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SEC. 12-1601. - TITLE.

This article shall be known as the "Historic Preservation Ordinance of the City of Fresno." (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1602. - INTENT AND PURPOSE.

(a) The purpose of this article is to continue to preserve, promote and improve the historic resources and districts of the City of Fresno for educational, cultural, economic and general welfare of the public; to continue to protect and review changes to these resources and districts which have a distinctive character or a special historic, architectural, aesthetic or cultural value to this city, state and nation; to continue to safeguard the heritage of this city by preserving and regulating its historic

buildings, structures, objects, sites and districts which reflect elements of the city's historic, cultural, social, economic, political and architectural history; to continue to preserve and enhance the environmental quality and safety of these landmarks and districts; to continue to establish, stabilize and improve property values and to foster economic development. It is not the intent of this ordinance to disturb, disrupt or otherwise nullify properties previously designated as Historical Resources or Historical Districts pursuant to the city's previous Historic Preservation Ordinance.

(b) The Council finds that the City of Fresno has played an important role in the development of California and that this history is shown today through archaeological sites and through buildings, structures, objects, sites and districts representing the commercial, industrial, social, economic, political and architectural development of the city. The Council finds that the distinctive and significant character of the city can only be maintained by protecting and enhancing its historic, architectural, aesthetic and cultural heritage and by preventing unnecessary injury or destruction of its historic resources and districts which are community assets.

(c) The Council finds that this article benefits all of the residents of Fresno and all owners of property and declares as a matter of public policy that the preservation, protection and use of historic resources and districts are a public necessity because of their character and their value as visible reminders of the history and heritage of this city, state and nation. The Council declares as a matter of public policy that this article is required in the interest of the health, prosperity, safety, welfare and economic well-being of the people. The designation and preservation of historic resources and districts and the regulation of alterations, additions, repairs, signs, removal, demolition or new construction to ensure the perpetuation of their historic character is hereby designated to be a public purpose. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1603. - DEFINITIONS.

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this article, and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Article 2 (commencing with Section 1-201) of Chapter 1 of this Code shall also govern the construction, meaning, and application of words and phrases used in this article. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it, or from which it is a derivative, as the case may be.

(a) "Alteration" shall mean any change or modification requiring a city permit, through public or private action, of any Historic Resource or any property located within an Historic District including, but not limited to: changes to designated interior architectural features; exterior changes to or modification of structural details, architectural details or visual characteristics such as doors, windows, surface materials and texture, grading or surface paving; addition of new structures; cutting or removal of trees, landscaping or other natural features; disturbance of archaeological sites or areas; and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, plantings and landscape accessories affecting the exterior visual qualities of the resource or property.

(b) "Building" shall mean any construction created primarily to shelter any form of human activity.

(c) "California Register of Historical Resources" shall mean the authoritative guide in California to be used by state and local agencies, private groups and citizens to identify the state's

historical resources and to indicate what properties are to be protected, to the extent prudent and feasible, from substantial change.

(d) "Certified Local Government Program" shall mean the established partnership between the City of Fresno and the State Historic Preservation Office designed to identify, evaluate and protect historic resources within the city and to enable the city to participate in the benefits which result from that partnership.

(e) "Commission" shall mean the Historic Preservation Commission.

(f) "Conservation/District Plan" shall mean the plan adopted after the formation of an Historic District which shall govern the manner in which the preservation objectives of the District will be attained.

(g) "Contributor to a Local Historic District" shall mean an individual Historic Resource which contributes to the significance of a Local Historic District (LHD) under the criteria set forth in this article.

(h) "Contributor to a National Register Historic District" shall mean an individual Historic Resource which contributes to the significance of a National Register Historic District (NRD) under the criteria set forth in this article.

(i) "Cultural" as used in this article shall include traditional cultures including but not limited to Native American or other identifiable ethnic groups.

(j) "Demolition" shall mean the act that destroys in whole or in part a designated Historic Resource.

(k) "Design Review Committee" shall mean an entity created to enforce the Conservation/District Plan for any Local Historic District.

(l) "Exterior Architectural Feature" shall mean the architectural elements embodying style, design, general arrangement and components of all of the outside surfaces of a building, structure or object, including but not limited to the type of building materials and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building, structure or object.

