



ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY

PLANNING DEPARTMENT

Agenda Item #10 December 6, 2011

Chris Bazar  
Agency Director

November 28, 2011

Albert Lopez  
Planning Director

Honorable Board of Supervisors  
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Dear Board Members:

**SUBJECT:** INTRODUCTION AND FIRST READING OF AMENDMENTS TO THE  
ALAMEDA COUNTY ZONING ORDINANCE AND ADMINISTRATIVE  
CODE REGARDING HISTORIC PRESERVATION

**RECOMMENDATION:**

That the Board hear a brief staff presentation, take public testimony, and amend the Alameda County Zoning Ordinance and Administrative Code as recommended by the Board of Supervisors' Transportation and Planning Committee on November 10, 2011.

**BACKGROUND:**

The attached Historic Preservation Ordinance establishes procedures for the nomination, designation, and alteration/demolition of historically significant properties, and provides increased protection for historic resources in Alameda County. It also includes procedures to establish a more orderly and predictable process for the treatment of historic resources in unincorporated Alameda County. In order to accomplish these goals, the Ordinance includes an entirely new chapter of the County's Zoning Ordinance (Title 17.62), amendments to Chapter 2.86 of the County Administrative Code which authorizes and defines the responsibilities of the County's Parks Recreation and Historical Commission, and amendments to Chapter 17.20 of the County's Zoning Ordinance, which addresses Historic Preservation (HP) districts.

The Board of Supervisors' Transportation and Planning Committee heard a presentation regarding the proposed Ordinance and took public testimony at their November 10, 2011 meeting. At that meeting, staff recommended that the Ordinance as approved by the Planning Commission on October 17, 2011, with revisions proposed by staff, be adopted. The Committee concurred with staff's recommendation and directed staff to present the Ordinance to the full Board at its December 6, 2011 Planning meeting. At this time, staff recommends that your Board adopt the Ordinance as approved by the Planning Commission on October 17, 2011 with revisions proposed by staff. The text of these Ordinance amendments is provided in Attachment G.

**DISCUSSION/SUMMARY:**

*Public Process*

A first draft of the Historic Preservation Ordinance was released in December 2007. In 2008, the PRHC convened several meetings to discuss the draft Ordinance with public testimony focusing heavily on whether or not properties could be included on the Alameda County Register of

Historic Resources ("Register") with or without the consent of the property owner. In response to these comments and several others, the PRHC met on August 7, 2008 to discuss revisions to the draft Ordinance. At that meeting the PRHC recommended that the draft Ordinance be revised such that participation would be voluntary, and that property owners currently listed on the draft Register would be given the opportunity to opt out of the registration program within 90 days following the adoption of the Ordinance. In June 2011, the PRHC resumed its efforts to pursue a Historic Preservation Ordinance. A Historic Preservation Ordinance Review Subcommittee selected by the PRHC participated in 4 workshops to discuss and further refine the draft Ordinance. All public comments were recorded. Community input that was used to revise the draft Ordinance has been included as Attachment E. In response to comments received from concerned residents and property owners, on July 13, 2011 the Subcommittee recommended that a revised Ordinance be sent to the PRHC.

The PRHC met on August 4, 2011 to discuss the proposed Ordinance, and recommended that the draft prepared by the Historic Preservation Ordinance Review Subcommittee be approved with minor technical revisions to Section 17.##.050. Under the draft approved by the PRHC (Attachment D), participation in the Alameda County Register is voluntary (owner consent is required), as it is an "opt in" program. The draft Ordinance was discussed by the Sunol Citizen's Advisory Committee on July 20, 2011, the Castro Valley Municipal Advisory Council on September 12, 2011, and the Agricultural Advisory Committee on September 27, 2011; none of these bodies presented any changes or otherwise objected to the Ordinance. Additional review by the Board of Supervisors-Unincorporated Services Committee occurred on September 27, 2011. On October 3 and 17, 2011, the Planning Commission held hearings to discuss the draft Ordinance.

On October 17, 2011, the Planning Commission recommended that an alternative draft be sent to the Board for approval (Attachment B). In general, staff found the revisions approved by the Planning Commission were either technical or non-substantive, and were otherwise consistent with the draft prepared by the PRHC; a summary of those changes is provided in Attachment C. However, staff noted that three of the changes recommended by the Planning Commission were significant and/or might prove difficult to implement; they are as follows:

- Text referring to owner consent had been deleted from Section 17.##.080, paragraph A, clause 3 of the draft Ordinance.
- The draft ordinance includes a provision to allow the PRHC to draft a "non-recommendation" and to transmit that "non-recommendation" to the Board for properties where the owner has withheld their consent. (Section 17.##.100, paragraph F)
- If the Board is considering a "non-recommendation" by the PRHC, the Board may, by unanimous vote, place a property on the Register, even if the property owner has withheld his/her consent. (Section 17.##.110, paragraph A)

The Board Transportation and Planning Committee discussed the Ordinance on November 10, 2011. Staff explained the term and process associated with non-recommendations was added by the Planning Commission and intended to provide a means for Board review on additions to the Register where the property owner had not granted their consent to listing. Staff recommended that the procedures for the preparation of a "non-recommendation" by the PRHC and subsequent review of such "non-recommendations" by the Board be removed from the Ordinance. In addition, staff recommended that text that referred to owner consent which had been deleted be reinstated into the Ordinance. Staff's recommended revisions are included in Attachment F. The Committee agreed with staff's assessment and recommended that the Ordinance, with revisions proposed by staff, be sent to the Board for approval.

*Environmental Review*

An Initial Study (IS) and Negative Declaration (ND) (Attachment A) was prepared pursuant to the California Environmental Quality Act (CEQA) and released September 22, 2011. Notification of its availability and intent to adopt it was sent to members of the public who had previously expressed interest in the Ordinance. Notice was also published in the *Daily Review and Tri-Valley Herald*, posted with the County Recorder's Office, and mailed to the Castro Valley, Dublin, Fremont-Main, Hayward, Livermore, Pleasanton, and San Lorenzo libraries, made available on the Planning Department website <http://www.acgov.org/cda/planning/landuseprojects/phpo.htm>, and information in the document was presented at the Planning Commission hearings on October 3 and 17, 2011.

The comment period for the ND ended on October 12, 2011. A letter addressed to staff and members of the Planning Commission was received from Attorney Sara Pasquinelli representing property owners at 24829 Palomares Road on October 12, 2011. Staff has provided a detailed response to Attorney Pasquinelli's concerns and has included the letter and the response as part of the revised draft IS/ND. No significant impacts are anticipated by the implementation of the Historic Preservation Ordinance.

**CONCLUSION:**

The Historic Preservation Ordinance, if adopted, will facilitate the preservation of the historic significance and character of designated properties. The County currently has no codified criteria or procedures for listing historic resources, nor does the County have any codified review procedures when alteration of a historic resource has been proposed (with the exception of historic resources that are located in a Historic Preservation District which generally require a Site Development Review.) In total, adoption of the Historic Preservation Ordinance will result in a more comprehensive and systematic process for the protection of historic resources in unincorporated Alameda County.

Sincerely,

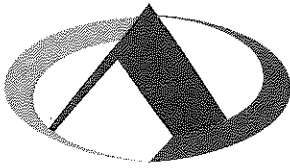


Chris Bazar  
Director, Community Development Agency

**ATTACHMENTS:**

(Please refer to <http://www.acgov.org/cda/planning/landuseprojects/phpo.htm> for the following items)

- A- Revised Initial Study/Negative Declaration (IS/ND)-10/21/11
- B- Draft Historic Preservation Ordinance as Recommended by the Planning Commission-10/17/11
- C- Technical Revisions Proposed by the Planning Commission
- D- Draft Historic Preservation Ordinance as Recommended by the PRHC-8/4/11
- E- Comments received during the meetings of the Historic Preservation Ordinance Review Subcommittee of the PRHC
- F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission
- G- Draft Resolution



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**Environmental Checklist Form**  
**Prepared Pursuant to the California Environmental Quality Act (CEQA)**

**A. PROJECT DESCRIPTION**

1. **Project title:** Alameda County Historic Preservation Ordinance
2. **Project location:** Unincorporated Alameda County
3. **Project sponsor's name and address:** Alameda County Community Development Agency  
224 West Winton Avenue, Room 111, Hayward, CA 94544
4. **Lead Agency name and address:** Alameda County Community Development Agency  
224 West Winton Avenue, Room 111, Hayward, CA 94544
5. **Contact Person and phone number:** Elizabeth McElligott, Assistant Planning Director,  
(510) 670-5400
6. **General plan designation:** Not applicable. The Ordinance is not specific to a site or a community.
7. **Zoning:** Not applicable. See #6.
8. **Description of project:** The Alameda County Historic Preservation Ordinance would protect and preserve historic resources in unincorporated Alameda County by formally recognizing such resources and by providing financial incentives for their preservation. The Ordinance would also standardize the review process for development projects that involve or might otherwise affect historic resources. In order to accomplish these goals, the County has proposed an entirely new chapter of the County's Zoning Ordinance (Title 17), amendments to Chapter 2.86 of the County Administrative Code which authorizes and defines the responsibilities of the County's Parks Recreation and Historical Commission (PRHC), and amendments to Chapter 17.20 of the County's Zoning Ordinance which addresses Historic Preservation (HP) districts.
9. **Surrounding land uses and setting:** Alameda County is one of the nine San Francisco Bay Area counties, located along the eastern shore of the San Francisco Bay. The County covers approximately 738 square miles. Alameda County is one of only two Bay Area counties that spans an area that reaches from the Bay to California's Central Valley. The western portion of Alameda County is located generally on the East Bay Plain between the coastal hills and the Bay. The area is heavily urbanized and contains the incorporated cities of Albany, Berkeley, Piedmont, Oakland, Emeryville, Alameda, San Leandro, Hayward, Union City, Newark, and Fremont, as well as the unincorporated urban areas of Castro Valley, Fairview, San Lorenzo, Ashland, and Cherryland.  
  
Eastern Alameda County is primary composed of the coastal range's rough terrain that extends from the hills above the Bay Plain to the border with San Joaquin County in the Central Valley. It is comprised mainly of non-urban uses including agriculture, parkland, watershed, and open space. This area has relatively low population density except for the Livermore-Amador Valley, in which the incorporated cities of Dublin, Pleasanton, and Livermore are located.
10. **Other public agencies whose approval may be required:** None

**B. ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:**

The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the checklist on the following pages.

- |                                                           |                                                                       |                                                             |
|-----------------------------------------------------------|-----------------------------------------------------------------------|-------------------------------------------------------------|
| <input type="checkbox"/> Aesthetics                       | <input type="checkbox"/> Agriculture and Forest Resources             | <input type="checkbox"/> Air Quality                        |
| <input type="checkbox"/> Biological Resources             | <input type="checkbox"/> Climate Change and Green-house Gas Emissions | <input checked="" type="checkbox"/> Cultural Resources      |
| <input type="checkbox"/> Geology /Soils                   | <input type="checkbox"/> Hazards & Hazardous Materials                | <input type="checkbox"/> Hydrology and Water Quality        |
| <input checked="" type="checkbox"/> Land Use and Planning | <input type="checkbox"/> Mineral Resources                            | <input type="checkbox"/> Noise                              |
| <input type="checkbox"/> Population and Housing           | <input type="checkbox"/> Public Services                              | <input type="checkbox"/> Recreation                         |
| <input type="checkbox"/> Transportation and Traffic       | <input type="checkbox"/> Utilities / Service Systems                  | <input type="checkbox"/> Mandatory Findings of Significance |

**C. LEAD AGENCY DETERMINATION:**

On the basis of this initial evaluation:

- ☒ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.
- ☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.
- ☐ I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.
- ☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and 2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.
- ☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including revisions or mitigation measures that are imposed upon the proposed project, nothing further is required.

Signature

*Elizabeth McElroy*

Date

9/21/11

**D. EVALUATION OF ENVIRONMENTAL EFFECTS:**

The Environmental Checklist and discussion that follows is based on sample questions provided in the CEQA Guidelines (Appendix G) which focus on various individual concerns within 17 different broad environmental categories, such as air quality, climate change, cultural resources, land use, public services, noise and traffic (and arranged in alphabetical order). The Guidelines also provide specific direction and guidance for preparing responses to the Environmental Checklist. The sample questions are meant to be used to meet the requirements for an initial study when the criteria set forth in CEQA Guidelines have been met. Substantial evidence of potential environmental impacts that are not listed in the checklist must also be considered. The sample questions are intended to encourage thoughtful assessment of impacts, and do not necessarily represent thresholds of significance.

Each question in the Checklist essentially requires a “yes” or “no” reply as to whether or not the project will have a potentially significant environmental impact of a certain type, and, following a Checklist table with all of the questions in each major environmental heading, citations, information and/or discussion that supports that determination. The Checklist table provides, in addition to a clear “yes” reply and a clear “no” reply, two possible “in-between” replies, including one that is equivalent to “yes, but with changes to the project that the proponent and the Lead Agency have agreed to, *no*”, and another “no” reply that requires a greater degree of discussion, supported by citations and analysis of existing conditions, threshold(s) of significance used and project effects than required for a simple “no” reply. Each possible answer to the questions in the Checklist, and the different type of discussion required, is discussed below:

- a) Potentially Significant Impact. Checked if a discussion of the existing setting (including relevant regulations or policies pertaining to the subject) and project characteristics with regard to the environmental topic demonstrates, based on substantial evidence, supporting information, previously prepared and adopted environmental documents, and specific criteria or thresholds used to assess significance, that the project will have a potentially significant impact of the type described in the question.<sup>1</sup>
- b) Less Than Significant With Mitigation. Checked if the discussion of existing conditions and specific project characteristics, also adequately supported with citations of relevant research or documents, determine that the project clearly will or is likely to have particular physical impacts that will exceed the given threshold or criteria by which significance is determined, but that with the incorporation of clearly defined mitigation measures into the project, that the project applicant or proponent has agreed to, such impacts will be avoided or reduced to less-than-significant levels.
- c) Less Than Significant Impact. Checked if a more detailed discussion of existing conditions and specific project features, also citing relevant information, reports or studies, demonstrates that, while some effects may be discernible with regard to the individual environmental topic of the question, the effect would not exceed a threshold of significance which has been established by the Lead or a

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1 *Note:* for this subject application, this reply is not given for any of the questions, because all of the impacts are expected to be mitigated to less-than-significant levels with changes agreed to by the project proponent. CEQA requires that if the Checklist makes a determination that the project will have one or more potentially significant environmental impacts (and the project proponent does not agree to changes that would change the reply to the conditional “no” described in the following type of reply), an environmental impact report (EIR) is required. In such instances, the discussion may be abbreviated greatly if the Lead Agency chooses to defer the analysis to preparation of the EIR.

Responsible Agency. The discussion may note that due to the evidence that a given impact would not occur or would be less than significant, no mitigation measures are required.

- d) No Impact. Checked if brief statements (one or two sentences) or cited reference materials (maps, reports or studies) clearly show that the type of impact could not be reasonably expected to occur due to the specific characteristics of the project or its location (e.g. the project falls outside the nearest fault rupture zone, or is several hundred feet from a 100-year flood zone, and relevant citations are provided). The referenced sources or information may also show that the impact simply does not apply to projects like the one involved. A response to the question may also be "No Impact" with a brief explanation that the basis of adequately supported project-specific factors or general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a basic screening of the specific project).

The discussions of the replies to the Checklist questions must take account of the whole action involved in the project, including off-site as well as on-site effects, both cumulative and project-level impacts, indirect and direct effects, and construction as well as operational impacts. Except when a "No Impact" reply is indicated, the discussion of each issue must identify:

- a) the significance criteria or threshold, if any, used to evaluate each question; and
- b) the mitigation measure identified, if any, to reduce the impact to less than significance, with sufficient description to briefly explain how they reduce the effect to a less than significant level.

Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration (Section 15063(c)(3)(D) of the Guidelines). In this case, a brief discussion should identify the following:

- a) Earlier Analysis Used. Identify and state where they are available for review.
- b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
- c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

| 1. AESTHETICS<br>Would the project:                                                                                                                      | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant with<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------|-------------------------------------|---------------|
| a) Have a substantial adverse effect on a scenic vista?                                                                                                  |                                        |                                                 |                                     | x             |
| b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway? |                                        |                                                 |                                     | x             |
| c) Substantially degrade the existing visual character or quality of the site and its surroundings?                                                      |                                        |                                                 |                                     | x             |
| d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?                                    |                                        |                                                 |                                     | x             |

Summary:

The proposed Ordinance will not have any potentially significant visual impacts as the Ordinance is designed to protect the historic and architectural integrity of historic resources in unincorporated Alameda County.

Mitigation Measures:

None.

| <b>2. AGRICULTURE AND FOREST RESOURCES</b><br><br>In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board. Would the Project: | YES: Potentially Significant Impact | NO: Less Than Significant with Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                     |                                           |                                  | X             |
| b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                     |                                           |                                  | X             |
| c) Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code section 12220(g)), timberland (as defined by Public Resources Code section 4526), or timberland zoned Timberland Production (as defined by Government Code section 51104(g))?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                     |                                           |                                  | X             |
| d) Result in the loss of forest land or conversion of forest land to non-forest use?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                     |                                           |                                  | X             |
| e) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                     |                                           |                                  | X             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on agricultural resources in unincorporated Alameda County.

Mitigation Measures:

None.

| <b>3. AIR QUALITY</b><br>Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:                                                      | YES: Potentially Significant Impact | NO: Less Than Significant with Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| a) Conflict with or obstruct implementation of the applicable air quality plan?                                                                                                                                                                                                             |                                     |                                           |                                  | X             |
| b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?                                                                                                                                                                          |                                     |                                           |                                  | X             |
| c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)? |                                     |                                           |                                  | X             |
| d) Expose sensitive receptors to substantial pollutant concentrations?                                                                                                                                                                                                                      |                                     |                                           |                                  | X             |
| e) Create objectionable odors affecting a substantial number of people?                                                                                                                                                                                                                     |                                     |                                           |                                  | X             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on air quality in unincorporated Alameda County.

Mitigation Measures:

None.

| 4. BIOLOGICAL RESOURCES<br>Would the project:                                                                                                                                                                                                                                                                    | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? |                                     |                                           |                                  | x             |
| b) Have a substantial adverse effect on any riparian, aquatic or wetland habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or US Fish and Wildlife Service?                                         |                                     |                                           |                                  | x             |
| c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?                                             |                                     |                                           |                                  | x             |
| d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?                                                                               |                                     |                                           |                                  | x             |
| e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?                                                                                                                                                                              |                                     |                                           |                                  | x             |
| f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?                                                                                                                             |                                     |                                           |                                  | x             |
| g) Result in conversion of oak woodlands that will have a significant effect on the environment?                                                                                                                                                                                                                 |                                     |                                           |                                  | x             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on biological resources in unincorporated Alameda County.

Mitigation Measures:

None.

| <b>5. CLIMATE CHANGE AND GREENHOUSE GAS EMISSIONS</b><br>Would the project:                                                                    | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| a) Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?                    |                                     |                                           |                                  | x             |
| b) Conflict with any applicable plan, policy or regulation of an agency adopted for the purpose of reducing the emissions of greenhouse gases? |                                     |                                           |                                  | x             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on climate change and greenhouse gas emissions in unincorporated Alameda County.

Mitigation Measures:

None.

| 6. CULTURAL RESOURCES<br>Would the project:                                                                                                 | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant With<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|---------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------|-------------------------------------|---------------|
| a) Cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5 of the CEQA Guidelines?    |                                        |                                                 |                                     | x             |
| b) Cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5 of the CEQA Guidelines? |                                        |                                                 |                                     | x             |
| c) Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?                                     |                                        |                                                 |                                     | x             |
| d) Disturb any human remains, including those interred outside of formal cemeteries?                                                        |                                        |                                                 |                                     | x             |

Discussion:

The Historic Preservation Ordinance establishes procedures for the nomination, designation, and alteration/demolition of historically significant properties and in general terms, provides further protection for historic resources in unincorporated Alameda County. The Historic Preservation Ordinance procedures will assist in establishing a more orderly and predictable process for the treatment of historic resources in unincorporated Alameda County and will further the following County goals:

- Establishment of an orderly and predictable process to govern the nomination, designation, and alteration/demolition of historically significant properties;
- Facilitation of continued County compliance with CEQA in the area of historic resources; and
- Application to the State Historic Preservation Office (SHPO) for Certified Local Government (CLG) certification. The County would be eligible to apply for CLG certification following the adoption of a historic preservation ordinance. The benefits of becoming a CLG include: eligibility for federal grants; direct participation in the nomination of historic properties to the National Register of Historic Places; opportunity for enhanced responsibilities to review and comment on development projects in compliance with federal environmental regulations; special technical assistance and training for staff and commission members; and potential for participation in the review of building rehabilitation plans for federal investment tax credits.

The basic components of the Historic Preservation Ordinance are: a) purpose and definitions; b) cultural resource surveys; c) Register criteria and process for placement and removal; d) permit process for the proposed alteration or demolition of a property listed on the County Register; e) procedures for the demolition of a structure over 50 years old; f) appeals; g) preservation incentives; h) preventative maintenance; and i) enforcement.

Chapter 2.86 of the County's Administrative Code and Chapter 17.20 of its Planning Code would be revised as part of the proposed Ordinance amendment. Changes to Chapter 2.86 would update the membership composition/qualifications, and duties of the PRHC. The proposed amendment to Section 2.86.020 will bring PRHC membership requirements in conformance with State CLG certification requirements for participating local governments to have an adequate and qualified historic preservation review commission established by local law. The proposed amendment to Section 2.86.070 will update

the duties of the PRHC so that they are consistent with their current duties as they have evolved over the years and include those duties that will result from adoption of the new Ordinance. A revision to Section 17.20.060 clarifies the advisory role of the PRHC with respect to the rezoning of a parcel to the HP (Historic Preservation) zoning district.

If adopted, the Ordinance would establish the Alameda County Register of Historic Resources ("Register"). The Alameda County Register is a listing of those properties that have been approved by the Board of Supervisors as a Landmark, Historic Preservation District, or Structure of Merit. Owners of properties identified by the County in previous surveys of the Ashland, Castro Valley, Cherryland, East County, and San Lorenzo communities as noted in their respective surveys as being significant will be given the opportunity to opt in to the County's Register within 180 days of the adoption of the Ordinance by the Board of Supervisors. Upon receipt of their request to participate in the Register, the County will conduct a review of the resource to ensure that no changes or alterations have been performed that would render it ineligible for participation in the Register. Those properties retaining their historic/architectural integrity will be included on the Register. Properties not identified in those prior surveys will follow a different procedure outlined in the draft Ordinance; however, in no case would a property be listed without its owner's consent. Properties may be removed from the Register if the Board finds that the listed resource "no longer has significant aesthetic, cultural, architectural, or engineering interest or value of a historical nature"

The Historic Preservation Ordinance would require a Certificate of Appropriateness (C of A), discretionary approval, when a property owner proposes to alter or demolish a designated resource. The C of A process exempts preventative maintenance work, such as painting, roof repair, foundation or chimney work and landscape maintenance. A C of A would be closely coordinated with any other land development and building permit review required by the Planning Department and Building Inspections Division.

Alterations to resources listed on the Register must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties or not destroy or adversely affect the integrity of the resource, unless a finding is made that there is no feasible alternative. The PRHC will make recommendations to the Planning Director on the approval/denial of C of A. Decisions of the Planning Director may be appealed to the Board of Supervisors.

In order to further the goal of historic preservation in the County, the Historic Preservation Ordinance commits the County to consider economic and other incentive programs including: financial incentives, permit streamlining, technical assistance, workshops and production of educational materials. Under the proposed Ordinance, the County would establish its own Mills Act program. The Mills Act allows local jurisdictions to enter into contracts with owners of qualified historic resources and provides for a reduction in local property taxes in exchange for a commitment from the owner to preserve the historic integrity and significance of the contracted historic resource.

The Historic Preservation Ordinance will facilitate the preservation of the historic significance and character of designated properties. The County currently has no codified criteria or procedures for listing historic resources, nor does the County have any codified review procedures when alteration of a historic resource has been proposed (with the exception of historic resources that are located in a Historic Preservation District which generally require a Site Development Review.) In total, adoption of the Historic Preservation Ordinance will result in a more comprehensive and systematic process for the protection of historic resources in unincorporated Alameda County.

#### Mitigation Measures:

None.

| 7. GEOLOGY AND SOILS<br>Would the project:                                                                                                                                                                                                                                             | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant With<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------|-------------------------------------|---------------|
| a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:                                                                                                                                                       |                                        |                                                 |                                     | X             |
| i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. |                                        |                                                 |                                     | X             |
| ii) Strong seismic ground shaking?                                                                                                                                                                                                                                                     |                                        |                                                 |                                     | X             |
| iii) Seismic-related ground failure, including liquefaction?                                                                                                                                                                                                                           |                                        |                                                 |                                     | X             |
| iv) Landslides?                                                                                                                                                                                                                                                                        |                                        |                                                 |                                     | X             |
| b) Result in substantial soil erosion or the loss of topsoil?                                                                                                                                                                                                                          |                                        |                                                 |                                     | X             |
| c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?                                                     |                                        |                                                 |                                     | X             |
| d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?                                                                                                                                       |                                        |                                                 |                                     | X             |
| e) Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?                                                                                                   |                                        |                                                 |                                     | X             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on geology and soils in unincorporated Alameda County.

Mitigation Measures:

None.

| 8. HAZARDS AND HAZARDOUS MATERIALS<br>Would the project:                                                                                                                                                                                                         | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant W/with<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------|-------------------------------------|---------------|
| a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?                                                                                                                          |                                        |                                                   |                                     | x             |
| b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?                                                                  |                                        |                                                   |                                     | x             |
| c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?                                                                                                  |                                        |                                                   |                                     | x             |
| d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                                   |                                        |                                                   |                                     | x             |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area? |                                        |                                                   |                                     | x             |
| f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?                                                                                                      |                                        |                                                   |                                     | x             |
| g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?                                                                                                                                        |                                        |                                                   |                                     | x             |
| h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?                                             |                                        |                                                   |                                     | x             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on hazards and hazardous materials in unincorporated Alameda County.

Mitigation Measures:

None.

| <b>9. HYDROLOGY AND WATER QUALITY</b><br>Would the project:                                                                                                                                                                                                                                                                                                                                                           | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| a) Violate any water quality standards, conflict with water quality objectives, fail to meet waste discharge requirements, significantly degrade any surface water body or groundwater, or adversely affect the beneficial uses of such waters, including public uses and aquatic, wetland and riparian habitat?                                                                                                      |                                     |                                           |                                  | x             |
| b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?                         |                                     |                                           |                                  | x             |
| c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site (i.e. within a watershed)?                                                                                                                                                          |                                     |                                           |                                  | x             |
| d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff (e.g., due to increased impervious surfaces) in a manner which would result in flooding on- or off-site (i.e. within a watershed)?                                                                      |                                     |                                           |                                  | x             |
| e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems due to changes in runoff flow rates or volumes?                                                                                                                                                                                                                                               |                                     |                                           |                                  | x             |
| f) Result in a significant increase in pollutant discharges to receiving waters (marine, fresh, and/or wetlands) during or following construction (considering water quality parameters such as temperature, dissolved oxygen, turbidity, and typical stormwater pollutants such as heavy metals, pathogens, petroleum derivatives, synthetic organics, sediment, nutrients, oxygen-demanding substances, and trash)? |                                     |                                           |                                  | x             |
| g) Result in an increase in any pollutant for which a water body is listed as impaired under Section 303(d) of the Clean Water Act?                                                                                                                                                                                                                                                                                   |                                     |                                           |                                  | x             |
| h) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?                                                                                                                                                                                                                                                  |                                     |                                           |                                  | x             |
| i) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?                                                                                                                                                                                                                                                                                                                   |                                     |                                           |                                  | x             |
| j) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam?                                                                                                                                                                                                                                                    |                                     |                                           |                                  | x             |
| k) Inundation by seiche, tsunami, or mudflow?                                                                                                                                                                                                                                                                                                                                                                         |                                     |                                           |                                  | x             |

**Summary:**

The proposed Ordinance will not have any potentially significant impacts on hydrology and water quality in unincorporated Alameda County.

