

historic preservation ordinance



DECEMBER 7, 2010

Municipal Code Chapter 14.01 Historic Preservation Ordinance

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14.01.010 Findings and Purpose.

A. Findings.

1. The City of San Luis Obispo has a distinctive physical character and rich history that are reflected in its many cultural resources, such as historic structures and sites. These irreplaceable resources are important to the community’s economic vitality, quality of life, and sense of place, and need protection from deterioration, damage, and inappropriate alteration or demolition.

2. The City of San Luis Obispo has been fortunate to have owners who care about the history of their community and have undertaken the costly and time-consuming task of restoring, maintaining and enhancing their historic homes and commercial buildings. Their efforts have enhanced the distinctive character and sense of place of the community.

3. The California Environmental Quality Act requires special treatment of historic resources and the establishment of clear local guidance for the identification and preservation of such resources lends clarity and certainty to the review of development applications involving historic resources. See Section 3.1.4 of the Historic Preservation Program Guidelines.

B. Purpose. The broad purpose of this ordinance is to promote the public health, safety and welfare through the identification, protection, enhancement and preservation of those properties, structures, sites, artifacts and other cultural resources that represent distinctive elements of San Luis Obispo's cultural, educational, social, economic, political and architectural history. Specifically, this ordinance sets forth regulations and procedures to:

1. Identify, protect, preserve, and promote the continuing use and upkeep of San Luis Obispo's historic structures, sites and districts.
2. Foster the retention and restoration of historic buildings and other cultural resources that promote tourism, economic vitality, sense of place, and diversity.
3. Encourage private stewardship of historic buildings and other cultural resources through incentives where possible.
4. Implement the historic preservation goals and policies of the Conservation and Open Space Element of the General Plan.
5. Promote the conservation of valuable material and embodied energy in historic structures through their continued use, restoration and repair, and on-going maintenance of historic resources.
6. Promote the knowledge, understanding and appreciation of the City's distinctive character, cultural resources, and history.
7. Establish the procedures and significance criteria to be applied when evaluating development project effects on historic resources.
8. Fulfill the City's responsibilities as a Certified Local Government under State and Federal regulations and for Federal Section 106 reviews.
9. Establish the policy of the City to pursue all reasonable alternatives to achieve compliance with the Ordinance for the protection of historic resources prior to initiating penalty proceedings as set forth in Section 14.01.140 of this Ordinance.

14.01.020 Definitions. For the purposes of this ordinance, certain terms, words and their derivatives are used as follows:

1. Accessory Structure: a structure which is subordinate or incidental and directly related to a permitted use or structure on the same parcel. "Accessory structures" that include habitable space, as defined by the California Building Code, shall be no larger than 450 square feet. (Ord. 941-1(part), 1982: prior code – 9204.11 (part)) "Accessory structures" are located on the same parcel and are related to the primary structure but are subordinate or incidental, but may include

structures that have achieved historic significance in their own right, as determined by the Director, Committee or Council. (see “primary structure”).

2. Adjacent: located on property which abuts the subject property on at least one point of the property line, on the same property, or located on property directly across right-of-way from subject property and able to viewed concurrently.

3. Adverse Effects: effects, impacts or actions that are detrimental or potentially detrimental to a historic resource’s condition, architectural or historical integrity.

4. Alteration: change, repair, replacement, remodel, modification, or new construction to: (1) the exterior of an historic resource or adjacent building, (2) the structural elements which support the exterior walls, roof, or exterior elements of the historic resource or adjacent building, (3) other construction on a lot, or (4) character defining features of the interior of a historic resource if the structure’s significance is wholly or partially based on interior features and the resource is publicly-accessible. “Alteration” does not include ordinary landscape maintenance, unless the landscaping is identified as significant at the time a property is listed. “Alteration” also does not include ordinary property maintenance or repair that is exempt from a building permit, or is consistent with the Secretary of the Interior Standards for Treatment of Historic Properties.

5. Archaeological Site: those areas where archaeological resources are present and may be larger or smaller than the project site. An archaeological site may include prehistoric Native American archaeological site, Historic archaeological sites; sites or natural landscapes associated with important human events; and Native American Sacred Places and Cultural landscapes.

6. ARC: the Architectural Review Commission as appointed by the City Council.

7. California Register: California Register of Historical Resources defined in California PRC 5024.1 and in CCR Title 14 Chap 11.5, Sec 4850 et seq. as it may be amended.

8. CHC: the Cultural Heritage Committee as appointed by the City Council.

9. Character Defining Features: as outlined in the U.S. Department of the Interior’s National Register Bulletin 15 and Preservation Brief 17: “How to Identify Character Defining Features”, the architectural character and general composition of a resource, including, but not limited to, type and texture of building material; type, design, and character of all windows, doors, stairs, porches, railings, molding and other appurtenant elements; and fenestration, ornamental detailing, elements of craftsmanship, finishes, etc.

10. City: the City of San Luis Obispo.

11. Community Design Guidelines: the most recent version of the City’s Community Design Guidelines as adopted and amended from time to time.

