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Sec. 106-1383. Purpose.

The purpose of this division is to provide for recognition, preservation, protection and use of historic resources in the city in a manner consistent with the goals and objectives of the Historic Preservation Element of the General Plan, and with the public health, safety and welfare, by establishing such procedures and regulations that are necessary to:

- (1) Implement the city's historic preservation goals, policies and programs;
- (2) Protect, enhance and perpetuate historic resources that represent or reflect distinctive and important elements of the city's cultural, social, economic, political, archeological and architectural history;
- (3) Encourage public understanding and involvement in the unique architectural and environmental heritage of the city;
- (4) Foster civic pride in the beauty and notable accomplishments of the past by promoting private stewardship of historic resources that represent these accomplishments;
- (5) Encourage and promote preservation, restoration, rehabilitation and maintenance of historic resources and potential historic resources for the culture, education, enjoyment and economic welfare of the city's inhabitants;
- (6) Ensure that historic preservation planning is inclusive and reflective of the unique background and diversity of the city;
- (7) Encourage the repair rather than the replacement of historic materials in accordance with the Secretary of the Interior's Standards;
- (8) Protect historic and cultural resources from demolition and inappropriate alterations;
- (9) Integrate historic preservation into community economic development strategies for sustainable development and to promote adaptive reuse of historic structures;
- (10) Fulfill the city's responsibilities under the California Environmental Quality Act;
- (11) Fulfill the city's responsibilities pursuant to federal historic preservation statutes; and
- (12) Stabilize, improve, and protect property values within the city by establishing policies and procedures that protect historic resources.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1384. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Adaptive reuse means the act of rehabilitating a building or site to include elements that allow a particular use or uses to occupy a space that originally was intended for a different use.

Adverse effect means an activity or action that has the potential to diminish the significance of a historic resource.

Alteration (also alter) means any physical modification or change to a building, structure, site, object or designated interior that may have a significant adverse effect on character-defining features of a historic resource.

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California Environmental Quality Act (also CEQA) means the California Public Resources Code § 21000 et seq., as it may be amended from time to time.

Certificate of appropriateness means a certificate issued by the commission approving such plans, specifications, design, statements of work, and any other information which is reasonably required by the commission to make a decision on any proposed alteration, restoration, construction, removal, relocation or demolition, in whole or in part, of or to a historic resource.

Certificate of no effect means a certificate issued by the director stating that proposed work on the property is minor in nature and will have no detrimental effect on the historic character of the property and therefore can proceed with the issuance of necessary permits for the proposed work.

Certified local government (also 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 City of San Fernando Planning and Preservation Commission established pursuant to the provisions of article II of [chapter 62](#) of this Code.

Contributing structure (also contributing site) means a structure or site within a historic district as designated by the city council or as listed in the State or National Register that has a special character, special historic or aesthetic interest or value, and is incorporated into the district for that reason.

Demolition means an act or process that destroys or razes in whole or in part a building, structure or site, or permanently impairs its structural integrity and/or may have an adverse effect on the significance of a historic resource.

Demolition by neglect means the failure to provide ordinary maintenance and repair to a historic resource, contributing structure, or structure of merit, whether such neglect is willful or unintentional, by the owner or any party in possession of such property, which results in one or both of the following:

- (1) The severe deterioration of exterior features so as to create or permit a dangerous or unsafe condition to exist.
- (2) The deterioration of a structure or its components, including but not limited to exterior walls, roof, chimneys, doors, windows, porches, structural or ornamental architectural elements, or foundations, which would result in permanent damage and loss of an historic resource's architectural and/or historic significance.

Designation means the act of recognizing, labeling, and listing an historic resource into the San Fernando Register of Historic Resources by the city council. A designation formally establishes that an historic resource has historic significance.

Director means the director of the community development department or the director's duly authorized representative.

Exterior features means the architectural style, design, general arrangement, components and natural features or all of the outer surfaces of an improvement, including, but not limited to, the type, color and texture of the building material, the type and style of all windows, doors, lights, signs, walls, fences and other fixtures appurtenant to such improvement, and the natural form and appearance of, but not limited to, any grade, rock, tree, plant, shrub, road, path, walkway, plaza, fountain, sculpture or other form of natural or artificial landscaping.

Fixture means a decorative or functional device permanently affixed to the site or the interior or exterior of a structure and contributing to its ability to meet historic resource criteria.

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Historic American Buildings Survey (also HABS) is intended to be used as a comprehensive guide for producing existing-condition measured drawings of buildings and other structures, as well as natural and man-made sites, pursuant to the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.) and the Historic Sites Act of 1935 (16 U.S.C. Sec 461-467), as amended.

Historic American Engineering Record (also HAER) is intended to be used as a companion program to *Historic American Buildings Survey*, to document structures representing technological and engineering significance.

Historic district means a geographic area or noncontiguous grouping of thematically related properties which the city council has designated as and determined to be appropriate for historical preservation pursuant to the provisions of this division.

