative of the notable work of a builder, designer, or architect; or
 - e. Its unique location or singular physical characteristic represents an established and familiar visual feature of a neighborhood, community or the city; or
 - f. Its integrity as a natural environment or feature strongly contributes to the well-being of residents of the city or the well-being of a neighborhood within the city; or
 - g. It is a geographically definable area possessing a concentration or continuity of site, buildings, structures or objects as unified by past events or aesthetically by plan or physical development.
- C. Integrity Considerations. Resources must retain enough of their historic character, composition, and appearance to be recognizable as resources and to convey the reasons for their significance. Only after significance has been established, and character-defining features have been identified, should the issue of integrity be addressed. Typically, a resource should retain all or most aspects of integrity that pertain to its significance. Aspects of integrity include the following:
 - 1. Location: The place where a property was historically constructed, situated, and/or used.
 - 2. Design: The composition of elements that constitute the form, plan, space, structure, and style of a property.

3. Setting: The physical environment of a property that illustrates the historic character of its place.
 4. Materials: The physical elements combined in a particular pattern or configuration to form the property during a period in the past.
 5. Workmanship: They physical evidence of the crafts of a particular culture or people during any given period in history.
 6. Feeling: The quality that a historic property has in evoking the aesthetic or historic sense of a past period of time.
 7. Association: The direct link between a property and the reason for which the property is significant.
- D. Initiation. The Commission, the City Council, a nonprofit organization with a demonstrated interest in historic preservation, or the owner of a subject property may initiate a historical resource evaluation, and may submit the results for review and recommendation to the Planning Department, pursuant to this section; or, the Planning Department may initiate a historical resource evaluation during the review process pursuant to Section 18.42.070 of this chapter.
 - E. Recommendation and Decision. A historical resource evaluation and its findings shall be submitted to the Planning Department for review and recommendation to the Commission. The Commission shall by resolution adopt, not adopt, or adopt as modified by the Commission the evaluation and its findings. The Commission is the final approving authority.
 - F. Result of Adoption. A historical resource evaluation and its findings that are adopted by the Commission shall be maintained in files of the Planning Department. The findings shall be considered in the City's land use planning process pursuant to this chapter and code and the California Environmental Quality Act (CEQA). If a historical resource is found to be present, then any proposal to change or modify the character-defining or significant physical features of the historical resource shall be subject to review by the City pursuant to Section 18.42.070 of this chapter.
 - G. Relationship to Listing and/or Designation. The determination of a historical resource through evaluation and adoption of findings, pursuant to the provisions of this section, does not result in the resource being listed in any federal, State, or local register, or designated as a Landmark or Landmark District.
 - H. Reevaluation. A reevaluation of a previously evaluated property may be conducted if factual information about the property that was previously unknown is found to pertain to the findings of the previous evaluation, or if the physical integrity of the property has substantially changed since the previous evaluation, or if significant time has passed since the previous evaluation was completed and there exists greater historical perspective for understanding the resource. Reevaluations shall occur according to the established methodology for evaluation.

18.42.060 - Establishment of Landmarks and Landmark Districts.

The City shall designate historical resources that are determined to be essential to the historical and cultural character of the community, and/or that are listed in a State or federal register, as Landmarks and Landmark Districts, which shall be recognized and protected pursuant to the provisions of this chapter.

- A. Inclusion. Landmarks and Landmark Districts shall include all of the following:
 1. Any resource or district listed in the National Register of Historic Places.
 2. Any resource or district listed in the California Register of Historical Resources.
 3. Any resource or district designated by the City Council pursuant to the provisions of this section.
- B. City Designation. The designation, repeal or modification of a Landmark or a Landmark District may be initiated by the Commission, the City Council, a nonprofit organization with a demonstrated interest in historic preservation, or the owner of a subject property.
 1. Findings for Designation. In order to designate a resource as a Landmark or a Landmark District, the Commission shall make the following findings:

- a. That the property meets the definition of a historical resource pursuant to this chapter;
 - b. That the resource possesses a special historical association and/or architectural design that embodies the character of the city; and
 - c. That, if the resource were removed or altered, the character of the city would be substantially and irrevocably diminished, and essential cultural heritage would be lost; and
 - d. That official recognition and protection of the resource by the City is of the utmost importance to the community.
2. Application. Any application involving a Landmark or a Landmark District shall be made upon forms and accompanied by data and information that allows for proper consideration of the request by reviewing bodies, as specified by the City. While an application is under review and consideration by the City, a moratorium shall be placed on the issuance of building permits involving the subject property.
 3. Recommendation and Decision. Any application involving a Landmark or a Landmark District and its findings shall be submitted to the Planning Department for review and recommendation to the Commission. The Commission shall by resolution adopt, not adopt, or adopt as modified by the Commission the application and its findings. The Commission is the final approving authority.
 4. Owner Consent. Designation of a resource as a Landmark shall require the owner's written consent, unless the Commission makes a finding, in addition to the findings listed above, that designation without owner consent is necessary and appropriate in order to ensure the preservation, protection, and rehabilitation of the resource, due to an imminent threat to its integrity that the owner is unable or fails to address. Designation of an area as a Landmark District shall always require the written consent of at least two-thirds of all property owners located within the area.
 5. Result of Designation. A list of Landmarks and Landmark Districts that are designated by the Commission shall be maintained in files of the Planning Department. Landmarks and Landmark Districts shall be given special consideration during the review process pursuant to Section 18.42.070 of this chapter; Landmarks and contributors located within Landmark Districts shall be provided special protections pursuant to Section 18.42.080 of this chapter; and owners of such properties shall be afforded the opportunity to benefit from special economic incentives pursuant to Section 18.42.110 of this chapter.
 6. Failure to Designate. In the case of disapproval of an application to designate a Landmark or Landmark District, no further application for such designation of the subject resource shall be considered for at least five years from the date of the previous decision. Disapproval of an application to designate a Landmark or Landmark District shall not disqualify the subject property as a historical resource under the provisions of this chapter and the California Environmental Quality Act (CEQA).

18.42.070 - Review required.

Review is required whenever any proposal is made to change or modify the character-defining or significant physical features of a historical resource. Approval of such work shall be required even if the City requires no other permits.

- A. California Environmental Quality Act. In order to comply with the California Environmental Quality Act (CEQA) and streamline the City's permit review procedure, the City shall conduct an analysis of the potential for substantial adverse change to a historical resource pursuant to CEQA in conjunction with the review process described in this section. The result of CEQA review shall be integrated into the City's decision-making process. As necessary in order to conduct review pursuant to CEQA, the Planning Department may require that a historical resource evaluation be completed pursuant to Section 18.42.50 of this chapter to determine if a historical resource is present, and/or that an analysis of the proposed project against adopted standards and guidelines be completed pursuant to Section 18.42.80 of this chapter

to determine if a proposed project may cause a substantial adverse change to a historical resource.

- B. Major Alterations and Minor Alterations. For the purposes of conducting review, a proposed change to a historical resource shall be categorized as either a major alteration or a minor alteration, based on the proposed scope of alteration in relation to the character-defining features of the resource. The following table provides examples of proposed work that would typically be considered major alterations and minor alterations.

Major Alteration (typical examples)	Minor Alteration (typical examples)
<ul style="list-style-type: none"> • Vertical addition • Change in primary roof shape and/or roof plan • Horizontal addition that is visible to the public <u>or</u> that increases existing floor area by at least 50 percent • Change in type or style of exterior wall or roofing material on any elevation • Installation of a new entrance and/or window opening at any elevation that is visible to the public • Removal, addition, and/or replacement of a decorative façade feature • Enclosure of an existing porch and/or construction of a new porch at any elevation that is visible to the public • Construction of a new accessory structure that is visible to the public on a resource site or within a district • Construction of a new primary structure within a district • Demolition of all or part of a resource • Change to an interior that is historically and/or currently accessible to the public • Any other change or cumulative changes (including cumulative minor alterations) to a resource that exceeds the scope of administrative review as determined by the Planning Department 	<ul style="list-style-type: none"> • Reroofing • Window/door replacement • Installation of signage • Minor change to primary roof shape and/or plan, such as addition of a small dormer or skylight • Horizontal addition that is not visible to the public <u>and</u> that increases existing floor area by less than 50 percent • Replacement of exterior wall materials with new materials that match existing on any elevation (not to exceed 25 percent of the total surface area of any elevation) • Installation of a new entrance and/or window opening at any elevation that is not visible to the public • Construction of a new accessory structure on a resource site or within a non-Landmark district that is not visible to the public • Landscaping • Foundation work • Change to an interior that is not historically and/or currently accessible to the public