12. Contributing List Resource or Property: a designation that may be applied to buildings or other resources at least 50 years old that maintain their original or attained historic and architectural character, and contribute either by themselves or in conjunction with other structures to the unique or historic character of a neighborhood, district, or to the City as a whole. They need not be located in a historic district. In some cases, buildings or other resources that are less than 50 years old, but are nonetheless significant based on architecture, craftsmanship or other criteria as described herein may be designated as a Contributing List resource.

13. Council: the Council of the City of San Luis Obispo.

14. Cultural Resource: any prehistoric or historic district, site, landscape, building, structure, or object included in, or potentially eligible for local, State or National historic designation, including artifacts, records, and material remains related to such a property or resource.

15. Demolition: for the purpose of this ordinance, “demolition” refers to any act or failure to act that destroys, removes, or relocates, in whole or part a historical resource such that its historic or architectural character and significance are materially altered.

16. Deterioration: the significant worsening of a structure’s condition, architectural or historic integrity, due to lack of maintenance, organisms, neglect, weathering and other natural forces.

17. Director: the Director of the Community Development Department, or another person authorized by the Director to act on his or her behalf.

18. Feasible: capable of being accomplished in a successful manner within a reasonable period of time, taking into account cultural, economic, environmental, historic, legal, social and technological factors. Structural feasibility means that a building or other structure can be repaired or rehabilitated so as to be safe and usable without significant loss of historic fabric. Factors to be considered when making this determination include the existence of technology that will allow the design of the work and the ability to repair, supplement or replace load-bearing members and the thermal and moisture protection systems required for continued use of the structure; and the physical capacity of the structure to withstand the repair and/or rehabilitation process without the danger of further damage.

19. Historic Building Code: the most recent version of the California Historical Building Code, Title 25, Part, 8, as defined in Sections 18950 to 18961 of Division 12, Part 2.7 of Health and Safety Code (H&SC), a part of California State law.

20. Historic Context: Historic context are those patterns, themes or trends in history by which a specific occurrence, property, or site is understood and its meaning and significance is made clear.

21. Historic District/Historical Preservation District: areas or neighborhoods with a collection or concentration of listed or potentially contributing historic properties or archaeologically significant sites, where historic properties help define the area or neighborhood’s unique

architectural, cultural, and historic character or sense of place. Historic districts are delineated on the official zoning map as Historic (H) overlay zone under San Luis Obispo Municipal Code Chapter 17.54.

22. Historic Preservation Program Guidelines: the most recent version of the Historic Preservation Program Guidelines, as adopted and amended from time to time.

23. Historic Preservation Report: a document which describes preservation, rehabilitation, restoration, or reconstruction measures for a historic resource, based on the Secretary of the Interior's Standards for Treatment of Historic Properties, and which includes standards and guidelines for recommended treatments for preserving the resource.

24. Historic Property: a property, including land and buildings, which possesses aesthetic, architectural, cultural, historic or scientific significance, and which is included in, or potentially eligible for local, State or National historic designation.

25. Historic Resource: any building, site, improvement, area or object of aesthetic, architectural, cultural, historic or scientific significance, and which is included in, or potentially eligible for local, State or National historic designation.

26. Historic Status: historic designation of a listed resource or property as approved by Council.

27. Improvement: any building, structure, fence, gate, landscaping, hardscaping, wall, work of art, or other object constituting a physical feature of real property or any part of such feature.

28. Inappropriate Alteration: alterations to historic resources which are inconsistent with these provisions and/or the Historic Preservation Program Guidelines.

29. Integrity, Architectural or Historical: the ability of a property, structure, site, building, improvement or natural feature to convey its identity and authenticity, including but not limited to its original location, period(s) of construction, setting, scale, design, materials, detailing, workmanship, uses and association.

30. Inventory of Historic Resources: the list of historically designated resources and properties consisting of Master List and Contributing Properties List of Historic Resources, and any properties, objects, sites, gardens, sacred places and resources subsequently added to the inventory as determined to meet criteria outlined herein and approved by the City Council.

31. Listed Resource: properties and resources included in the Inventory of Historic Resources.

32. Massing: the spatial relationships, arrangement and organization of a building's physical bulk or volume.

33. Master List Resource: designation which may be applied to the most unique and important historic properties and resources in terms of age, architectural or historical significance, rarity, or association with important persons or events in the City's past meeting criteria outlined herein.

34. Minor Alteration. Any structural or exterior change to a historic resource which the Director determines to be consistent with the Historic Preservation Program Guidelines, Secretary of the Interior Standards for Treatment of Historic Properties and other applicable standards.

35. Modern Contributing Resources: designation which may be applied to properties and resources which are less than 50 years old, but which exemplify or include significant works of architecture or craftsmanship or are associated with a person or event significant to the City's history.

36. National Register of Historic Places: the official inventory of districts, sites, buildings, structures, and objects significant in American history, architecture, engineering, archaeology and culture which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

37. Neglect: the lack of maintenance, repair or protection of a listed property, resource, site or structure, which results in significant deterioration, as determined by the Director or City Council based on visual and physical evidence.

38. Non-Contributing Resource: designation which may be applied to properties and resources in historic districts which are typically less than 50 years old and do not support the prevailing historic character of the district or other listing criteria as outlined herein.

39. Preservation: the act or process of applying measures necessary to sustain a historic site, building or other structure's historically significant existing form, integrity, and materials through stabilization, repair and maintenance.