Historic resource means those improvements, sites, natural features or areas designated by the city council having a special character or special historical, cultural, archaeological, architectural, community or aesthetic value as part of the heritage of the city, region, state or nation and which has been designated, pursuant to the provisions of this division.

Historic resources survey means the most recent comprehensive reconnaissance survey that is endorsed by the commission as listing sites and structures that are considered to have potential for designation as historic resources.

Improvement means any manmade physical object or structure, or manmade alteration of terrain or plantings, constituting a physical feature of real property.

Integrity means the ability of an historic resource to convey its significance, with consideration of the following aspects of integrity: location, design, setting, materials, workmanship, feeling and association.

Mills Act Contract (also contract) means the historical property contract between the city and property owner that provides the potential for reduced property taxes in return for the rehabilitation, restoration and preservation of an historic resource, pursuant to California Government Code § 50280 et seq. and California Revenue and Taxation Code § 439 et seq. In effect, the Mills Act contract serves as an economic incentive to owners to preserve their historic resource for the benefit of the entire community.

Nomination means a nomination for placement of an historic resource on the San Fernando Register of Historic Resources pursuant to this division.

Noncontributing structure (also noncontributing site) means a structure or site within an historic district that does not possess the qualifications or characteristics of a contributing structure due to such factors as age or alteration, but which has been included within the district because of its impact on the geographic integrity and overall character of the district.

Ordinary maintenance and repair means any cleaning, painting, or similar work that does not result in the alteration of an improvement.

Permanently affixed means, but is not limited to, attachment by screws, bolts, pegs, nails or glue, and may include such attachment as rope, glass or leather if such material is integral to the design of the device. Fixtures include, but are not limited to, lighting devices, murals, built-in furniture and cabinetry, paneling and molding, leaded glass or other decorative windows and decorative hardware.

Preservation means the act or process of applying measures to sustain the existing form, integrity, and materials of a building or structure, and the existing form and vegetative cover of a site.

Reconstruction means the act or process of reproducing by new construction the exact form and detail of a previously existing building, structure, or object, or a part thereof, as it appeared at a specific period of time.

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Register means the San Fernando Register of Historic Resources, as defined herein.

Relocation means the displacement of any improvement within the same site or to a different site.

Removal means the displacement from the site of a historical resource of any device, feature, fixture, hardware, structural or decorative material contributing to the cultural, historic or architectural character of the historic resource.

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

Restoration means the act or process of accurately recovering the form and details of a resource and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

San Fernando Register of Historic Resources (also register) means the official list of historic resources and historic districts in the city and any properties specified in the historic preservation element of the general plan.

Secretary of the Interior's Standards for the Treatment of Historic Properties (also Secretary's Standards) means the Secretary of the Interior's Standards and guidelines for rehabilitation, preservation, restoration, or reconstruction of an historic resource. These standards and guidelines delineate accepted treatments for the protection and rehabilitation of materials pursuant to 36 CFR Part 68.

Site means any parcel or portion of real property which has a special character or special historical, cultural, archaeological, architectural, community or aesthetic value.

State Historical Building Code, as defined in the California Health and Safety Code §§ 18950 through 18961, as it may be amended from time to time, allows reasonably equivalent alternatives to the adopted California Building Code to facilitate the preservation and continuing use of designated historical resources while providing reasonable safety for the building occupants and access for people with disabilities.

Structure means anything constructed or erected which requires location on the ground or which is attached to something having a location on the ground, except areas such as walks, paved areas, tennis courts, and similar open recreation areas. This definition includes buildings.

Structure of merit means any improvement which has not been designated as a historic resource but is determined to be appropriate for official recognition by the commission pursuant to the provisions of this division.

(Ord. No. 1583, § 4, 11-17-2008; Ord. No. 1586, § 3, 3-16-2009)

Sec. 106-1385. Criteria for designation of historic resources.

(a) *Historic resource*. An improvement may be considered for designation as an historic resource if it meets at least one of the following criteria:

- (1) It is associated with events or lives of persons that have made a significant contribution to the broad patterns of the history of the city, region, state or nation;
- (2) It embodies the distinctive characteristics of a historic type, period, architectural style or method of construction, or represents the work of an architect, designer, engineer, or builder whose work is significant to the city, region, state or nation; or
- (3) It has yielded, or is likely to yield, information important in the history of the city, region, state or nation.

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- (b) *Historic resource (Interior)*. Public or semi-public spaces and features for an interior to a building may be designated as an historic resource if it meets all of the following criteria:
- (1) Historically, the space has been open to the public;
 - (2) The materials, finishes or detailing are intact or later alterations are reversible;
 - (3) The plan, layout and features of the space are illustrative of its historic function;
 - (4) Its form and features articulate a particular concept of design; and,
 - (5) There is evidence of distinctive craftsmanship.
- (c) *Historic district*. An area of the city including more than one property may be considered for designation as an historic district if it meets at least one of the following criteria:
- (1) Any of the criteria identified in [section 106-1385\(a\)](#) of this Code;
 - (2) It is a noncontiguous grouping of thematically related properties or a definable area possessing a concentration of historic, scenic or thematic sites, which contribute to each other and are unified aesthetically by plan, physical development or architectural quality;
 - (3) It reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning; or,
 - (4) It has a unique location, a singular physical characteristic, or is an established and familiar visual feature of a neighborhood, community or the city.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1386. Procedure for designating historic resources.