- C. Administrative Review. The Planning Department shall review all proposed work on any historical resource to determine if it may have a substantial adverse change on the character and integrity of a resource. The Planning Department may administratively approve, not approve, or approve as modified by the Planning Department any proposed minor alteration involving any resource that is not a designated Landmark or located within a designated Landmark District, and which does not cause a substantial adverse change to a resource pursuant to CEQA. The Planning Department shall make a recommendation to the Commission for any proposed major alteration involving a historical resource, or any proposed major or minor alteration involving any designated Landmark or property located within a designated Landmark District, or any proposed alteration that would result in a substantial adverse change to a resource pursuant to CEQA.
- D. Commission Review. The Commission shall review any proposed major alteration involving a historical resource, or any proposed major or minor alteration to any designated Landmark or property located in a designated Landmark District, or any application involving a historical resource that is referred by the Planning Department to the Commission for review. The

Commission shall approve, not approve, or approve as modified by the Commission the proposed work.

18.42.080 - Standards and guidelines for review.

Standards and guidelines are established, which describe appropriate and inappropriate methods of treating historical resources for the purpose of aiding design and decision-making with regard to retaining the integrity of scale, design, intent, materials, feelings, patterns of development, and historical character of historical resources.

- A. **Standards and Guidelines Adopted.** The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) ("Secretary of the Interior's Standards") shall be used to determine the impacts and the appropriateness of proposed physical changes to historical resources and properties located within historic districts. Analysis according to the Secretary of the Interior's Standards shall be conducted by personnel who meet the Secretary of the Interior's Professional Qualifications Standards. Additional standards and guidelines, which shall be based upon and consistent with the Secretary of the Interior's Standards, may be adopted to assist in the preservation and augmentation of the specific character, nature, and appearance of historical resources and historic districts.
- B. **Consistency with Standards and Guidelines.** The City shall seek consistency with adopted standards and guidelines. During the review process pursuant to the provisions of this chapter, the City shall determine the appropriateness of a proposed alteration to a historical resource in relation to adopted standards and guidelines. Work that is consistent with adopted standards and guidelines shall be determined to preserve and maintain historic character and integrity. The City shall approve work that is determined to be consistent with adopted standards and guidelines.
- C. **Deviation from Standards and Guidelines.** The Commission is not precluded from determining that a proposed alteration to a historical resource, which is not entirely consistent with adopted standards and guidelines, would not cause a significant impact to a historical resource pursuant to the California Environmental Quality Act (CEQA), if it is demonstrated that the alteration would not cause a substantial adverse change to the significance of a resource.
- D. **Impacts to Historical Resources.** In the case of a historical resource that is not a Landmark or a contributor to a Landmark District, the Commission may approve work that results in a substantial adverse change to a historical resource, if the Commission makes a finding that, due to hardship that may include but may not be limited to economic hardship, denial of alteration would damage the owner of the property unreasonably in comparison to the benefit conferred on the community. Alteration and/or relocation of a resource are always preferable to demolition because they result in lesser impacts to a resource.
- E. **Preservation of Landmarks and Landmark Districts.** The City shall not approve a substantial adverse change to a Landmark or to a Landmark District or a contributor located in a Landmark District.

18.42.090 - Mitigation of substantial adverse change.

In cases where approved work would result in a substantial adverse change to a resource pursuant to the California Environmental Quality Act (CEQA), the property owner shall mitigate the impact to the greatest feasible extent, even if mitigation does not result in a less than substantial adverse change. The City shall require mitigation to be completed before a building permit is issued. The kind and amount of mitigation required shall be based directly on the level and nature of the impact.