40. Property Owner: the person or entity (public or private) holding fee title interest or legal custody and control of a property.

41. Primary Structure: the most important building or other structural feature on a parcel in terms of size, scale, architectural or historical significance, as determined by the Committee.

42. Qualified Professional: an individual meeting the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61 Appendix A) in history, architectural history, historic architecture and other designated categories, or an individual determined by the CHC to have the qualifications generally equivalent to the above standards based on demonstrated experience.

43. Reconstruction: the act or process of recreating the features, form and detailing of a non-surviving building or portion of building, structure, object, landscape, or site for the purpose of replicating its appearance at a specific period of time and in its historic location.

44. Rehabilitation: the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its architectural, cultural, or historic values.

45. Relocation: removal of a resource from its original site and its re-establishment in essentially the same form, appearance and architectural detailing at another location.

46. Responsible party: any person, business, corporation or entity, and the parent or legal guardian of any person under the age of eighteen (18) years, who has committed, permitted, directed or controlled any act constituting a violation of this ordinance.

47. Restoration the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

48. Scale: the proportions of architectural design that relate to human size or other relative size measure.

49. Secretary of the Interior's Standards: the Secretary of the Interior's Standards for the Treatment of Historic Properties as published by the U.S. Department of the Interior and as amended from time to time.

50. Setting: the physical area, environment or neighborhood in which a resource is located.

51. Sensitive Site: a site determined by the Community Development Director, Planning Commission, Architectural Review Commission or Council, upon recommendation of the Cultural Heritage Committee, to have special characteristics, constraints or community value such as: historic significance, historic context, creek side location or visual prominence, requiring more detailed development review than would otherwise be required for other similarly zoned lots.

52. Site: as used in this ordinance, the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

53. Siting: the placement of structures and improvements on a property or site.

54. Stabilization: the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

55. Statement of Historic Significance: An explanation of why a resource is important within its historic context. It explains how the resource meets the eligibility criteria and integrity thresholds as established by local, state or federal government.

56. Structure: as used here, “structure” includes anything assembled or constructed on the ground, or attached to anything with a foundation on the ground, including walls, fences, buildings, signs, bridges, monuments, and similar features.

57. Survey: a systematic process for identifying and evaluating a community’s historic resources using established criteria. “Survey” may also refer to the documentation resulting from a survey project.

58. Threatened Resource: properties or resources at risk of loss of architectural, cultural or historic value due to physical alteration, relocation or demolition.

59. Zoning Code: Title 17 of the City’s Municipal Code, as amended from time to time.

14.01.030 Cultural Heritage Committee (CHC).

A. Committee membership and terms.

The City shall have a Cultural Heritage Committee (the “CHC” or “Committee”), consisting of seven members who shall be appointed by the City Council (“Council”) for terms of up to four years, which shall commence immediately upon appointment by the Council consistent with Resolutions 6157 (1987 Series) and 6593 (1989 Series), and CHC Bylaws or as subsequently amended. The CHC shall function within the guidelines and policies of the *Advisory Body Handbook* and perform other duties as assigned by Council.

B. Duties.

The CHC shall make recommendations to decision-making bodies on the following:

1. Historic and Archaeological Resource Preservation Program guidelines that implement this ordinance and provide guidance to persons planning development projects subject to Cultural Heritage Committee review, and for City and property owner decisions regarding cultural resources in San Luis Obispo. Once adopted by the City Council, a record copy of the guidelines shall be maintained in the office of the City Clerk and in the Community Development Department. Copies shall be available on the City’s website and printed versions will be available at cost.

2. Properties for inclusion on the City’s List of Historic Resources - those properties, areas, sites, buildings, structures or other features having significant historical, cultural, architectural, community, scientific or aesthetic value to the citizens of San Luis Obispo.

3. The Master and Contributing Properties Lists of Historic Resources, and Historic Property and Archaeological Site Inventories.
4. Actions subject to discretionary City review and approval that may affect significant archaeological, cultural or historic resources.
5. The application of architectural, historic, and cultural preservation standards and guidelines to projects and approvals involving historic sites, districts, and structures.
6. Consolidation of information about cultural resources and promotion, participation in, or sponsorship of educational and interpretive programs that foster public awareness and appreciation of cultural resources.
7. Alterations related to development or demolition applications involving listed resources and properties within historic preservation districts.
8. Incentive programs approved by the Council that are directed at preserving and maintaining cultural resources.
9. Information for property owners preparing local, state and federal historic nominations to utilize preservation incentives, including the Mills Act and federal tax incentives, such as rehabilitation tax credits.

C. Actions Subject to Cultural Heritage Committee Review.

The Committee shall review and make recommendations to the Director, Architectural Review Commission, Planning Commission or City Council on applications and development review projects which include any of the following:

1. Changes to the Inventory of Historic Resources.
2. Changes to historic districts and applications to establish new historic districts.
3. Statements of historic significance and historic inventories for existing and proposed historic districts.
4. New construction, additions or alterations located in historic districts, or on historically listed properties, or sensitive archaeological sites.
5. Applications to demolish or relocate listed historic resources or structures.
6. Referrals to the Committee by the Community Development Director (“Director”), Architectural Review Commission, Planning Commission, or Council.