**Mitigation Measures:**

None.

| 10. LAND USE AND PLANNING<br>Would the project:                                                                                                                                                                                                                                                             | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant With<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------|-------------------------------------|---------------|
| a) Physically divide an established community.                                                                                                                                                                                                                                                              |                                        |                                                 |                                     | x             |
| b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? |                                        |                                                 |                                     | x             |
| c) Conflict with any applicable habitat conservation plan or natural community conservation plan?                                                                                                                                                                                                           |                                        |                                                 |                                     | x             |

Discussion:

The proposed Ordinance will codify strategies to: inventory and evaluate historic resources; prevent or minimize impacts to historic resources; and restore, enhance and commemorate resources. The proposed Ordinance would not conflict with any existing land use policy or regulation. As a result, the proposed Ordinance would not have any potentially significant impacts on land use in unincorporated Alameda County.

Mitigation Measures:

None.

| 11. MINERAL RESOURCES<br>Would the project:                                                                                                                           | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant W/with<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------|-------------------------------------|---------------|
| a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?                                |                                        |                                                   |                                     | X             |
| b) Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan? |                                        |                                                   |                                     | X             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on mineral resources in unincorporated Alameda County.

Mitigation Measures:

None.

| <b>12. NOISE</b><br>Would the project result in:                                                                                                                                                                                                                    | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?                                                                                 |                                     |                                           |                                  | x             |
| b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?                                                                                                                                                             |                                     |                                           |                                  | x             |
| c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?                                                                                                                                      |                                     |                                           |                                  | x             |
| d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?                                                                                                                          |                                     |                                           |                                  | x             |
| e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels? |                                     |                                           |                                  | x             |
| f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?                                                                                                      |                                     |                                           |                                  | x             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on noise hazards in unincorporated Alameda County.

Mitigation Measures:

None.

| 13. POPULATION AND HOUSING<br>Would the project:                                                                                                                                                          | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant With<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------|-------------------------------------|---------------|
| a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)? |                                        |                                                 |                                     | x             |
| b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?                                                                                     |                                        |                                                 |                                     | x             |
| c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?                                                                                               |                                        |                                                 |                                     | x             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on population and housing in unincorporated Alameda County.

Mitigation Measures:

None.

| <b>14. PUBLIC SERVICES</b><br>Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the following public services: | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| a) Fire protection?                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                     |                                           |                                  | X             |
| b) Police protection?                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                     |                                           |                                  | X             |
| c) Schools?                                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                     |                                           |                                  | X             |
| d) Parks?                                                                                                                                                                                                                                                                                                                                                                                                                                                        |                                     |                                           |                                  | X             |
| e) Other public facilities?                                                                                                                                                                                                                                                                                                                                                                                                                                      |                                     |                                           |                                  | X             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on public services in unincorporated Alameda County.

Mitigation Measures:

None.

| 16. TRANSPORTATION<br>Would the project:                                                                                                                                                                                                                                                                                                                                                                                      | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant W/with<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------|-------------------------------------|---------------|
| a) Conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit? |                                        |                                                   |                                     | X             |
| b) Conflict with an applicable congestion management program, including, but not limited to level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways?                                                                                                                                                                |                                        |                                                   |                                     | X             |
| c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?                                                                                                                                                                                                                                                               |                                        |                                                   |                                     | X             |
| d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?                                                                                                                                                                                                                                                                        |                                        |                                                   |                                     | X             |
| e) Result in inadequate emergency access?                                                                                                                                                                                                                                                                                                                                                                                     |                                        |                                                   |                                     | X             |
| f) Conflict with adopted policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?                                                                                                                                                                                                                                        |                                        |                                                   |                                     | X             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on transportation in unincorporated Alameda County.

Mitigation Measures:

None.

| 17. UTILITIES AND SERVICE SYSTEMS<br>Would the project:                                                                                                                                                                           | YES: Potentially<br>Significant Impact | NO: Less Than<br>Significant With<br>Mitigation | NO: Less Than<br>Significant Impact | NO: No Impact |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|-------------------------------------------------|-------------------------------------|---------------|
| a) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?                                                                                                                               |                                        |                                                 |                                     | x             |
| b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                            |                                        |                                                 |                                     | x             |
| c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                                     |                                        |                                                 |                                     | x             |
| d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?                                                                            |                                        |                                                 |                                     | x             |
| e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? |                                        |                                                 |                                     | x             |
| f) Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?                                                                                                            |                                        |                                                 |                                     | x             |
| g) Comply with federal, state, and local statutes and regulations related to solid waste?                                                                                                                                         |                                        |                                                 |                                     | x             |

Summary:

The proposed Ordinance will not have any potentially significant impacts on public utilities in unincorporated Alameda County.

Mitigation Measures:

None.

|                                                                                                                                                                                                                                                                                                                                                                                                                                                          | YES: Potentially Significant Impact | NO: Less Than Significant With Mitigation | NO: Less Than Significant Impact | NO: No Impact |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|-------------------------------------------|----------------------------------|---------------|
| <b>18. MANDATORY FINDINGS OF SIGNIFICANCE</b>                                                                                                                                                                                                                                                                                                                                                                                                            |                                     |                                           |                                  |               |
| a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory? |                                     |                                           | x                                |               |
| b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)                                                                                                           |                                     |                                           | x                                |               |
| c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?                                                                                                                                                                                                                                                                                                              |                                     |                                           |                                  | x             |

Discussion:

The proposed Ordinance will not have a significant new impact on the environment, nor will the project create a new cumulative impact. As discussed in the section on Cultural Resources, the proposed Ordinance would preserve, protect, enhance and perpetuate resources of architectural, historical, and cultural merit within unincorporated Alameda County. Moreover, the Ordinance is consistent with existing land use regulations. Therefore, there will be a less than significant impact on cultural resources, land use and planning.

**E. SOURCES**

The following references (which are available for review at the Alameda County Planning Department 224 West Winton Avenue, Room 111, Hayward, CA 94544) were consulted to prepare the Initial Study Checklist:

- Eden Area General Plan, adopted March 30, 2010.
- General Plan, County of Alameda (Land Use and Circulation Elements), adopted May 26, 1966. Amended August 27, 1969; June 6, 1974; October 10, 1974; November 3, 1977; August 8, 1978; January 4, 1979; December 16, 1980; November 3, 1984; and April 5, 1984.
- Castro Valley Plan, adopted June 15, 1961. Amended January 29, 1974; August 8, 1978; April 4, 1985; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- Livermore-Amador Valley Planning Unit General Plan, adopted November 3, 1977. Amended January 4, 1979; December 16, 1980; November 3, 1983; April 5, 1984; December 12, 1989. Superseded by the East County Area Plan, adopted May 5, 1993; modified by voters through Measure D, November, 2000, codified by Board of Supervisors May, 2002.
- General Plan for the Central Metropolitan, Eden and Washington Planning Units, adopted January 13, 1981. Amended November 3, 1983.
- Unincorporated Eden (Portion) Area Plan, adopted November 3, 1983.
- Housing Element, adopted March 30, 2010, amended April 12, 2011.
- Park and Recreation Element, adopted June 12, 1956. Amended November 21, 1968.
- Scenic Route Element, adopted May 5, 1966.
- Open Space Element, adopted May 31, 1973. Amended December 12, 1989.
- Conservation Element, adopted January 8, 1976. Amended November 23, 1976.
- Seismic and Safety Elements, adopted January 8, 1976. Amended August 5, 1982, and September 14, 2010.
- Noise Element, adopted January 8, 1976.
- Alameda County Assessor's Williamson Act Subvention data as of December 31, 2008.
- Fairview Area Specific Plan, adopted September 4, 1997.
- CEQA Guidelines

## **ADDENDUM**

### **DRAFT INITIAL STUDY/NEGATIVE DECLARATION ALAMEDA COUNTY HISTORIC PRESERVATION ORDINANCE**

#### **COMMENTS AND RESPONSES TO THE INITIAL STUDY AND NEGATIVE DECLARATION**

This addendum includes a reproduction of, and response to, the letter received during the public review period. The letter has been reproduced in its entirety and is immediately followed by a response.



Sara N. Pasquinelli  
spasquinelli@fablaw.com

October 12, 2011

**VIA FACSIMILE AND ELECTRONIC MAIL**

Angela Robinson-Piñon, Planner II  
Alameda County Community Development Agency, Planning Department  
224 West Winton Avenue, Room 111  
Hayward, CA 94544

Re: CEQA Comments Regarding Initial Study and Negative Declaration for  
the Alameda County Historic Preservation Ordinance

Dear Ms. Piñon:

This law firm represents Duane and Carolyn Doyle, Trustees of the Duane S. and Carolyn S. Doyle Trust ("the Doyles"), owners and residents of 24829 Palomares Road, located in Castro Valley. On behalf of the Doyles, we have been following the County of Alameda's ("County") progress relating to adoption of the Historic Preservation Ordinance ("Ordinance") over the past several years. We have reviewed the County's Draft Initial Study/Negative Declaration (IS/ND) for the Ordinance and submit the following comments.

**The IS/ND Adequately Supports the "Opt-In" Version of the Ordinance**

The IS/ND specifically analyzes the potential impacts of the "opt-in" version of the Ordinance, which was recommended for approval by the Parks, Recreation and Historical Commission ("PRHC") on August 4, 2011.<sup>1</sup> That is, the Ordinance as proposed by the PRHC is the Proposed Project for CEQA purposes.

The IS/ND concludes, based upon analysis presented, that the "opt-in" version of the Ordinance will have less than significant impacts on cultural resources and land use and planning. The IS/ND further concludes that the "opt-in" version of the Ordinance will not have any potentially significant impacts on other resource areas.<sup>2</sup>

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<sup>1</sup> See, IS/ND at pp. 10-11.

<sup>2</sup> See, IS/ND.

Because the IS/ND bases its CEQA analysis and conclusions on the “opt-in” version of the Ordinance, any deviation from the “opt-in” posture, would, therefore, require further CEQA review and public comment. That is, should the prior mandatory or “opt-out” versions of the Ordinance, or any other permutation of the Ordinance, be considered for adoption by the Board of Supervisors, such a change would constitute a change in the Proposed Project such that the potentially significant impacts on the environment created by those different versions would need to be fully considered and analyzed by the County in a subsequent CEQA document, and the public would need to be provided with an opportunity to comment upon the adequacy of a new CEQA document in connection with that different project.

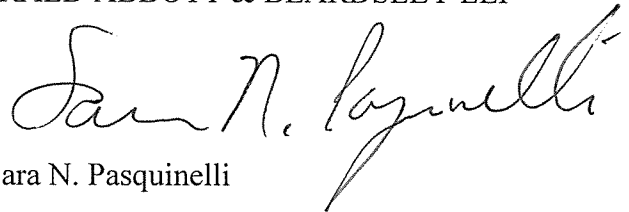
Thank you for the opportunity to comment.

Very truly yours,

FITZGERALD ABBOTT & BEARDSLEY LLP

By

Sara N. Pasquinelli

A handwritten signature in cursive script, appearing to read "Sara N. Pasquinelli", written in black ink.

## RESPONSE TO ATTORNEY PASQUINELLI'S LETTER

The comments from Attorney Pasquinelli do not question the adequacy of the Draft Initial Study/Negative Declaration, but rather describes what action should be taken should the Board of Supervisors ("Board") adopt an ordinance that deviates from the "opt-in" version that was recommended by the Alameda County Parks, Recreation and Historical Commission (PRHC) on August 4, 2011. At its October 17, 2011 meeting, the Alameda County Planning Commission recommended that a new draft of the Ordinance be sent to the Board for approval. While most of the changes endorsed by the Planning Commission are technical or otherwise non-substantive in nature and are therefore consistent with draft ordinance proposed by the PRHC, the draft ordinances differ in the following ways:

- The ordinance alternative includes a provision to allow the PRHC to draft a non-recommendation and transmit that non-recommendation to the Board for properties where the owner has withheld their consent. (Section 17.##.100, paragraph F)
- If the Board is considering a non-recommendation by the PRHC, the Board may by unanimous vote place a property on the Register, even if the property owner has withheld their consent. (Section 17.##.110, paragraph A)

Section 15073.5 of the Guidelines for the California Environmental Quality Act (CEQA) provides guidance on the recirculation of a Negative Declaration prior to adoption by a hearing body. Under Section 15073.5, a Negative Declaration must be recirculated when it "must be substantially revised after public notice of its availability...but prior to its adoption". The section goes on to define the term "substantial revision":

*"A 'substantial revision' of the negative declaration shall mean:*

- (1) A new, avoidable significant effect is identified and mitigation measures or project revisions must be added in order to reduce the effect to insignificance, or*
- (2) The lead agency determines that the proposed mitigation measures or project revisions will not reduce potential effects to less than significance and new measures or revisions must be required."*

The draft recommend by the Planning Commission, although different from that approved by the PRHC, would neither create "a new, avoidable significant effect" or require new mitigation measures or project revisions.

Section 15073.5, paragraph c provides exclusions for recirculation a negative declaration:

*Recirculation is not required under the following circumstances:*

- (1) Mitigation measures are replaced with equal or more effective measures pursuant to Section 15074.1.*
- (2) New project revisions are added in response to written or verbal comments on the project's effects identified in the proposed negative declaration which are not new avoidable significant effects.*

- (3) Measures or conditions of project approval are added after circulation of the negative declaration which are not required by CEQA, which do not create new significant environmental effects and are not necessary to mitigate an avoidable significant effect.*
- (4) New information is added to the negative declaration which merely clarifies, amplifies, or makes insignificant modifications to the negative declaration.*

No mitigation measures were included in the Draft Initial Study/Negative Declaration, nor would any be required under the Ordinance proposed by the Planning Commission. There are no project revisions which have been added in response to comments received on the project's effects which are "new avoidable significant effects." No "measures or conditions of project approval" not required under CEQA have been added that create a new significant effect, and are not required to mitigate an identified avoidable significant effect. The information in this response is consistent with Section 15073.5 (c)(4) in that it is new information which has been added to the Draft Initial Study/Negative Declaration that it "merely clarifies, amplifies, or makes insignificant modifications to the negative declaration".

Based upon its analysis of the proposed revisions, the Draft Initial Study/Negative Declaration, and CEQA staff has concluded that, if adopted, the Ordinance recommended by the Planning Commission on October 17, 2011 would not cause a new, potentially significant change in the environment that was not considered or analyzed in the Draft Initial Study/Negative Declaration released on September 22, 2011. Therefore, no additional review is required.

## **HISTORIC PRESERVATION ORDINANCE**

### **17.##.010 Title**

This chapter shall be known as the Historic Preservation Ordinance of Alameda County.

### **17.##.020 Purpose**

The purpose of this chapter shall be to:

- A. Identify, protect, and encourage the preservation of significant architectural, historic, prehistoric and cultural structures, sites, resources and properties in the County;
- B. Ensure the preservation, protection, enhancement and perpetuation of historic structures, sites and other resources to the fullest extent feasible;
- C. Encourage, through public or private action, the maintenance or rehabilitation of historic structures, sites and other resources;
- D. Safeguard the County's historic resources, both public and private projects;
- E. Encourage development that sensitively incorporates the retention, preservation and re-use of historic structures, sites and other resources;
- F. Foster civic pride in the character and quality of the County's historic resources and in the accomplishments of its people through history;
- G. Provide a mechanism, through surveys, nominations and other available means, to compile, update and maintain a register of historic resources within the County;
- H. Protect and enhance the County's attraction to tourists and visitors;
- I. Provide for consistency with state and federal preservation standards, criteria and practices;
- J. Encourage new development that will be aesthetically compatible with historic resources;
- K. Make available incentive opportunities to preserve Alameda County's historic resources

### **17.##.030 Definitions**

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

"Alameda County Register" or "Register" means the list of properties officially recognized as historically significant ~~register created by~~ Section 17.##.050 of this chapter.

"Board of Supervisors" or "Board" means the Board of Supervisors of the County of Alameda.

“Building official” means the building official designated in Chapter 15.08 of Title 15 of this code, and his or her designee(s).

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

“California Register” means the California Register of Historical Resources as defined in California Public Resources Code Section 5020.1 as it may be amended from time to time.

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

“Certificate of Appropriateness” means a permit approving an alteration to or demolition of a ~~landmark, or demolition of a historic resource listed on the Alameda County Register~~ or the demolition of a property otherwise eligible to be listed on the Alameda County Register pursuant to the provisions of this chapter.

“Commission” means the Parks, Recreation and Historical Commission

“Comprehensive Survey of Historic Sites” means the survey of historic resources throughout unincorporated Alameda County that was conducted in conjunction with the creation of this Ordinance.

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

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

“Cultural Resources Surveys” means the Cultural Resources Surveys done for the County, including the Preliminary Cultural Resources Surveys for the Ashland & Cherryland Districts, the San Lorenzo Area, and the East Valley Area; the Comprehensive Survey of Historic Sites; and any other surveys as they may be completed.

“Dangerous building” means an immediately dangerous building or structure as defined in Section 15.08.170 of the Alameda County Building code.

“Department” means the Alameda County Planning Department.

“Development project” for the purposes of this chapter means and includes the following:

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

“Director” means the Director of the Planning Department of Alameda County.

“Feature or characteristic” means fixtures, components or appurtenances attached to, contiguous with or otherwise related to a structure or property including landscaping, setbacks, distinguishing aspects, roof attributes, overlays, moldings, sculptures, fountains, light fixtures, windows and monuments. “Feature or characteristic” may include historically and/or architecturally significant interior areas that are accessible to or made available to the public, including, without limitation, areas commonly used as public spaces such as lobbies, meeting rooms, gathering rooms, public hallways, great halls, bank lobbies or other similar spaces. Interior areas that generally are not accessible to or made available to the public, but which occasionally may be visited by business invitees or members of the public, including those on a tour of a facility, do not constitute a “feature or characteristic” for purposes of this chapter.

“Historic resource” and/or “cultural resource” means, but is not limited to, any object, building, structure, site, area, place, or record which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Alameda County. mean, for the purposes of environmental reviews related to CEQA and the County’s compliance with CEQA, those landmarks, contributing resources and historic preservation districts listed in the Alameda County Register. “Historic resource” and “cultural resource” shall also include those properties specified as a historic resource or cultural resource by CEQA, by the CEQA guidelines, or by any other provision of California law.

“Initiation of Designation” means the action taken, or the date on which such action is taken, to place a historic resource on the Alameda County Register, including the completion of an application by a property owner, a nomination by the Board of Supervisors, or an adoption of a resolution of intent to nominate by the Commission.

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

“Landmark” means a property in unincorporated Alameda County, or a County-owned building or property in an incorporated area of Alameda County, of exceptional historical or architectural value that is an example of an important style, type, or convention, or which are intimately associated with a person, organization, event, or historical pattern of major importance at the local level ~~any historic resources~~ designated as a landmark by the Board of Supervisors in accordance with this chapter.

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

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

“National Environmental Protection Act” means 42 U.S.C. Secs.4321 et seq., as it may be amended from time to time. The National Environmental Protection Act may be referred to in this chapter as NEPA.

“National Historic Preservation Act” means 16 U.S. Secs. 470 et seq., as it may be amended from time to time.

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

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

“Nominated resource” means a resource nominated for placement on the Alameda County Register as provided for in 17.##.080 of this chapter.

“Nomination” means a nomination for placement of a resource on the Alameda County Register pursuant to 17.##.080 of this chapter.

“Non-contributing resources” means all resources within a historic preservation district that are not identified as contributing resources. “Planning Commission” means the Planning Commission of Alameda County. The Planning Commission is always referred to in this ordinance as “the Planning Commission,” never as “the Commission,” which is reserved for the Parks, Recreation and Historical Commission.

“Preventative maintenance” means any work the sole purpose and effect of which is to correct deterioration, decay or damage.

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

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

“Significant feature or characteristic” means a feature or characteristic identified by the Board of Supervisors as significant from a historical standpoint pursuant to 17.##.080 of this chapter.

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

“Structure of merit” means a resource designated as a structure of merit by the Board of Supervisors in accordance with 17.##.080 (C) of this chapter.

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

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

**17.##.040 Cultural Resource Surveys**

A. The County will maintain a list of all surveys and will use the survey information to identify and protect potentially historic resources as outlined in this Ordinance. All surveys shall be prepared by or under supervision of an architectural historian satisfying the professional qualification standards for architectural historians specified in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

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

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

C. All properties evaluated in the above surveys, regardless of the conclusions as to their historic significance, will go into an Inventory of Potential Historic Resources. This Inventory shall also include the results of any future historic resource surveys, including historic resource evaluations done in conjunction with the completion of any Environmental Impact Reports (EIRs) or Negative Declarations prepared pursuant to CEQA in the County. The Planning Department shall take appropriate steps to ensure that the Inventory is properly maintained and regularly updated. The Planning Department shall also take appropriate steps to maintain and regularly update a list or compilation of resources within the County that are on the California Register of Historical Resources or the National Register of Historic Places, and to make the list or compilation available for public review and use.

**17.##.050 The Alameda County Register**

A. The list of landmarks, historic preservation districts, contributing resources and structures of merit shall be known, collectively, as the Alameda County Register.

B. Initially Within 180 days of the effective date of this ordinance, the following properties are considered eligible for inclusion on the Alameda County Register:

1. Properties deemed likely significant in previous surveys (properties rated "Y" in the Ashland & Cherryland survey, "1" in the San Lorenzo survey and "K" in the East Alameda survey) that, as part of the Comprehensive Survey of Historic Sites in unincorporated Alameda County, were verified to merit continued listing;
2. All landmarks, contributing buildings and historic preservation districts identified in the Comprehensive Survey that were not identified in any of the three previous surveys;
3. Properties identified by the Commission that meet the structure of merit criteria set forth below in 17.##080 (C) that were identified prior to the adoption of this Ordinance.

C. Owners(s) of the properties specified in subsection B ~~have been~~ shall be notified in writing that the Board of Supervisors ~~has intends to adopted a~~ Historic Preservation Ordinance and as a result their property could be included on the Alameda County Register if they so desire. The property owners shall be ~~were~~ notified in the manner specified in Section 17.##.120. Owner(s) of these properties that wish to add their property to the Alameda County Register must submit their written ~~request~~ consent to be added to the Register to the Planning Department within ~~180 (one hundred and eighty)~~ (180) days of the adoption of this Ordinance. Upon receipt of the written ~~request~~ consent, the property shall be verified by the Director as acceptable by conducting a ~~cursor~~ review of County records and conducting a site visit to confirm that no alterations have been performed that would render the property ~~unworthy~~ ineligible for listing. If no written ~~request~~ consent to be added to the Register is submitted by the owner(s) of properties specified in Subsection B to the Planning Department, within one hundred and eighty (180) ~~(one hundred and eighty)~~ days of the adoption of this Ordinance, such properties will ~~not~~ be added to the Register unless they are subsequently nominated pursuant to follow the nomination procedures described in Section 17.##.080. Lack of receipt of consent by the Director pursuant to this subsection shall not constitute a denial of a nomination.

#### **17.##.060 Criteria and Requirements for Placement on, and Deletion from, the Alameda County Register**

The criteria and requirements for placement on, or deletion from, the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit are as follows:

A. ~~Landmarks are intended to be properties in unincorporated Alameda County (or County owned buildings in an incorporated area of Alameda County) of exceptional historical or architectural value that are clearly eligible individually for the California Register of Historical Resources, including those that are especially fine examples of an important style, type, or convention, or which are intimately associated with a person, organization, event, or historical pattern of major importance at the local level or of moderate importance at the state or national level.~~ A nominated resource shall be added to the Alameda County Register as a landmark if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that all of the requirements set forth below are satisfied:

1. The nominated resource meets one or more of the following criteria:
  - a. It is associated with events that have made a significant contribution to the broad patterns of the history of the County, the region, the state or the nation;
  - b. It is associated with the lives of persons significant in the County's past;
  - c. It embodies the distinctive characteristics of a type, period or method of construction;
  - d. It represents the work of an important creative individual or master;
  - e. It possesses high artistic values; or

f. It has yielded, or may be likely to yield, information important in the prehistory or history of the County, the region, the state or the nation.

2. The nominated resource has integrity of location, design, setting, materials, workmanship, feeling and association. Integrity shall be judged with reference to the particular criterion or criteria specified in subparagraph 1.-(a)-~~above~~;

3. The nominated resource has significance historically or architecturally, and its designation as a landmark is reasonable, appropriate and necessary to promote, protect and further the goals and purposes of this chapter.

4. The nominated resource has been evaluated by a qualified historical resources consultant who meets one or more of the Secretary of the Interior's professional qualifications standards or who are certified by the Register of Professional Archaeologists, and the evaluator has submitted documents that provide evidence of the resources historical or architectural significance.

B. A geographic area nominated as a historic preservation district shall be added to the Alameda County Register as a historic preservation district if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that all of the requirements set forth below are satisfied:

1. The area is a geographically definable area;

2. The area possesses either:

a. A significant concentration or continuity of buildings unified by: a) past events; or b) aesthetically by plan or physical development; or

b. The area is associated with an event, person, or period significant or important to County history

3. The designation of the geographic area as a historic preservation district is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter and is not inconsistent with other goals and policies of the County.

4. A historic preservation district shall have integrity of location, design, setting, materials, workmanship, feeling and association.

5. The collective historic value of the buildings and structures in a historic preservation district taken together is greater than the historic value of each individual building or structure.

6. The application is accompanied by a form bearing the signatures of at least fifty-one percent (51%) of all property owners within the area of the proposed district.

7. The Board finds that the addition of the district to the Register does not in any manner interfere, eliminate or otherwise obviate the identification, qualification, designation and

preservation requirements of the creation of Historic Preservation Districts pursuant to Chapter 20 of this Title.

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

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

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

1. The nominated resource is within a historic district;
2. The nominated resource either embodies the significant features and characteristics of the historic district or adds to the historical associations, historical architectural qualities or archaeological values identified for the historic district;
3. The nominated resource was present during the period of historical significance of the historic district and relates to the documented historical significance of the historic district;
4. The nominated resource either possesses historic integrity or is capable of yielding important information about the period of historical significance of the historic district; and
5. The nominated resource has important historic or architectural worth, and its designation as a contributing resource is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter.

**17.##.070 Deletions from the Register**

An application to delete a listed historic resource from the Alameda County Register may be approved if the Board of Supervisors finds, after holding the hearings required by this chapter, that the listed historic

resource no longer meets the requirements set forth above; provided that where a landmark, historic preservation district or structure of merit is proposed for deletion due to a loss of integrity, the loss of integrity was not the result of any illegal act or willful neglect by the owner or agent of the owner.