The commission, upon its own initiative or upon the written request of any person or organization, may propose the designation of an historical resource in the city. Upon submittal of such a proposal to the director, the procedure to consider it shall include the following actions:

- (1) The applicant shall complete the application for the proposed designation on a form provided by the director, include all information required, and pay any required fee.
- (2) The director shall notify the property owner of record in an effort to obtain such owner's written consent prior to initiation of the proposed designation.
- (3) The commission shall review the proposed designation at a meeting pursuant to section 2-472 of this Code. Written notice of such meeting shall be sent to the property owner, at least ten days prior to the meeting date. The commission shall determine if the proposed resource meets the specified criteria for designation as an historic resource, as supported by substantial evidence in the record documenting the historic, architectural or other significance.
- (4) If the commission determines that the proposed designation does not merit approval, the applicant and property owner shall be notified of such determination and the process shall terminate, except that any person may appeal it to the city council within ten days of the commission's determination per the procedure provided in [section 106-77](#) of this Code.
- (5) If the commission determines that the proposed designation warrants approval, the director shall schedule the matter for consideration by the city council. However, if the proposed historic resource is privately owned, the director shall obtain prior to scheduling the matter for consideration by the city council a written statement by the property owner, or by those owners

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having an interest greater than 50 percent of the assessed value of the property, consenting to such designation, unless the director determines that there is good cause to schedule the matter for consideration by the council without such written consent. An owner or owner's successor in interest may thereafter provide such concurrence at any time by filing such a written statement with the director.

- (6) Subsequent to scheduling a proposed designation for consideration by the city council, the director shall provide a written report to the council incorporating the commission's recommendation and its reasons in support of the proposed designation. If the proposed historic resource is privately owned, such report shall include written documentation of the property owner's consent to the proposed designation if such consent has been obtained. Notice of the scheduled consideration of the matter by the city council shall be provided to the applicant and the property owner(s) at least ten days prior to such consideration.
- (7) A declaration shall be recorded by the city clerk in the office of the county recorder when the city council designates a historic resource, except that no such declaration shall be recorded on a private property without the written consent of the property owner(s) to designation of the property as a historic resource.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1387. Procedure for designating historic districts.

The commission, upon its own initiative or upon the request of any person or organization, may propose the designation of an historic district in the city. Such proposal shall specify proposed contiguous or non-contiguous areas to be included in the district and the guidelines and requirements that would apply to all properties within the district. Such proposal shall also include a survey of all properties within the district that assesses their historical significance. Upon submittal of such a proposal to the director, the procedure to consider it shall include the following actions:

- (1) The applicant shall complete the application for the proposed designation on a form provided by the director, include all information required, and pay any required fee.
- (2) The director shall notify the property owners within the proposed district in an effort to obtain such owners' written consent prior to initiation of the proposed designation.
- (3) The commission shall review the proposed designation at a meeting pursuant to section 2-472 of this Code. Written notice of such meeting shall be sent to the owners of property within the proposed district at least ten days prior to the meeting date. The commission shall determine if the proposed district meets the specified criteria for designation as an historic district, as supported by substantial evidence in the record, including testimony and documentation of historic, architectural or other significance.
- (4) If the commission determines that the proposed district does not merit approval, the owners of property within the proposed district shall be notified of such determination, and the process shall terminate; except that any person may appeal the commission's decision to the city council within ten days of the commission's determination per the procedure provided in [section 106-77](#) of this Code.
- (5) If the commission determines that the proposed district warrants approval, the director shall schedule the matter for consideration by the city council and submit a written report to the city council incorporating the commission's recommendation and its reasons in support of the proposed designation. Such report shall include written documentation of the property owners consenting to the proposed designation if such consent has been obtained. Notice of the

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scheduled consideration of the matter by the city council shall be provided to the applicant and to the owners of all property located within the proposed district at least ten days prior to such consideration.

- (6) Upon a determination by the commission that the proposed district merits approval, any alteration, restoration, construction, removal, relocation or demolition, in whole or in part, of a building or structure within the proposed historic district is prohibited, and no permit issued by any city department, board or commission, including, but not limited to, any entitlements authorizing any such alteration, restoration, construction, removal, relocation or demolition, shall be granted while consideration of the proposed designation of the proposed district by the city council, or any appeal related thereto, is pending.
- (7) Any person subject to subsection [106-1387\(6\)](#) of this Code may apply to the director, on appeal, for an exception. Exceptions may be granted for repairs or alterations which do not involve any detrimental change or modification to the exterior of the structure in question or for actions which are necessary to remedy emergency conditions determined by the director to be dangerous to life, health or property.
- (8) The owner of any property that is included in a proposed district may elect to exclude their property from inclusion into the proposed district by written request to the director prior to designation of the district.
- (9) If the city council determines that the proposed district is eligible for designation, but objection to such designation is made by 51 percent of the owners of property within the proposed district, the district shall not be designated and no declaration of designation shall be recorded. Otherwise, the city council may approve the historic district, which approval shall be evidenced by a resolution declaring designation and attached map identifying the district's boundary.
- (10) A declaration shall be recorded by the city clerk in the office of the county recorder when the city council designates a historic district.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1388. Criteria for designating a structure of merit.