7. Proposed actions of public agencies that may affect historic or cultural resources within the City.

14.01.040 Community Development Director Role

The CHC is assisted by staff of the Community Development Department. The Community Development Director (“Director”) is responsible for interpreting and implementing this ordinance and helping the CHC carry out its duties. Notwithstanding Section 14.01.030C 1-5 and 7 of this ordinance, the Director may determine that CHC review is not required for actions or projects that: 1) do not adversely affect historic resources, or 2) are consistent with this ordinance, the Secretary of the Interior’s Standards and the Historic Preservation Program Guidelines and no public purpose would be served by requiring CHC review.

14.01.050 Historic Resource Designation

The following classifications shall be used to designate historic resources and properties. The primary categories of historic significance are “Master List” and “Contributing” properties. Contributing properties include those properties that by virtue of their age, design and appearance, contribute to and embody the historic character of the neighborhood or historic district in which they are located.

A. Master List Resources. The most unique and important resources and properties in terms of age, architectural or historical significance, rarity, or association with important persons or events in the City’s past, which meet one or more of the criteria outlined in Section 14.01.070.

B. Contributing List Resources or Properties. Buildings or other resources at least 50 years old that maintain their original or attained historic and architectural character, and contribute, either by themselves or in conjunction with other structures, to the unique or historic character of a neighborhood, district, or to the City as a whole. They need not be located in a historic district. In some cases, buildings or other resources that are less than 50 years old, but are nonetheless significant based on architecture, craftsmanship or other criteria as described in Section 14.01.070 may be designated as a Contributing Resource.

C. Non-Contributing. Buildings, properties and other features in historic districts which are less than 50 years old, have not retained their original architectural character, or which do not support the prevailing historic character of the district.

14.01.055 Historic Gardens, Site Features, Signs, and Other Cultural Resources

A. Historic Site and landscape features. Historic gardens, site features and improvements, accessory structures, signs, Native American Sacred Places, cultural landscapes and areas or objects of archaeological, architectural, cultural or historic significance not part of a designated

property may be added to the Inventory of Historic Resources through CHC review and Council approval as specified herein.

B. Cultural Resources on public property. Cultural and historic features on public property, such as Bishop’s Peak granite walls and curbing, sidewalk embossing, ornamental manhole covers and hitching posts, may be added to the Inventory of Historic Resources through CHC review and Council approval as specified herein.

C. Sign. A sign which contributes to the unique architectural or historic character of a building, site or historic district may be designated as a historic sign. Signs that meet at least one of the following criteria may be designated historic:

- (1)The sign is exemplary of technology, craftsmanship or design of the period when it was constructed, uses historic sign materials and means of illumination, and is not significantly altered from its historic period. Historic sign materials shall include metal or wood facings, or paint directly on the façade of a building. Historic means of illumination shall include incandescent light fixtures or neon tubing on the exterior of the sign. If the sign has been altered, it must be restorable to its historic function and appearance.
- (2)The sign is well integrated with the site and/or architecture of the building.
- (3)A sign not meeting either criterion may be considered for inclusion in the inventory if it demonstrates extraordinary aesthetic quality, creativity, or innovation.

14.01.060 Listing Procedures for Historic Resources

A. Application for historic listing. The property owner may request that a resource to be added to the Master or Contributing List of Historic resources by submitting a completed application to the Community Development Department (“Department”), accompanied by all available information documenting the historic significance and architectural character of the resource. The CHC, ARC, Planning Commission may also recommend, or City Council may directly request, the addition of a resource to the Master or Contributing List of Historic Resources.

B. Review process. The CHC shall review all applications for historic listing, whether initiated by the City or a property owner, to determine if a property proposed for listing meets eligibility criteria for historic listing. The CHC will review the eligibility criteria for a proposed listing at a noticed public hearing. The Director shall provide notification to the property owner and public, as required by City standards. At the public hearing, or in no case more than 60 days from the hearing date, the CHC shall forward a recommendation on the application to the City Council. The City Council will take an action on the application to add or not add the resource to the Master or Contributing List of Historic Resources. The decision of the City Council is final.

C. Removal from historic listing. It is the general intention of the City not to remove a property from historic listing. Council may, however, rezone a property to remove Historic Overlay

Zoning, or remove the property from historic listing if the structure on the property no longer meets eligibility criteria for listing, following the process for listing set forth herein.

14.01.070. Evaluation Criteria for Historic Resource Listing

When determining if a property should be designated as a listed Historic or Cultural Resource, the CHC and City Council shall consider this ordinance and State Historic Preservation Office (“SHPO”) standards. In order to be eligible for designation, the resource shall exhibit a high level of historic integrity, be at least fifty (50) years old (less than 50 if it can be demonstrated that enough time has passed to understand its historical importance) and satisfy at least one of the following criteria:

A. Architectural Criteria: Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, or possesses high artistic values.

(1) **Style:** Describes the form of a building, such as size, structural shape and details within that form (e.g. arrangement of windows and doors, ornamentation, etc.). Building style will be evaluated as a measure of:

- a. The relative purity of a traditional style;
- b. Rarity of existence at any time in the locale; and/or current rarity although the structure reflects a once popular style;
- c. Traditional, vernacular and/or eclectic influences that represent a particular social milieu and period of the community; and/or the uniqueness of hybrid styles and how these styles are put together.