(m) "Feasible" shall mean capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technological factors.

(n) "Heritage Property" shall mean a resource which is worthy of preservation because of its historical, architectural or aesthetic merit but which is not proposed for and is not designated as an Historic Resource under this article.

(o) "Historic Resource" shall mean any building, structure, object or site that has been in existence more than fifty years and possesses integrity of location, design, setting, materials, workmanship, feeling and association, and: is associated with events that have made a significant contribution to the broad patterns of our history, or is associated with the lives of persons significant in our past, or embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master or possesses high artistic values; or has yielded, or may be likely to yield, important information in prehistory or history; and has been designated as such by the Council pursuant to the provisions of this article.

(p) "Interior Architectural Features" shall mean the interior architectural elements and fixtures that have special historical, architectural, cultural or aesthetic interest or values and have been designated as such by the Council pursuant to the provisions of this article.

(q) "Landscaping" shall mean natural and cultural resources including vegetation, natural features, structures, objects, roads or waterways, designed, shaped or modified by human activity. Such landscaping is either recognized as individually significant or identified within a nomination as significant in reference to the primary resource; and has been designated as such by the Council pursuant to the provisions of this article.

(r) "Local Register of Historic Resources" shall mean the inventory of buildings, structures, objects, sites and districts designated by the Council as Historic Resources or Historic Districts pursuant to the provisions of this article.

(s) "Local Historic District" (LHD) shall mean any finite group of resources related to one another in a clearly distinguishable way or any geographically definable area which possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. The Local Historic District must be significant as well as identifiable and it must meet Local Register Criteria for listing on that Register.

(t) "National Register of Historic Places" shall mean the official federal list of districts, sites, buildings, structures and objects significant in American history, architecture, engineering and culture as authorized by the National Historic Preservation Act of 1966.

(u) "National Register Historic District" (NRD) shall mean any finite group of resources related to one another in a clearly distinguishable way or any geographically definable area which possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development. The National Register Historic District must be significant as well as identifiable and it must meet National Register Criteria for listing on that Register.

(v) "Non-contributor" shall mean any building, structure, object or site that does not contribute the significance of the Historic District in which it is located.

(w) "Object" shall mean any construction that is primarily artistic in nature or is relatively small in scale and simply constructed. Although an object may be, by nature or design, movable, it is associated with a specific site or environment, such as fountain or boundary marker.

(x) "Preservation" shall mean the act or process of applying measures to sustain the existing form, integrity and material of an historic property. It may include initial stabilization work, where necessary, as well as ongoing maintenance of the historic building materials.

(y) "Reconstruction" shall mean the act or process of reproducing by new construction the exact form and detail of a vanished building, structure or object, or a part thereof, as it appeared at a specified period of time.

(z) "Regulated Permits" shall mean any permit issued for any work on an Historic Resource or within any Historic District.

(aa) "Rehabilitation" shall mean the act or process of making a compatible use for a property through repair, alterations and additions while preserving those portions or features which convey its historical, cultural or architectural values.

(bb) "Restoration" shall mean the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(cc) "Secretary" shall mean the Director of Housing and Neighborhood Revitalization or his or her designee.

(dd) "Secretary of the Interior's Standards" shall mean the Secretary of the Interior's Standards for the Treatment of Historic Properties published by the U.S. Department of the Interior.

(ee) "Site" shall mean the location of a significant event, a prehistoric or historic occupation or activity where the location itself possesses historic, cultural or archaeological value regardless of the value of any existing structure, including but not limited to a designed landscape or the ruins of a building or structure.

(ff) "Specialist" shall mean the Historic Preservation Specialist serving as staff to the Historic Preservation Commission.

(gg) "Specific Plan Design Review Committee" shall mean the entity created to enforce the Conservation/District Plan for any Local Historic District created as the result of the adoption of a Specific Plan.

(hh) "Stabilization" shall mean the act or process of applying measures designed to reestablish a weather resistant enclosure or the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

(ii) "State Historic Building Code" shall mean Title 24, Building Standards, Part 8, California Code of Regulations.