- A. **Mitigation Required for Modification.** Approved work that modifies the form, composition, and/or appearance of a historic structure, such that the physical integrity of a resource is diminished, shall be mitigated by narrative, graphical, and/or photographic documentation of

- the structure prior to its modification. Documentation may include but not be limited to elevation views, floor and roof plans, detail drawings and as-built drawings. Documentation shall record the overall physical appearance of the structure as well as those specific characteristics that would be affected by the modification. Documentation shall provide interpretation and understanding of the resource and its significance and character in its unmodified condition according to City standards. Documentation shall be reviewed and approved by the Planning Department, which shall maintain a copy of the completed documentation.
- B. Mitigation Required for Relocation. Approved work that moves a historic structure from its historic location in a horizontal or vertical direction, such that the relationship of a resource to its setting is changed, shall be mitigated by narrative, graphical, and/or photographic documentation of the structure on its site prior to its relocation. Documentation may include but not be limited to elevation views, site plans, and maps. Documentation shall record the overall physical appearance of the structure and its relationship to its site and elements of the environment. Documentation shall provide interpretation and understanding of the resource and its significance and character in its historic location according to City standards. Documentation shall be reviewed and approved by the Planning Department, which shall maintain a copy of the completed documentation.
 - C. Mitigation Required for Demolition. Approved work that destroys in part or in whole a historical resource shall be mitigated by narrative, graphical, and/or photographic documentation prior to demolition. Documentation may include but not be limited to elevation views, floor and roof plans, site plans and maps, detail drawings and as-built drawings. Documentation shall record the overall physical appearance of the structure, its specific physical characteristics, and its relationship to its site and elements of the environment. Documentation shall provide interpretation and understanding of the resource and its significance and character according to City standards. Documentation shall be reviewed and approved by the Planning Department, which shall maintain a copy of the completed documentation. In addition, approved work that destroys in part or in whole a historical resource shall be subject to a mitigation fee, which shall be paid into the Historic Preservation Trust Fund. The mitigation fee shall be a set fee based on the size of the historic property, the type of property and the significance of the resource. The fee amount shall be established by the City Council and periodically reviewed and updated.
 - D. Other Kinds of Mitigation. The City may require additional kinds of mitigation based on the nature of a historical resource that is affected, which may include but not be limited to production of materials that allow for interpretation and appreciation of the significance of the resource, which may be installed in a public exhibit at or near the property, and/or made publicly accessible in electronic format.

18.42.100 - Development incentives.

The City shall establish development incentives for preservation to encourage owners to designate, maintain, preserve, rehabilitate, and improve historical resources.

- A. California State Historic Building Code. The City shall promote and facilitate the use of the California State Historic Building Code (SHBC), which provides alternative building regulations for the rehabilitation, preservation, restoration, or relocation of structures identified as historical resources. The City shall apply the SHBC in permitting repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of a historical resource. The SHBC may be used for any historical resource in the city.
- B. Code Exceptions. The City shall consider providing exceptions from certain development standards for the rehabilitation, preservation, restoration, or relocation of structures identified as historical resources. The particular characteristics of an exception shall be those determined appropriate for the preservation, enhancement, and use of a resource based on its site and environment. In no case shall use of a code exception cause an adverse effect to

the property, or cause an adverse effect to the character of the neighborhood or environment. Code exceptions may be used for any historical resource in the city.

1. **Parking.** Reductions in the requirements of off-street parking may be granted when the reduction facilitates the rehabilitation of a historical resource, by preserving developed or undeveloped area that contributes to the character and significance of a resource, which might otherwise be required to be used for off-street parking to the detriment of the resource.
2. **Setbacks.** Reductions in required setbacks may be granted when the reduction facilitates the rehabilitation of a historical resource, by allowing for compatible new construction to occur adjacent to or attached to an existing historical structure that is located on a site that has limited developable land area outside of required setbacks. Reductions in required setbacks may also be granted when the reduction allows for the reconstruction and/or restoration of a significant historic feature or structure in its historic location.
3. **Floor Area.** Exceptions to maximum floor area may be granted when the exception facilitates the rehabilitation of a historical resource, by allowing for compatible new construction to occur adjacent to or attached to an existing historical structure that is located on a site that has limited developable floor area beyond the existing structure. Exceptions to maximum floor area may also be granted when the exception allows for the reconstruction and/or restoration of a significant historic feature or structure in its historic location.
4. **Height.** Exceptions to maximum height limits may be granted when the exception allows for the reconstruction and/or restoration of a significant historic feature or structure in its historic location.
5. **Uses.** Conditional uses may be granted to allow a nonconforming new use to be reestablished in a historic structure if the structure historically housed that type of use, or if the new use is necessary for the rehabilitation, enhancement, and perpetuation of a historical resource.