(2) **Design:** Describes the architectural concept of a structure and the quality of artistic merit and craftsmanship of the individual parts. Reflects how well a particular style or combination of styles are expressed through compatibility and detailing of elements. Also, suggests degree to which the designer (e.g., carpenter-builder) accurately interpreted and conveyed the style(s). Building design will be evaluated as a measure of:

- a. Notable attractiveness with aesthetic appeal because of its artistic merit, details and craftsmanship (even if not necessarily unique);
- b. An expression of interesting details and eclecticism among carpenter-builders, although the craftsmanship and artistic quality may not be superior.

(3) **Architect:** Describes the professional (an individual or firm) directly responsible for the building design and plans of the structure. The architect will be evaluated as a reference to:

a. A notable architect (e.g., Wright, Morgan), including architects who made significant contributions to the state or region, or an architect whose work influenced development of the city, state or nation.

b. An architect who, in terms of craftsmanship, made significant contributions to San Luis Obispo (e.g., Abrahams who, according to local sources, designed the house at 810 Osos - Frank Avila's father's home - built between 1927 – 30).

B. Historic Criteria

(1) **History – Person:** Associated with the lives of persons important to local, California, or national history. Historic person will be evaluated as a measure of the degree to which a person or group was:

a. Significant to the community as a public leader (e.g., mayor, congress member, etc.) or for his or her fame and outstanding recognition - locally, regionally, or nationally.

b. Significant to the community as a public servant or person who made early, unique, or outstanding contributions to the community, important local affairs or institutions (e.g., council members, educators, medical professionals, clergymen, railroad officials).

(2) **History – Event:** Associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States. Historic event will be evaluated as a measure of:

(i) A landmark, famous, or first-of-its-kind event for the city - regardless of whether the impact of the event spread beyond the city.

(ii) A relatively unique, important or interesting contribution to the city (e.g., the Ah Louis Store as the center for Chinese-American cultural activities in early San Luis Obispo history).

(3) **History-Context:** Associated with and also a prime illustration of predominant patterns of political, social, economic, cultural, medical, educational, governmental, military, industrial, or religious history. Historic context will be evaluated as a measure of the degree to which it reflects:

a. Early, first, or major patterns of local history, regardless of whether the historic effects go beyond the city level, that are intimately connected with the building (e.g., County Museum).

b. Secondary patterns of local history, but closely associated with the building (e.g., Park Hotel).

C. Integrity: Authenticity of an historical resource’s physical identity evidenced by the survival of characteristics that existed during the resource’s period of significance. Integrity will be evaluated by a measure of:

(1) Whether or not a structure occupies its original site and/or whether or not the original foundation has been changed, if known.

(2) The degree to which the structure has maintained enough of its historic character or appearance to be recognizable as an historic resource and to convey the reason(s) for its significance.

(3) The degree to which the resource has retained its design, setting, materials, workmanship, feeling and association.

14.01.080 Historic District Designation, Purpose and Application

A. Historic (H) District designation. All properties within historic districts shall be designated by an “H” zoning. Properties zoned “H” shall be subject to the provisions and standards as provided in Ordinance 17.54 (Zoning) of the Municipal Code.

B. Purposes of Historic Districts. The purposes of historic districts and H zone designation are to:

(1) Implement cultural resource preservation policies of the General Plan, the preservation provisions of adopted area plans, the Historic Preservation and Archaeological Resource Preservation Program Guidelines, and

(2) Identify and preserve definable, unified geographical entities that possess a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development;

(3) Implement historic preservation provisions of adopted area and neighborhood improvement plans;

(4) Enhance and preserve the setting of historic resources so that surrounding land uses and structures do not detract from the historic or architectural integrity of designated historic resources and districts; and

(5) Promote the public understanding and appreciation of historic resources.

C. Eligibility for incentives. Properties zoned as Historic Preservation (H) shall be eligible for preservation incentive and benefit programs as established herein, in the Guidelines and other local, state and federal programs.

D. Where applied. The (H) designation may be applied to areas or neighborhoods with a collection or concentration of listed historic properties or archaeologically significant sites, or where historic properties help define an area or neighborhood's unique architectural and historic character or sense of place.

E. "H" district combined. A Historic Preservation Overlay District (H) may be combined with any zoning district, and shall be shown by adding an "H" to the base zone designation. H district boundaries shall be drawn to follow property lines or right-of-way lines, and as set forth in the Zoning Regulations.

14.01.090 Process for Establishing or Amending Historic Districts:

A. Initiating or amending Historic Districts. Any person may initiate the process to establish or alter the boundaries of a Historic Preservation District. The process can also be initiated by the CHC, ARC, Planning Commission or City Council.

B. Application. An application to establish or alter the boundaries of a Historic Preservation District shall be submitted to the Department. The application shall meet the requirements for rezoning as described in the Zoning Regulations. The application and supporting information and plans shall be submitted to the Department and shall include:

- (1) A map (8-1/2" x 11") from the official zoning map, with the area to be changed shaded or outlined in a heavy, black line, with the proposed area to be changed clearly labeled, and
- (2) Information showing how the application meets the criteria to establish or alter a historic district designation.
- (3) A Statement of historic significance. A statement of historic significance shall be prepared by a qualified professional, as listed in the City's List of Qualified Historians. The Director may waive the requirement that the statement be prepared by a qualified professional if the applicant provides adequate information to enable informed review of the proposed district.