(jj) "Structure" shall mean any construction created for purposes other than creating human shelter, including but not limited to a bridge or water tower.

(kk) "Survey" shall mean historic resource surveys conducted in accordance with Certified Local Government Program and state standards and procedures.

(ll) "Unreasonable Economic Hardship" shall mean facts and circumstances which establish that there are no feasible measures that can be taken which will enable the property owner to make a reasonable beneficial use of the property or derive a reasonable economic return from the property in its current form. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1604. - STAFF TO THE HISTORIC PRESERVATION COMMISSION.

To assist the Commission in the performance of its duties, the following staff positions have been established.

(a) Secretary: There is hereby created the position of Secretary to the Commission which shall be filled by the City Manager or his or her designee. The Secretary shall perform those functions required under the provisions of this article or any other applicable provisions of this Code.

(b) Historic Preservation Specialist: Pursuant to the city's Programmatic Agreement with the State Office of Historic Preservation and during the pendency of such Agreement, the position of Historic Preservation Specialist shall be maintained and shall be filled by an individual meeting the

Professional Qualifications Standards for Archaeology and Historic Preservation from the Secretary of the Interior's Standards and Guidelines as published in the Code of Federal Regulations, 36 CFR Part 61. The Specialist shall perform those functions required under the provisions of this article or any other applicable provisions of this Code. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1605. - HISTORIC PRESERVATION COMMISSION.

- (a) Composition: The Commission shall consist of seven persons having a demonstrated interest, competence or knowledge in historic preservation and, unless otherwise specified in this article, Charter Sections 902, 904 and 905 shall apply. At least five (5) Commission members shall be appointed from the qualified electors of the City and shall reside within the City of Fresno. At least two Commission members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, pre-historic and historic archeology, folklore, cultural archaeology, curation, conservation, landscape architecture or related disciplines such as urban planning, American studies, American civilization or cultural geography, to the extent that such professionals are available in the community and/or within the State of California and are willing to serve on the Commission. Commission members may also include lay persons who have demonstrated special interest, competence, experience or knowledge in historic preservation.
- (b) Operation: Commissioners shall be nominated by the Mayor and confirmed by the Council. The Commissioners shall serve four (4) year terms and each shall continue to serve until his or her successor is duly appointed and qualified. Commissioners shall be appointed in such a manner that the terms of not more than four Commissioners shall expire in any year and interim appointments shall be made to fill unexpired terms in the event vacancies occur during terms. The expiration date of all terms of appointment shall be June 30th. During June of each year, the Commissioners shall elect one Commissioner as Chairperson and one Commissioner as Vice Chairperson. The Secretary and the Specialist shall serve as administrative staff to the Commission.

(Added Ord. 99-50, §§ 1, 2, 9-9-99; Am. Ord. 2009-29, § 1, eff. 9-3-09)

SEC. 12-1606. - DUTIES AND POWERS OF THE COMMISSION.

- (a) The primary duties of the Commission shall be:
- (1) The identification, designation and preservation of Historic Resources and Historic Districts owned by the city or located within the city limits; and
 - (2) The regulation of exterior alterations visible from a public right-of-way including demolition, relocation and new construction, and interior alterations which would affect the significance of Historic Resources or Historic Districts.
- (b) The Commission shall have the following additional duties and powers:
- (1) Conduct studies and evaluations of applications requesting the designation of Historic Districts, make determinations and recommendations as appropriate for consideration of such applications in order to effectuate the purposes of this article.
 - (2) Adopt specific guidelines for the designation of Historic Resources, Historic Districts and Heritage Properties as it deems necessary to effectuate the purposes of this article.

(3) Maintain a current listing and description of designated Historic Resources, Historic Districts and Heritage Properties and transmit copies and update of such listings to all appropriate city agencies and departments as determined by the Secretary to the Commission.

(4) Develop and recommend the adoption of an Historic Preservation Element for the General Plan of the City of Fresno in accordance with the requirements of the Certified Local Government Program.

(5) Participate in environmental review procedures called for under this article or under the California Environmental Quality Act (CEQA) or under the National Environmental Protection Act (NEPA) by providing review and comments on permit actions affecting designated Historic Resources, Historic Districts and Heritage Properties as the Commission deems appropriate.