**17.##.080 Procedures to Nominate Resources for Placement or Deletion from the Alameda County Register**

A. The following parties shall have the authority to nominate a resource for placement or removal from the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit:

1. The Owner ~~or any combination of owners(s)~~ of the of the historic resource proposed for designation, ~~or an authorized agent or, in the case of a historic preservation district, no less than fifty-one percent (51%) of property owners within the area of the proposed district.;~~
2. The Parks, Recreation and Historical Commission, subject to the consent of the property owner pursuant to Section 17.##.120.;
3. The Board of Supervisors. ~~However, no nomination for placement on the Alameda County Register as a landmark, or structure of merit shall proceed without the authorization of the property owner.~~

B. If designation is initiated by the owner, an application for designation shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation including, but not limited to, State of California Department of Parks Recreation 523 series forms or other historic resource inventory forms as may be approved by the State. Such documentation must be prepared by an individual who meets the professional qualification standards published by the National Park Service in the Federal Register (Code of Federal Regulation, 36 CFR Part 61), as determined by the State Office of Historic Preservation. ~~At the time of submission of an application for designation shall be deemed, the owner must provide written consent by the owner to the designation on a form supplied by the County. If an application is determined to be incomplete, it shall be returned to the applicant and the applicant may re-submit the application with the documentation necessary to complete it without an additional filing fee.~~

C. The Parks, Recreation and Historical Commission may initiate the designation of landmarks, historic preservation districts, contributing resources or structures of merit ~~nominations~~ by adopting a resolution of intent to ~~consider a nomination. in either~~ The Commission may adopt a resolution of intent to nominate on its own motion, ~~or at the request of the Planning Department, or at the request of members of the public. The Board of Supervisors may nominate landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution identifying the nominated resource and transmitting its resolution to the Parks, Recreation and Historical Commission. The Parks, Recreation and Historical Commission shall adopt a resolution of intent to consider nominations for resources nominated by the County Board of Supervisors. If~~ Any resolution of intent to designate ~~on~~ is initiated by the ~~Board of Supervisors or the Parks, Recreation and Historical Commission, such action must be based upon the same documentation that would be required of an owner's application for initiated designation~~

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and preliminary findings that the resource potentially meets the criteria for either -a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.##.060. The Planning Department ~~or the Clerk of the Board of Supervisors~~ shall notify the owner and the occupants of the property by certified mail 30 days prior to the ~~Parks, Recreation and Historical Commission or Board of Supervisors~~ meeting when the subject property of the resolution of intent to nominate shall be considered for nomination regarding the initiation of the designation and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.##.100 and the right of the property owner to grant or withhold consent regarding nominations by the Commission. Notice of public meetings shall follow the guidelines established in Section 17.##.120 of this Ordinance.

D. The Board of Supervisors may initiate designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution identifying the resource to be nominated and transmitting its resolution to the Commission. The Commission shall consider recommendations to the Board regarding a proposed nomination pursuant to Section 17.##.100. If designation is initiated by the Board of Supervisors, such action must be based upon the same documentation that would be required of an owner's application for designation and findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.##.060. The Clerk of the Board of Supervisors shall notify the owner and the occupants of the property by certified mail 30 days prior to the Board of Supervisors meeting regarding the initiation of the designation and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.##.100 and the a on the Board that result should that the property owner may advise the Board of the owner's their granting or withholding of consent. Notice of public meetings shall follow the guidelines established in Section 17.##.120 of this Ordinance.

~~D. If the application is determined to be incomplete, it shall be returned to the applicant and the applicant requested to submit the documentation necessary to complete the application. No additional filing fee will be required.~~

E. The application, resolution of intent to nominate, or nomination shall indicate the parameters of the historic resource that is being nominated with specificity, specifying including any related structures or landscape that is to be included for consideration.

F. The owner of a historic resource proposed for designation may notify the Planning Director in writing of their support of, or objection to, consent, or withholding consent, to the proposed designation at any time after initiation, but and prior to a final designation by the Board.

G. A request to delete a listed resource from the Register will be initiated in the same manner and using the same procedure as was followed to nominate a potentially historic resource. The action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors that justified the designation. Notice of removal of a listed resource shall be sent to the same persons or other parties as set forth in Section 17.##.120 and the resolution shall be repealed or amended accordingly.

**17.##.090 Nominated Resource Protections Pending Final Decision**

A. Subject to the time limits set forth in Subsection B ~~below~~, any nominated resource proposed for consideration as a landmark or contributing resource shall be considered to be a landmark or contributing resource for purposes of 17.##.160 herein, and it shall be subject to the restrictions and protections of 17.##.160 as if it were a landmark or contributing resource. Any geographic area proposed for consideration as a historic preservation district shall be considered to be a historic preservation district for purposes of 17.##.160 herein, and the resources located within the proposed historic preservation district shall be subject to the restrictions and protections of 17.##.160 as if they were located within a historic preservation district.

B. The restrictions of Subsection A ~~above~~ shall apply for a period of one hundred eighty (180) days from the date of a nomination by the Board of Supervisors or adoption by the Commission of a resolution of intent to consider a nomination of a property as a landmark, a contributing resource or a property within a historic preservation district. After one hundred eighty (180) days have elapsed from the date of the resolution of intent initiation of designation, if the Board of Supervisors has not adopted an ordinance designating the nominated resource as a landmark, contributing resource or historic preservation district, the restrictions and protections established by Subsection A ~~above~~ shall no longer apply unless the Board of Supervisors has adopted an ordinance to extend the one hundred eighty (180) day limit to consider the nomination.

C. Listed historic resources proposed for deletion from the Alameda County Register shall be subject to the restrictions and protections of 17.##.160 unless and until a final decision is made by the Board of Supervisors to delete the listed historic resources from the Alameda County Register.

**17.##.100 Nomination Hearing by the Parks, Recreation and Historical Commission**

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

A. Notice of the hearing shall be provided pursuant to Section 17.##.120.

B. ~~1.-~~A hearing on ~~the an~~ application for ~~designation~~ shall be scheduled and a recommendation made by the Commission ~~to the Board of Supervisors shall be made within sixty (60) days of the date that the application is determined to be complete. If the Commission does not act within the timeframe, the owner may request that the proposed designation proposal be transmitted directly to the Board of Supervisors for its determination.~~

~~2.-~~C. A hearing on a property subject to a Commission resolution of intent to nominate shall be scheduled and a recommendation made by the Commission, ~~or within sixty (60) days of the date that the Commission or Board of Supervisors initiated the a proposed designation or proposal for deletion.~~ If the Commission ~~does not~~ cannot act within the timeframe, the owner may request that the proposed

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designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.##.140.

~~3D.~~ A hearing on a nomination proposed ~~nomination~~ by the Board shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the Board initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, either the owner or the Board may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.##.140.

~~CE.~~ A staff report concerning the historic resource under consideration for placement or deletion from the Register shall be provided to the Commission. The report shall address the significance and integrity of the historic resource(s) as it relates to the designation criteria, provide other relevant information, and include a recommendation concerning the application and the basis therefore. The staff report shall also state whether the owner(s) of the property ~~supports or objects~~ have consented or withheld consent to the proposed action.

~~DE.~~ In the event of a nomination or proposed deletion of a historic preservation district, the ~~Planning Department shall also send a copy of the hearing notice to the Secretary of~~ Director shall also notify the Planning Commission. The Planning Commission may shall have at least 30 days to review the proposed designations and boundaries of the historic preservation district, or the proposed deletion., and may forward its recommendations to Commission for the Commission's consideration. Failure of the Planning Commission to may provide comments, however lack of comments by the Planning Commission shall neither not prevent the Commission from acting on the nomination or proposed deletion nor preclude any actions by the Planning Commission authorized under Chapter 17.20.

~~EF.~~ Any recommendation for placement or deletion from the Register initiated by the Parks, Recreation and Historical Commission shall be supported by a preponderance of the evidence that the historic resource meets or no longer meets the designation criteria for one of the registration categories set for the in Section 17.##.060. The Commission shall also include in their analysis whether or not the owner has provided granted or withheld written consent to the designation. If the owner has not granted written consent to the designation of a property placement of the property on the Register, which is the subject of a Commission resolution of intent to nominate, the Commission may not act to recommend a nomination shall not adopt a resolution of intent to nominate.. In the event of a non-recommendation due to a lack of consent, the Commission shall make such a finding and transmit the non-recommendation to the Board.

~~FHG.~~ The Commission secretary shall transmit to the Board of Supervisors the Commission's recommendations on inclusion(s) on or deletion(s) ~~to or~~ from the Alameda County Register.

**17.##.110 Action by the Board of Supervisors on Amendments to the Register**

A. Within ~~630~~ days of the receipt of the transmittal by the Clerk of the Board of Supervisors of an action by the Commission pursuant to Section 17.##.100, or as soon as practicable, the Board of Supervisors shall hold a public hearing thereon, and The Board may adopt, modify or reject the action(s) recommended by the Commission, however, if the owner of the subject property has not provided written

~~consent to the designation prior to the action by the Board~~ if the Board is considering a non-recommendation of the Commission, the historic resource shall not be placed on the Alameda County Register except by unanimous vote ~~action by the Board of Supervisors.~~ In the alternative, the Board of Supervisors may refer the proposed action(s) to the Commission for further hearings, consideration or study. ~~The historic resource shall not be placed on the Alameda County Register if the owner does not provide written consent to the designation prior to the action by the Board of Supervisors.~~ Adoption of any inclusion on or deletion from the Alameda County Register shall be made by uncodified ordinance which shall contain findings of fact in support of each designation. The uncodified ordinance shall identify significant feature(s) or characteristic(s) of resources added to the Alameda County Register, and shall identify contributing resources and non-contributing resources in a historic preservation district.

B. Notice of public hearing shall be provided in accordance with Section 17.##.120. In addition, notice shall be published once not less than ten (10) days before the hearing in a newspaper of general circulation.

C. A historic resource placed on the Register shall be subject to the provisions set forth in this chapter.

#### **17.##.120 Notice of Public Hearing**

A. Notice of public hearings shall be provided as manner described below:

1. Written notice shall be given not less than ten (10) days prior to the hearing to the following individuals:

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

b. Where the resource is proposed for inclusion on, or deletion from the register as a landmark, all property owners within five hundred (500) feet of the resource, as shown on the latest tax roll. In the case of a nomination regarding a historic preservation district, the nomination notice shall be provided to all property owners within the proposed district and to all property owners whose property abuts property proposed for inclusion in the historic preservation district.

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

2. If designation is initiated by the Commission or Board of Supervisors, notice shall be sent by certified mail to all owners and occupants of the subject properties~~(s)~~ at the address shown on the most current property tax roll of Alameda County. Such notice shall be in addition to the requirements outlined in subsections (a), (b) and (c) ~~above of~~ this subparagraph.

3. The County may in its discretion provide additional notice beyond that specified in this section.

B. The form and contents of the public hearing notice must conform to the standards described below:

1. Common address and assessor's parcel number, if any, of the nominated resource or the resource proposed for deletion;
2. A general explanation of the proposed designation or proposed deletion.
3. The date and place of the public hearing or hearings before the Commission.

#### **17.##.130 Notice of Action by the Board of Supervisors**

A. Following adoption by the Board of Supervisors of the resolution placing or removing the resource(s) on the Alameda County Register, a copy of the findings shall be sent by first class mail to the owner(s) and occupants of the designated resource(s). Staff shall also notify the Parks, Recreation and Historical Commission and any agency or department of the County requesting such notice.

B. A certified copy of the resolution, a complete legal description of the resource(s), and the effective date of the designation or removal of the resource(s) shall be recorded in the records of the County Recorder. Failure to record with the County Recorder does not invalidate the requirements of this chapter.

C. A disclosure statement, in a form prescribed by the Planning Director, shall be recorded for all historic resources included on the Register. This statement shall be included in any future transfer or sale documents.

#### **17.##.140 Frequency of Nominations**

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

#### **17.##.150 Proposed Demolition or Relocation of Buildings or Structures that are At Least Fifty Years Old**

~~Historical resources are recognized as part of the environment under the California Environmental Quality Act (Public Resources Code Sections 21001(b) and 21084.1 and Title 14, California Code of Regulations Section 15064.5). For environmental review purposes under CEQA, the screening of demolition permit applications is required to identify designated historic properties, and properties with potential historic significance. A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. The fact that a resource is not listed in the National, State or Alameda County Register does not preclude a lead agency~~

from determining whether the resource may be eligible for listing in an historical resource for purposes of this section. The screening of demolition permits shall be conducted as prescribed by this chapter.

A. If a permit is sought to demolish or relocate a building or structure that was constructed at least fifty (50) years prior to the date of application for demolition or relocation, and that building or structure is not currently on the Register, and is not the subject of a pending nomination to the Register, the permit application shall be referred to the Planning Director to allow the director to make a preliminary determination of whether the structure meets the criteria of a landmark. For purposes of this section, a building or structure for which a building permit was issued and construction commenced not less than fifty (50) years prior to the date of application for a demolition or relocation permit shall be ~~considered to have been constructed not less than fifty (50) years ago~~ subject to this Section, regardless of when the construction was completed, and regardless of whether the building or structure was thereafter expanded, modified or otherwise altered. Absent sufficient evidence to the contrary, the date of issuance of the building permit shall be considered to be the date on which construction commenced.

B. A request to demolish a structure over fifty (50) years in age shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation as determined by the Planning Department.

1. Within forty-five (45) days of receipt of a complete application to demolish or relocate a building or structure as specified under subsection A of this section, the Planning Director shall make a preliminary determination of whether the building or structure is eligible for listing on the Register. In making this preliminary determination, the Planning Director shall apply the eligibility criteria and factors specified in Section 17.##.080. ~~The Planning Director shall find that the building or structure is eligible for consideration for listing on the Register if the director finds that there is a reasonable likelihood that the building or structure will be placed on the Alameda County Register following completion of the notice and hearing requirements of this chapter.~~

2. The Planning Director shall notify the property owner of the preliminary determination by first-class, prepaid mail. Failure of the Planning Director to act within the forty-five (45) day period shall be considered to be a determination that the structure is not eligible for listing on the register. For purposes of this section, the decision shall be considered to have been made on or before the date of mailing of the notice.

3. The effects of the preliminary determination are provided below:

a. If the Planning Director determines that the building or structure is eligible for consideration for listing on the Register, the applicant shall be informed that a certificate of appropriateness is required for such demolition. Review of the proposed demolition shall then proceed according to the certificate of appropriateness review procedures outlined in 17.##.160.

b. If the Planning Director determines that the building or structure is not eligible for listing on the Alameda County Register, the permit to demolish or relocate the building or structure shall be issued without further restrictions under this chapter.

#### **17.##.160 Certificate of Appropriateness**

A certificate of appropriateness is required for any alteration, relocation or demolition of a landmark, structure of merit or contributing resource within a historic preservation district. A certificate of appropriateness is also required for new construction on a site occupied by a landmark, structure of merit, contributing resource, or within a historic preservation district. Approval of such work shall be required even if no other permits or entitlements are required by the County. The issuance of a certificate of appropriateness is not required for preventative maintenance or interior work that does not affect the appearance of the exterior. ~~For the purpose of this chapter, "preventative maintenance" means any work, the sole purpose and effect of which is to correct deterioration, decay or damage.~~

#### **17.##.170 Certificate of Appropriateness-Application**

The owner or authorized representative shall file an application for a certificate of appropriateness with the Planning Department on forms provided by the department for such purpose. The application shall be accompanied by material required in application forms and a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors. As soon thereafter as practicable after the application is deemed complete, the application shall be forwarded to the Parks, Recreation and Historical Commission for its review ~~and recommendation~~ at a public hearing.

#### **17.##.180 Certificate of Appropriateness-Review Procedures**

A. The Commission may review and make recommendations ~~shall have the authority to recommend to the Planning Director or designee the approval, approval with conditions, or denial of~~ regarding a filed certificate of appropriateness, except for those projects classified as "small projects" under Section 17.##.200. The required public notice of the Commission hearing on the review and recommendation of a certificate of appropriateness shall be provided according to the provisions outlined in Section 17.##.120. At such hearing, the applicant and other interested parties shall have the right to present evidence regarding the application for the certificate of appropriateness. The Commission may continue the public hearing until its next regular meeting or may defer action after closing the public hearing until its next regular meeting. Final action by the Commission shall not be deferred longer than 90 days after the date on which the ~~public hearing on the~~ certificate of appropriateness was initially ~~held~~filed.

BA. The Commission may recommend approval of the certificate of appropriateness ~~as requested, or recommend approval with changes which may be necessary to enable the applicant to meet the required permit findings,~~ or it may recommend denial of the application. ~~The~~ Any recommendation of the Commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the recommendation, and such recommendation shall be forwarded to the Planning Director.

~~CB. The department director shall act on the certificate of appropriateness application within 105 days of after the date the certificate of appropriateness was filed. the hearing at which the recommendation was made by the Commission.~~ The decision of the Planning Director shall be final unless appealed as provided for in Section 17.##.250.

#### **17.##.190 Certificate of Appropriateness-Permit findings**

The historical resources included in the Register, and resources deemed eligible for inclusion pursuant to criteria set forth in this Chapter, are presumed to be historically or culturally significant, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant.

One or more of the following findings are required for the approval of a certificate of appropriateness:

A. The certificate of appropriateness has been conditioned upon all alterations complying with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings, and with the California Historical Building Code and the California Health and Safety Code Section 18950 et seq., as amended, and applied to the project by the Building Official;

B. The proposed alteration, relocation or demolition would not destroy or have a significant adverse affect on the integrity of the designated resource, and the resource will retain the essential elements that make it significant;

C. In the case of any proposed alteration that includes detached new construction on the parcel occupied by the designated landmark, contributing resource or within the historic preservation district, the exterior features of such new construction would not have a significant adverse affect or be incompatible with the exterior features of the designated resource(s).

D. There is no feasible alternative that would avoid the significant adverse affect on the integrity of the designated resource. The owner shall provide facts and substantial evidence demonstrating that there is no feasible alternative to the proposed alteration or demolition that would preserve the integrity of the designated resource. In the case of demolition, up to a six-month waiting period may be imposed by the Board of Supervisors from the date of the Commission hearing at which the Commission recommendation was made.

#### **17.##.200 Certificate of Appropriateness-Small Project Review**

A. Applicants may obtain a certificate of appropriateness by going through small project review if the proposed alteration or demolition is determined eligible for such review. After the application for small project review is deemed complete by the Planning Department, the department director or designee shall evaluate the application within ten working days to determine its eligibility for small project review which includes the following:

1.A. Demolition or removal of non-contributing features, including, but not limited to, non-contributing additions, garages, accessory structures or incompatible, previously replaced windows, doors or siding material;

2B. Any undertaking that does not change exterior features, including but not limited to, re-roofing if the roofing material is compatible in appearance, color and profile to the existing or original roofing material;

3C. Replacement of windows and doors if the proposed replacements match the existing or original windows and doors;

4D. Addition less than 200 square feet proposed for side or rear elevations; and

5E. Any other undertaking determined by the department director or designee to not materially alter the features or have an adverse effect on the integrity of a landmark.

B.F. If the proposed alteration or demolition meets the small project review eligibility criteria and is deemed to be consistent with the Secretary of the Interior's Standards, the department director or designee may approve the certificate of appropriateness and notify the Commission of such action. If a certificate of appropriateness is granted under small project review, no public hearing shall be required.

C.G. If the proposed alteration or demolition does not meet the small project review eligibility criteria and/or is not consistent with the Secretary of the Interior's Standards, the department director or designee shall forward the application to the Commission for its review and recommendation according to the standard certificate of appropriateness process. No hearing shall be required on the decision by the Planning Director to elevate the review of a certificate of compliance to the Commission, and this decision of the Planning Director shall be final and shall not be subject to appeal.

#### **17.##.210 Certificate of Appropriateness-Permit Expiration**

A. Unless extended pursuant to subsection (C) of this section, a certificate of appropriateness for the demolition of a building or structure shall expire at the end of one hundred and eighty (180) days from the date of issuance of the certificate of appropriateness unless a demolition permit or a building permit for the demolition work has been obtained and exercised. For purposes of this section, the term exercised means substantial expenditures in good faith reliance upon the permit. The burden of proof in showing substantial expenditures in good faith reliance upon the permit shall be placed upon the permit holder.

B. Unless extended pursuant to subsection (C) of this section, a certificate of appropriateness for other than a demolition shall expire at the end of three years from the date of issuance unless a building permit has been obtained and exercised for the project or, if no building permit is required for the work, the work has physically commenced. For purposes of this section, the term "exercised" means substantial expenditures in good faith reliance upon the building permit. The burden of proof in showing substantial expenditures in good faith reliance upon the building permit shall be placed upon the permit holder.

C. Applications for extensions shall be handled in the manner described below:

1. Except as provided in subsection (C)(2) of this section, one or more extensions of a certificate of appropriateness may be granted for a cumulative total extension period of five years upon application to the Planning Director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the Planning Director.

2. A certificate of appropriateness for the demolition of a building or structure may be extended for a period of up to an additional forty-five (45) days upon application to the Planning Director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the Planning Director or his or her designee.

D. An application for a modification to a final approval of a certificate of appropriateness application or a condition of approval of a certificate of appropriateness application shall be heard and/or considered in the same manner and by the same body as the original certificate of appropriateness application.

#### **17.##.220 Certificate of Appropriateness-Permit Revocation**

The Planning Director or designee may, in writing, revoke a certificate of appropriateness for reasons of 1) non-compliance with any terms or conditions of the certificate of appropriateness; or 2) finding of fraud or misrepresentation used in the process of obtaining the certificate of appropriateness.

#### **17.##.230 Notification by the Building Official**

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

#### **17.##.240 County Projects**

A. Except as provided ~~hereinbelow~~, the provisions of this chapter requiring hearing(s) before the Commission or Planning Department shall apply to development projects involving, or requests for demolition or relocation of, landmarks, structures of merit or contributing resources which are owned by the County, including public projects within the Alameda County national historic landmark, historic preservation district; provided that the Commission or Planning Department shall make a recommendation to the County Board of Supervisors or other County decision-making body, entity or person, rather than issuing a decision. When acting on County projects, the Board of Supervisors or other County decision-making body, entity or person shall apply the same standards, and make the same findings, required by this chapter for private projects.

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

#### **17.##.250 Appeals**

A. Any interested person who is dissatisfied by the decision of the department director ~~their designee or the Parks, Recreation and Historical Commission~~ may appeal the determination to the Board of Supervisors. Appeals shall be submitted in writing not more than 10 days following the date the action was taken by the ~~department director, their designee, or the Commission.~~ The appeal may be taken by any property owner or other person aggrieved ~~or by an officer, department, or Board or Commission~~ affected by the order within a said ten-day period, by filing with the Clerk of the Board of Supervisors a

notice of appeal that specifying the grounds for such appeal. The appellant shall pay a nonrefundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors.

B. The Board of Supervisors shall give written notice of the time and place for hearing any appeal. Such notice may be published and shall be given to the applicant, to the appellant, to the agency which made the order appealed, and to any other persons requesting such notice and depositing with the Clerk of the Board a self-addressed, stamped envelope to be used for this purpose

C. Within 30 days of the notice to appeal, or as soon thereafter as is practicable, the Board of Supervisors shall hold a hearing on the appeal and shall sustain, modify or overrule any order brought before it pursuant to subsection A of this chapter.

#### **17.##.260 Dangerous Buildings and Immediately Dangerous Buildings, Structures or Resources**

The building official shall notify the Planning Director upon designation of any listed historic resource or any nominated resource as a substandard, dangerous, or immediately dangerous building, structure or resource.

#### **17.##.270 Demolition and Abatement —Listed Historic Resources**

A. The provisions of this chapter shall not be construed to regulate, restrict, limit or modify the authority of the County and the building official or his or her designee(s) as specified below, to issue demolition or other permits under the building code set forth in Title 15 of this code for the abatement of any nominated resource or any listed historic resource determined to be immediately dangerous, and a threat to public health and safety.

B. Only such work that has been found reasonably necessary as determined by the County's building official to correct the unsafe or dangerous condition may be performed pursuant to this subsection.

#### **17.##.280 Dangerous Buildings-Deletion from Register**

A. When an individually listed resource on the Register, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the Clerk of the Board upon notice from the Planning Director, shall cause the resource, or portion thereof, to be deleted from the Register. Upon deletion, the provisions of this chapter shall not be considered to encumber any remaining property on which the resource was located. Landmark(s) in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent, shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

B. When a listed historic resource in a historic district, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the Clerk of the Board upon notice from the Planning Director, shall cause such listed historic resource, or portion thereof, to be downgraded to a noncontributing resource in the historic district. Listed historic resource(s) in a historic district in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God

or other similar events not attributable to the willful or intentional action of the owner or owner's agent shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

### **17.##.290 Preservation Incentives**

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

### **17.##.300 California State Historical Building Code**

The building official is authorized to use and shall use the California Historical Building Code for projects involving landmarks and contributing resources. The Parks, Recreation and Historical Commission and the Planning Director are authorized to and shall utilize the California Historical Building Code for preservation projects.

### **17.##.310 Mills Act Contracts**

A. Mills Act (California Govt. Code §§ 50280, et seq.) contracts granting property tax relief shall be made available by the County only to owners of properties listed in the Alameda County Register (either as landmarks or as contributing resources within historic preservation districts), as well as properties located within the County that are listed in: the National Register of Historic Places (either as individual listings or as contributing properties within National Register historic preservation districts); or the California Register of Historical Places. Such owners may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of the property for a minimum ten-year period. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the County.

B. Mills Act contracts shall be made available pursuant to California law. The Planning Department shall make available appropriate Mills Act application materials.

C. Mills Act contract applications shall be made to the Planning Department, who shall, within sixty (60) days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the Board of Supervisors. A fee for the application, to cover all or portions of the costs of the preparation of the contract in the amounts set by Board of Supervisors resolution may be charged.

D. The Board of Supervisors shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the Board of Supervisors fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

E. A Mills Act contract application that has failed to be approved by the Board of Supervisors cannot be resubmitted for one year from the date of County Board of Supervisors action, or where the Board of

Supervisors fails to take action, within one year from the date that the application is deemed denied pursuant to Subsection D above.

### **17.##.320 Other Government-Sponsored Incentive Programs**

The County shall make available information to owners of historic resources information about local, State, and Federal incentives programs.

### **17.##.330 Minimum Maintenance Requirements**

A. The owner, lessee or other person legally in possession of a listed historic resource shall comply with all applicable codes, laws and regulations governing the maintenance of property. Every historic resource shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve the historic resource against decay and deterioration to the greatest extent practicable. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of listed historic resources and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. Listed historic resources shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

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

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

**17.##.340 Enforcement and Penalties**

The code enforcement manager and building official, and designees, are hereby authorized to enforce the provisions of this chapter, and, in addition to all other powers available to them in the enforcement of this chapter. The County Counsel is authorized to take such legal actions as are lawfully available. A certificate of appropriateness shall not be issued for the demolition of a historic resource because of the failure of the owner to comply with the provisions of this section.

A. No person shall cause, willfully or otherwise, by action or inaction, alteration of, environmental change to, damage to or demolition of any significant feature(s) or characteristic(s) of a landmark or all or portion of a historic preservation district, or other listed historic resource, or National Register resource or California Register resource without first having obtained a proper County authorization for same.

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

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

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

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

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

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

### **17.##.350 Additional Penalties**

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

### **17.##.360 General Provisions**

Judicial review of any final decision under this chapter shall be filed within thirty (30) days of the date of the decision, and review shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

### **17.##.370 Fees**

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

### **17.##.380 County Code References**

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

### **17.##.390 Severability**

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

### **17.##.400 Other laws**

There are many other laws, regulations and ordinance that apply to land use, development, and construction activities. The provisions of this Historic Preservation Ordinance are intended to be in addition to and not in conflict with these other laws, regulations and ordinances. If any provision of this Historic Preservation Ordinance conflicts with any duly adopted and valid statutes of the federal or state government of the State of California, the federal and state statutes shall take precedence.

**PROPOSED REVISIONS TO CHAPTER 17.20, “HP DISTRICTS”**

**17.20.040 Requirements**

In order to be classified in the HP district, at least part of the property or one of the structures on the property must be:

- A. Listed on the Alameda County Register, or otherwise specifically recognized by the Alameda County General Plan; or
- B. Designated a Point of Historic Interest or State Historical Landmark, or be eligible for or listed on the National Register of Historic Places, California Register of Historical Resources, or some state or federal inventory of historical resources; or
- C. Of special importance due to its historical association, basic architectural merit, its embodiment of a style or special type of construction, or other special character, interest, or value.