C. Contents. Statements of Historic Significance shall include, but not be limited to the following;

- (1) A visual and written description of the district's boundaries.
- (2) A description of the district's architectural, historic, and cultural resources, character and significance, including a historic survey documenting the period of significance and how historic properties meet adopted local, state and where applicable, federal criteria for historic listing.
- (3) Preservation goals and concerns for the district including but not limited to;

- q Identification of preservation priorities, important features, goals and objectives, and
- b. Identification of potential obstacles to preservation, and
- c. Identification of historic land use policies and goals for future land use, and
- d. Special considerations for development review of projects both involving and not involving historic resources.

(4) Graphic and written design guidelines applicable to the district's preservation goals, historic character and features which shall include, but not be limited to:

- (a) Guidelines for projects involving historic resources, focused on preserving the district's character and significant archeological, architectural, and historic features; and
- (b) Guidelines for projects within the district but not involving historically designated properties, focused on maintaining street character and compatibility with the district's historic character while not necessarily mimicking historic styles.

D. Review. The CHC shall review the application and make a recommendation to the Planning Commission. The Planning Commission shall review the CHC recommendation and rezoning application and make a recommendation to the City Council. The City Council shall review the application and the recommendations of the CHC and Planning Commission, and approve or disapprove the application. The CHC, Planning Commission and the City Council shall each conduct a public hearing on the application and the notice of such hearings shall be completed as provided in the City's Notification Procedures.

E. Review criteria. When considering a Historic Preservation District application, the reviewing body shall consider the both of the following criteria:

- (1) Environmental Design Continuity: The inter-relationship of structures and their relationship to a common environment; The continuity, spatial relationship, and visual character of a street, neighborhood, or area. Environmental design continuity is comprised of:
 - a. Symbolic importance to the community of a key structure in the area and the degree to which it serves as a conspicuous and pivotal landmark (e.g., easily accessible to the public, helps to establish a sense of time and place); or
 - b. Compatibility of structures with neighboring structures in their setting on the basis of period, style (form, height, roof lines), design elements, landscapes, and natural features; and how these combine together to create an integral cultural, historic, or stylistic setting; or

c. Similarity to and/or compatibility of structures over 50 years of age which, collectively, combine to form a geographically definable area with its own distinctive character.

(2) Whether the proposed district contains structures which meet criteria for inclusion on the City's List of Historic Resources.

14.01.100 Demolition of Historic Resources

A. Intent. Listed historic resources are an irreplaceable community resource that merit special protection to preserve them for future generations, and shall not be demolished unless the City Council makes all of the findings specified in Section 14.01.100 D, provided however, that these thresholds shall not apply to repairs to listed historic resources that do not require a building permit, or where the CHC or the Director has determined such work is consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties and with the Historic Preservation Program Guidelines.

B. Demolition review. The CHC shall review and make recommendation to the City Council concerning demolition applications for structures listed in the Inventory of Historic resources.

C. Demolition thresholds. Demolition permits for structures which are included on the Inventory of Historic resources shall be required for:

- (1) Alterations to or removal of greater than 25% of the original building framework, roof structure, and exterior walls; and
- (2) Relocation of such resources to a site outside the city limits.

D. Required findings for demolition of a historic resource. The decision-making body shall approve an application for demolition of a structure listed in the Inventory of Historic Resources only if it determines that the proposed demolition is consistent with the General Plan and:

- (1) The historic resource is a hazard to public health or safety, and repair or stabilization is not structurally feasible. Deterioration resulting from the property owner's neglect or failure to maintain the property should not be a justification for demolition. The applicant may be required to provide structural reports, to the approval of the Community Development Director or City Council, to document that repairs or stabilization are not feasible; or
- (2) Denial of the application will constitute an economic hardship as described under findings 1-3 of Section J.

E. Demolition timing. , City regulations provide for a 90-day waiting period before demolition of a listed historic resource to allow consideration of alternatives to preserve the building through relocation and/or property trades. The Chief Building Official shall not issue a permit for

demolishing a historic resource, except where the Chief Building Official determines a listed historic resource may pose an imminent demonstrable threat to human life and safety, until:

- (1) public notice requirements in the City's Demolition and Building Relocation Code have been met; and
- (2) a construction permit is issued for a replacement building; and
- (3) all permit fees for the new development are paid. Where no new development is proposed, the property owner shall provide to the Director's satisfaction, financial guarantees to ensure demolition plans and conditions of approval are implemented.

F. Historic and architectural documentation. Before the issuance of a demolition permit for structures listed in the Inventory of Historic Resources, the resource and its site shall be documented as specified in City standards, to the satisfaction of the CHC and the Director. The documentation shall be retained in a secure, but publicly accessible, location.

G. Historic acknowledgement. An acknowledgment of demolished resources shall be provided through historic signage and/or the reuse or display of historic materials and artifacts on site, at the owner's expense, to the Director's approval.

H. Code requirements. Demolitions shall follow standards and procedures in the Demolition and Building Relocation Code and California Building Code as locally amended.