For the purpose of this division, an improvement may be designated a structure of merit if the commission determines that it has one or more of the following characteristics:

- (1) The structure is included in the historic resources survey.
- (2) The structure was built at least 50 years prior to its consideration for such designation, and meets at least one of the following criteria:
 - a. The structure is a unique or rare example of an architectural design, detail, historical type, or the work of a notable architect, builder, or designer whose style influenced architectural development of the city, region, state, or nation;
 - b. The structure is representative of an architectural style in the city, region, state, or nation that is no longer prevalent;
 - c. The structure contributes to a potential historic district; or
 - d. The structure is identified with a person or persons or groups who significantly contributed to the culture and development of the city, region, state, or nation.

(Ord. No. 1583, § 4, 11-17-2008)

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Sec. 106-1389. Procedure for designating a structure of merit.

Structures of merit may be designated by the commission in accordance with the following procedure:

- (1) Any person may request the designation of an improvement as a structure of merit by properly filing with the director an application for such designation. Additionally, the commission may file an application for the designation of a structure of merit on its own motion. Within 30 days of filing an application, the property owner and tenants of the subject property shall be notified of the application filing.
- (2) Upon the proper filing of an application, the removal or demolition, in whole or in part, of a proposed structure of merit is prohibited. No permit shall be issued by any city department, board or commission including, but not limited to, any entitlements authorizing any such removal or demolition, while any action on the application or any appeal related thereto, is pending.
- (3) The director shall conduct an evaluation of the proposed designation and shall make a recommendation to the commission as to whether the structure merits such designation. The commission shall meet pursuant to section 2-72 of this Code within 60 days of filing of an application to determine whether the structure merits such designation.
- (4) The decision of the commission shall be in writing and shall state the findings of fact and such decision shall be filed with the director. Any person may appeal a decision or action of the commission to the city council within ten days of the commission's decision, per the procedure provided in [section 106-77](#) of this Code.
- (5) Upon designation of a structure of merit, as evidenced by a resolution of the commission or of the city council on appeal, the owner of the designated structure shall be given written notification of such designation by the director.
- (6) A declaration shall be recorded by the director in the office of the county recorder when the commission designates a structure of merit.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1390. Criteria for rescinding or amending a historic resource, historic district, or structure of merit designation.

The city council may consider rescinding or amending the designation of a historic resource, historic district, or structure of merit upon request by a majority of affected property owners, by a recommendation of the commission, or by motion of a majority of the city council. In rescinding the designation of a historic resource, historic district or structure of merit the city council shall determine that the historic resource, historic district, or structure of merit no longer meets the designation criteria due to any of the following findings of fact that:

- (1) Destruction of the historic resource or structure of merit through a catastrophic event has rendered the historic resource or structure of merit a hazard to the public health, safety or welfare;
- (2) The historic resource, historic district or structure of merit no longer conforms to any of the criteria identified in [section 106-1385](#) of this Code;
- (3) There is a clear and convincing evidence that the historic significance of the historic resource, historic district or structure of merit has diminished and is no longer significant; or

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- (4) The historic resource or structure of merit cannot be restored, rehabilitated, stabilized or renovated for any use permitted in the zone in which it is located without causing an economic hardship disproportionate to the historic value of the historic resource or structure of merit as substantiated by clear and convincing evidence. Proof of economic hardship shall require a showing that the cost of stabilization of the historic fabric of the property or properties exceeds the appraised value as determined by a qualified appraiser of the historic improvements on the site or in the district through a hardship waiver application. If the appraised value of the historic improvements on a historic site is less than 75 percent of the average value of similarly sized buildings within a 500-foot radius, the average appraised value of property improvements in the radius area shall be used. For properties where neighborhood standards are not comparable, standard real estate practice comparable worth studies shall be produced to justify the burden of stabilization as compared to property value. The city council shall consider the value of property tax incentives allowed by this division and other benefits as may be available for historic preservation or stabilization in determining if economic hardship exists to the extent that removal of the designation status of an historic resource is warranted.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1391. Procedure for rescinding or amending historic resource, historic district or structure of merit designation.