In addition, establishment of any HP district, and regulations adopted therein, shall be consistent with Section 17.20.010, Intent.

**17.20.060 Procedure—Referral to Parks, Recreation and Historical Commission**

The petition for reclassification or the land use and development plan shall be referred to the County Parks, Recreation, and Historical Commission for recommendation. The recommendation shall include a determination as to whether or not the property meets the requirements of Section 17.20.040, whether or not reclassification to an HP district is an appropriate means of preserving the property, and whether or not the proposed uses and any proposed alterations to the property are detrimental to its historical value. The Parks, Recreation, and Historical Commission may also make recommendations to the Planning Commission as to appropriate modifications in the proposal, including the boundaries of the district. The Parks, Recreation, and Historical Commission review shall be completed and transmitted to the Planning Commission within sixty (60) days of receipt, or such longer time as may be agreed to by the Planning Commission, or the above determination shall be made by the Planning Commission.

**PROPOSED REVISIONS TO CHAPTER 2.86, "PARKS, RECREATION AND HISTORICAL COMMISSION"**

**2.86.020 Commissioners—Terms, Appointment, Qualifications**

A. The Commission shall consist of nine (9) members appointed by the Board of Supervisors. The Supervisor representing District 5 shall appoint one representative and the Supervisors representing Districts 1, 2, 3, and 4 shall appoint two representatives each. The current fifteen member Board shall transition to a nine member Board by attrition, or by action taken by the Board of Supervisors. A nine member body shall be in place by 2012.

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

C. Each member of the Commission shall have demonstrated interest and experience in either historical preservation or recreation.

1. At least two Commission members are encouraged to be appointed from among professionals in the disciplines of history, architecture, architectural history, Planning, pre-historic and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as American studies, American civilization, engineering, or cultural geography, to the extent that such professionals are available in the community.

2. Commission membership may also include lay members who have demonstrated special interests, knowledge, or competence in historic preservation.

**2.86.021 Board—Term of Office, Vacancies**

The members of the Commission shall serve at the pleasure of the Board of Supervisors and shall have terms of four years. Their terms shall be staggered so that no more than four terms expire in any one year, and so that no supervisor makes more than one appointment in one year, except to fill an unexpired vacancy. No one member shall serve more than three successive four-year terms. Any vacancy on the Commission shall be filled by the Board of Supervisors; persons appointed to fill vacancies shall serve for the unexpired term of the persons they succeed. The Board of Supervisors shall act within sixty (60) days to fill a vacancy.

**2.86.070 Commission—Duties and Powers**

In addition to those responsibilities conferred to it within Title 17 of the Alameda County Ordinance Code, the powers and duties of the Commission shall be to:

A. Participate in historic preservation activities in the County, and to ensure that all historical resources are recognized as such;

B. Assist in the coordination of the activities of the various local and regional park districts and departments to provide a balanced park and recreation program in the County and to avoid unnecessary duplication of facilities;

- C. Foster public participation in matters pertaining to historic preservation and recreation;
- D. Coordinate with, and make recommendations to, other governmental agencies regarding historic preservation and recreation matters;
- E. Conduct studies and surveys of historic properties in the unincorporated areas of Alameda County;
- F. Provide to the Board of Supervisors recommendations regarding the acquisition, preservation, public display, and disposition of sites, buildings, documents and artifacts pertaining to the historical and cultural heritage of Alameda County;
- G. Support, initiate or collaborate with other organizations to promote and enhance knowledge of the history and cultural heritage of Alameda County;
- H. Review all requests for historical zoning and advise the Planning Commission and the Board of Supervisors as to the historical significance of the property in question. On request, it shall advise other public agencies and private groups as to the historical significance of properties in the County;
- I. Review and make recommendations on land development applications for properties located within “HP”, Historic Preservation Districts;
- J. Review nominations for inclusion and proposals for deletion from the Alameda County Register of Historic Resources;
- K. Compile, maintain and update information in the Alameda County Register of Historic Resources;
- L. Review and make recommendations on certificates of appropriateness;
- M. Maintain a directory of parks and historical resources located within the County;
- N. Review all legislation relative to historical resources and report its recommendations to the Board of Supervisors. The Commission also may take its own stand supporting or opposing legislation.
- O. Review and advise the Board of Supervisors, or other appropriate agency, regarding all requests for County funds for parks, historical facilities or programs. The Commission shall advise the Board of Supervisors on distribution of other funds which are available to the County, including bond act funds. The Commission also shall assist the coordination of applications for funding from others sources, such as the land and water conservation fund, between the various local, regional and County agencies, and shall advise the Board of Supervisors as to interest of the County affected by the dispersal of any such funds;
- P. Advise the County on reviews called for under the California Environmental Quality Act, National Environmental Protection Act, and National Historic Preservation Act on actions affecting historic resources in Alameda County;
- Q. Make recommendations to the Board of Supervisors, the Planning Commission, County departments, or any other entity, for purposes of providing historic preservation incentives, including, without

limitation, procedural, economic and tax incentives, acquisition of property, development rights, preservation easements, conservation easements, land use, zoning, development restrictions, penalties and sanctions, fee adjustments, and negotiated settlements;

R. Assume duties assigned to the Commission by the Board of Supervisors pursuant to the certified local government provisions of the National Historic Preservation Act of 1966, or duties that may be assigned to the Commission through any agreement(s) approved by the Board of Supervisors. This shall include undertaking review and comment upon those projects on which the County, as a certified local government, has an obligation or opportunity to provide review and comment under the National Historic Preservation Act, including but not limited to private and public projects undertaken within Alameda County involving one or more landmarks or historic preservation districts;

S. Review applications for Mills Act contracts;

T. Foster and promote the preservation of historic records;

U. Adopt a historic preservation plan or element; and

V. Carry out any other duties dealing with historical resources, recreation and parks in the County which the Board of Supervisors may from time to time assign to it.

### Attachment C- Technical Revisions Proposed by the Planning Commission

| Section   | PRHC Draft Page # | Planning Commission Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Consistency between Drafts                     |
|-----------|-------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| 17.##.030 | 1                 | “Alameda County Register” or “Register” means the list of properties officially recognized as historically significant by Section 17.##.050 of this chapter.                                                                                                                                                                                                                                                                                                                              | Technical clarification; change is consistent. |
| 17.##.030 | 2                 | “Certificate of Appropriateness” means a permit approving an alteration to or demolition of a historic resource listed on the Alameda County Register or the demolition of a property otherwise eligible to be listed on the Alameda County Register pursuant to the provisions of this chapter.                                                                                                                                                                                          | Technical clarification; change is consistent. |
| 17.##.030 | N/A               | “Director” means the Director of the Planning Department of Alameda County.                                                                                                                                                                                                                                                                                                                                                                                                               | New text; technical clarification.             |
| 17.##.030 | 3                 | “Historic resource” or “cultural resource” means, but is not limited to, any object, building, structure, site, area, place, or record which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Alameda County.                                                                                                                    | Technical clarification; change is consistent. |
| 17.##.030 | N/A               | “Initiation of Designation” means the action taken, or the date on which such action is taken, to place a historic resource on the Alameda County Register, including the completion of an application by a property owner, a nomination by the Board of Supervisors, or an adoption of a resolution of intent to nominate by the Commission.                                                                                                                                             | New text; technical clarification.             |
| 17.##.030 | 3                 | “Landmark” means a property in unincorporated Alameda County, or a County-owned building or property in an incorporated area of Alameda County, of exceptional historical or architectural value that is an example of an important style, type, or convention, or which are intimately associated with a person, organization, event, or historical pattern of major importance at the local level designated as a landmark by the Board of Supervisors in accordance with this chapter. | Technical clarification; change is consistent. |
| 17.##.030 | 3                 | “Listed historic resource” means any historic resource listed in the Alameda County Register in accordance with this chapter. “Listed historic resource” includes any resource designated by the Board of Supervisors as a landmark, contributing resource to a historic preservation district, or a structure of merit. “Listed historic resource” does not include a non-contributing resource in a historic preservation district.                                                     | Technical clarification; change is consistent. |

**Attachment C- Technical Revisions Proposed by the Planning Commission**

| <b>Section</b> | <b>PRHC Draft Page #</b> | <b>Planning Commission Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>Consistency between Drafts</b>                                                                                    |
|----------------|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------|
| 17.##.030      | N/A                      | "Preventative maintenance" means any work the sole purpose and effect of which is to correct deterioration, decay or damage.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | New text; technical clarification.                                                                                   |
| 17.##.030      | 4                        | "Structure of merit" means a resource designated by the Board of Supervisors in accordance with 17.##.080 (C) of this chapter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Redundant language removed. Technical clarification; change is consistent.                                           |
| 17.##.050      | 5                        | B. Within 180 days of the effective date of this ordinance, the following properties are considered eligible for inclusion on the Alameda County Register:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Technical clarification; change is consistent.                                                                       |
| 17.##.050      | 5                        | C. Owners of properties specified in subsection B shall be notified in writing that the Board of Supervisors has adopted Historic Preservation Ordinance and as a result their property could be included on the Alameda County Register if they so desire. The property owners shall be notified in the manner specified in Section 17.##.120. Owners of these properties that wish to add their property to the Alameda County Register must submit their written consent to be added to the Register to the Planning Department within one hundred and eighty (180) days of the adoption of this Ordinance. Upon receipt of the written consent, the property shall be verified by the Director as acceptable by conducting a review of County records and conducting a site visit to confirm that no alterations have been performed that would render the property ineligible for listing. If no written consent to be added to the Register is submitted by the owners of properties specified in Subsection B to the Planning Department within one hundred and eighty (180) days of the adoption of this Ordinance, such properties will not be added to the Register unless they are subsequently nominated pursuant to Section 17.##.080. Lack of receipt of consent by the Director pursuant to this subsection shall not constitute a denial of a nomination. | Technical clarification; change is consistent.                                                                       |
| 17.##.060      | 6                        | A. A nominated resource shall be added to the Alameda County Register as a landmark if the Board of Supervisors finds, after holding the hearings required by this chapter, that all of the requirements set forth below are satisfied:...                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Deleted a portion of Ordinance text; however, change would not affect the intent or implementation of the Ordinance. |

**Attachment C- Technical Revisions Proposed by the Planning Commission**

| <b>Section</b> | <b>PRHC Draft Page #</b> | <b>Planning Commission Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | <b>Consistency between Drafts</b>              |
|----------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| 17.##.060      | N/A                      | 7. The Board finds that the addition of the district to the Register does not in any manner interfere, eliminate or otherwise obviate the identification, qualification, designation and preservation requirements of the creation of Historic Preservation Districts pursuant to Chapter 20 of this Title.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | New text; technical clarification.             |
| 17.##.090      | 9                        | A. Subject to the time limits set forth in Subsection B, any nominated resource proposed for consideration as a landmark or contributing resource shall be considered to be a landmark or contributing resource for purposes of 17.##.160 herein, and it shall be subject to the restrictions and protections of 17.##.160 as if it were a landmark or contributing resource. Any geographic area proposed for consideration as a historic preservation district shall be considered to be a historic preservation district for purposes of 17.##.160 herein, and the resources located within the proposed historic preservation district shall be subject to the restrictions and protections of 17.##.160 as if they were located within a historic preservation district.                                                      | Technical clarification; change is consistent. |
| 17.##.090      | 9-10                     | B. The restrictions of Subsection A shall apply for a period of one hundred eighty (180) days from the date of a nomination by the Board of Supervisors or adoption by the Commission of a resolution of intent to nominate a property as a landmark, a contributing resource or a property within a historic preservation district. After one hundred eighty (180) days have elapsed from the date of the initiation of designation, if the Board of Supervisors has not adopted an ordinance designating the nominated resource as a landmark, contributing resource or historic preservation district, the restrictions and protections established by Subsection A shall no longer apply unless the Board of Supervisors has adopted an ordinance to extend the one hundred eighty (180) day limit to consider the nomination. | Technical clarification; change is consistent. |
| 17.##.120      | 11                       | A. Notice of public hearings shall be provided as manner described below:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Technical clarification; change is consistent. |
| 17.##.120      | 11                       | 1. Written notice shall be given not less than ten (10) days prior to the hearing to the following individuals:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Technical clarification; change is consistent. |

**Attachment C- Technical Revisions Proposed by the Planning Commission**

| <b>Section</b> | <b>PRHC Draft Page #</b> | <b>Planning Commission Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <b>Consistency between Drafts</b>              |
|----------------|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| 17.##.120      | 11                       | a. The owners of the nominated resources or the owners of the listed resource proposed for deletion, as shown on the latest tax roll. In the case of a nomination or proposal for deletion regarding a historic preservation district, the notice shall be provided to all property owners within the proposed district or the district proposed for deletion, as shown on the latest tax roll.                                                                                                  | Technical clarification; change is consistent. |
| 17.##.120      | 11                       | b. Where the resource is proposed for inclusion on, or deletion from the register as a landmark, all property owners within five hundred (500) feet of the resource, as shown on the latest tax roll. In the case of a nomination regarding a historic preservation district, the nomination notice shall be provided to all property owners within the proposed district and to all property owners whose property abuts property proposed for inclusion in the historic preservation district. | Technical clarification; change is consistent. |
| 17.##.120      | 11                       | c. Anyone who has in writing to the Commission secretary requested notice of the nomination.                                                                                                                                                                                                                                                                                                                                                                                                     | Technical clarification; change is consistent. |
| 17.##.120      | 11                       | 2. If designation is initiated by the Commission or Board of Supervisors, notice shall be sent by certified mail to all owners and occupants of the subject properties at the address shown on the most current property tax roll of Alameda County. Such notice shall be in addition to the requirements outlined in subsections (a), (b) and (c) of this subparagraph.                                                                                                                         | Technical clarification; change is consistent. |
| 17.##.130      | 12                       | A. Following adoption by the Board of Supervisors of the resolution placing or removing the resource on the Alameda County Register, a copy of the findings shall be sent by first class mail to the owners and occupants of the designated resource. Staff shall also notify the Parks, Recreation and Historical Commission and any agency or department of the County requesting such notice.                                                                                                 | Technical clarification; change is consistent. |
| 17.##.130      | 12                       | B. A certified copy of the resolution, a complete legal description of the resource, and the effective date of the designation or removal of the resource shall be recorded in the records of the County Recorder. Failure to record with the County Recorder does not invalidate the requirements of this chapter.                                                                                                                                                                              | Technical clarification; change is consistent. |

### Attachment C- Technical Revisions Proposed by the Planning Commission

| Section   | PRHC Draft Page # | Planning Commission Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Consistency between Drafts                                                                                          |
|-----------|-------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| 17.##.150 | 12                | A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. The fact that a resource is not listed in the National, State or Alameda County Register does not preclude a lead agency from determining whether the resource may be eligible for listing in an historical resource for purposes of this section. The screening of demolition permits shall be conducted as prescribed by this chapter.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Technical clarification and new text; change is consistent.                                                         |
| 17.##.150 | 13                | A. If a permit is sought to demolish or relocate a building or structure that was constructed at least fifty (50) years prior to the date of application for demolition or relocation, and that building or structure is not currently on the Register, and is not the subject of a pending nomination to the Register, the permit application shall be referred to the Planning Director to allow the director to make a preliminary determination of whether the structure meets the criteria of a landmark. For purposes of this section, a building or structure for which a building permit was issued and construction commenced not less than fifty (50) years prior to the date of application for a demolition or relocation permit shall be subject to this Section, regardless of when the construction was completed, and regardless of whether the building or structure was thereafter expanded, modified or otherwise altered. Absent sufficient evidence to the contrary, the date of issuance of the building permit shall be considered to be the date on which construction commenced. | Technical clarification and new text; change is consistent.                                                         |
| 17.##.150 | 13                | B. A request to demolish a structure over fifty (50) years in age shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation as determined by the Planning Department.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Technical clarification and new text; change is consistent.                                                         |
| 17.##.150 | 13                | 1. Within forty-five (45) days of receipt of a complete application to demolish or relocate a building or structure as specified under subsection A of this section, the Planning Director shall make a preliminary determination of whether the building or structure is eligible for listing on the Register. In making this preliminary determination, the Planning Director shall apply the eligibility criteria and factors specified in Section 17.##.080.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Deleted a portion of Ordinance text; however, change would not affect the intent or implementation of the Ordinance |

**Attachment C- Technical Revisions Proposed by the Planning Commission**

| <b>Section</b> | <b>PRHC Draft Page #</b> | <b>Planning Commission Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>Consistency between Drafts</b>                                                                                                                           |
|----------------|--------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 17.##.160      | 14                       | A certificate of appropriateness is required for any alteration, relocation or demolition of a landmark, structure of merit or contributing resource within a historic preservation district. A certificate of appropriateness is also required for new construction on a site occupied by a landmark, structure of merit, contributing resource, or within a historic preservation district. Approval of such work shall be required even if no other permits or entitlements are required by the County. The issuance of a certificate of appropriateness is not required for preventative maintenance or interior work that does not affect the appearance of the exterior.                                                                                                                                                                                                                                               | Deleted a portion of Ordinance text; however, change would not affect the intent or implementation of the Ordinance. Text was added to definitions section. |
| 17.##.170      | 15                       | The owner or authorized representative shall file an application for a certificate of appropriateness with the Planning Department on forms provided by the department for such purpose. The application shall be accompanied by material required in application forms and a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors. As soon thereafter as practicable after the application is deemed complete, the application shall be forwarded to the Parks, Recreation and Historical Commission for its review at a public hearing.                                                                                                                                                                                                                                                                                                                    | Deleted Ordinance text; however, change would not affect the intent or implementation of the Ordinance                                                      |
| 17.##.180      | 14                       | A. The Commission may review and make recommendations to the Planning Director regarding a filed certificate of appropriateness, except for those projects classified as “small projects” under Section 17.##.200. The required public notice of the Commission hearing on the review and recommendation of a certificate of appropriateness shall be provided according to the provisions outlined in Section 17.##.120. At such hearing, the applicant and other interested parties shall have the right to present evidence regarding the application for the certificate of appropriateness. The Commission may continue the public hearing until its next regular meeting or may defer action after closing the public hearing until its next regular meeting. Final action by the Commission shall not be deferred longer than 90 days after the date on which the certificate of appropriateness was initially filed. | Technical clarification; change is consistent. Renumbered text.                                                                                             |

### Attachment C- Technical Revisions Proposed by the Planning Commission

| Section   | PRHC Draft Page # | Planning Commission Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                           | Consistency between Drafts                                      |
|-----------|-------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------|
| 17.##.180 | 14                | B. The Commission may recommend approval of the certificate of appropriateness, recommend approval with changes, or it may recommend denial of the application. Any recommendation of the Commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the recommendation, and such recommendation shall be forwarded to the Planning Director.                                                                       | Technical clarification; change is consistent. Renumbered text. |
| 17.##.180 | 14                | C. The director shall act on the certificate of appropriateness application within 105 days after the date the certificate of appropriateness was filed. The decision of the Planning Director shall be final unless appealed as provided for in Section 17.##.250.                                                                                                                                                                                           | Technical clarification; change is consistent. Renumbered text. |
| 17.##.190 | N/A               | The historical resources included in the Register, and resources deemed eligible for inclusion pursuant to criteria set forth in this Chapter, are presumed to be historically or culturally significant, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. One or more of the following findings are required for the approval of a certificate of appropriateness:                     | New text; technical clarification. Changes are consistent.      |
| 17.##.200 | 15                | A. Applicants may obtain a certificate of appropriateness by going through small project review if the proposed alteration or demolition is determined eligible for such review. After the application for small project review is deemed complete by the Planning Department, the department director or designee shall evaluate the application within ten working days to determine its eligibility for small project review which includes the following: | Reorganized, renumbered text. No additional changes.            |
| 17.##.200 | 15                | 1. Demolition or removal of non-contributing features, including, but not limited to, non-contributing additions, garages, accessory structures or incompatible, previously replaced windows, doors or siding material;                                                                                                                                                                                                                                       |                                                                 |
| 17.##.200 | 15                | 2. Any undertaking that does not change exterior features, including but not limited to, re-roofing if the roofing material is compatible in appearance, color and profile to the existing or original roofing material;                                                                                                                                                                                                                                      |                                                                 |
| 17.##.200 | 15                | 3. Replacement of windows and doors if the proposed replacements match the existing or original windows and doors;                                                                                                                                                                                                                                                                                                                                            |                                                                 |

**Attachment C- Technical Revisions Proposed by the Planning Commission**

| Section   | PRHC Draft Page # | Planning Commission Recommendations                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Consistency between Drafts                     |
|-----------|-------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------|
| 17.##.200 | 15                | 4. Addition less than 200 square feet proposed for side or rear elevations; and                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |                                                |
| 17.##.200 | 15                | 5. Any other undertaking determined by the department director or designee to not materially alter the features or have an adverse effect on the integrity of a landmark.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                |
| 17.##.200 | 15                | B. If the proposed alteration or demolition meets the small project review eligibility criteria and is deemed to be consistent with the Secretary of the Interior's Standards, the department director or designee may approve the certificate of appropriateness and notify the Commission of such action. If a certificate of appropriateness is granted under small project review, no public hearing shall be required.                                                                                                                                                                                                                                                                                                                                                                                                                                              |                                                |
| 17.##.200 | 15                | C. If the proposed alteration or demolition does not meet the small project review eligibility criteria and/or is not consistent with the Secretary of the Interior's Standards, the department director or designee shall forward the application to the Commission for its review and recommendation according to the standard certificate of appropriateness process. No hearing shall be required on the decision by the Planning Director to elevate the review of a certificate of compliance to the Commission, and this decision of the Planning Director shall be final and shall not be subject to appeal.                                                                                                                                                                                                                                                     |                                                |
| 17.##.240 | 17                | A. Except as provided herein, the provisions of this chapter requiring hearing(s) before the Commission or Planning Department shall apply to development projects involving, or requests for demolition or relocation of, landmarks, structures of merit or contributing resources which are owned by the County, including public projects within the Alameda County national historic landmark, historic preservation district; provided that the Commission or Planning Department shall make a recommendation to the County Board of Supervisors or other County decision-making body, entity or person, rather than issuing a decision. When acting on County projects, the Board of Supervisors or other County decision-making body, entity or person shall apply the same standards, and make the same findings, required by this chapter for private projects. | Technical clarification; change is consistent. |

**Attachment C- Technical Revisions Proposed by the Planning Commission**

| <b>Section</b> | <b>PRHC Draft Page #</b> | <b>Planning Commission Recommendations</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | <b>Consistency between Drafts</b>                 |
|----------------|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------|
| 17.##.240      | 17                       | B. The Board of Supervisors may, by resolution or ordinance, exempt from review by the Planning Department or Commission individual County projects or categories of County projects.                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | Technical clarification;<br>change is consistent. |
| 17.##.250      | 17                       | A. Any interested person who is dissatisfied by the decision of the department director may appeal the determination to the Board of Supervisors. Appeals shall be submitted in writing not more than 10 days following the date the action was taken by the director. The appeal may be taken by any property owner or other person aggrieved by the order within a said ten-day period, by filing with the Clerk of the Board of Supervisors a notice of appeal that specifying the grounds for such appeal. The appellant shall pay a nonrefundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors. | Technical clarification;<br>change is consistent. |
| 17.##.250      | 17                       | B. The Board of Supervisors shall give written notice of the time and place for hearing any appeal. Such notice may be published and shall be given to the applicant, to the appellant, to the agency which made the order appealed, and to any other persons requesting such notice and depositing with the Clerk of the Board a self-addressed, stamped envelope to be used for this purpose.                                                                                                                                                                                                                                                               | Technical clarification;<br>change is consistent. |
| 17.##.250      | 17                       | C. Within 30 days of the notice to appeal, or as soon thereafter as is practicable, the Board of Supervisors shall hold a hearing on the appeal and shall sustain, modify or overrule any order brought before it pursuant to subsection A of this chapter.                                                                                                                                                                                                                                                                                                                                                                                                   | Technical clarification;<br>change is consistent. |

## **HISTORIC PRESERVATION ORDINANCE**

### **17.##.010 Title**

This chapter shall be known as the Historic Preservation Ordinance of Alameda County.

### **17.##.020 Purpose**

The purpose of this chapter shall be to:

- A. Identify, protect, and encourage the preservation of significant architectural, historic, prehistoric and cultural structures, sites, resources and properties in the County;
- B. Ensure the preservation, protection, enhancement and perpetuation of historic structures, sites and other resources to the fullest extent feasible;
- C. Encourage, through public or private action, the maintenance or rehabilitation of historic structures, sites and other resources;
- D. Safeguard the County's historic resources, both public and private projects;
- E. Encourage development that sensitively incorporates the retention, preservation and re-use of historic structures, sites and other resources;
- F. Foster civic pride in the character and quality of the County's historic resources and in the accomplishments of its people through history;
- G. Provide a mechanism, through surveys, nominations and other available means, to compile, update and maintain a register of historic resources within the County;
- H. Protect and enhance the County's attraction to tourists and visitors;
- I. Provide for consistency with state and federal preservation standards, criteria and practices;
- J. Encourage new development that will be aesthetically compatible with historic resources;
- K. Make available incentive opportunities to preserve Alameda County's historic resources

### **17.##.030 Definitions**

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

“Alameda County Register” or “Register” means the register created by Section 17.##.050 of this chapter.

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

“Building official” means the building official designated in Chapter 15.08 of Title 15 of this code, and his or her designee(s).

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

“California Register” means the California Register of Historical Resources as defined in California Public Resources Code Section 5020.1 as it may be amended from time to time.

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

“Certificate of Appropriateness” means a permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed on the Alameda County Register pursuant to the provisions of this chapter.

“Commission” means the Parks, Recreation and Historical Commission

“Comprehensive Survey of Historic Sites” means the survey of historic resources throughout unincorporated Alameda County that was conducted in conjunction with the creation of this Ordinance.

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

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

“Cultural Resources Surveys” means the Cultural Resources Surveys done for the County, including the Preliminary Cultural Resources Surveys for the Ashland & Cherryland Districts, the San Lorenzo Area, and the East Valley Area; the Comprehensive Survey of Historic Sites; and any other surveys as they may be completed.

“Dangerous building” means an immediately dangerous building or structure as defined in Section 15.08.170 of the Alameda County Building code.

“Department” means the Alameda County Planning Department.

“Development project” for the purposes of this chapter means and includes the following:

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

“Feature or characteristic” means fixtures, components or appurtenances attached to, contiguous with or otherwise related to a structure or property including landscaping, setbacks, distinguishing aspects, roof attributes, overlays, moldings, sculptures, fountains, light fixtures, windows and monuments. “Feature or characteristic” may include historically and/or architecturally significant interior areas that are accessible

to or made available to the public, including, without limitation, areas commonly used as public spaces such as lobbies, meeting rooms, gathering rooms, public hallways, great halls, bank lobbies or other similar spaces. Interior areas that generally are not accessible to or made available to the public, but which occasionally may be visited by business invitees or members of the public, including those on a tour of a facility, do not constitute a “feature or characteristic” for purposes of this chapter.

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

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

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

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

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

“National Environmental Protection Act” means 42 U.S.C. Secs.4321 et seq., as it may be amended from time to time. The National Environmental Protection Act may be referred to in this chapter as NEPA.

“National Historic Preservation Act” means 16 U.S. Secs. 470 et seq., as it may be amended from time to time.

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

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

“Nominated resource” means a resource nominated for placement on the Alameda County Register as provided for in 17.##.080 of this chapter.

“Nomination” means a nomination for placement of a resource on the Alameda County Register pursuant to 17.##.080 of this chapter.