18.42.110 - Economic incentives.

The City Council may establish, by ordinance or by resolution, economic incentives for preservation to encourage owners to designate, maintain, preserve, rehabilitate, and improve historical resources.

- A. **Conservation Easements.** Pursuant to California Civil Code 815, conservation easements on the facades of historical buildings may be acquired by the City, or on the City's behalf, by a nonprofit group designated by the City through purchase, donation, or condemnation, for the purpose of retaining the resource in its historical condition. Facades subject to conservation easements shall be maintained in a manner consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) and any local preservation and design guidelines. The particular characteristics of a conservation easement shall be those granted or specified in the instrument creating or transferring the easement. Conservation easements may be used for any historical resource in the city.
- B. **Historic Preservation Trust Fund.** The City shall establish a Historic Preservation Trust Fund ("Trust Fund") to mitigate the impacts caused by the demolition of historical resources and to provide a source of funds for the conservation, preservation, restoration, and rehabilitation of historical resources in the City. The City Council, with recommendations from the Commission, shall provide the policy direction for expenditures from the Trust Fund. The program administration for the Trust Fund shall be administered by the Planning Department. The financial administration (financial administrator) of the Trust Fund shall be the City Manager, or his designee, in accordance with State and local laws. Any project with funding from this program must use the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) and any local preservation

and design guidelines. Any building, structure, object, site, etc. rehabilitated with funding from this program must be maintained for a period of at least ten (10) years from the completion of the rehabilitation. The Trust Fund may be used for any property designated pursuant to Section 18.42.060 of this chapter as a Landmark or a contributor to a Landmark District. The Trust Fund shall provide for:

1. Acquisition by the City of fee title, or any lesser interest, in any real property, in order to prevent the loss of historic integrity or imminent destruction or to otherwise secure the preservation of the historical resource.
 2. Grants to public agencies, nonprofit organizations, or private entities, which shall be awarded according to a competitive selection process, for the following types of projects:
 - a. Preservation, restoration, or exterior rehabilitation of a historical resource.
 - b. Identification, documentation, and recordation of historical resources according to applicable local, state and federal standards, and/or contribute to the development of the City's historic context, and/or contribute to the development of a conservation or preservation plan.
 - c. Creation of interpretative media to educate the public on the city's history and/or historical resources.
 3. Long term, low interest loans to public agencies, nonprofit organizations, or private entities to finance the preservation, restoration, and rehabilitation of historical resources.
- C. Mills Act Property Tax Abatement Program. Pursuant to California Government Code, Article 12, Section 50280 (known as the Mills Act), the City Council may establish a Mills Act Property Tax Abatement Program providing for contractual agreement with an owner of a designated historical resource for the purpose of preservation, rehabilitation, and maintenance of the resource. The terms of the Mills Act agreement shall allow the owner of a designated historical resource to receive a reduction in property taxes in exchange for the property owner's commitment to specific repair, restoration and/or rehabilitation improvements and satisfactory maintenance of the resource, according to the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) and any local preservation and design guidelines. The Mills Act agreement shall include, but not be limited to, the contract provisions as required under state law, and shall extend for a minimum period of ten (10) years, renewed annually, until and unless a notice of non-renewal or cancellation is filed. The application process, review procedures, and required contract provisions for Mills Act agreements shall be established by separate resolution of the City Council and shall be implemented by the Planning Department. The Mills Act Property Tax Abatement Program may be used for any property designated pursuant to Section 18.42.060 of this chapter as a Landmark or a contributor to a Landmark District.
- D. Historic Rehabilitation Financing Program. Pursuant to California Health and Safety Code Section 37600-37603 (known as the Marks Historic Rehabilitation Act of 1976), the City Council may establish a Historic Rehabilitation Financing Program ("Financing Program") providing for long term, low interest loans to finance the preservation, restoration, and rehabilitation of designated historical resources. The City Council, with recommendations from the Commission, shall provide the policy direction for expenditures from the Financing Program. The program administration for the Financing Program shall be administered by the Planning Department. The financial administration (financial administrator) of the Financing Program shall be the City Manager, or his designee, in accordance with State and Local laws. Any rehabilitation with funding from this program must use the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (Weeks and Grimmer, 1995) and any local preservation and design guidelines. Any building, structure, object, site, etc. rehabilitated with funding from this program must be maintained for a period of at least ten (10) years from the completion of the rehabilitation. The Financing Program may be used for any property designated pursuant to Section 18.42.060 of this chapter as a Landmark or a contributor to a Landmark District, and which is located within a rehabilitation area designated by the City Council.