Upon the request of a majority of the affected property owners, or upon a recommendation of the commission, or by a motion of the majority of the city council, the procedure for city council consideration of a rescission or amendment of a historic resource or district designation shall include the following steps:

- (1) The applicant shall complete the application on a form provided by the director, include all information required, and pay any required fee.
- (2) The director shall notify the owner(s) of all affected property in an effort to obtain such owners' written consent prior to consideration of the proposed rescission or amendment of an historic resource, historic district or structure of merit designation.
- (3) The commission shall review the proposed rescission or amendment at a meeting pursuant to section 2-472 of this Code. Written notice of such meeting shall be sent to the owners of all affected property or district, and to all owners of property within 500 feet of the affected property, at least ten days prior to the meeting date. The commission shall determine if the proposed rescission or amendment meets the criteria for rescission of an historic resource, historic district or structure of merit designation as specified per [section 106-1388](#) of this Code, and as supported by substantial evidence in the record.
- (4) If the commission determines that the proposed rescission or amendment does not merit approval, the owners of all affected property shall be notified of such determination, and the process shall terminate; except that any person may appeal the commission's decision to the city council within ten days of the commission's determination per the procedure provided in [section 106-77](#) of this Code.
- (5) If the commission determines that the proposed rescission warrants approval, the director shall schedule the matter for consideration by the city council and submit a written report to city council incorporating the commission's recommendation and its reasons in support of the proposed rescission. Such report shall include written documentation of the property owners consenting to the proposed rescission if such consent has been obtained. Notice of the scheduled consideration of the matter by the city council shall be provided to the applicant, to

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the owners of all affected property, and to the owners of all property within 500 feet of any affected property or district at least ten (10) days prior to such consideration.

- (6) If the city council approves the proposed rescission or amendment, it shall make findings of fact and determinations in writing subject to the requirements of California Environmental Quality Act. The city clerk shall record the declaration in the office of the county recorder.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1392. Certificate of appropriateness and certificate of no effect.

- (a) Any person, owner or entity applying for a building permit or any other permit for exterior alteration, relocation or development of a structure designated as a historic resource or a contributing structure, and for interior alteration of a structure with a designated interior historic resource, shall apply for and obtain a certificate of appropriateness or a certificate of no effect. The applicant shall complete the application on a form provided by the director, include all information required, and pay any required fee.
- (b) The provisions for issuance of a certificate of appropriateness or a certificate of no effect shall not be construed to prevent ordinary maintenance or repair which does not change the design, materials, or architectural elements or site features of a historic resource. Selected activities are exempt from the review procedures, including interior remodeling (unless the interior of the structure is designated as a historic resource), exterior painting, and the repair of exterior walls with materials and finishes to match the existing walls.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1393. Criteria and procedure for issuance of a certificate of appropriateness.

- (a) The review and decision on the issuance of a certificate of appropriateness will be undertaken by the commission. The director shall review the application, deem it complete, and then schedule the item for consideration by the commission.
- (b) The director shall review the application using the Secretary's Standards and make a recommendation to the commission. In analyzing the project's conformance with the building code provisions, the state historical building code may be applied to the project.
- (c) The property which is the subject of review for a certificate of appropriateness shall be posted with a notice of such pending application at least ten days prior to the commission review. The posting shall consist of a sign that states "Notice of Pending Application" and include the nature of the request, the location of the property, and the time and place of the scheduled meeting. The location of the posting on the site, the number of postings, and the size of the posting shall be determined by the director.
- (d) At a scheduled meeting, the commission shall approve, deny, approve with conditions, or continue the application with specific direction for additional information needed to render a decision to approve or deny the application. Any person may appeal a decision or action of the commission to the city council within ten days of the commission's decision, per the procedure provided in [section 106-77](#) of this Code.
- (e) A certificate of appropriateness shall expire one year from the date of issuance unless work is started within that time. No changes shall be made to the approved plans after the issuance of a certificate of appropriateness without resubmittal to the director and determination of the necessary approval process for the proposed changes.

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(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1394. Process for revocation of certificate of appropriateness.

Revocation proceedings may be initiated upon a motion by the commission or city council. Once revocation proceedings have been initiated, all work being done in reliance upon such certificate or associated permits shall be immediately suspended until a final determination is made regarding the revocation. The decision to revoke a certificate of appropriateness shall be made by the commission at a meeting pursuant to section 2-72 of this Code. A certificate of appropriateness may be revoked or modified for any of the following reasons:

- (1) Noncompliance with any terms or conditions of the certificate of appropriateness;
- (2) Noncompliance with any provisions of this division; or
- (3) A finding of fraud or misrepresentation used in the process of obtaining the certificate.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1395. Criteria and procedure for issuance of a certificate of no effect.

- (a) The director shall issue a certificate of no effect only after all of the following findings of fact are made in a positive manner:
 - (1) It is determined that the work is minor and clearly meets the applicable city design guidelines;
 - (2) Modifications to the proposed work requested by the city are agreed to by the applicant;
 - (3) The proposed work will not diminish, eliminate or adversely affect the character of the historic resource.
- (b) No changes shall be made to the approved plans for which a certificate of no effect was issued without resubmitting to the director for approval of the changes.
- (c) If the director determines that the proposed work is not eligible for a certificate of no effect, then the applicant must apply for and obtain a certificate of appropriateness.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1396. Hardship waiver.