“Non-contributing resources” means all resources within a historic preservation district that are not identified as contributing resources. “Planning Commission” means the Planning Commission of Alameda County. The Planning Commission is always referred to in this ordinance as “the Planning Commission,” never as “the Commission,” which is reserved for the Parks, Recreation and Historical Commission.

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

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

“Significant feature or characteristic” means a feature or characteristic identified by the Board of Supervisors as significant from a historical standpoint pursuant to 17.##.080 of this chapter.

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

“Structure of merit” means a resource designated as a structure of merit by the Board of Supervisors in accordance with 17.##.080 (C) of this chapter.

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

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

#### **17.##.040 Cultural Resource Surveys**

A. The County will maintain a list of all surveys and will use the survey information to identify and protect potentially historic resources as outlined in this Ordinance. All surveys shall be prepared by or under supervision of an architectural historian satisfying the professional qualification standards for architectural historians specified in the Secretary of the Interior’s Standards and Guidelines for Archeology and Historic Preservation.

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

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

C. All properties evaluated in the above surveys, regardless of the conclusions as to their historic significance, will go into an Inventory of Potential Historic Resources. This Inventory shall also include the results of any future historic resource surveys, including historic resource evaluations done in

conjunction with the completion of any Environmental Impact Reports (EIRs) or Negative Declarations prepared pursuant to CEQA in the County. The Planning Department shall take appropriate steps to ensure that the Inventory is properly maintained and regularly updated. The Planning Department shall also take appropriate steps to maintain and regularly update a list or compilation of resources within the County that are on the California Register of Historical Resources or the National Register of Historic Places, and to make the list or compilation available for public review and use.

#### **17.##.050 The Alameda County Register**

A. The list of landmarks, historic preservation districts, contributing resources and structures of merit shall be known, collectively, as the Alameda County Register.

B. Initially, the following properties are considered eligible for inclusion on the Alameda County Register:

1. Properties deemed likely significant in previous surveys (properties rated “Y” in the Ashland & Cherryland survey, “I” in the San Lorenzo survey and “K” in the East Alameda survey) that, as part of the Comprehensive Survey of Historic Sites in unincorporated Alameda County, were verified to merit continued listing;
2. All landmarks, contributing buildings and historic preservation districts identified in the Comprehensive Survey that were not identified in any of the three previous surveys;
3. Properties identified by the Commission that meet the structure of merit criteria set forth below in 17.##080 (C) that were identified prior to the adoption of this Ordinance.

C. Owners(s) of the properties specified in subsection B have been notified in writing that the Board of Supervisors intends to adopt a Historic Preservation Ordinance and as a result their property **could** be included on the Alameda County Register if they so desire. The property owners were notified in the manner specified in Section 17.##.120. Owner(s) that wish to add their property to the Alameda County Register must submit their written request to be **added to** the Register to the Planning Department within **180 (one hundred and eighty)** days of the adoption of this Ordinance. Upon receipt of the written request, the property shall **be verified as acceptable by conducting a cursory review of County records and conducting a site visit to confirm that no alterations have been performed that would render the property unworthy for listing.** If no written request to be added to the Register is submitted by the owner(s) of properties specified in Subsection B to the Planning Department, within 180 (one hundred and eighty) days of the adoption of this Ordinance, such properties will not be added to the Register unless they follow the nomination procedures described in Section 17.##.080.

#### **17.##.060 Criteria and Requirements for Placement on, and Deletion from, the Alameda County Register**

The criteria and requirements for placement on, or deletion from, the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit are as follows:

A. Landmarks are intended to be properties in unincorporated Alameda County (or County-owned buildings in an incorporated area of Alameda County) of exceptional historical or architectural value that are clearly eligible individually for the California Register of Historical Resources, including those that are especially fine examples of an important style, type, or convention, or which are intimately associated with a person, organization, event, or historical pattern of major importance at the local level or of moderate importance at the state or national level. A nominated resource shall be added to the Alameda County Register as a landmark if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that all of the requirements set forth below are satisfied:

1. The nominated resource meets one or more of the following criteria:
  - a. It is associated with events that have made a significant contribution to the broad patterns of the history of the County, the region, the state or the nation;
  - b. It is associated with the lives of persons significant in the County's past;
  - c. It embodies the distinctive characteristics of a type, period or method of construction;
  - d. It represents the work of an important creative individual or master;
  - e. It possesses high artistic values; or
  - f. It has yielded, or may be likely to yield, information important in the prehistory or history of the County, the region, the state or the nation.
2. The nominated resource has integrity of location, design, setting, materials, workmanship, feeling and association. Integrity shall be judged with reference to the particular criterion or criteria specified in "a" above;
3. The nominated resource has significance historically or architecturally, and its designation as a landmark is reasonable, appropriate and necessary to promote, protect and further the goals and purposes of this chapter.
4. The nominated resource has been evaluated by a qualified historical resources consultant who meets one or more of the Secretary of the Interior's professional qualifications standards or who are certified by the Register of Professional Archaeologists, and the evaluator has submitted documents that provide evidence of the resources historical or architectural significance.

B. A geographic area nominated as a historic preservation district shall be added to the Alameda County Register as a historic preservation district if the Board of Supervisors finds, after holding the hearing(s) required by this chapter, that all of the requirements set forth below are satisfied:

1. The area is a geographically definable area;
2. The area possesses either:

- a. A significant concentration or continuity of buildings unified by: a) past events; or b) aesthetically by plan or physical development; or
- b. The area is associated with an event, person, or period significant or important to County history

3. The designation of the geographic area as a historic preservation district is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter and is not inconsistent with other goals and policies of the County.

4. A historic preservation district shall have integrity of location, design, setting, materials, workmanship, feeling and association.

5. The collective historic value of the buildings and structures in a historic preservation district taken together is greater than the historic value of each individual building or structure.

6. The application is accompanied by a form bearing the signatures of at least fifty-one (51%) of all property owners within the area of the proposed district.

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

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

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

- 1. The nominated resource is within a historic district;
- 2. The nominated resource either embodies the significant features and characteristics of the historic district or adds to the historical associations, historical architectural qualities or archaeological values identified for the historic district;

3. The nominated resource was present during the period of historical significance of the historic district and relates to the documented historical significance of the historic district;
4. The nominated resource either possesses historic integrity or is capable of yielding important information about the period of historical significance of the historic district; and
5. The nominated resource has important historic or architectural worth, and its designation as a contributing resource is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter.

#### **17.##.070 Deletions from the Register**

An application to delete a listed historic resource from the Alameda County Register may be approved if the Board of Supervisors finds, after holding the hearings required by this chapter, that the listed historic resource no longer meets the requirements set forth above; provided that where a landmark, historic preservation district or structure of merit is proposed for deletion due to a loss of integrity, the loss of integrity was not the result of any illegal act or willful neglect by the owner or agent of the owner.

#### **17.##.080 Procedures to Nominate Resources for Placement or Deletion from the Alameda County Register**

A. The following parties shall have the authority to nominate a resource for placement or removal from the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit: 1. The Owner(s) of the of the historic resource proposed for designation or authorized agent; 2. The Parks, Recreation and Historical Commission; 3. The Board of Supervisors. However, no nomination for placement on the Alameda County Register as a landmark, or structure of merit shall proceed without the authorization of the property owner.

B. If designation is initiated by the owner, an application for designation shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation including, but not limited to, State of California Department of Parks Recreation 523 series forms or other historic resource inventory forms as may be approved by the State. Such documentation must be prepared by an individual who meets the professional qualification standards published by the National Park Service in the Federal Register (Code of Federal Regulation, 36 CFR Part 61), as determined by the State Office of Historic Preservation. At the time, of submission of their application for designation, the owner must provide written consent to the designation on a form supplied by the County.

C. The Parks, Recreation and Historical Commission may initiate landmarks, historic preservation districts, contributing resources or structures of merit nominations by adopting a resolution of intent to consider a nomination either on its own motion, or at the request of the Planning Department or members of the public. The Board of Supervisors may nominate landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution identifying the nominated resource

and transmitting its resolution to the Parks, Recreation and Historical Commission. The Parks, Recreation and Historical Commission shall adopt a resolution of intent to consider nominations for resources nominated by the County Board of Supervisors. If designation is initiated by the Board of Supervisors or the Parks, Recreation and Historical Commission, such action must be based upon the same documentation that would be required of an owner-initiated designation and findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.##.060. The Planning Department or the Clerk of the Board of Supervisors shall notify the owner and the occupants of the property by certified mail 30 days prior to the Parks, Recreation and Historical Commission or Board of Supervisors meeting regarding the initiation of the designation and shall request written consent for designation from the owner on a form supplied by the County. Notice of public meetings shall follow the guidelines established in Section 17.##.120 of this Ordinance.

D. If the application is determined to be incomplete, it shall be returned to the applicant and the applicant requested to submit the documentation necessary to complete the application. No additional filing fee will be required.

E. The application shall indicate the parameters of the historic resource that is being nominated, specifying any related structures or landscape that is to be included for consideration.

F. The owner of a historic resource proposed for designation may notify the Planning Director in writing of their support of, or objection to, the proposed designation any time after initiation, but prior to designation.

G. A request to delete a listed resource from the Register will be initiated in the same manner and using the same procedure as was followed to nominate a potentially historic resource. The action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors that justified the designation. Notice of removal of a listed resource shall be sent to the same persons or other parties as set forth in Section 17.##.120 and the resolution shall be repealed or amended accordingly.

#### **17.##.090 Nominated Resource Protections Pending Final Decision**

A. Subject to the time limits set forth in Subsection B below, any nominated resource proposed for consideration as a landmark or contributing resource shall be considered to be a landmark or contributing resource for purposes of 17.##.160 herein, and it shall be subject to the restrictions and protections of 17.##.160 as if it were a landmark or contributing resource. Any geographic area proposed for consideration as a historic preservation district shall be considered to be a historic preservation district for purposes of 17.##.160 herein, and the resources located within the proposed historic preservation district shall be subject to the restrictions and protections of 17.##.160 as if they were located within a historic preservation district.

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

eighty (180) days have elapsed from the date of the resolution of intent, if the Board of Supervisors has not adopted an ordinance designating the nominated resource as a landmark, contributing resource or historic preservation district, the restrictions and protections established by Subsection A above shall no longer apply unless the Board of Supervisors has adopted an ordinance to extend the one hundred eighty (180) day limit to consider the nomination.

C. Listed historic resources proposed for deletion from the Alameda County Register shall be subject to the restrictions and protections of 17.##.160 unless and until a final decision is made by the Board of Supervisors to delete the listed historic resources from the Alameda County Register.

#### **17.##.100 Nomination Hearing by the Parks, Recreation and Historical Commission**

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

A. Notice of the hearing shall be provided pursuant to Section 17.##.120.

B. A hearing on the application for designation shall be scheduled and a recommendation made by the Commission to the Board of Supervisors shall be made within 60 days of the date that the application is determined to be complete, or within 60 days of the date that the Commission or Board of Supervisors initiated the proposed designation. If the Commission cannot act within the timeframe, the owner may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination.

C. A staff report concerning the historic resource under consideration for placement or deletion from the Register shall be provided to the Commission. The report shall address the significance and integrity of the historic resource(s) as it relates to the designation criteria, provide other relevant information, and include a recommendation concerning the application and the basis therefore. The staff report shall also state whether the owner(s) of the property supports or objects to the proposed action.

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

E. Any recommendation by the Parks, Recreation and Historical Commission shall be supported by evidence that the historic resource meets the designation criteria for one of the registration categories set for the in Section 17.##.060. The Commission shall also include in their analysis whether or not the owner has provided written consent to the designation.

F. The Commission secretary shall transmit to the Board of Supervisors the Commission's recommendations on inclusion(s) or deletion(s) to or from the Alameda County Register.

## **17.##.110 Action by the Board of Supervisors on Amendments to the Register**

A. Within 30 days of the receipt of the transmittal by the Clerk of the Board of Supervisors, or as soon as practicable, the Board of Supervisors shall hold a public hearing thereon and may adopt, modify or reject the action(s) recommended by the Commission. In the alternative, the Board of Supervisors may refer the proposed action(s) to the Commission for further hearings, consideration or study. The historic resource shall not be placed on the Alameda County Register if the owner does not provide written consent to the designation prior to the action by the Board of Supervisors. Adoption of any inclusion on or deletion from the Alameda County Register shall be made by uncodified ordinance which shall contain findings of fact in support of each designation. The uncodified ordinance shall identify significant feature(s) or characteristic(s) of resources added to the Alameda County Register, and shall identify contributing resources and non-contributing resources in a historic preservation district.

B. Notice of public hearing shall be provided in accordance with Section 17.##.120. In addition, notice shall be published once not less than ten (10) days before the hearing in a newspaper of general circulation.

C. A historic resource placed on the Register shall be subject to the provisions set forth in this chapter.

## **17.##.120 Notice of Public Hearing**

A. Notice of public hearings shall be provided as manner described below:

1. Written notice shall be given not less than ten (10) days prior to the hearing to the following individuals:
  - a. The owner(s) of the nominated resource(s) or the owner(s) of the listed resource proposed for deletion, as shown on the latest tax roll. In the case of a nomination or proposal for deletion regarding a historic preservation district, the notice shall be provided to all property owners within the proposed district or the district proposed for deletion, as shown on the latest tax roll.
  - b. Where the resource is proposed for inclusion on, or deletion from the register as a landmark, all property owners within five hundred (500) feet of the resource, as shown on the latest tax roll. In the case of a nomination regarding a historic preservation district, the nomination notice shall be provided to all property owners within the proposed district and to all property owners whose property abuts property proposed for inclusion in the historic preservation district.
  - c. Anyone who has in writing to the Commission secretary requested notice of the nomination.
2. If designation is initiated by the Commission or Board of Supervisors, notice shall be sent by certified mail to all owners and occupants of the subject property(s) at the address shown on the most current property tax roll of Alameda County. Such notice shall be in addition to the requirements outlined in subsections (a), (b) and (c) above.

3. The County may in its discretion provide additional notice beyond that specified in this section.

B. The form and contents of the public hearing notice must conform to the standards described below:

1. Common address and assessor's parcel number, if any, of the nominated resource or the resource proposed for deletion;
2. A general explanation of the proposed designation or proposed deletion.
3. The date and place of the public hearing or hearings before the Commission.

#### **17.##.130 Notice of Action by the Board of Supervisors**

A. Following adoption by the Board of Supervisors of the resolution placing or removing the resource(s) on the Alameda County Register, a copy of the findings shall be sent by first class mail to the owner(s) and occupants of the designated resource(s). Staff shall also notify the Parks, Recreation and Historical Commission and any agency or department of the County requesting such notice.

B. A certified copy of the resolution, a complete legal description of the resource(s), and the effective date of the designation or removal of the resource(s) shall be recorded in the records of the County Recorder. Failure to record with the County Recorder does not invalidate the requirements of this chapter.

C. A disclosure statement, in a form prescribed by the Planning Director, shall be recorded for all historic resources included on the Register. This statement shall be included in any future transfer or sale documents.

#### **17.##.140 Frequency of Nominations**

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

#### **17.##.150 Proposed Demolition or Relocation of Buildings or Structures that are At Least Fifty Years Old**

Historical resources are recognized as part of the environment under the California Environmental Quality Act (Public Resources Code Sections 21001(b) and 21084.1 and Title 14, California Code of Regulations Section 15064.5). For environmental review purposes under CEQA, the screening of demolition permit applications is required to identify designated historic properties, and properties with potential historic significance. The screening of demolition permits shall be conducted as prescribed by this chapter.

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

B. A request to demolish a structure over 50 years in age shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation as determined by the Planning Department.

1. Within forty-five (45) days of receipt of a complete application to demolish or relocate a building or structure as specified under subsection A of this section, the Planning Director shall make a preliminary determination of whether the building or structure is eligible for listing on the Register. In making this preliminary determination, the Planning Director shall apply the eligibility criteria and factors specified in Section 17.##.080. The Planning Director shall find that the building or structure is eligible for consideration for listing on the Register if the director finds that there is a reasonable likelihood that the building or structure will be placed on the Alameda County Register following completion of the notice and hearing requirements of this chapter.

2. The Planning Director shall notify the property owner of the preliminary determination by first-class, prepaid mail. Failure of the Planning Director to act within the forty-five (45) day period shall be considered to be a determination that the structure is not eligible for listing on the register. For purposes of this section, the decision shall be considered to have been made on or before the date of mailing of the notice.

3. The effects of the preliminary determination are provided below:

- a. If the Planning Director determines that the building or structure is eligible for consideration for listing on the Register, the applicant shall be informed that a certificate of appropriateness is required for such demolition. Review of the proposed demolition shall then proceed according to the certificate of appropriateness review procedures outlined in 17.##.160.

- b. If the Planning Director determines that the building or structure is not eligible for listing on the Alameda County Register, the permit to demolish or relocate the building or structure shall be issued without further restrictions under this chapter.

### **17.##.160 Certificate of Appropriateness**

A certificate of appropriateness is required for any alteration, relocation or demolition of a landmark, structure of merit or contributing resource within a historic preservation district. A certificate of appropriateness is also required for new construction on a site occupied by a landmark, structure of merit, contributing resource, or within a historic preservation district. Approval of such work shall be required even if no other permits or entitlements are required by the County. The issuance of a certificate of appropriateness is not required for preventative maintenance or interior work that does not affect the appearance of the exterior. For the purpose of this chapter, "preventative maintenance" means any work, the sole purpose and effect of which is to correct deterioration, decay or damage.

### **17.##.170 Certificate of Appropriateness-Application**

The owner or authorized representative shall file an application for a certificate of appropriateness with the Planning Department on forms provided by the department for such purpose. The application shall be accompanied by material required in application forms and a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors. As soon thereafter as practicable after the application is deemed complete, the application shall be forwarded to the Parks, Recreation and Historical Commission for its review and recommendation at a public hearing.

### **17.##.180 Certificate of Appropriateness-Review Procedures**

The Commission shall have the authority to recommend to the Planning Director or designee the approval, approval with conditions, or denial of a certificate of appropriateness, except for those projects classified as "small projects" under Section 17.##.200. The required public notice of the Commission hearing on the review and recommendation of a certificate of appropriateness shall be provided according to the provisions outlined in Section 17.##.120. At such hearing, the applicant and other interested parties shall have the right to present evidence regarding the application for the certificate of appropriateness. The Commission may continue the public hearing until its next regular meeting or may defer action after closing the public hearing until its next regular meeting. Final action by the Commission shall not be deferred longer than 90 days after the date on which the public hearing on the certificate of appropriateness was initially held.

A. The Commission may recommend approval of the certificate of appropriateness as requested, or recommend approval with changes which may be necessary to enable the applicant to meet the required permit findings, or it may recommend denial of the application. The recommendation of the Commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the recommendation, and such recommendation shall be forwarded to the Planning Director.

B. The department director shall act on the certificate of appropriateness application within 15 days of the hearing at which the recommendation was made by the Commission. The decision of the Planning Director shall be final unless appealed as provided for in Section 17.##.250.

### **17.##.190 Certificate of Appropriateness-Permit findings**

One or more of the following findings are required for the approval of a certificate of appropriateness:

- A. The certificate of appropriateness has been conditioned upon all alterations complying with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings, and with the California Historical Building Code and the California Health and Safety Code Section 18950 et seq., as amended, and applied to the project by the Building Official;
- B. The proposed alteration, relocation or demolition would not destroy or have a significant adverse affect on the integrity of the designated resource, and the resource will retain the essential elements that make it significant;
- C. In the case of any proposed alteration that includes detached new construction on the **parcel occupied by the** designated landmark, contributing resource or within the historic preservation district, the exterior features of such new construction would not have a significant adverse affect or be incompatible with the exterior features of the designated resource(s).
- D. There is no feasible alternative that would avoid the significant adverse affect on the integrity of the designated resource. The owner shall provide facts and substantial evidence demonstrating that there is no feasible alternative to the proposed alteration or demolition that would preserve the integrity of the designated resource. In the case of demolition, up to a six-month waiting period may be imposed by the Board of Supervisors from the date of the Commission hearing at which the Commission recommendation was made.

#### **17.##.200 Certificate of Appropriateness-Small Project Review**

Applicants may obtain a certificate of appropriateness by going through small project review if the proposed alteration or demolition is determined eligible for such review. After the application for small project review is deemed complete by the Planning Department, the department director or designee shall evaluate the application within ten working days to determine its eligibility for small project review which includes the following:

- A. Demolition or removal of non-contributing features, including, but not limited to, non-contributing additions, garages, accessory structures or incompatible, previously replaced windows, doors or siding material;
- B. Any undertaking that does not change exterior features, including but not limited to, re-roofing if the roofing material is compatible in appearance, color and profile to the existing or original roofing material;
- C. Replacement of windows and doors if the proposed replacements match the existing or original windows and doors;
- D. Addition less than 200 square feet proposed for side or rear elevations; and
- E. Any other undertaking determined by the department director or designee to not materially alter the features or have an adverse effect on the integrity of a landmark.

F. If the proposed alteration or demolition meets the small project review eligibility criteria and is deemed to be consistent with the Secretary of the Interior's Standards, the department director or designee may

approve the certificate of appropriateness and notify the Commission of such action. If a certificate of appropriateness is granted under small project review, no public hearing shall be required.

G. If the proposed alteration or demolition does not meet the small project review eligibility criteria and/or is not consistent with the Secretary of the Interior's Standards, the department director or designee shall forward the application to the Commission for its review and recommendation according to the standard certificate of appropriateness process. No hearing shall be required on the decision by the Planning Director to elevate the review of a certificate of compliance to the Commission, and this decision of the Planning Director shall be final and shall not be subject to appeal.

#### **17.##.210 Certificate of Appropriateness-Permit Expiration**

A. Unless extended pursuant to subsection (C) of this section, a certificate of appropriateness for the demolition of a building or structure shall expire at the end of one hundred and eighty (180) days from the date of issuance of the certificate of appropriateness unless a demolition permit or a building permit for the demolition work has been obtained and exercised. For purposes of this section, the term exercised means substantial expenditures in good faith reliance upon the permit. The burden of proof in showing substantial expenditures in good faith reliance upon the permit shall be placed upon the permit holder.

B. Unless extended pursuant to subsection (C) of this section, a certificate of appropriateness for other than a demolition shall expire at the end of three years from the date of issuance unless a building permit has been obtained and exercised for the project or, if no building permit is required for the work, the work has physically commenced. For purposes of this section, the term "exercised" means substantial expenditures in good faith reliance upon the building permit. The burden of proof in showing substantial expenditures in good faith reliance upon the building permit shall be placed upon the permit holder.

C. Applications for extensions shall be handled in the manner described below:

1. Except as provided in subsection (C)(2) of this section, one or more extensions of a certificate of appropriateness may be granted for a cumulative total extension period of five years upon application to the Planning Director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the Planning Director.

2. A certificate of appropriateness for the demolition of a building or structure may be extended for a period of up to an additional forty-five (45) days upon application to the Planning Director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the Planning Director or his or her designee.

D. An application for a modification to a final approval of a certificate of appropriateness application or a condition of approval of a certificate of appropriateness application shall be heard and/or considered in the same manner and by the same body as the original certificate of appropriateness application.

### **17.##.220 Certificate of Appropriateness-Permit Revocation**

The Planning Director or designee may, in writing, revoke a certificate of appropriateness for reasons of 1) non-compliance with any terms or conditions of the certificate of appropriateness; or 2) finding of fraud or misrepresentation used in the process of obtaining the certificate of appropriateness.

### **17.##.230 Notification by the Building Official**

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

### **17.##.240 County Projects**

A. Except as provided below, the provisions of this chapter requiring hearing(s) before the Commission or Planning Department shall apply to development projects involving, or requests for demolition or relocation of, landmarks, structures of merit or contributing resources which are owned by the County, including public projects within the Alameda County national historic landmark, historic preservation district; provided that the Commission or Planning Department shall make a recommendation to the County Board of Supervisors or other County decision-making body, entity or person, rather than issuing a decision. When acting on County projects, the Board of Supervisors or other County decision-making body, entity or person shall apply the same standards, and make the same findings, required by this chapter for private projects.

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

### **17.##.250 Appeals**

A. Any interested person who is dissatisfied by the decision of the department director their designee or the Parks, Recreation and Historical Commission may appeal the determination to the Board of Supervisors. Appeals shall be submitted in writing not more than 10 days following the date the action was taken by the department director, their designee, or the Commission. The appeal may be taken by any property owner or other person aggrieved or by an officer, department, or Board or Commission affected by the order within a said ten-day period, by filing with the Clerk of the Board of Supervisors a notice of appeal that specifying the grounds for such appeal. The appellant shall pay a nonrefundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors.

B. The Board of Supervisors shall give written notice of the time and place for hearing any appeal. Such notice may be published and shall be given to the applicant, to the appellant, to the agency which made the order appealed, and to any other persons requesting such notice and depositing with the Clerk of the Board a self-addressed, stamped envelope to be used for this purpose

C. Within 30 days of the notice to appeal, or as soon thereafter as is practicable, the Board of Supervisors shall hold hearing on the appeal and shall sustain, modify or overrule any order brought before it pursuant to subsection A of this chapter.

### **17.##.260 Dangerous Buildings and Immediately Dangerous Buildings, Structures or Resources**

The building official shall notify the Planning Director upon designation of any listed historic resource or any nominated resource as a substandard, dangerous, or immediately dangerous building, structure or resource.

### **17.##.270 Demolition and Abatement —Listed Historic Resources**

A. The provisions of this chapter shall not be construed to regulate, restrict, limit or modify the authority of the County and the building official or his or her designee(s) as specified below, to issue demolition or other permits under the building code set forth in Title 15 of this code for the abatement of any nominated resource or any listed historic resource determined to be immediately dangerous, and a threat to public health and safety.

B. Only such work that has been found reasonably necessary as determined by the County's building official to correct the unsafe or dangerous condition may be performed pursuant to this subsection.

### **17.##.280 Dangerous Buildings-Deletion from Register**

A. When an individually listed resource on the Register, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the Clerk of the Board upon notice from the Planning Director, shall cause the resource, or portion thereof, to be deleted from the Register. Upon deletion, the provisions of this chapter shall not be considered to encumber any remaining property on which the resource was located. Landmark(s) in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent, shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

B. When a listed historic resource in a historic district, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the Clerk of the Board upon notice from the Planning Director, shall cause such listed historic resource, or portion thereof, to be downgraded to a noncontributing resource in the historic district. Listed historic resource(s) in a historic district in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

### **17.##.290 Preservation Incentives**

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

### **17.##.300 California State Historical Building Code**

The building official is authorized to use and shall use the California Historical Building Code for projects involving landmarks and contributing resources. The Parks, Recreation and Historical

Commission and the Planning Director are authorized to and shall utilize the California Historical Building Code for preservation projects.

#### **17.##.310 Mills Act Contracts**

A. Mills Act (California Govt. Code §§ 50280, et seq.) contracts granting property tax relief shall be made available by the County only to owners of properties listed in the Alameda County Register (either as landmarks or as contributing resources within historic preservation districts), as well as properties located within the County that are listed in: the National Register of Historic Places (either as individual listings or as contributing properties within National Register historic preservation districts); or the California Register of Historical Places. Such owners may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of the property for a minimum ten-year period. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the County.

B. Mills Act contracts shall be made available pursuant to California law. The Planning Department shall make available appropriate Mills Act application materials.

C. Mills Act contract applications shall be made to the Planning Department, who shall, within sixty (60) days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the Board of Supervisors. A fee for the application, to cover all or portions of the costs of the preparation of the contract in the amounts set by Board of Supervisors resolution may be charged.