(6) Review and comment upon the conduct of land use, housing, redevelopment, municipal improvement and other types of planning and programs undertaken by any agency or department of the city, county or state as they relate to designated Historic Resources, Historic Districts and Heritage Properties as the Commission deems appropriate.

(7) Establish criteria and conduct or cause to be conducted historical resource surveys of properties within the city limits in accordance with state survey standards and procedures; submit completed surveys to the Council for official adoption; and submit adopted surveys to the Office of Historic Preservation for integration into the Historic Property Data File for Fresno County maintained by that office.

(8) Recommend internal procedures to facilitate the use of such adopted historical resource surveys in planning and development processes by all relevant city agencies and departments in accordance with Certified Local Government Program requirements.

(9) Publicize, maintain and periodically update such historical resource surveys in accordance with state survey standards and procedures, including those surveys adopted prior to the award of Certified Local Government status and surveys of new areas annexed or incorporated by the city.

(10) Adopt procedural rules for the systematic review of such historical resource surveys to determine if designation proceedings should be initiated on appropriate sites. Provide for the removal of sites not found qualified for designation from the survey and from the Historic Property Data File for Fresno County maintained by the State Office of Historic Preservation if included therein.

(11) Review and make recommendations on nominations for inclusion in the California Register of Historical Resources and the National Register of Historic Places for local historic resources or districts to the chief elected local official for transmission to the State Office of Historic Preservation in accordance with procedures established by the Certified Local Government Program.

(12) Review and make recommendations on any proceedings under Section 106 of the National Historic Preservation Act pertaining to properties within the city limits and establish programmatic agreements with the State Office of Historic Preservation as the Commission deems appropriate.

(13) Review and make recommendations on historic preservation certification applications for federal tax incentives.

(14) Develop and recommend the adoption of historic preservation incentives including but not limited to conditional use permits allowing uses not otherwise permitted by the underlying zoning, Mills Act Contracts, and other programs utilized by other Certified Local Governments.

(15) Review and make recommendations on any applications to participate in local historic preservation incentive programs established in order to effectuate the purposes of this article.

(16) Prepare an annual report on the activities of the Commission to the State Office of Historic Preservation at the end of each calendar year in accordance with procedures established by the Certified Local Government Program.

(17) Ensure that each commissioner attends at least one informational or educational meeting, seminar, workshop or conference per year in accordance with the requirements of the Certified Local Government Program.

(18) Perform any other functions consistent with the purposes herein or that may be directed by the Council from time to time.

(19) Adopt, promulgate, amend and rescind, from time to time, such rules, guidelines and regulations as the Commission may deem necessary to effectuate the purposes of this article.

(20) Provide for a suitable sign, plaque or other marker at public or private expense, on or near the Historic Resource or District (LHD or NRD), indicating that the Resource or District (LHD or NRD) has been so designated. The sign, plaque or other marker shall contain information and data deemed appropriate by the Commission and its placement shall be at the discretion of the owner.

(21) Meet not less than once a month at meetings held pursuant to public notice and open to the public.

(22) Keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions as a matter of public record.

(23) Render advice and guidance, upon the request of a property owner or tenant on the financial and physical aspects of the restoration, alteration, rehabilitation, landscaping or maintenance of any Historic Resource, any Contributor to any Historic District (LHD or NRD) or any Heritage Property.

(24) Investigate and report to the Council on the use of various federal, state, local or private funding sources and mechanisms available to promote historic resource preservation in the city.

(25) Participate in, promote and conduct public information, educational and interpretive programs pertaining to Historic Resources and provide for public participation in all aspects of the city's historic preservation programs. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1607. - DESIGNATION CRITERIA.

(a) HISTORIC RESOURCES: Any building, structure, object or site may be designated as an Historic Resource if it is found by the Commission and Council to meet the following criteria:

(1) It has been in existence more than fifty years and it possesses integrity of location, design, setting, materials, workmanship, feeling and association, and:

(i) It is associated with events that have made a significant contribution to the broad patterns of our history; or

(ii) It is associated with the lives of persons significant in our past; or

(iii) It embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values; or

(iv) It has yielded or may be likely to yield, information important in prehistory or history.