- (a) *Purpose.* The purpose of this section is to address circumstances in which the applicant for a proposed project to alter or demolish, in whole or in part, a historic resource, contributing structure, or structure of merit, asserts that full compliance with all of the requirements of this division would create an undue economic hardship, or is infeasible for other specific reasons. Under such circumstances, a project feasibility assessment shall be required to determine the nature and extent of the economic or other hardship, and to assess the impact of the proposed project on the community's historic resources. A hardship waiver of specified requirements of this division for the proposed project may be approved subject to the standards and procedures in this section.
- (b) *Criteria for approval of a hardship waiver.*
 - (1) For an income producing property that is an historic resource, contributing structure, or structure of merit, the basis for approval of a hardship waiver exempting a project to alter or demolish the property, in whole or in part, from full compliance with the requirements of this division shall be

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that a reasonable rate of return cannot be obtained from the property if altered in a manner consistent with the requirements of this division, or in its present condition, and that the proposed project will not have a significant adverse impact on the community's historic resources.

- (2) For a non-income producing property that is an historic resource, contributing structure, or structure of merit, the basis for approval of a hardship waiver exempting a project to alter or demolish the property, in whole or in part, from full compliance with the requirements of this division shall be that the property no longer provides beneficial public, private or institutional benefit to the community, and that that the proposed project will not have a significant adverse impact on the community's historic resources. Non-income producing properties shall consist of owner-occupied dwellings or properties owned by institutional, non-profit organizations, or public entities.
 - (3) The following circumstances shall not be considered as contributing to the basis for approval of a hardship waiver:
 - a. Willful or negligent acts by the property owners or managers;
 - b. Purchase of the property for substantially more than market value;
 - c. Failure to perform ordinary maintenance and repairs;
 - d. Failure to diligently solicit and retain tenants;
 - e. Failure to provide normal tenant improvements; or
 - f. Failure to accept an offer of purchase of the property at fair market value from a party willing to dedicate a conservation easement for the preservation of the property.
- (c) *Procedures for approval of a hardship waiver.*
- (1) *Application:* The applicant shall complete the application provided by the director, include all information required, and pay any required fee. The property owner seeking a project approval under a hardship waiver must provide information as necessary to support the application for a hardship determination. The director shall maintain a written policy statement identifying the types of submittal materials required for the consideration of a hardship waiver. Different submittal materials may be required depending upon the property's use and circumstances. Necessary studies, evaluations and the compilation of information as required by the director shall be provided at the waiver applicant's expense.
 - (2) *Review process:* Upon receiving an application for a hardship waiver, the director shall provide a written response describing the submittal materials required to consider the request pursuant to the following procedure:
 - a. Upon receipt of an application and required submittal materials, the director shall determine its completeness. If the director determines that the application is not complete, the applicant will be notified in writing as to the deficiencies. The director will take no further steps to process the application until the deficiencies have been remedied.
 - b. Upon receipt of a completed application, the director shall conduct an evaluation of the proposed designation and shall make a recommendation to the commission as to whether a hardship waiver is justified for the proposed project. The commission shall meet pursuant to section 2-72 of this Code to consider whether a hardship waiver is justified for the proposed project. If the proposed project is to demolish, in whole or in part, a historic resource, contributing structure, or structure of merit, all property owners within 500 feet of the project location shall be notified at least ten days prior to the meeting.

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- c. If the commission determines that a hardship waiver is not justified for the proposed project, the project applicant and all owners of the subject property shall be notified of such determination, and the process shall terminate; except that any person may appeal the commission's decision to the city council within ten days of the commission's determination, per the procedure provided in [section 106-77](#) of this Code.
- d. If the commission determines that a hardship waiver for the proposed project is justified, or justified with conditions, the director shall schedule the matter for consideration by the city council and submit a written report to the city council incorporating the commission's recommendation and its reasons in support of the proposed hardship waiver. If the proposed project is to demolish, in whole or in part, a historic resource, contributing structure or structure of merit, all property owners within 500 feet of the project location shall be notified at least ten days prior to the meeting.
- e. If the city council approves, or approves with conditions, a hardship waiver for a proposed project, it shall make findings of fact and determinations in writing subject to the requirements of the California Environmental Quality Act.
- f. If a hardship waiver is approved for a project to demolish, in whole or in part, a historic resource, contributing structure, or structure of merit, the project applicant may be required to take measures including, but not limited to, the following prior to any demolition:
 - 1. Document the site, structures, buildings or objects that are to be demolished, using the Historic American Buildings Survey and/or the Historic American Engineering Record standards when determined to be applicable by the director; and
 - 2. Salvage building materials, architectural elements or other features deemed valuable for other preservation or restoration activities within the city.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1397. Ordinary maintenance and repair of a historic resource, contributing structure, or structure of merit.