D. The Board of Supervisors shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the Board of Supervisors fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

E. A Mills Act contract application that has failed to be approved by the Board of Supervisors cannot be resubmitted for one year from the date of County Board of Supervisors action, or where the Board of Supervisors fails to take action, within one year from the date that the application is deemed denied pursuant to Subsection D above.

#### **17.##.320 Other Government-Sponsored Incentive Programs**

The County shall make available information to owners of historic resources information about local, State, and Federal incentives programs.

#### **17.##.330 Minimum Maintenance Requirements**

A. The owner, lessee or other person legally in possession of a listed historic resource shall comply with all applicable codes, laws and regulations governing the maintenance of property. Every historic resource shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve the historic resource against decay and deterioration to the greatest extent practicable. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior

features of listed historic resources and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. Listed historic resources shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

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

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

#### **17.##.340 Enforcement and Penalties**

The code enforcement manager and building official, and designees, are hereby authorized to enforce the provisions of this chapter, and, in addition to all other powers available to them in the enforcement of this chapter. The County Counsel is authorized to take such legal actions as are lawfully available. A certificate of appropriateness shall not be issued for the demolition of a historic resource because of the failure of the owner to comply with the provisions of this section.

A. No person shall cause, willfully or otherwise, by action or inaction, alteration of, environmental change to, damage to or demolition of any significant feature(s) or characteristic(s) of a landmark or all or portion of a historic preservation district, or other listed historic resource, or National Register resource or California Register resource without first having obtained a proper County authorization for same.

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

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

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

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

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

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

#### **17.##.350 Additional Penalties**

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

#### **17.##.360 General Provisions**

Judicial review of any final decision under this chapter shall be filed within thirty (30) days of the date of the decision, and review shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

#### **17.##.370 Fees**

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

### **17.##.380 County Code References**

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

### **17.##.390 Severability**

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

### **17.##.400 Other laws**

There are many other laws, regulations and ordinance that apply to land use, development, and construction activities. The provisions of this Historic Preservation Ordinance are intended to be in addition to and not in conflict with these other laws, regulations and ordinances. If any provision of this Historic Preservation Ordinance conflicts with any duly adopted and valid statutes of the federal or state government of the State of California, the federal and state statutes shall take precedence.

## **PROPOSED REVISIONS TO CHAPTER 17.20, “HP DISTRICTS”**

### **17.20.040 Requirements**

In order to be classified in the HP district, at least part of the property or one of the structures on the property must be:

- A. Listed on the Alameda County Register, or otherwise specifically recognized by the Alameda County General Plan; or
- B. Designated a Point of Historic Interest or State Historical Landmark, or be eligible for or listed on the National Register of Historic Places, California Register of Historical Resources, or some state or federal inventory of historical resources; or
- C. Of special importance due to its historical association, basic architectural merit, its embodiment of a style or special type of construction, or other special character, interest, or value.

In addition, establishment of any HP district, and regulations adopted therein, shall be consistent with Section 17.20.010, Intent.

### **17.20.060 Procedure—Referral to Parks, Recreation and Historical Commission**

The petition for reclassification or the land use and development plan shall be referred to the County Parks, Recreation, and Historical Commission for recommendation. The recommendation shall include a determination as to whether or not the property meets the requirements of Section 17.20.040, whether or not reclassification to an HP district is an appropriate means of preserving the property, and whether or not the proposed uses and any proposed alterations to the property are detrimental to its historical value. The Parks, Recreation, and Historical Commission may also make recommendations to the Planning Commission as to appropriate modifications in the proposal, including the boundaries of the district. The Parks, Recreation, and Historical Commission review shall be completed and transmitted to the Planning Commission within sixty (60) days of receipt, or such longer time as may be agreed to by the Planning Commission, or the above determination shall be made by the Planning Commission.

## **PROPOSED REVISIONS TO CHAPTER 2.86, “PARKS, RECREATION AND HISTORICAL COMMISSION”**

### **2.86.020 Commissioners—Terms, Appointment, Qualifications**

A. The Commission shall consist of nine (9) members appointed by the Board of Supervisors. The Supervisor representing District 5 shall appoint one representative and the Supervisors representing Districts 1, 2, 3, and 4 shall appoint two representatives each. The current fifteen member Board shall transition to a nine member Board by attrition, or by action taken by the Board of Supervisors. A nine member body shall be in place by 2012.

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

C. Each member of the Commission shall have demonstrated interest and experience in either historical preservation or recreation.

1. At least two Commission members are encouraged to be appointed from among professionals in the disciplines of history, architecture, architectural history, Planning, pre-historic and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as American studies, American civilization, engineering, or cultural geography, to the extent that such professionals are available in the community.

2. Commission membership may also include lay members who have demonstrated special interests, knowledge, or competence in historic preservation.

### **2.86.021 Board—Term of Office, Vacancies**

The members of the Commission shall serve at the pleasure of the Board of Supervisors and shall have terms of four years. Their terms shall be staggered so that no more than four terms expire in any one year, and so that no supervisor makes more than one appointment in one year, except to fill an unexpired vacancy. No one member shall serve more than three successive four-year terms. Any vacancy on the Commission shall be filled by the Board of Supervisors; persons appointed to fill vacancies shall serve for the unexpired term of the persons they succeed. The Board of Supervisors shall act within sixty (60) days to fill a vacancy.

### **2.86.070 Commission—Duties and Powers**

In addition to those responsibilities conferred to it within Title 17 of the Alameda County Ordinance Code, the powers and duties of the Commission shall be to:

A. Participate in historic preservation activities in the County, and to ensure that all historical resources are recognized as such;

B. Assist in the coordination of the activities of the various local and regional park districts and departments to provide a balanced park and recreation program in the County and to avoid unnecessary duplication of facilities;

- C. Foster public participation in matters pertaining to historic preservation and recreation;
- D. Coordinate with, and make recommendations to, other governmental agencies regarding historic preservation and recreation matters;
- E. Conduct studies and surveys of historic properties in the unincorporated areas of Alameda County;
- F. Provide to the Board of Supervisors recommendations regarding the acquisition, preservation, public display, and disposition of sites, buildings, documents and artifacts pertaining to the historical and cultural heritage of Alameda County;
- G. Support, initiate or collaborate with other organizations to promote and enhance knowledge of the history and cultural heritage of Alameda County;
- H. Review all requests for historical zoning and advise the Planning Commission and the Board of Supervisors as to the historical significance of the property in question. On request, it shall advise other public agencies and private groups as to the historical significance of properties in the County;
- I. Review and make recommendations on land development applications for properties located within “HP”, Historic Preservation Districts;
- J. Review nominations for inclusion and proposals for deletion from the Alameda County Register of Historic Resources;
- K. Compile, maintain and update information in the Alameda County Register of Historic Resources;
- L. Review and make recommendations on certificates of appropriateness;
- M. Maintain a directory of parks and historical resources located within the County;
- N. Review all legislation relative to historical resources and report its recommendations to the Board of Supervisors. The Commission also may take its own stand supporting or opposing legislation.
- O. Review and advise the Board of Supervisors, or other appropriate agency, regarding all requests for County funds for parks, historical facilities or programs. The Commission shall advise the Board of Supervisors on distribution of other funds which are available to the County, including bond act funds. The Commission also shall assist the coordination of applications for funding from others sources, such as the land and water conservation fund, between the various local, regional and County agencies, and shall advise the Board of Supervisors as to interest of the County affected by the dispersal of any such funds;
- P. Advise the County on reviews called for under the California Environmental Quality Act, National Environmental Protection Act, and National Historic Preservation Act on actions affecting historic resources in Alameda County;

Q. Make recommendations to the Board of Supervisors, the Planning Commission, County departments, or any other entity, for purposes of providing historic preservation incentives, including, without limitation, procedural, economic and tax incentives, acquisition of property, development rights,

preservation easements, conservation easements, land use, zoning, development restrictions, penalties and sanctions, fee adjustments, and negotiated settlements;

R. Assume duties assigned to the Commission by the Board of Supervisors pursuant to the certified local government provisions of the National Historic Preservation Act of 1966, or duties that may be assigned to the Commission through any agreement(s) approved by the Board of Supervisors. This shall include undertaking review and comment upon those projects on which the County, as a certified local government, has an obligation or opportunity to provide review and comment under the National Historic Preservation Act, including but not limited to private and public projects undertaken within Alameda County involving one or more landmarks or historic preservation districts;

S. Review applications for Mills Act contracts;

T. Foster and promote the preservation of historic records;

U. Adopt a historic preservation plan or element; and

V. Carry out any other duties dealing with historical resources, recreation and parks in the County which the Board of Supervisors may from time to time assign to it.

| COMMENT                                                                                                                                                           | RESPONSE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| <i>JUNE 15, 2011 MEETING COMMENTS</i>                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 1. Could the Assessor do a pre-assessment to let property owners know their projected savings [under the Mills Act]?                                              | Individual property owners would have to contact the Assessor's Office and request that the office calculate an estimate of their taxes if the property was placed under Mills Act contract.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 2. Provide an explanation of how the [Mills Act] formula works.                                                                                                   | Staff has provided a link on the webpage <a href="http://www.acgov.org/cda/planning/landuseprojects/phpo.htm">http://www.acgov.org/cda/planning/landuseprojects/phpo.htm</a> to various resources from State Office of Historic Preservation that describe how property taxes for properties under Mills Act contract are calculated.                                                                                                                                                                                                                                                                                               |
| 3. Have the Assessor's office present at meetings.                                                                                                                | A representative from the Assessor's Office is expected to attend the Subcommittee meeting on July 13, 2011.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 4. Why not opt out before the Ordinance is adopted?                                                                                                               | The Ordinance has now been revised to an "opt in" program. Under the current draft, property owners that do not want to participate in the County Register are not required to take any action.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 5. Opt in should be the method of participation in the Register.                                                                                                  | The ordinance has now been revised to an "opt in" program.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 6. Create the Register later, after the Ordinance is passed.                                                                                                      | Comment noted. The Subcommittee believes that an "opt in" program is the appropriate mechanism to establish the initial Register.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 7. Follow up [with State Office of Historic Preservation] to see if owner desire is an acceptable reason to be removed from the Register.                         | Staff is awaiting a response.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 8. The County should only be able to keep the property on the list if they find that it is significant...the owner should not have to demonstrate that it is not. | The Board of Supervisors would be required to find that the property is either significant or not by way of resolution, not the property owner. As is customary with all Planning Department applications, County staff requests all information from the property owner as needed to review their application. That information is then compiled and analyzed in a staff report which, in this case, is transmitted to the Board for their consideration. Staff does not recommend that either sections 17.##.070 or 17.##.080 be changed, as the proposed policy is not inconsistent with the County's current planning practice. |
| 9. Add link to Mills Act information on website.                                                                                                                  | See response to comment # 2 above.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

| COMMENT                                                                                                                                                             | RESPONSE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
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| 10. Can you have both a Williamson Act and Mills Act contract?                                                                                                      | Yes. There is no statute that would prevent the County from approving both a Mills Act and Williamson Act contract. Williamson Act contracts are applied to agricultural land, whereas Mills Act contracts are for structures.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 11. Research whether or not the Ordinance allows for binding decision making of the PRHC. Is the PRHC still advisory? Compare old Ordinance [Section 2.86] vs. new. | Under this proposed Ordinance, the PRHC would still be an advisory committee. Specifically, they would advise the Planning Director on Certificates of Appropriateness, the Planning Commission on the rezoning of parcels to the "HP" designation, and to the Board of Supervisors on nominations of properties to the County's Register. The Board may choose to assign additional responsibilities to the PRHC as it deems necessary. The Board's ability to delegate additional tasks is consistent with current language codified in Chapter 2.86 of the County's Administrative Code which establishes the PRHC and describes its responsibilities. Staff has prepared a comparison of the current chapter and proposed changes for reference. |
| 12. Starting at pg 23...duties of the PRHC. Make their [PRHC] advisory role explicit.                                                                               | The role of the PRHC as provided in the draft Ordinance is advisory. The PRHC advises the Board, Planning Commission and Planning Director on their review of projects involving historic preservation, parks and recreation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 13. Make it an opt in                                                                                                                                               | The Ordinance has been revised accordingly.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 14. Improve notifications                                                                                                                                           | The County will continue to work on improving its notifications of property owners.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <i>JUNE 21, 2011 MEETING COMMENTS</i>                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 1. The Ordinance is described as voluntary; however, the 90 day deadline to opt out makes it involuntary.                                                           | The Ordinance no longer requires property owners to opt out of the Register.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

| COMMENT                                                                                                                               | RESPONSE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|---------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. Process for removing a property is cumbersome.                                                                                     | The process for removing a property occurs in the same manner as it was added (Section 17.##.080). Presumably, the current or previous property owner has either submitted or offered their consent to evidence being presented to the Board of Supervisors that demonstrates their property's historic significance. That evidence and the Board's action is a matter of public record and must be referenced when considering future land development and/or uses on that property as required under the California Environmental Quality Act (CEQA). As a result, the County should be as fastidious in review of the deletion as it was in its placement. As with placement on the Register, owner opinion carries weight in the Board's consideration; however, it cannot be the sole reason for its actions. Staff believes that this section should not be changed. Staff does not believe that requiring an equivalent level of effort for additions or removals from the Register poses an unnecessary burden upon property owners. Moreover, the practice is consistent with what occurs in other jurisdictions. |
| 3. The Ordinance is not based on a new inventory, but is based on past inventories.                                                   | Comment noted. As funds become available the County will consider devoting funding to updating its existing inventories.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 4. Problem with the definition of the term "development project"                                                                      | The term only applies to the chapter where the Historic Preservation Ordinance is codified. The term was included in the chapter as it is intended to make clear what projects would require a "Certificate of Appropriateness" as prescribed in the chapter. However, staff agrees that this term may be confusing to readers and has revised the definition as follows:<br><i><u>"Development project' for the purposes of this chapter means and includes the following:..."</u></i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 5. How many properties meet the criteria for historic properties? Better policy to create the criteria and then establish a register. | All of the properties were evaluated by an architectural historian and at that time they were believed to be eligible for listing on a local, state or National Register. The opt in program provided in the Ordinance would require that the County conduct a follow up review of a property prior to listing to determine if the property still eligible for listing based upon the criteria contained therein.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 6. Prefer to have an inventory that is defensible.                                                                                    | Comment noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |

| COMMENT                                                                                                                                                                                                                                                                                                  | RESPONSE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7. Rather than an opt out should have a 90 day opt in.                                                                                                                                                                                                                                                   | The program has been changed to allow property owners to opt in within 180 days of the Ordinances adoption by the Board of Supervisors.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8. Support page 17 of the draft—"No nomination shall proceed without the consent of the property owner."                                                                                                                                                                                                 | Comment noted.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 9. Need to clarify Section 17.##.100(B). Paragraph refers to a staff report for additions/deletions. Process should not be initiated by anyone but the property owners.                                                                                                                                  | Staff has added additional text to sections 17.##.080, 17.##.100 and 17.##.110 to strengthen protections for property owners and to prevent applications for proceeding without their consent.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 10. Is demolition policy new, or existing?                                                                                                                                                                                                                                                               | The demolition review process as described is an existing policy of the Planning Department.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 11. Definition of a certificate of appropriateness should be included in the beginning of the document.                                                                                                                                                                                                  | The following definition has been added:<br><i>"Certificate of Appropriateness' means a permit approving an alteration to or demolition of a landmark, or demolition of a historic resource listed on the Alameda County Register pursuant to the provisions of this chapter."</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 12. Certificate of Appropriateness-Small Project Review: Energy efficiency projects could fall under small project review. Could act as a disincentive for energy efficiency work that is mandate under the Community Climate Action Plan. Ordinance may make changes difficult and upgrades infeasible. | Staff has reviewed the policy and found that while it is possible that a property owner's desire to improve the energy efficiency of their property could lead them to consider solutions that may affect the structure's aesthetic or historical integrity, evidence from other jurisdictions, particularly the City of Berkeley which has had a Energy Conservation Ordinance affecting both residential and commercial properties and while maintaining a strong commitment to historic preservation, suggests that the adoption of the proposed Historic Preservation Ordinance would not undermine the goals of the County's Community Climate Action Plan. Rather than revising the policies pertaining to small project reviews the County should consider monitoring applications for Certificates of Appropriateness to see if problems arise, and then amend the Ordinance accordingly. |

| COMMENT                                                                                                                                                      | RESPONSE                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
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| 13. Dangerous Buildings---what is “reasonably necessary” should be defined.                                                                                  | <p>It would not be possible, or appropriate, to specify what the term means as what is “reasonably necessary” would likely change from case to case. Generally, work described as reasonably necessary would fall into one or more categories: 1) preventing further deterioration of the structure; 2) improving site security; and 3) stabilizing the foundation or other structural elements of the building. Staff has added language specifying that the County’s Building Official would be responsible for determining what work, up to and including demolition, would be necessary to correct unsafe building conditions. Section 17.##.270 (B) should read as follows:</p> <p><i>Only such work <u>that has been found</u> reasonably necessary <u>as determined by the County’s building official</u> to correct the unsafe or dangerous condition may be performed pursuant to this subsection.</i></p> |
| 14. Is the property owner obligated to rebuild a restructure?                                                                                                | Whether or not a person would be required to reconstruct an illegally demolished structure would determined by a judge, not the County.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 15. What are the trigger points for demolition?                                                                                                              | It is not entirely clear what was meant by that comment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 16. Who would enforce the minimum maintenance requirement?                                                                                                   | Enforcement for the provisions set forth in the Ordinance are specified in Section 17.##.340.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 17. Enforcement and Penalties-Does the misdemeanor mean a fee or jail time?                                                                                  | The penalty would be determined by a judge. The County’s Grading Ordinance (Chapter 15.36 of the County’s Ordinance Code) also allows violators be charged with a misdemeanor, although there are provisions for an “Administrative Violation”.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 18. Responsibilities of the PRHC-grants the Commission broad oversight, what is the oversight of the oversight. Review could add considerable time and cost. | Staff believes that the proposed responsibilities are consistent with those already established for the PRHC. Please see the response to Comment #11 received during the June 15, 2011 meeting for additional information.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <i>JUNE 29, 2011 MEETING COMMENTS</i>                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 1. Look into re-roofing and the impact on historic gutters.                                                                                                  | A proposal to re-roof a structure would be evaluated by the Planning Director under a Certificate of Appropriateness-Small project Review.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

| COMMENT                                                                                                        | RESPONSE                                                                                                                                                                                                                                                      |
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| 2. How are additions evaluated?                                                                                | Properties that are on the County Register would be required to apply for a Certificate of Appropriateness in order to alter their property. Generally, alterations or additions must conform to the Secretary of the Interiors Standards.                    |
| 3. Why do I have to ask to get off a list that I never asked to be on? No one has a right to list my property. | The revised Ordinance asks that property owners opt in rather than opt out. Under the current draft, property owners that do not want their property to be listed would not need to submit any form or document to request that their property not be listed. |
| 4. Would like to see a blank Register.                                                                         | The revised Ordinance asks that property owners opt in rather than opt out. This would eliminate any administrative burden on property owners not wanting to participate in the County Register                                                               |
| 5. Don't interfere with my property rights.                                                                    | Comment noted.                                                                                                                                                                                                                                                |

Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission

| Draft Ordinance Text as Approved by the Planning Commission                                                                  | Staff Revisions                                                                                                                                                                                                    | Rationale                                                                                               |
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| "Preventative maintenance" means any work the sole purpose and effect of which is to correct deterioration, decay or damage. | "Preventative maintenance" means any work the sole purpose and effect of which is to correct deterioration, decay or damage <u>and which comply with the Secretary of the Interior’s Standards and Guidelines.</u> | This revisions was made to clarify how preventative maintenance would be evaluated under the Ordinance. |

**Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission**

| Draft Ordinance Text as Approved by the Planning Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Staff Revisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
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| <p><b>17.##.080 Procedures to Nominate Resources for Placement or Deletion from the Alameda County Register</b></p> <p>A. The following parties shall have the authority to nominate a resource for placement or removal from the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit:</p> <ol style="list-style-type: none"> <li>1. The Owner of the of the historic resource proposed for designation, an authorized agent or, in the case of a historic preservation district, no less than fifty-one percent (51%) of property owners within the area of the proposed district.</li> <li>2. The Parks, Recreation and Historical Commission, subject to the consent of the property owner pursuant to Section 17.##.120.</li> <li>3. The Board of Supervisors.</li> </ol> <p>B. If designation is initiated by the owner, an application for designation shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation including, but not limited to, State of California Department of Parks Recreation 523 series forms or other historic resource inventory forms as may be approved by the State. Such documentation must be prepared by an individual who meets the professional qualification standards published by the National Park Service in the Federal Register (Code of Federal Regulation, 36 CFR Part 61), as determined by the State Office of Historic Preservation. Submission of an application for designation shall be deemed written consent by the owner to the designation by the County. If an application is determined to be incomplete, it shall be returned to the applicant and the applicant may re-submit the application with the documentation necessary to complete it without an additional filing fee.</p> | <p><b>17.##.080 Procedures to Nominate Resources for Placement or Deletion from the Alameda County Register</b></p> <p>A. The following parties shall have the authority to nominate a resource for placement <del>on or deletion or removal</del> from the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit:</p> <ol style="list-style-type: none"> <li>1. The Owner of the of the historic resource proposed for designation, an authorized agent or, in the case of a historic preservation district, no less than fifty-one percent (51%) of property owners within the area of the proposed district.</li> <li>2. The Parks, Recreation and Historical Commission, <del>subject to the consent of the property owner pursuant to Section 17.##.120.</del></li> <li>3. The Board of Supervisors.</li> </ol> <p><u>However, no nomination for placement on the Alameda County Register as a landmark, or structure of merit shall proceed without the written consent of the property owner on a form supplied by the County.</u></p> <p>B. If designation is initiated by the owner, an application for designation shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation including, but not limited to, State of California Department of Parks Recreation 523 series forms or other historic resource inventory forms as may be approved by the State. Such documentation must be prepared by an individual who meets the professional qualification standards published by the National Park Service in the Federal Register (Code of Federal Regulation, 36 CFR Part 61), as determined by</p> | <p>The first revision (Section 17.##.080 (A)) is intended to keep language used throughout the draft consistent.</p> <p>The second set of revisions (also to Section 17.##.080 (A)) is substantive. The August 2011 draft that was by the PRHC included several references to owner consent. In their October 17, 2011 recommendation, the Planning Commission removed several key phrases pertaining to consent. Staff has concluded that removal of such phrases by the Planning Commission created would result in an Ordinance that was ideologically inconsistent with the recommendation PRHC as well public sentiment. The following text was included in the August 4, 2011 and was subsequently removed by the Planning Commission:</p> <p><i>However, no nomination for placement on the Alameda County Register as a landmark, or structure of merit shall proceed without the authorization of the property owner.</i></p> <p>Staff has re-inserted that text into the draft under Consideration by your Board.</p> |

Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission

| Draft Ordinance Text as Approved by the Planning Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | Staff Revisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             | Rationale |
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| <p>C. The Parks, Recreation and Historical Commission may initiate the designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution of intent to nominate. The Commission may adopt a resolution of intent to nominate on its own motion, at the request of the Planning Department, or at the request of members of the public. Any resolution of intent to nominate initiated by the Commission must be based upon the same documentation that would be required of an owner’s application for designation and preliminary findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.##.060. The Planning Department shall notify the owner and the occupants of the property by certified mail 30 days prior to the Commission meeting when the subject property of the resolution of intent to nominate shall be considered for nomination and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.##.100 and the right of the property owner to grant or withhold consent regarding nominations by the Commission. Notice of public meetings shall follow the guidelines established in Section 17.##.120 of this Ordinance.</p> <p>D. The Board of Supervisors may initiate designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution identifying the resource to be nominated and transmitting its resolution to the Commission. The Commission shall consider recommendations to the Board regarding a proposed nomination pursuant to Section 17.##.100. If designation is initiated by the Board of Supervisors,</p> | <p>the State Office of Historic Preservation. Submission of an application for designation shall be deemed written consent by the owner to the designation by the County. If an application is determined to be incomplete, it shall be returned to the applicant and the applicant may re-submit the application with the documentation necessary to complete it without an additional filing fee.</p> <p>C. The Parks, Recreation and Historical Commission may initiate the designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution of intent to nominate. The Commission may adopt a resolution of intent to nominate on its own motion, at the request of the Planning Department, or at the request of members of the public. Any resolution of intent to nominate initiated by the Commission must be based upon the same documentation that would be required of an owner’s application for designation and preliminary findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.##.060. The Planning Department shall notify the owner and the occupants of the property by certified mail 30 days prior to the Commission meeting when the subject property of the resolution of intent to nominate shall be considered for nomination and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.##.100 and the right of the property owner to grant or withhold consent regarding nominations by the Commission. Notice of public meetings shall follow the guidelines established in Section 17.##.120 of this Ordinance.</p> |           |

Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission

| Draft Ordinance Text as Approved by the Planning Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Staff Revisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | Rationale |
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| <p>such action must be based upon the same documentation that would be required of an owner’s application for designation and findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.##.060. The Clerk of the Board of Supervisors shall notify the owner and the occupants of the property by certified mail 30 days prior to the Board of Supervisors meeting regarding the initiation of the designation and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.##.100 and that the property owner may advise the Board of the their granting or withholding of consent. Notice of public meetings shall follow the guidelines established in Section 17.##.120 of this Ordinance.</p> <p>E. The application, resolution of intent to nominate, or nomination shall indicate the parameters of the historic resource that is being nominated with specificity, including any related structures or landscape that is to be considered.</p> <p>F. The owner of a historic resource proposed for designation may notify the Planning Director in writing of their consent, or withholding consent, to the proposed designation at any time after initiation and prior to a final designation by the Board.</p> <p>G. A request to delete a listed resource from the Register will be initiated in the same manner and using the same procedure as was followed to nominate a potentially historic resource. The action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors that justified the designation. Notice of removal of a listed resource shall be sent to the same persons or other parties</p> | <p>D. The Board of Supervisors may initiate designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution identifying the resource to be nominated and transmitting its resolution to the Commission. The Commission shall consider recommendations to the Board regarding a proposed nomination pursuant to Section 17.##.100. If designation is initiated by the Board of Supervisors, such action must be based upon the same documentation that would be required of an owner’s application for designation and findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.##.060. The Clerk of the Board of Supervisors shall notify the owner and the occupants of the property by certified mail 30 days prior to the Board of Supervisors meeting regarding the initiation of the designation and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.##.100 and that the property owner may advise the Board of the their granting or withholding of consent. Notice of public meetings shall follow the guidelines established in Section 17.##.120 of this Ordinance.</p> <p>E. The application, resolution of intent to nominate, or nomination shall indicate the parameters of the historic resource that is being nominated with specificity, including any related structures or landscape that is to be considered.</p> <p>F. The owner of a historic resource proposed for designation may notify the Planning Director in writing of their consent, or withholding consent, to the proposed designation at any time after initiation and prior to a final designation by the Board.</p> |           |

**Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission**

| Draft Ordinance Text as Approved by the Planning Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Staff Revisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
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| <p>as set forth in Section 17.##.120 .</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | <p>G. A request to delete a listed resource from the Register will be initiated in the same manner and using the same procedure as was followed to nominate a potentially historic resource. The action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors that justified the designation. Notice of removal of a listed resource shall be sent to the same persons or other parties as set forth in Section 17.##.120 .</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <p><b>17.##.100 Nomination Hearing by the Parks, Recreation and Historical Commission</b><br/> The Commission shall conduct public hearings on nominations for designation on, or proposals for deletion from, the Alameda County Register. At the conclusion of hearings, the Commission shall make a recommendation to the Board of Supervisors on the nomination or proposal.</p> <p>A. Notice of the hearing shall be provided pursuant to Section 17.##.120.</p> <p>B. A hearing on an application shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the application is determined to be complete. If the Commission does not act within the timeframe, the owner may request that the proposal be transmitted directly to the Board of Supervisors for its determination.</p> <p>C. A hearing on a property subject to a Commission resolution of intent to nominate shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the Commission initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, the owner may request that the proposed designation be</p> | <p><b>17.##.100 Nomination Hearing by the Parks, Recreation and Historical Commission</b><br/> The Commission shall conduct public hearings on nominations for designation on, or proposals for deletion from, the Alameda County Register. At the conclusion of hearings, the Commission shall make a recommendation to the Board of Supervisors on the nomination or proposal.</p> <p>A. Notice of the hearing shall be provided pursuant to Section 17.##.120.</p> <p>B. A hearing on an application shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the application is determined to be complete. If the Commission does not act within the timeframe, the owner may request that the proposal be transmitted directly to the Board of Supervisors for its determination.</p> <p>C. A hearing on a property subject to a Commission resolution of intent to nominate shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the Commission initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, the owner may request that the proposed designation be</p> | <p>The first revision to this chapter is to correct errors in the sequential listing of the paragraphs.</p> <p>The second revision occurs in Section 17.##.100 (G). The requirement that the PRHC transmit a non-recommendation for to the Board when the property owner has not given their consent to nomination has been removed. Such language does not exist in an earlier draft as reviewed by the PRHC. Furthermore, changes which follow in Section 17.##.110 (A) effectively eliminate the need for such a process as the Board and the PRHC could only consider the listing of properties where the owner has granted their consent.</p> |

Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission

| Draft Ordinance Text as Approved by the Planning Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Staff Revisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Rationale |
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| <p>transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.##.140.</p> <p>D. A hearing on a nomination proposed by the Board shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the Board initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, either the owner or the Board may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.##.140.</p> <p>E. A staff report concerning the historic resource under consideration for placement or deletion from the Register shall be provided to the Commission. The report shall address the significance and integrity of the historic resource as it relates to the designation criteria, provide other relevant information, and include a recommendation concerning the application and the basis therefore. The staff report shall also state whether the owners of the property have consented or withheld consent to the proposed action.</p> <p>E. In the event of a nomination or proposed deletion of a historic preservation district, the Director shall also notify the Planning Commission. The Planning Commission shall have at least 30 days to review the proposed designations and boundaries of the historic preservation district, or the proposed deletion. The Planning Commission may provide comments, however lack of comments by the Planning Commission shall neither prevent the Commission from acting on the nomination or proposed deletion nor preclude any actions by the Planning Commission authorized</p> | <p>transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.##.140.</p> <p>D. A hearing on a nomination proposed by the Board shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the Board initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, either the owner or the Board may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.##.140.</p> <p>E. A staff report concerning the historic resource under consideration for placement or deletion from the Register shall be provided to the Commission. The report shall address the significance and integrity of the historic resource as it relates to the designation criteria, provide other relevant information, and include a recommendation concerning the application and the basis therefore. The staff report shall also state whether the owners of the property have consented or withheld consent to the proposed action.</p> <p><del>E.</del>F. In the event of a nomination or proposed deletion of a historic preservation district, the Director shall also notify the Planning Commission. The Planning Commission shall have at least 30 days to review the proposed designations and boundaries of the historic preservation district, or the proposed deletion. The Planning Commission may provide comments; <u>however</u> <u>a</u> lack of comments by the Planning Commission shall neither prevent the Commission from acting on the nomination or proposed deletion nor preclude any actions by the Planning</p> |           |

Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission

| Draft Ordinance Text as Approved by the Planning Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | Staff Revisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Rationale |
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| <p>under Chapter 17.20.</p> <p>F. Any recommendation for placement or deletion from the Register initiated by the Parks, Recreation and Historical Commission shall be supported by a preponderance of the evidence that the historic resource meets or no longer meets the designation criteria for one of the registration categories set for the in Section 17.##.060. The Commission shall also include in their analysis whether or not the owner has granted or withheld written consent to the designation. If the owner has not granted written consent to the placement of the property on the Register, the Commission shall not adopt a resolution of intent to nominate. In the event of a non-recommendation due to a lack of consent, the Commission shall make such a finding and transmit the non-recommendation to the Board.</p> <p>G. The Commission secretary shall transmit to the Board of Supervisors the Commission’s recommendations on inclusion on or deletion from the Alameda County Register.</p> | <p>Commission authorized under Chapter 17.20.</p> <p><del>F.</del> G. Any recommendation for placement or deletion from the Register initiated by the Parks, Recreation and Historical Commission shall be supported by a preponderance of the evidence that the historic resource meets or no longer meets the designation criteria for one of the registration categories set for the in Section 17.##.060. The Commission shall also include in their analysis whether or not the owner has granted or withheld written consent to the designation. If the owner has not granted written consent to the placement of the property on the Register, the Commission shall not adopt a resolution of intent to nominate. <del>In the event of a non-recommendation due to a lack of consent, the Commission shall make such a finding and transmit the non-recommendation to the Board.</del></p> <p><del>G.</del> H. The Commission secretary shall transmit to the Board of Supervisors the Commission’s recommendations on inclusion on or deletion from the Alameda County Register.</p> |           |

Attachment F- Changes as Recommended by Planning Staff to the Ordinance Approved by the Planning Commission

| Draft Ordinance Text as Approved by the Planning Commission                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            | Staff Revisions                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Rationale                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
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| <p><b>17.##.110 Action by the Board of Supervisors on Amendments to the Register</b></p> <p>A. Within 60 days of the receipt of the transmittal by the Clerk of the Board of Supervisors of an action by the Commission pursuant to Section 17.##.100, the Board shall hold a public hearing thereon. The Board may adopt, modify or reject the actions recommended by the Commission, however, if the Board is considering a non-recommendation of the Commission, the historic resource shall not be placed on the Alameda County Register except by unanimous vote. In the alternative, the Board of Supervisors may refer the proposed actions to the Commission for further hearings, consideration or study. Adoption of any inclusion on or deletion from the Alameda County Register shall be made by uncoded ordinance which shall contain findings of fact in support of each designation. The uncoded ordinance shall identify significant features or characteristics of resources added to the Alameda County Register, and shall identify contributing resources and non-contributing resources in a historic preservation district.</p> <p>B. Notice of public hearing shall be provided in accordance with Section 17.##.120. In addition, notice shall be published once not less than ten (10) days before the hearing in a newspaper of general circulation.</p> <p>C. A historic resource placed on the Register shall be subject to the provisions set forth in this chapter.</p> | <p><b>17.##.110 Action by the Board of Supervisors on Amendments to the Register</b></p> <p>A. Within 60 days of the receipt of the transmittal by the Clerk of the Board of Supervisors of an action by the Commission pursuant to Section 17.##.100, the Board shall hold a public hearing thereon. The Board may adopt, modify or reject the actions recommended by the Commission, <del>however, if the Board is considering a non-recommendation of the Commission, the historic resource shall not be placed on the Alameda County Register except by unanimous vote.</del> In the alternative, the Board of Supervisors may refer the proposed actions to the Commission for further hearings, consideration or study. The historic resource shall not be placed on the Alameda County Register if the owner does not provide written consent to the designation prior to the action by the Board of Supervisors. Adoption of any inclusion on or deletion from the Alameda County Register shall be made by uncoded ordinance which shall contain findings of fact in support of each designation. The uncoded ordinance shall identify significant features or characteristics of resources added to the Alameda County Register, and shall identify contributing resources and non-contributing resources in a historic preservation district.</p> <p>B. Notice of public hearing shall be provided in accordance with Section 17.##.120. In addition, notice shall be published once not less than ten (10) days before the hearing in a newspaper of general circulation.</p> <p>C. A historic resource placed on the Register shall be subject to the provisions set forth in this chapter.</p> | <p>The changes initiated by the Planning Commission to Section 17.##.110 (A) are significant, and may prove problematic during the implementation of the Ordinance. Specifically, a property could be added with the unanimous vote of the Board; yet, in the interim, a property owner would face development restrictions (See 17.##.160 ) which are imposed for 180 days and may be extended for an additional 180 days by the Board. The PRHC draft, as recommended on August 4, 2011, is intended to provide both the County and property owner’s greater certainty over the identification, nomination and designation of historic resources in the County, and it is unclear as to how this proposal would aid in those objectives. In addition, the requirement for unanimous agreement by the Board is unprecedented for actions exercised under its land use authority. No other action has this requirement. As a result, staff recommends that the language be deleted.</p> |

**ORDINANCE 2012-\_\_\_\_\_**

**AN ORDINANCE AMENDING SECTIONS 2.86.020, AND 2.86.070 OF THE ALAMEDA COUNTY ADMINISTRATIVE CODE PERTAINING TO THE TERMS, APPOINTMENT, QUALIFICATIONS AND DUTIES AND RESPONSIBILITIES OF THE ALAMEDA COUNTY PARKS, RECREATION AND HISTORICAL COMMISSION; ADDING ADMINISTRATIVE CODE SECTION 2.86.021 TO ESTABLISH CRITERIA FOR TERMS OF OFFICE AND VACANCIES; AMENDING SECTIONS 17.20.040, AND 17.20.060 OF THE GENERAL ALAMEDA COUNTY ZONING ORDINANCE PERTAINING TO HISTORIC PRESERVATION (HP) DISTRICTS; AND ADDING A NEW CHAPTER (17.62) TO THE ALAMEDA COUNTY ZONING ORDINANCE TO ENACT A HISTORIC PRESERVATION ORDINANCE FOR UNINCORPORATED ALAMEDA COUNTY**

The Board of Supervisors of the County of Alameda ordains as follows:

**SECTION I**

Section 2.86.020 of Title 2 of the Administrative Code of the County of Alameda is amended to read as follows:

**2.86.020 Commissioners—Terms, Appointment, Qualifications**

A. The Commission shall consist of nine (9) members appointed by the Board of Supervisors. The Supervisor representing District 5 shall appoint one representative and the Supervisors representing Districts 1, 2, 3, and 4 shall appoint two representatives each. The current fifteen member Board shall transition to a nine member Board by attrition, or by action taken by the Board of Supervisors. A nine member body shall be in place by 2012.

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

C. Each member of the Commission shall have demonstrated interest and experience in either historical preservation or recreation.

1. At least two Commission members are encouraged to be appointed from among professionals in the disciplines of history, architecture, architectural history, Planning, pre-historic and historic archeology, folklore, cultural anthropology, curation, conservation, and landscape architecture or related disciplines, such as American studies, American civilization, engineering, or cultural geography, to the extent that such professionals are available in the community.

2. Commission membership may also include lay members who have demonstrated special interests, knowledge, or competence in historic preservation.

## SECTION II

Section 2.86.021 of Title 2 of the Administrative Code of the County of Alameda is added to read as follows:

### **2.86.021 Board—Term of Office, Vacancies**

The members of the Commission shall serve at the pleasure of the Board of Supervisors and shall have terms of four years. Their terms shall be staggered so that no more than four terms expire in any one year, and so that no supervisor makes more than one appointment in one year, except to fill an unexpired vacancy. No one member shall serve more than three successive four-year terms. Any vacancy on the Commission shall be filled by the Board of Supervisors; persons appointed to fill vacancies shall serve for the unexpired term of the persons they succeed. The Board of Supervisors shall act within sixty (60) days to fill a vacancy.

## SECTION III

Section 2.86.070 of Title 2 of the Administrative Code of the County of Alameda is amended to read as follows:

### **2.86.070 Commission—Duties and Powers**

In addition to those responsibilities conferred to it within Title 17 of the Alameda County Ordinance Code, the powers and duties of the Commission shall be to:

- A. Participate in historic preservation activities in the County, and to ensure that all historical resources are recognized as such;
- B. Assist in the coordination of the activities of the various local and regional park districts and departments to provide a balanced park and recreation program in the County and to avoid unnecessary duplication of facilities;
- C. Foster public participation in matters pertaining to historic preservation and recreation;
- D. Coordinate with, and make recommendations to, other governmental agencies regarding historic preservation and recreation matters;
- E. Conduct studies and surveys of historic properties in the unincorporated areas of Alameda County;
- F. Provide to the Board of Supervisors recommendations regarding the acquisition, preservation, public display, and disposition of sites, buildings, documents and artifacts pertaining to the historical and cultural heritage of Alameda County;
- G. Support, initiate or collaborate with other organizations to promote and enhance knowledge of the history and cultural heritage of Alameda County;
- H. Review all requests for historical zoning and advise the Planning Commission and the Board of Supervisors as to the historical significance of the property in question. On request, it shall advise other public agencies and private groups as to the historical significance of properties in the County;
- I. Review and make recommendations on land development applications for properties located within "HP", Historic Preservation Districts;

- J. Review nominations for inclusion and proposals for deletion from the Alameda County Register of Historic Resources;
- K. Compile, maintain and update information in the Alameda County Register of Historic Resources;
- L. Review and make recommendations on certificates of appropriateness;
- M. Maintain a directory of parks and historical resources located within the County;
- N. Review all legislation relative to historical resources and report its recommendations to the Board of Supervisors. The Commission also may take its own stand supporting or opposing legislation.
- O. Review and advise the Board of Supervisors, or other appropriate agency, regarding all requests for County funds for parks, historical facilities or programs. The Commission shall advise the Board of Supervisors on distribution of other funds which are available to the County, including bond act funds. The Commission also shall assist the coordination of applications for funding from others sources, such as the land and water conservation fund, between the various local, regional and County agencies, and shall advise the Board of Supervisors as to interest of the County affected by the dispersal of any such funds;
- P. Advise the County on reviews called for under the California Environmental Quality Act, National Environmental Protection Act, and National Historic Preservation Act on actions affecting historic resources in Alameda County;
- Q. Make recommendations to the Board of Supervisors, the Planning Commission, County departments, or any other entity, for purposes of providing historic preservation incentives, including, without limitation, procedural, economic and tax incentives, acquisition of property, development rights, preservation easements, conservation easements, land use, zoning, development restrictions, penalties and sanctions, fee adjustments, and negotiated settlements;
- R. Assume duties assigned to the Commission by the Board of Supervisors pursuant to the certified local government provisions of the National Historic Preservation Act of 1966, or duties that may be assigned to the Commission through any agreement(s) approved by the Board of Supervisors. This shall include undertaking review and comment upon those projects on which the County, as a certified local government, has an obligation or opportunity to provide review and comment under the National Historic Preservation Act, including but not limited to private and public projects undertaken within Alameda County involving one or more landmarks or historic preservation districts;
- S. Review applications for Mills Act contracts;
- T. Foster and promote the preservation of historic records;
- U. Adopt a historic preservation plan or element; and
- V. Carry out any other duties dealing with historical resources, recreation and parks in the County which the Board of Supervisors may from time to time assign to it.

#### SECTION IV

Section 17.20.040 of Title 17 of the General Ordinance Code of the County of Alameda is amended to read as follows:

##### **17.20.040 Requirements**

In order to be classified in the HP district, at least part of the property or one of the structures on

the property must be:

- A. Listed on the Alameda County Register, or otherwise specifically recognized by the Alameda County General Plan; or
- B. Designated a Point of Historic Interest or State Historical Landmark, or be eligible for or listed on the National Register of Historic Places, California Register of Historical Resources, or some state or federal inventory of historical resources; or
- C. Of special importance due to its historical association, basic architectural merit, its embodiment of a style or special type of construction, or other special character, interest, or value.

In addition, establishment of any HP district, and regulations adopted therein, shall be consistent with Section 17.20.010, Intent.

## SECTION V

Section 17.20.060 of Title 17 of the General Ordinance Code of the County of Alameda is amended to read as follows:

### **17.20.060 Procedure—Referral to Parks, Recreation and Historical Commission**

The petition for reclassification or the land use and development plan shall be referred to the County Parks, Recreation, and Historical Commission for recommendation. The recommendation shall include a determination as to whether or not the property meets the requirements of Section 17.20.040, whether or not reclassification to an HP district is an appropriate means of preserving the property, and whether or not the proposed uses and any proposed alterations to the property are detrimental to its historical value. The Parks, Recreation, and Historical Commission may also make recommendations to the Planning Commission as to appropriate modifications in the proposal, including the boundaries of the district. The Parks, Recreation, and Historical Commission review shall be completed and transmitted to the Planning Commission within sixty (60) days of receipt, or such longer time as may be agreed to by the Planning Commission, or the above determination shall be made by the Planning Commission.

## SECTION VI

Title 17 of the General Ordinance Code of the County of Alameda is amended by adding the following new chapter 17.62:

### **Chapter 17.62 HISTORIC PRESERVATION ORDINANCE**

#### **17.62.010 Title**

This chapter shall be known as the Historic Preservation Ordinance of Alameda County.

#### **17.62.020 Purpose**

The purpose of this chapter shall be to:

- A. Identify, protect, and encourage the preservation of significant architectural, historic, prehistoric and cultural structures, sites, resources and properties in the County;
- B. Ensure the preservation, protection, enhancement and perpetuation of historic structures, sites and other resources to the fullest extent feasible;
- C. Encourage, through public or private action, the maintenance or rehabilitation of historic structures, sites and other resources;
- D. Safeguard the County's historic resources, both public and private projects;
- E. Encourage development that sensitively incorporates the retention, preservation and re-use of historic structures, sites and other resources;
- F. Foster civic pride in the character and quality of the County's historic resources and in the accomplishments of its people through history;
- G. Provide a mechanism, through surveys, nominations and other available means, to compile, update and maintain a register of historic resources within the County;
- H. Protect and enhance the County's attraction to tourists and visitors;
- I. Provide for consistency with state and federal preservation standards, criteria and practices;
- J. Encourage new development that will be aesthetically compatible with historic resources;
- K. Make available incentive opportunities to preserve Alameda County's historic resources

#### **17.62.030 Definitions**

For the purposes of this chapter, certain words and phrases shall be interpreted as set forth in this section unless it is apparent from the context that a different meaning is intended.

"Alameda County Register" or "Register" means the list of properties officially recognized as historically significant by Section 17.62.050 of this chapter.

"Board of Supervisors" or "Board" means the Board of Supervisors of the County of Alameda.

"Building official" means the building official designated in Chapter 15.08 of Title 15 of this code, and his or her designee(s).

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

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

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

"Certificate of Appropriateness" means a permit approving an alteration to or demolition of a historic resource listed on the Alameda County Register or the demolition of a property otherwise eligible to be listed on the Alameda County Register pursuant to the provisions of this chapter.

"Commission" means the Parks, Recreation and Historical Commission

"Comprehensive Survey of Historic Sites" means the survey of historic resources throughout unincorporated Alameda County that was conducted in conjunction with the creation of this Ordinance.

"Contributing resource" means a resource designated as a contributing resource by the Board of Supervisors in accordance with this chapter.

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

“Cultural Resources Surveys” means the Cultural Resources Surveys done for the County, including the Preliminary Cultural Resources Surveys for the Ashland & Cherryland Districts, the San Lorenzo Area, and the East Valley Area; the Comprehensive Survey of Historic Sites; and any other surveys as they may be completed.

“Dangerous building” means an immediately dangerous building or structure as defined in Section 15.08.170 of the Alameda County Building code.

“Department” means the Alameda County Planning Department.

“Development project” for the purposes of this chapter means and includes the following:

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

“Director” means the Director of the Planning Department of Alameda County.

“Feature or characteristic” means fixtures, components or appurtenances attached to, contiguous with or otherwise related to a structure or property including landscaping, setbacks, distinguishing aspects, roof attributes, overlays, moldings, sculptures, fountains, light fixtures, windows and monuments. “Feature or characteristic” may include historically and/or architecturally significant interior areas that are accessible to or made available to the public, including, without limitation, areas commonly used as public spaces such as lobbies, meeting rooms, gathering rooms, public hallways, great halls, bank lobbies or other similar spaces. Interior areas that generally are not accessible to or made available to the public, but which occasionally may be visited by business invitees or members of the public, including those on a tour of a facility, do not constitute a “feature or characteristic” for purposes of this chapter.

“Historic resource” or “cultural resource” means, but is not limited to, any object, building, structure, site, area, place, or record which is historically or archaeologically significant, or is significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of Alameda County. .

“Initiation of Designation” means the action taken, or the date on which such action is taken, to place a historic resource on the Alameda County Register, including the completion of an application by a property owner, a nomination by the Board of Supervisors, or an adoption of a resolution of intent to nominate by the Commission.

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

“Landmark” means a property in unincorporated Alameda County, or a County-owned building or property in an incorporated area of Alameda County, of exceptional historical or architectural value that is an example of an important style, type, or convention, or which are intimately associated with a person, organization, event, or historical pattern of major importance at the local level designated as a landmark by the Board of Supervisors in accordance with this chapter.

“Listed historic resource” means any historic resource listed in the Alameda County Register in accordance with this chapter. “Listed historic resource” includes any resource designated by the Board of Supervisors as a landmark, contributing resource to a historic preservation district, or a

structure of merit. "Listed historic resource" does not include a non-contributing resource in a historic preservation district.

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

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

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

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

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

"Nominated resource" means a resource nominated for placement on the Alameda County Register as provided for in 17.62.080 of this chapter.

"Nomination" means a nomination for placement of a resource on the Alameda County Register pursuant to 17.62.080 of this chapter.

"Non-contributing resources" means all resources within a historic preservation district that are not identified as contributing resources. "Planning Commission" means the Planning Commission of Alameda County. The Planning Commission is always referred to in this ordinance as "the Planning Commission," never as "the Commission," which is reserved for the Parks, Recreation and Historical Commission.

"Preventative maintenance" means any work the sole purpose and effect of which is to correct deterioration, decay or damage and which comply with the Secretary of the Interior's Standards and Guidelines.

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

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

"Significant feature or characteristic" means a feature or characteristic identified by the Board of Supervisors as significant from a historical standpoint pursuant to 17.62.080 of this chapter.

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

"Structure of merit" means a resource designated by the Board of Supervisors in accordance with 17.62.080 (C) of this chapter.

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

"Zoning code" shall mean Title 17 of the County code, as it may be amended from time to time.

#### **17.62.040 Cultural Resource Surveys**

A. The County will maintain a list of all surveys and will use the survey information to identify and protect potentially historic resources as outlined in this Ordinance. All surveys shall be prepared by or under supervision of an architectural historian satisfying the professional qualification standards for architectural historians specified in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

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

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

C. All properties evaluated in the above surveys, regardless of the conclusions as to their historic significance, will go into an Inventory of Potential Historic Resources. This Inventory shall also include the results of any future historic resource surveys, including historic resource evaluations done in conjunction with the completion of any Environmental Impact Reports (EIRs) or Negative Declarations prepared pursuant to CEQA in the County. The Planning Department shall take appropriate steps to ensure that the Inventory is properly maintained and regularly updated. The Planning Department shall also take appropriate steps to maintain and regularly update a list or compilation of resources within the County that are on the California Register of Historical Resources or the National Register of Historic Places, and to make the list or compilation available for public review and use.

#### **17.62.050 The Alameda County Register**

A. The list of landmarks, historic preservation districts, contributing resources and structures of merit shall be known, collectively, as the Alameda County Register.

B. Within 180 days of the effective date of this ordinance, the following properties are considered eligible for inclusion on the Alameda County Register:

1. Properties deemed likely significant in previous surveys (properties rated "Y" in the Ashland & Cherryland survey, "1" in the San Lorenzo survey and "K" in the East Alameda survey) that, as part of the Comprehensive Survey of Historic Sites in unincorporated Alameda County, were verified to merit continued listing;
2. All landmarks, contributing buildings and historic preservation districts identified in the Comprehensive Survey that were not identified in any of the three previous surveys;
3. Properties identified by the Commission that meet the structure of merit criteria set forth below in 17.62080 (C) that were identified prior to the adoption of this Ordinance.

C. Owners of properties specified in subsection B shall be notified in writing that the Board of Supervisors has adopted Historic Preservation Ordinance and as a result their property could be included on the Alameda County Register if they so desire. The property owners shall be notified in the manner specified in Section 17.62.120. Owners of these properties that wish to add their property to the Alameda County Register must submit their written consent to be added to the Register to the Planning Department within one hundred and eighty (180) days of the adoption of this Ordinance. Upon receipt of the written consent, the property shall be verified by the Director as acceptable by conducting a review of County records and conducting

a site visit to confirm that no alterations have been performed that would render the property ineligible for listing. If no written consent to be added to the Register is submitted by the owners of properties specified in Subsection B to the Planning Department within one hundred and eighty (180) days of the adoption of this Ordinance, such properties will not be added to the Register unless they are subsequently nominated pursuant to Section 17.62.080. Lack of receipt of consent by the Director pursuant to this subsection shall not constitute a denial of a nomination.

#### **17.62.060 Criteria and Requirements for Placement on, and Deletion from, the Alameda County Register**

The criteria and requirements for placement on, or deletion from, the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit are as follows:

A. A nominated resource shall be added to the Alameda County Register as a landmark if the Board of Supervisors finds, after holding the hearings required by this chapter, that all of the requirements set forth below are satisfied:

1. The nominated resource meets one or more of the following criteria:
  - a. It is associated with events that have made a significant contribution to the broad patterns of the history of the County, the region, the state or the nation;
  - b. It is associated with the lives of persons significant in the County's past;
  - c. It embodies the distinctive characteristics of a type, period or method of construction;
  - d. It represents the work of an important creative individual or master;
  - e. It possesses high artistic values; or
  - f. It has yielded, or may be likely to yield, information important in the prehistory or history of the County, the region, the state or the nation.
2. The nominated resource has integrity of location, design, setting, materials, workmanship, feeling and association. Integrity shall be judged with reference to the particular criterion or criteria specified in subparagraph 1.;
3. The nominated resource has significance historically or architecturally, and its designation as a landmark is reasonable, appropriate and necessary to promote, protect and further the goals and purposes of this chapter.
4. The nominated resource has been evaluated by a qualified historical resources consultant who meets one or more of the Secretary of the Interior's professional qualifications standards or who are certified by the Register of Professional Archaeologists, and the evaluator has submitted documents that provide evidence of the resources historical or architectural significance.

B. A geographic area nominated as a historic preservation district shall be added to the Alameda County Register as a historic preservation district if the Board of Supervisors finds, after holding the hearings required by this chapter, that all of the requirements set forth below are satisfied:

1. The area is a geographically definable area;
2. The area possesses either:
  - a. A significant concentration or continuity of buildings unified by: a) past events; or b) aesthetically by plan or physical development; or

- b. The area is associated with an event, person, or period significant or important to County history
3. The designation of the geographic area as a historic preservation district is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter and is not inconsistent with other goals and policies of the County.
4. A historic preservation district shall have integrity of location, design, setting, materials, workmanship, feeling and association.
5. The collective historic value of the buildings and structures in a historic preservation district taken together is greater than the historic value of each individual building or structure.
6. The application is accompanied by a form bearing the signatures of at least fifty-one percent (51%) of all property owners within the area of the proposed district.
7. The Board finds that the addition of the district to the Register does not in any manner interfere, eliminate or otherwise obviate the identification, qualification, designation and preservation requirements of the creation of Historic Preservation Districts pursuant to Chapter 20 of this Title.

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

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

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

1. The nominated resource is within a historic district;
2. The nominated resource either embodies the significant features and characteristics of the historic district or adds to the historical associations, historical architectural qualities or archaeological values identified for the historic district;
3. The nominated resource was present during the period of historical significance of the historic district and relates to the documented historical significance of the historic district;
4. The nominated resource either possesses historic integrity or is capable of yielding important information about the period of historical significance of the historic district; and
5. The nominated resource has important historic or architectural worth, and its designation as a contributing resource is reasonable, appropriate and necessary to protect, promote and further the goals and purposes of this chapter.