I. Expiration of demolition approval. Demolition approval of a listed historic resource shall expire two years after its date of approval, unless a building permit has been issued and construction has begun. A one year extension may be granted by the Director. Additional time extensions shall require reapplication to, and approval by the CHC.

J. Economic Hardship. An economic hardship provision is established to ensure that denial of a demolition permit does not impose undue hardship on the owner of a historical resource. If the applicant presents evidence clearly demonstrating to the satisfaction of the CHC or the City Council that the action will cause an extreme hardship, the CHC may recommend approval, and the Council may approve or conditionally approve a demolition or other application to modify a listed historic resource even though it does not meet one or more standards set forth herein. The applicant shall be responsible for providing substantiation of the claim to the Director, who shall review the information with the Director of Finance and make a joint recommendation to the CHC on the hardship request. The CHC shall consider and make a recommendation to the Council regarding the financial impacts of denial of the demolition permit. Private financial information shall be maintained in confidence by the City. The CHC is authorized to request that the applicant furnish information, documentation and/or expert testimony, the cost of which shall be paid by the applicant, to be considered by the Committee in its related findings. All additional required information shall be provided by a qualified individual or firm approved by the Director. In determining whether extreme hardship exists, the Committee and Council shall consider evidence that demonstrates:

(1)Denial of the application will diminish the value of the subject property so as to leave substantially no economic value, after considering other means of offsetting the costs of retaining the historic resource, including, but not limited to, tax abatements, financial assistance, building code modifications, changes in allowed uses, grants,; or

(2)Sale or rental of the property is impractical, when compared to the cost of holding such property for uses permitted in the zoning district; or

(3)Utilization of the property for lawful purposes is prohibited or impractical;

14.01.110 Relocation of Historic Resources.

Relocation has the potential to adversely affect the significance of a historic resource and is discouraged. Relocation applications shall be evaluated as follows:

A. Review. The CHC and ARCH shall review applications to relocate structures listed on the Inventory of Historic Resources.

B. Criteria for relocation. Relocation of structures included on the Inventory of Historic Resources, or those that are determined by the CHC or the Director to be potentially historic, is the least preferred preservation method and shall be permitted only when relocation is consistent with goals and policies of the General Plan, any applicable area or specific plans, and the Historic Preservation Program Guidelines, and:

(1) The relocation will not significantly change, destroy, or adversely affect the historic, architectural or aesthetic value of the resource; and

(2) Relocation will not have a significant adverse effect on the character of the historic district or neighborhood, or surrounding properties where the resource is located or at its proposed location, and

(3) The original site and the proposed receiving site are controlled through ownership long term lease or similar assurance by the person(s) proposing relocation, to the Director's approval, and

(4) The proposed receiving site is relevant to the resource's historic significance; and [moved to 2 above]; OR

(5) The relocation is necessary to correct an unsafe or dangerous condition on the site and no other measures for correcting the condition are feasible, OR

(6) The proposed relocation meets the findings required under Section J for demolition of a historic resource.

C. Relocation timing. The historic resource shall not be relocated unless the Chief Building Official issues a permit for relocation and all permit or impact fees for new development are paid; or where no new development is proposed, an appropriate security is posted to guarantee that relocation plans are implemented, to the Director's approval.

D. Historical and architectural documentation. Prior to issuance of a construction permit for relocation, the resource and its site shall be historically documented as specified herein, to the satisfaction of the CHC and the Director. An acknowledgment of the resource, such as a permanent, weatherproof historic plaque shall be incorporated on the resource's original site as provided by the applicant or property owner, subject to the approval of the CHC.

E. Relocation plan and procedures. Relocations shall follow a plan approved by the CHC or the Director, standards and procedures in the Demolition and Building Relocation Code, the California Building Code, and the following:

- (1) Application for relocation shall be made on forms provided by the Department and shall include information to respond to the criteria in subsection B of this Section.
- (2) The CHC shall hold a noticed public hearing and recommend action to the ARC or City Council on the application for relocation of a historic resource, and the ARC or Council shall consider the CHC's recommendation in making the final determination to approve or deny the permit.
- (3) The ARC or the City Council will not grant an approval for the relocation of a listed historic resource unless the criteria for relocation under subsection B of this Section can be met.

14.01.120 Unpermitted Demolition or Destruction of Resources

A. Preservation of listed historic resources. The purpose of this Section is to prevent unpermitted active demolition or demolition by neglect by ensuring that listed historic resources are maintained in good repair, and free from structural defects and safety hazards, consistent with the International Property Maintenance Code, Property Maintenance Standards (SLO MC Ch. 17.17), and standards as specified herein. Alteration or demolition in whole or part, of any significant features or characteristics of a listed historic property or resource requires City authorization, pursuant to Section 14.01.100.

B. Enhanced Penalties for Unpermitted Demolition. In addition to penalties otherwise provided for violations of the San Luis Obispo Municipal Code and this Chapter, the City Council, following notice and a public hearing, may impose the following enhanced penalties for unpermitted demolition of a listed resource, as defined herein, where a property owner has willfully demolished, or directed, or allowed the demolition of a listed resource, or where the property owner has failed to comply with notices to correct violations of this Code, such that the continuance of such violations may result in the unpermitted demolition of the listed historic resource (either active or by neglect):

(1) Restoration: The owner may be required to restore the property or structure to its appearance prior to the violation to the satisfaction of the Director.