Nothing in this chapter shall be construed to prevent:

- (1) The ordinary maintenance and repair of any exterior architectural feature of a historic resource, contributing structure, or structure of merit that does not involve a change in design, alteration or appearance thereof; or
- (2) The repair of an unsafe or dangerous condition pursuant to [section 106-1398](#) of this Code. Every historic resource and contributing structure shall be maintained in good repair by the owner in order to preserve it against decay and deterioration to the extent practicable.
- (3) An environmental assessment pursuant to the California Environmental Quality Act.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1398. Unsafe or dangerous conditions.

Notwithstanding any other provision of this chapter, the director may authorize permits to alter, restore, construct, demolish, relocate, remove or significantly alter an historic resource, a contributing structure, or a structure of merit for the purpose of remedying emergency conditions determined to be

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dangerous to life, health or property. In such cases, no certificate of appropriateness from the commission shall be required.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1399. Construction-based incentives.

In addition to any other incentive of federal or state law, owners of properties designated as historic resources may apply to the director for the following:

- (1) *Building permit fee waiver.* Building permit fees (excluding fees covering structural plan check, school fees and associated costs) shall be waived for construction work that is determined by the director to preserve or enhance the historical features of a building that is designated as a historic resource.
- (2) *State Historical Building Code.* Whenever applicable, the property owner may elect to use the State Historical Building Code for alteration, restoration, new construction, removal, relocation, or demolition of a historic resource, in any case which the building official determines that such use of the code does not endanger the public health or safety, and such action is necessary for the continued preservation of an historic resource. Such use of the code is subject to construction work undertaken for historical resources pursuant to the secretary's standards, and that has already been reviewed and approved by the commission and/or city council in conjunction with a certificate of appropriateness.
- (3) *Parking reduction for historic resources.* Addition of floor area to a residential building designated as an historic resource of up to 25 percent shall be exempt from the requirements of subsection [106-822\(a\)](#) of this Code if such addition is determined by the director to preserve or enhance the historical features of the structure.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1400. Financial incentive.

In addition to any other incentive of federal or state law, owners of properties designated as historic resources or contributing structures may apply to the director for a Mills Act contract.

- (1) *Mills Act Contract Application.* All applications shall be filed with the director. The applicant is encouraged to confer with the director prior to application submittal. All applications shall include all of the following:
 - a. A copy of an updated title report for the property;
 - b. A rehabilitation plan which lists the work to be completed within the ten year contract period, including cost estimates and the year in which the work will be completed;
 - c. A financial analysis form showing current property taxes and estimated taxes for the property under a Mills Act contract; and
 - d. Required fees, as set by city council resolution.
- (2) *Mills Act Contract Requirements.* Mills Act contracts shall comply with the provisions listed in section 50281 of the California Government Code, which includes, but is not limited to, the following contract terms:
 - a. The term of the contract shall be for a minimum of ten years.

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- b. The owner shall comply with the Secretary's Standards and the State Historic Building Code for preserving, rehabilitating, restoring and reconstructing historic structures.
 - c. The owner shall agree to periodic inspections to determine the owner's compliance with the contract.
 - d. The contract shall be binding upon, and inure to the benefit of, all successors in interest of the owner.
 - e. The director shall provide written notice of the contract to the office of historic preservation within 180 days of entering into the contract.
- (3) *Mills Act Contract Procedure.*
- a. The director shall determine the completeness of an application within 30 days of receipt. Once an application is deemed complete, the director shall seek a recommendation by the commission.
 - b. The commission shall make a recommendation in writing and transmit such to the city council, the property owner(s), and the applicant.
 - c. The city council, within 60 days of receipt of the recommendation from the commission, shall approve or deny the application and shall notify the applicant of the city council's decision within ten days.
- (4) *Mills Act Contract Non-Renewal.* A Mills Act contract shall be a minimum ten (10) year contract that automatically renews annually. Either party may file a request for non-renewal by written notice.
- (5) *Mills Act Contract Cancellation.* A Mills Act contract may be cancelled or modified if due to:
- a. Owner's written request to the director at any time;
 - b. Noncompliance with any terms or conditions of the contract;
 - c. Noncompliance with any provision of division; or
 - d. A finding of misrepresentation or fraud used in the process of obtaining the contract.
- (6) *Mills Act Contract Cancellation Procedure.* Cancellation proceedings may be initiated by any member of the commission.
- a. Once cancellation proceedings have been initiated, the commission shall make a recommendation to the city council and the property owner.
 - b. The city council, within 90 days of initiation of the proceedings, shall cancel or continue the contract.
 - c. The property owner shall be notified of the city council's decision within ten days of a determination on the contract.
- (7) *Mills Act Contract Cancellation Fee.* If a Mills Act contract is cancelled, a cancellation fee equal to 12.5 percent of the current assessed fair market value of the property, as determined by the county assessor as though the property were free of the contractual restriction, shall be paid to the county auditor, pursuant to California Government Code Section 50286 et seq.