### **17.62.070 Deletions from the Register**

An application to delete a listed historic resource from the Alameda County Register may be approved if the Board of Supervisors finds, after holding the hearings required by this chapter, that the listed historic resource no longer meets the requirements set forth above; provided that where a landmark, historic preservation district or structure of merit is proposed for deletion due to a loss of integrity, the loss of integrity was not the result of any illegal act or willful neglect by the owner or agent of the owner.

### **17.62.080 Procedures to Nominate Resources for Placement or Deletion from the Alameda County Register**

A. The following parties shall have the authority to nominate a resource for placement on or deletion from the Alameda County Register as landmarks, historic preservation districts, contributing resources or structures of merit:

1. The Owner of the of the historic resource proposed for designation, an authorized agent or, in the case of a historic preservation district, no less than fifty-one percent (51%) of property owners within the area of the proposed district;
2. The Parks, Recreation and Historical Commission; and
3. The Board of Supervisors.

However, no nomination for placement on the Alameda County Register as a landmark, or structure of merit shall proceed without the written consent of the property owner on a form supplied by the County.

B. If designation is initiated by the owner, an application for designation shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation including, but not limited to, State of California Department of Parks Recreation 523 series forms or other historic resource inventory forms as may be approved by the State. Such documentation must be prepared by an individual who meets the professional qualification standards published by the National Park Service in the Federal Register (Code of Federal Regulation, 36 CFR Part 61), as determined by the State Office of Historic Preservation. Submission of an application for designation shall be deemed written consent by the owner to the designation by the County. If an application is determined to be incomplete, it shall be returned to the applicant and the applicant may re-submit the application with the documentation necessary to complete it without an additional filing fee.

C. The Parks, Recreation and Historical Commission may initiate the designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution of intent to nominate. The Commission may adopt a resolution of intent to nominate on its own motion, at the request of the Planning Department, or at the request of members of the public. Any resolution of intent to nominate initiated by the Commission must be based upon the same documentation that would be required of an owner's application for designation and preliminary findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.62.060. The Planning Department shall notify the owner and the occupants of the property by certified mail 30 days prior to the Commission meeting when the subject property of the resolution of intent to nominate shall be considered for nomination and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.62.100 and the right of the property owner to grant or withhold consent

regarding nominations by the Commission. Notice of public meetings shall follow the guidelines established in Section 17.62.120 of this Ordinance.

D. The Board of Supervisors may initiate designation of landmarks, historic preservation districts, contributing resources or structures of merit by adopting a resolution identifying the resource to be nominated and transmitting its resolution to the Commission. The Commission shall consider recommendations to the Board regarding a proposed nomination pursuant to Section 17.62.100. If designation is initiated by the Board of Supervisors, such action must be based upon the same documentation that would be required of an owner's application for designation and findings that the resource potentially meets the criteria for either a landmark, structure of merit, historic preservation district or contributing resource provided in Section 17.62.060. The Clerk of the Board of Supervisors shall notify the owner and the occupants of the property by certified mail 30 days prior to the Board of Supervisors meeting regarding the initiation of the designation and shall request written consent for designation from the owner on a form supplied by the County. The request for written consent for designation shall inform the property owner of the process to be pursued pursuant to Section 17.62.100 and that the property owner may advise the Board of their granting or withholding of consent. Notice of public meetings shall follow the guidelines established in Section 17.62.120 of this Ordinance.

E. The application, resolution of intent to nominate, or nomination shall indicate the parameters of the historic resource that is being nominated with specificity, including any related structures or landscape that is to be considered.

F. The owner of a historic resource proposed for designation may notify the Planning Director in writing of their consent, or withholding consent, to the proposed designation at any time after initiation and prior to a final designation by the Board.

G. A request to delete a listed resource from the Register will be initiated in the same manner and using the same procedure as was followed to nominate a potentially historic resource. The action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors that justified the designation. Notice of removal of a listed resource shall be sent to the same persons or other parties as set forth in Section 17.62.120 .

#### **17.62.090 Nominated Resource Protections Pending Final Decision**

A. Subject to the time limits set forth in Subsection B, any nominated resource proposed for consideration as a landmark or contributing resource shall be considered to be a landmark or contributing resource for purposes of 17.62.160 herein, and it shall be subject to the restrictions and protections of 17.62.160 as if it were a landmark or contributing resource. Any geographic area proposed for consideration as a historic preservation district shall be considered to be a historic preservation district for purposes of 17.62.160 herein, and the resources located within the proposed historic preservation district shall be subject to the restrictions and protections of 17.62.160 as if they were located within a historic preservation district.

B. The restrictions of Subsection A shall apply for a period of one hundred eighty (180) days from the date of a nomination by the Board of Supervisors or adoption by the Commission of a resolution of intent to nominate a property as a landmark, a contributing resource or a property within a historic preservation district. After one hundred eighty (180) days have elapsed from the date of the initiation of designation, if the Board of Supervisors has not adopted an ordinance designating the nominated resource as a landmark, contributing resource or historic preservation district, the restrictions and protections established by Subsection A shall no longer apply unless the Board of Supervisors has adopted an ordinance to extend the one hundred eighty (180) day limit to consider the nomination.

C. Listed historic resources proposed for deletion from the Alameda County Register shall be subject to the restrictions and protections of 17.62.160 unless and until a final decision is made by the Board of Supervisors to delete the listed historic resources from the Alameda County Register.

#### **17.62.100 Nomination Hearing by the Parks, Recreation and Historical Commission**

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

A. Notice of the hearing shall be provided pursuant to Section 17.62.120.

B. A hearing on an application shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the application is determined to be complete. If the Commission does not act within the timeframe, the owner may request that the proposal be transmitted directly to the Board of Supervisors for its determination.

C. A hearing on a property subject to a Commission resolution of intent to nominate shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the Commission initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, the owner may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.62.140.

D. A hearing on a nomination proposed by the Board shall be scheduled and a recommendation made by the Commission within sixty (60) days of the date that the Board initiated a proposed designation or proposal for deletion. If the Commission does not act within the timeframe, either the owner or the Board may request that the proposed designation be transmitted directly to the Board of Supervisors for its determination, otherwise the nomination for placement shall be considered denied pursuant to Section 17.62.140.

E. A staff report concerning the historic resource under consideration for placement or deletion from the Register shall be provided to the Commission. The report shall address the significance and integrity of the historic resource as it relates to the designation criteria, provide other relevant information, and include a recommendation concerning the application and the basis therefore. The staff report shall also state whether the owners of the property have consented or withheld consent to the proposed action.

F. In the event of a nomination or proposed deletion of a historic preservation district, the Director shall also notify the Planning Commission. The Planning Commission shall have at least 30 days to review the proposed designations and boundaries of the historic preservation district, or the proposed deletion. , The Planning Commission may provide comments, however lack of comments by the Planning Commission shall neither prevent the Commission from acting on the nomination or proposed deletion nor preclude any actions by the Planning Commission authorized under Chapter 17.20.

G. Any recommendation for placement or deletion from the Register initiated by the Parks, Recreation and Historical Commission shall be supported by a preponderance of the evidence that the historic resource meets or no longer meets the designation criteria for one of the registration categories set for the in Section 17.62.060. The Commission shall also include in their analysis whether or not the owner has granted or withheld written consent to the designation. If the owner has not granted written consent to the placement of the property on the Register, the Commission shall not adopt a resolution of intent to nominate.

H. The Commission secretary shall transmit to the Board of Supervisors the Commission's

recommendations on inclusion on or deletion from the Alameda County Register.

#### **17.62.110 Action by the Board of Supervisors on Amendments to the Register**

A. Within 60 days of the receipt of the transmittal by the Clerk of the Board of Supervisors of an action by the Commission pursuant to Section 17.62.100, the Board shall hold a public hearing thereon. The Board may adopt, modify or reject the actions recommended by the Commission. In the alternative, the Board of Supervisors may refer the proposed actions to the Commission for further hearings, consideration or study. Adoption of any inclusion on or deletion from the Alameda County Register shall be made by uncodified ordinance which shall contain findings of fact in support of each designation. The uncodified ordinance shall identify significant features or characteristics of resources added to the Alameda County Register, and shall identify contributing resources and non-contributing resources in a historic preservation district.

B. Notice of public hearing shall be provided in accordance with Section 17.62.120. In addition, notice shall be published once not less than ten (10) days before the hearing in a newspaper of general circulation.

C. A historic resource placed on the Register shall be subject to the provisions set forth in this chapter.

#### **17.62.120 Notice of Public Hearing**

A. Notice of public hearings shall be provided as manner described below:

1. Written notice shall be given not less than ten (10) days prior to the hearing to the following individuals:
  - a. The owners of the nominated resources or the owners of the listed resource proposed for deletion, as shown on the latest tax roll. In the case of a nomination or proposal for deletion regarding a historic preservation district, the notice shall be provided to all property owners within the proposed district or the district proposed for deletion, as shown on the latest tax roll.
  - b. Where the resource is proposed for inclusion on, or deletion from the register as a landmark, all property owners within five hundred (500) feet of the resource, as shown on the latest tax roll. In the case of a nomination regarding a historic preservation district, the nomination notice shall be provided to all property owners within the proposed district and to all property owners whose property abuts property proposed for inclusion in the historic preservation district.
  - c. Anyone who has in writing to the Commission secretary requested notice of the nomination.
2. If designation is initiated by the Commission or Board of Supervisors, notice shall be sent by certified mail to all owners and occupants of the subject properties at the address shown on the most current property tax roll of Alameda County. Such notice shall be in addition to the requirements outlined in subsections (a), (b) and (c) of this subparagraph.
3. The County may in its discretion provide additional notice beyond that specified in this section.

B. The form and contents of the public hearing notice must conform to the standards described below:

1. Common address and assessor's parcel number, if any, of the nominated resource or the resource proposed for deletion;
2. A general explanation of the proposed designation or proposed deletion.
3. The date and place of the public hearing or hearings before the Commission.

#### **17.62.130 Notice of Action by the Board of Supervisors**

A. Following adoption by the Board of Supervisors of the resolution placing or removing the resource on the Alameda County Register, a copy of the findings shall be sent by first class mail to the owners and occupants of the designated resource. Staff shall also notify the Parks, Recreation and Historical Commission and any agency or department of the County requesting such notice.

B. A certified copy of the resolution, a complete legal description of the resource, and the effective date of the designation or removal of the resource shall be recorded in the records of the County Recorder. Failure to record with the County Recorder does not invalidate the requirements of this chapter.

C. A disclosure statement, in a form prescribed by the Planning Director, shall be recorded for all historic resources included on the Register. This statement shall be included in any future transfer or sale documents.

#### **17.62.140 Frequency of Nominations**

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

#### **17.62.150 Proposed Demolition or Relocation of Buildings or Structures that are At Least Fifty Years Old**

A project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. The fact that a resource is not listed in the National, State or Alameda County Register does not preclude a lead agency from determining whether the resource may be eligible for listing in an historical resource for purposes of this section. The screening of demolition permits shall be conducted as prescribed by this chapter.

A. If a permit is sought to demolish or relocate a building or structure that was constructed at least fifty (50) years prior to the date of application for demolition or relocation, and that building or structure is not currently on the Register, and is not the subject of a pending nomination to the Register, the permit application shall be referred to the Planning Director to allow the director to make a preliminary determination of whether the structure meets the criteria of a landmark. For purposes of this section, a building or structure for which a building permit was issued and construction commenced not less than fifty (50) years prior to the date of application for a demolition or relocation permit shall be subject to this Section, regardless of when the construction was completed, and regardless of whether the building or structure was thereafter expanded, modified or otherwise altered. Absent sufficient evidence to the contrary, the date of

issuance of the building permit shall be considered to be the date on which construction commenced.

B. A request to demolish a structure over fifty (50) years in age shall be made to the Planning Department through submittal of the prescribed application form accompanied by a non-refundable fee as set forth in the schedule of fees established by resolution of the Board of Supervisors and supporting documentation as determined by the Planning Department.

1. Within forty-five (45) days of receipt of a complete application to demolish or relocate a building or structure as specified under subsection A of this section, the Planning Director shall make a preliminary determination of whether the building or structure is eligible for listing on the Register. In making this preliminary determination, the Planning Director shall apply the eligibility criteria and factors specified in Section 17.62.080.
2. The Planning Director shall notify the property owner of the preliminary determination by first-class, prepaid mail. Failure of the Planning Director to act within the forty-five (45) day period shall be considered to be a determination that the structure is not eligible for listing on the register. For purposes of this section, the decision shall be considered to have been made on or before the date of mailing of the notice.
3. The effects of the preliminary determination are provided below:
  - a. If the Planning Director determines that the building or structure is eligible for consideration for listing on the Register, the applicant shall be informed that a certificate of appropriateness is required for such demolition. Review of the proposed demolition shall then proceed according to the certificate of appropriateness review procedures outlined in 17.62.160.
  - b. If the Planning Director determines that the building or structure is not eligible for listing on the Alameda County Register, the permit to demolish or relocate the building or structure shall be issued without further restrictions under this chapter.

#### **17.62.160 Certificate of Appropriateness**

A certificate of appropriateness is required for any alteration, relocation or demolition of a landmark, structure of merit or contributing resource within a historic preservation district. A certificate of appropriateness is also required for new construction on a site occupied by a landmark, structure of merit, contributing resource, or within a historic preservation district. Approval of such work shall be required even if no other permits or entitlements are required by the County. The issuance of a certificate of appropriateness is not required for preventative maintenance or interior work that does not affect the appearance of the exterior.

#### **17.62.170 Certificate of Appropriateness-Application**

The owner or authorized representative shall file an application for a certificate of appropriateness with the Planning Department on forms provided by the department for such purpose. The application shall be accompanied by material required in application forms and a non-refundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors. As soon thereafter as practicable after the application is deemed complete, the application shall be forwarded to the Parks, Recreation and Historical Commission for its review at a public hearing.

#### **17.62.180 Certificate of Appropriateness-Review Procedures**

A. The Commission may review and make recommendations to the Planning Director regarding a filed certificate of appropriateness, except for those projects classified as "small projects"

under Section 17.62.200. The required public notice of the Commission hearing on the review and recommendation of a certificate of appropriateness shall be provided according to the provisions outlined in Section 17.62.120. At such hearing, the applicant and other interested parties shall have the right to present evidence regarding the application for the certificate of appropriateness. The Commission may continue the public hearing until its next regular meeting or may defer action after closing the public hearing until its next regular meeting. Final action by the Commission shall not be deferred longer than 90 days after the date on which the certificate of appropriateness was initially filed.

B. The Commission may recommend approval of the certificate of appropriateness, recommend approval with changes, or it may recommend denial of the application. Any recommendation of the Commission shall be in writing and shall state the findings of fact and reasons relied upon to reach the recommendation, and such recommendation shall be forwarded to the Planning Director.

C. The director shall act on the certificate of appropriateness application within 105 days after the date the certificate of appropriateness was filed. The decision of the Planning Director shall be final unless appealed as provided for in Section 17.62.250.

#### **17.62.190 Certificate of Appropriateness-Permit findings**

The historical resources included in the Register, and resources deemed eligible for inclusion pursuant to criteria set forth in this Chapter, are presumed to be historically or culturally significant, unless the preponderance of the evidence demonstrates that the resource is not historically or culturally significant. One or more of the following findings are required for the approval of a certificate of appropriateness:

A. The certificate of appropriateness has been conditioned upon all alterations complying with the Secretary of the Interior's Standards for the Treatment of Historic Properties and the Secretary of the Interior's Standards for Rehabilitation and Illustrated Guidelines for Rehabilitating Historic Buildings, and with the California Historical Building Code and the California Health and Safety Code Section 18950 et seq., as amended, and applied to the project by the Building Official;

B. The proposed alteration, relocation or demolition would not destroy or have a significant adverse affect on the integrity of the designated resource, and the resource will retain the essential elements that make it significant;

C. In the case of any proposed alteration that includes detached new construction on the parcel occupied by the designated landmark, contributing resource or within the historic preservation district, the exterior features of such new construction would not have a significant adverse affect or be incompatible with the exterior features of the designated resource(s).

D. There is no feasible alternative that would avoid the significant adverse affect on the integrity of the designated resource. The owner shall provide facts and substantial evidence demonstrating that there is no feasible alternative to the proposed alteration or demolition that would preserve the integrity of the designated resource. In the case of demolition, up to a six-month waiting period may be imposed by the Board of Supervisors from the date of the Commission hearing at which the Commission recommendation was made.

#### **17.62.200 Certificate of Appropriateness-Small Project Review**

A. Applicants may obtain a certificate of appropriateness by going through small project review if the proposed alteration or demolition is determined eligible for such review. After the application for small project review is deemed complete by the Planning Department, the department

director or designee shall evaluate the application within ten working days to determine its eligibility for small project review which includes the following:

1. Demolition or removal of non-contributing features, including, but not limited to, non-contributing additions, garages, accessory structures or incompatible, previously replaced windows, doors or siding material;
2. Any undertaking that does not change exterior features, including but not limited to, re-roofing if the roofing material is compatible in appearance, color and profile to the existing or original roofing material;
3. Replacement of windows and doors if the proposed replacements match the existing or original windows and doors;
4. Addition less than 200 square feet proposed for side or rear elevations; and
5. Any other undertaking determined by the department director or designee to not materially alter the features or have an adverse effect on the integrity of a landmark.

B. If the proposed alteration or demolition meets the small project review eligibility criteria and is deemed to be consistent with the Secretary of the Interior's Standards, the department director or designee may approve the certificate of appropriateness and notify the Commission of such action. If a certificate of appropriateness is granted under small project review, no public hearing shall be required.

C. If the proposed alteration or demolition does not meet the small project review eligibility criteria and/or is not consistent with the Secretary of the Interior's Standards, the department director or designee shall forward the application to the Commission for its review and recommendation according to the standard certificate of appropriateness process. No hearing shall be required on the decision by the Planning Director to elevate the review of a certificate of compliance to the Commission, and this decision of the Planning Director shall be final and shall not be subject to appeal.

#### **17.62.210 Certificate of Appropriateness-Permit Expiration**

A. Unless extended pursuant to subsection (C) of this section, a certificate of appropriateness for the demolition of a building or structure shall expire at the end of one hundred and eighty (180) days from the date of issuance of the certificate of appropriateness unless a demolition permit or a building permit for the demolition work has been obtained and exercised. For purposes of this section, the term exercised means substantial expenditures in good faith reliance upon the permit. The burden of proof in showing substantial expenditures in good faith reliance upon the permit shall be placed upon the permit holder.

B. Unless extended pursuant to subsection (C) of this section, a certificate of appropriateness for other than a demolition shall expire at the end of three years from the date of issuance unless a building permit has been obtained and exercised for the project or, if no building permit is required for the work, the work has physically commenced. For purposes of this section, the term "exercised" means substantial expenditures in good faith reliance upon the building permit. The burden of proof in showing substantial expenditures in good faith reliance upon the building permit shall be placed upon the permit holder.

C. Applications for extensions shall be handled in the manner described below:

1. Except as provided in subsection (C)(2) of this section, one or more extensions of a certificate of appropriateness may be granted for a cumulative total extension period of five years upon application to the Planning Director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the Planning Director.

2. A certificate of appropriateness for the demolition of a building or structure may be extended for a period of up to an additional forty-five (45) days upon application to the Planning Director filed no later than thirty (30) days prior to expiration. The application for extension of a certificate of appropriateness shall be subject to staff review under the general direction of the Planning Director or his or her designee.

D. An application for a modification to a final approval of a certificate of appropriateness application or a condition of approval of a certificate of appropriateness application shall be heard and/or considered in the same manner and by the same body as the original certificate of appropriateness application.

#### **17.62.220 Certificate of Appropriateness-Permit Revocation**

The Planning Director or designee may, in writing, revoke a certificate of appropriateness for reasons of 1) non-compliance with any terms or conditions of the certificate of appropriateness; or 2) finding of fraud or misrepresentation used in the process of obtaining the certificate of appropriateness.

#### **17.62.230 Notification by the Building Official**

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

#### **17.62.240 County Projects**

A. Except as provided herein, the provisions of this chapter requiring hearing(s) before the Commission or Planning Department shall apply to development projects involving, or requests for demolition or relocation of, landmarks, structures of merit or contributing resources which are owned by the County, including public projects within the Alameda County national historic landmark, historic preservation district; provided that the Commission or Planning Department shall make a recommendation to the County Board of Supervisors or other County decision-making body, entity or person, rather than issuing a decision. When acting on County projects, the Board of Supervisors or other County decision-making body, entity or person shall apply the same standards, and make the same findings, required by this chapter for private projects.

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

#### **17.62.250 Appeals**

A. Any interested person who is dissatisfied by the decision of the department director may appeal the determination to the Board of Supervisors. Appeals shall be submitted in writing not more than 10 days following the date the action was taken by the director. The appeal may be taken by any property owner or other person aggrieved by the order within a said ten-day period, by filing with the Clerk of the Board of Supervisors a notice of appeal that specifying the grounds for such appeal. The appellant shall pay a nonrefundable filing fee as set forth in the schedule of fees established by resolution of the Board of Supervisors.

B. The Board of Supervisors shall give written notice of the time and place for hearing any appeal. Such notice may be published and shall be given to the applicant, to the appellant, to the agency which made the order appealed, and to any other persons requesting such notice

and depositing with the Clerk of the Board a self-addressed, stamped envelope to be used for this purpose

C. Within 30 days of the notice to appeal, or as soon thereafter as is practicable, the Board of Supervisors shall hold a hearing on the appeal and shall sustain, modify or overrule any order brought before it pursuant to subsection A of this chapter.

#### **17.62.260 Dangerous Buildings and Immediately Dangerous Buildings, Structures or Resources**

The building official shall notify the Planning Director upon designation of any listed historic resource or any nominated resource as a substandard, dangerous, or immediately dangerous building, structure or resource.

#### **17.62.270 Demolition and Abatement —Listed Historic Resources**

A. The provisions of this chapter shall not be construed to regulate, restrict, limit or modify the authority of the County and the building official or his or her designee(s) as specified below, to issue demolition or other permits under the building code set forth in Title 15 of this code for the abatement of any nominated resource or any listed historic resource determined to be immediately dangerous, and a threat to public health and safety.

B. Only such work that has been found reasonably necessary as determined by the County's building official to correct the unsafe or dangerous condition may be performed pursuant to this subsection.

#### **17.62.280 Dangerous Buildings-Deletion from Register**

A. When an individually listed resource on the Register, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the Clerk of the Board upon notice from the Planning Director, shall cause the resource, or portion thereof, to be deleted from the Register. Upon deletion, the provisions of this chapter shall not be considered to encumber any remaining property on which the resource was located. Landmark(s) in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent, shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

B. When a listed historic resource in a historic district, or portion thereof, has been lawfully demolished, removed or disturbed pursuant to any provisions of this chapter, the Clerk of the Board upon notice from the Planning Director, shall cause such listed historic resource, or portion thereof, to be downgraded to a noncontributing resource in the historic district. Listed historic resource(s) in a historic district in which a majority of the significant feature(s) and characteristic(s) are destroyed by natural disaster(s), acts of God or other similar events not attributable to the willful or intentional action of the owner or owner's agent shall be considered lawfully demolished, removed or disturbed for the purposes of this section.

#### **17.62.290 Preservation Incentives**

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

### **17.62.300 California State Historical Building Code**

The building official is authorized to use and shall use the California Historical Building Code for projects involving landmarks and contributing resources. The Parks, Recreation and Historical Commission and the Planning Director are authorized to and shall utilize the California Historical Building Code for preservation projects.

### **17.62.310 Mills Act Contracts**

A. Mills Act (California Govt. Code §§ 50280, et seq.) contracts granting property tax relief shall be made available by the County only to owners of properties listed in the Alameda County Register (either as landmarks or as contributing resources within historic preservation districts), as well as properties located within the County that are listed in: the National Register of Historic Places (either as individual listings or as contributing properties within National Register historic preservation districts); or the California Register of Historical Places. Such owners may qualify for property tax relief if they pledge to rehabilitate and maintain the historical and architectural character of the property for a minimum ten-year period. Properties that have been previously listed on the above-mentioned register(s), but that have been removed from the register(s) and are no longer listed, shall not be eligible for a Mills Act contract with the County.

B. Mills Act contracts shall be made available pursuant to California law. The Planning Department shall make available appropriate Mills Act application materials.

C. Mills Act contract applications shall be made to the Planning Department, who shall, within sixty (60) days of receipt of a completed application, prepare and make recommendations on the contents of the contract for consideration by the Board of Supervisors. A fee for the application, to cover all or portions of the costs of the preparation of the contract in the amounts set by Board of Supervisors resolution may be charged.

D. The Board of Supervisors shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the Board of Supervisors fail to act on the proposed contract within one year of its receipt of the proposal, the proposal shall be deemed denied.

E. A Mills Act contract application that has failed to be approved by the Board of Supervisors cannot be resubmitted for one year from the date of County Board of Supervisors action, or where the Board of Supervisors fails to take action, within one year from the date that the application is deemed denied pursuant to Subsection D above.

### **17.62.320 Other Government-Sponsored Incentive Programs**

The County shall make available information to owners of historic resources information about local, State, and Federal incentives programs.

### **17.62.330 Minimum Maintenance Requirements**

A. The owner, lessee or other person legally in possession of a listed historic resource shall comply with all applicable codes, laws and regulations governing the maintenance of property. Every historic resource shall be maintained in good repair by the owner or such other person who has legal possession or control thereof, in order to preserve the historic resource against decay and deterioration to the greatest extent practicable. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of listed historic resources and the interior portions thereof when such maintenance is necessary to prevent deterioration

and decay of the exterior. Listed historic resources shall be preserved against such decay and deterioration and shall remain free from structural defects through prompt corrections of any of the following defects:

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

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

#### **17.62.340 Enforcement and Penalties**

The code enforcement manager and building official, and designees, are hereby authorized to enforce the provisions of this chapter, and, in addition to all other powers available to them in the enforcement of this chapter. The County Counsel is authorized to take such legal actions as are lawfully available. A certificate of appropriateness shall not be issued for the demolition of a historic resource because of the failure of the owner to comply with the provisions of this section.

A. No person shall cause, willfully or otherwise, by action or inaction, alteration of, environmental change to, damage to or demolition of any significant feature(s) or characteristic(s) of a landmark or all or portion of a historic preservation district, or other listed historic resource, or National Register resource or California Register resource without first having obtained a proper County authorization for same.

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

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

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

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

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

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

#### **17.62.350 Additional Penalties**

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

#### **17.62.360 General Provisions**

Judicial review of any final decision under this chapter shall be filed within thirty (30) days of the date of the decision, and review shall be pursuant to Section 1094.5 of the Code of Civil Procedure.

#### **17.62.370 Fees**

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

#### **17.62.380 County Code References**

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

#### **17.62.390 Severability**

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

#### **17.62.400 Other laws**

There are many other laws, regulations and ordinance that apply to land use, development, and

construction activities. The provisions of this Historic Preservation Ordinance are intended to be in addition to and not in conflict with these other laws, regulations and ordinances. If any provision of this Historic Preservation Ordinance conflicts with any duly adopted and valid statutes of the federal or state government of the State of California, the federal and state statutes shall take precedence.

## SECTION VII

This ordinance shall take effect and be in force thirty (30) days from and after the date of passage and before the expiration of fifteen days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, January \_\_, 2012 by the following called vote:

AYES:

NOES:

EXCUSED:

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NATE MILEY

President of the Board of Supervisors  
County of Alameda, State of California

ATTEST: CRYSTAL K. HISHIDA,  
Clerk of the Board of Supervisors, County of Alameda

By\_\_\_\_\_

Approved as to Form:  
DONNA ZIEGLER, County Counsel

By\_\_\_\_\_

BRIAN WASHINGTON  
Chief Assistant County Counsel