(2) Building permit restriction. City may prohibit the owner(s), successors, or assigns from obtaining a building permit for development of the subject property for a period of up to five (5) years from the date of violation, unless such permit(s) is for the purpose of complying with provisions of this ordinance. In cases where this penalty is imposed, the City shall:

- a. Initiate proceedings to place a deed restriction on the property to ensure enforcement of this restriction.
- b. Require the property owner to maintain the property during the period of development restriction in conformance with standards set forth in this ordinance.
- c. Initiate action to remove any such deed restriction within ten (10) days of correction or compliance. Subsequent development applications shall be subject to CEQA review and conditions of development shall address the demolition of the historic resource.

(3) Loss of preservation benefits. Any historic preservation benefits previously granted to the affected property may be subject to revocation.

(4) Other remedies. These enhanced penalties are non-exclusive, in addition to and not in lieu of, penalties otherwise provided for violations of the San Luis Obispo Municipal Code and this Chapter, including, but not limited to, administrative citations, criminal prosecution, civil fines, and public nuisance proceedings.

14.01.130 Historic and cultural resource preservation fund established.

The Historic and Cultural Resource Preservation Fund (“Fund”) is hereby established to provide for the conservation, preservation, restoration and rehabilitation of historic and cultural resources in the City of San Luis Obispo. The Council shall provide the policy direction for funding and expenditures from the Fund.

- A. Program Administration.** The Director shall administer the Fund, following specific procedures and funding priorities adopted by the Council.
- B. Purpose.** The purpose of the Fund is to provide funds for historic preservation projects within the City. All funds deposited in the Fund shall be used for the conservation, preservation, restoration and rehabilitation of historic or cultural resources, as provided in this section and as directed by the Council
 1. **Financial Administration.** Financial administration of the Fund shall be by the City Finance Director or designee, in accordance with State and local law.

Any interest earned on the fund shall accrue to the funds, unless Council specifically designates such funds for another purpose.

2. Grants, Gifts and Donations. The Finance Director shall deposit into the fund any grants, gifts, donations, rents, royalties, or other financial support earmarked by Council for historic or cultural resource preservation.

C. Cultural Heritage Committee Role. The Committee shall advise the Council on the Fund regarding:

1. Criteria for use and award of funds;
2. Entering into any contract, lease, agreement, etc. for use of funds;
3. Any other action or activity necessary or appropriate to achieve the Fund purposes and the intent of this ordinance.

D. Uses of Fund. The Fund may be used for: 1) the identification and protection of cultural resources, including preparation of historic surveys and design guidelines, 2) for the repair, restoration, rehabilitation, preservation and maintenance of historical buildings, features, or archaeological sites, 3) for public education on cultural resources, 4) for real property acquisition if there is a willing property owner, including lease, purchase, sale, exchange or other forms of real property transfer or acquisition to protect significant historic resources, or 5) any other historic preservation related purpose approved by the Council. Council decisions on the use of funds are final.

E. Loans and Grants. The Fund may be used, upon Council approval and recommendation by the Committee, for loans and grants to public agencies, nonprofit organizations and private entities to carry out the purposes of this ordinance.

F. Preservation Agreements. Loans, grants or other financial assistance shall require execution of an agreement between the City and the recipient to ensure that such award or assistance carries out the purposes of this ordinance and is consistent with applicable State and local standards.

G. Funding Eligibility: The Fund shall be used to benefit properties on the Master or Contributing Properties List, or for other properties or uses deemed eligible by the Council upon recommendation by the Committee.

14.01.140 Enforcement.

A. The Director, Chief Building Official and City Attorney and their designees are hereby authorized to enforce the provisions of this ordinance.

B. Time to correct. Prior to assessment of any penalty or initiation of any prosecution for any violation of this Chapter, the Director shall provide written notice of non-compliance to property owners. Notice shall be by certified and regular mail. Following mailing of notice, property owner shall have 60 days to correct the violation or to inform the City why an extension is warranted. Additional time to correct the violation may be allowed where the property owner is exercising due diligence in acting to correct noticed violations. The Director shall have the authority to place reasonable conditions on such an extension. Notwithstanding these provisions, if the Director or the Chief Building Official determines there is an imminent threat to a listed historic or cultural resource, the Director shall notify the property owner of the imminent threat and property owner shall be required to provide urgent measures deemed reasonable and necessary to protect the public health and safety and for the protection of the resource within 72 hours of notification.

C. Work stoppage. In addition to any other fines, penalties or enforcement provisions set forth in this ordinance, failure to comply with an approved application shall constitute grounds for immediate stoppage of the work involved in the noncompliance until the matter is resolved.

D. Violation – Penalty. Every property owner and/or responsible party, as defined in this chapter who violates provisions of this chapter is subject to penalty as set forth in chapter 1.12 or administrative enforcement as set forth under chapter 1.24 of the Municipal Code.

14.01.150 Appeals

Decisions of any city official or body under the provisions of this chapter are appealable in accordance with the provisions of Ordinance 1.20 of the Municipal Code, except that fees for appeals under this Chapter by the property owner concerning the Master or Contributing list property in which said owner is residing at the time of appeal, shall be waived.

14.01.160 Severability.

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