(Ord. No. 1583, § 4, 11-17-2008)

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Sec. 106-1401. Conservation easements.

Conservation easements for historic resources may be acquired by the city or by a third party through purchase, donation or condemnation. A conservation easement would include any recorded easement, restriction, covenant or condition designed to preserve or maintain the significant features of such historic resource.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1402. Redevelopment project areas.

The provisions of a disposition and development agreement or owner participation agreement, approved and entered into by the redevelopment agency, may supersede the provisions of this division, exclusive of any environmental review pursuant to the requirements of the California Environmental Quality Act.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1403. CEQA time extensions.

Any time periods set forth in this division may be extended by the director as necessary to comply with the requirements of the California Environmental Quality Act.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1404. Structure demolitions and relocations.

- (a) *Designated structures.* A structure designated as an historic resource, contributing structure, or structure of merit shall not be demolished or relocated unless the city council, pursuant to the procedure for approval of a hardship waiver, and subsequent to a recommendation by the commission, makes one or more of the following findings of fact at a public hearing:
- (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, and the costs of rehabilitation to meet the requirements of the building code or other city, state or federal law.
 - (2) That the demolition or relocation of the structure is necessary to proceed with a project consistent with and supportive of identified goals and objectives of the general plan, and the demolition of the structure will not have a significant effect on the achievement of the purposes of this division 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 structure may be moved without destroying its historic or architectural integrity and importance.
 - (4) That the demolition or relocation of the historic resource is necessary to protect or to promote the health, safety or welfare of the citizens of the city, including the need to eliminate or avoid blight or nuisance.
- (b) *Undesignated structures.* Prior to the issuance of a permit pursuant to [section 18-31](#) in article II of [chapter 18](#) of this Code for the demolition or relocation of any structure that is not designated as a historic resource, contributing structure, or structure of merit, the director within 30 days of receipt of a permit request to demolish or relocate such a structure shall determine whether the structure has

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potential for designation as an historic resource based on the criteria for such designation in this division. If the director determines that such potential exists, the structure shall not be demolished or relocated unless and until an environmental assessment is completed pursuant to the provisions of the California Environmental Quality Act. This will entail the preparation of an Initial Study to determine whether an environmental impact report or a negative declaration must be prepared by the city in conjunction with any such demolition. The cost of conducting this environmental assessment shall be borne entirely by the applicant for the demolition permit. If an environmental impact report is completed and it documents that demolition of the structure would have a significant effect on the environment, the structure shall not be demolished or relocated unless the city council, pursuant to the procedure for approval of a hardship waiver, and subsequent to a recommendation by the commission, makes one or more of the following findings of fact at a public hearing:

- (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, and the costs of rehabilitation to meet the requirements of the building code or other city, state or federal law;
 - (2) That the demolition or relocation of the structure is necessary to proceed with a project consistent with and supportive of identified goals and objectives of the general plan, and the demolition of the structure will not have a significant effect on the achievement of the purposes of this division 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 structure may be moved without destroying its historic or architectural integrity and importance; or,
 - (4) That the demolition or relocation of the structure is necessary to protect or to promote the health, safety or welfare of the citizens of the city, including the need to eliminate or avoid blight or nuisance.
- (c) Demolition by neglect of an historic resource, contributing structure, or structure of merit is prohibited.
- (d) Demolition or relocation of any structure in violation of this section may be subject to criminal prosecution by the city.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1405. Decisions and general findings.

The commission shall not approve applications or proposed designations submitted pursuant to the provisions of this division unless the commission makes one or more of the following findings concerning the proposed application, as it may have been conditioned or modified:

- (1) The project is consistent with the secretary's standards and the purposes of this division.
- (2) The project is not consistent with the secretary's standards due to economic hardship or economic infeasibility that has been proven by the project applicant, but the project is generally consistent with, and supportive of, the goals and policies of the general plan and the purposes of this division.
- (3) The project is not consistent with the secretary's standards, but it is consistent with and supportive of identified goals and objectives of the general plan; and the project is either generally consistent with, and supportive of, the purposes of this division, or if not, the benefits of the project and furthering the identified goals and policies of the general plan justify the project's inconsistency with any purpose of this division.

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(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1406. Appeals.

Any person aggrieved by any determination, interpretation, decision, judgment or similar action taken by the director under this division may appeal such action to the commission. Any person aggrieved in a similar manner by any action taken by the commission may appeal such action to the city council. The city council by a majority vote may initiate an appeal to the city council of any action taken by the commission. Otherwise, any appeals made pursuant to this section shall be filed per the procedure provided in [section 106-77](#) of this Code.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1407. Fees.

The city council shall by resolution prescribe fees for all applications, reviews and appeals authorized by this division.

(Ord. No. 1583, § 4, 11-17-2008)

Sec. 106-1408. Enforcement.

A violation of any provision of this division is expressly prohibited and is punishable pursuant to [section 1-53](#) of this Code.

(Ord. No. 1583, § 4, 11-17-2008)