18.42.120 - Duty to keep in good repair.

The owner, or other person in charge of a historical resource has a duty to keeping in good repair all of the exterior features of such resource, and all interior features thereof which, if not maintained, may cause or tend to cause the exterior features of such resource to deteriorate, decay become damaged or fall into a state of disrepair.

- A. All historical resources shall be preserved against such decay and be kept free from structural defects through the prompt repair of any of the following:
 - 1. Facades or features that may fall and injure a member of the public or 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 and roof supports or other horizontal members that age, split, or buckle due to defective material or deterioration.
 - 4. Deteriorated or insufficient waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
 - 5. Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering.
 - 6. Any fault or defect in the building, which renders it not properly watertight or structurally unsafe.
- B. The Planning Department shall not approve the demolition of a resource because of the failure of the owner to comply with the provisions of this section.
- C. It shall be the duty of the Planning Department to enforce this section with guidance from the Commission. The Planning Department shall consult with the Building Official when making a determination regarding duty to keep in good repair.

18.42.130 - Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any feature in or on any property covered by this chapter, where the purpose and effect of such work is to correct any deterioration of or damage to a structure or any part thereof and to restore the same, to its condition prior to the occurrence of such deterioration or damage, such that it does not involve a change in design, material, or external appearance thereof.

18.42.140 - Unsafe or dangerous conditions.

Nothing contained in this Article shall prohibit the construction, alteration, restoration, demolition, or relocation of a historical resource when such action is required for public safety due to an unsafe or dangerous condition that cannot be rectified through the use of the California State Historic Building Code. The Planning Department shall, upon an assessment and recommendation of the Building Official, certify to the Commission that such a condition exists. In such a case, Planning Department review of proposed actions to correct the unsafe or dangerous condition shall not be required.

18.42.150 - Enforcement and penalties.

Any alteration or demolition of a historical resource, including that which may be caused by neglect, or any failure to keep a historical resource in good repair, 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 who 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.

- A. Alteration or demolition of a historical resource, or any failure to keep a historical resource in good repair, in violation of this chapter shall authorize the City to issue a temporary

- moratorium for the development of the subject property for a period not to exceed twenty-four (24) months from the date the City becomes aware of the alteration or demolition in violation of this chapter. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate restitution for the alteration or removal of the historic structure, and to ensure appropriate restitution measures are incorporated into any future development plans and approvals for the subject property. Restitution as determined by the Planning Department, the Commission, and/or the City Council shall be imposed as a condition of any subsequent permit for development of the subject property.
- B. In the case of demolition, the civil penalty shall be equal to one-half the assessed value of the historical 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 historical resource. The penalty shall be paid into the Historic Preservation Trust Fund. Once the civil penalty has been paid, building and construction permits and/or a certificate of occupancy may be issued.
 - C. The City 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.

18.42.160 - Time and notice requirements.

Actions by the City pursuant to the provisions of this chapter shall occur in compliance with the time and notice requirements set forth in Chapter 18.36, Article VIII of the zoning code.

18.42.170 - Appeals.

Decisions that are made pursuant to the provisions of this chapter may be appealed pursuant to Chapter 18.36, Article IX of the zoning code.

Resource Control Matrix (for illustrative purposes only – not a part of the proposed ordinance):

	Landmark Property or Property located in a Landmark District	Historical Resource not designated at the local, State, or federal level
Project Type:		
Major Alteration	Requires Commission review	Requires Commission review
Minor Alteration	Requires Commission review	Requires Administrative review
Development Incentives:		
California State Historic Building Code	Applicable	Applicable
Code Exceptions	Applicable	Applicable
Economic Incentives:		
Conservation Easements	Applicable	Applicable
Historic Preservation Trust Fund	Eligible to apply	Not eligible to apply
Mills Act Property Tax Abatement Program	Eligible to apply	Not eligible to apply
Historic Rehabilitation Financing Program	Eligible to apply	Not eligible to apply