(2) It has been in existence less than fifty years, it meets the criteria of subdivision (1) of subsection (a) of this section and is of exceptional importance within the appropriate historical context, local, state or national.

(b) LOCAL HISTORIC DISTRICTS: Any finite group of resources (buildings, structures, objects or sites) may be designated as a Local Historic District if it meets the definition set forth in Section 12-1602(s) of this article, its designation is consented to by the majority of the property owners within the Local Historic District, at least fifty percent of the resources within the proposed Local Historic District are fifty years of age or older, and it is found by the Commission and Council to meet one or more of the following criteria:

(1) It exemplifies or reflects special elements of the city's cultural, social, economic, political, aesthetic, engineering, or architectural heritage, or

(2) It is identified with a person or group that contributed significantly to the culture and development of the city, or

(3) It embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship, or

(4) Structures within the area exemplify a particular architectural style or way of life important to the city, or

(5) The area is related to a designated historic resource or district in such a way that its preservation is essential to the integrity of the designated resource or Local Historic District, or

(6) The area has potential for yielding information of archaeological interest.

(c) NATIONAL REGISTER HISTORIC DISTRICTS: The nomination of any finite group of resources (buildings, structures, objects or sites), including any Local Historic District, to the National Register of Historic Places as a National Register Historic District may be recommended under this article if it meets the definition set forth in Section 12-1602(u) of this article, meets the

criteria set forth in subsection (a) of this section, and if the nomination is supported by more than fifty percent of the property owners within the proposed National Register Historic District.

(d) HERITAGE PROPERTIES: Any building, structure, object or site may be designated as a Heritage Property if it is found by the Commission to be worthy of preservation because of its historical, architectural or aesthetic merit.

(e) CONTRIBUTORS TO HISTORIC DISTRICTS: Any building, structure, object or site may be designated as Contributor to a Local Historic District or a proposed National Register Historic District if it contributes to the significance of the specific Historic District under the criteria set forth above in this section. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1608. - DESIGNATION PROCESS.

Buildings, structures, objects, sites and districts may be considered for designation as Historic Resources, Historic Districts or Heritage Properties under this article as set forth in sections 12-1608, 12-1609, 12-1610 and 12-1611. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1609. - HISTORIC RESOURCES.

(a) Requests for Designation: Designation of an Historic Resource may be initiated by the Council, the Commission, the Secretary, the property owner, or an authorized representative of the owner. The application for designation consideration shall be filed with the Specialist, using a form approved by the Secretary and shall include the following information:

(1) The Assessor's Parcel Number for the property containing the building, structure, object or site proposed for designation along with the name and address of the current owner (s) of record and a copy of the deed granting title to the owner(s);

(2) Whether the proposed historic resource takes the form of a building, structure, object or site as same are defined in this article;

(3) A detailed description of the specific building, structure, object or site proposed for designation including but not limited to its dates of construction, significant alterations and architectural style;

(4) The manner in which the proposed building, structure, object or site meets the criteria for designation contained in Section 12-1607(a) of this article;

(5) Current photographs of all aspects of the proposed historic resource, supplemented by sketches, drawings or other descriptive materials;

(6) A description of the physical condition and appearance of the proposed historic resource;

(7) If the designation proposal is not being submitted by the owner, a statement acknowledging whether the owner has consented to submission of the proposal, is in opposition to the submission or has declined to state a position on the issue, however, this language shall not be interpreted as requiring owner consent to the designation of an individual resource under this section;

(8) Completed California Department of Parks and Recreation Primary Record and Building, Structure and Object forms for the proposed historic resource; and

(9) Any other information determined necessary by the Specialist to be required for a complete and adequate application.

(b) Procedural requirements in advance of hearing:

(1) The application and supporting information shall be reviewed by the Specialist for adequacy and completeness under the requirements of this section. A hearing on the application will be scheduled within 45 days of the date the Specialist determines that the application is adequate and complete or as soon thereafter as is practicable.

(2) Notice of the time, place and purpose of such hearing will be mailed to the owner of the property proposed for designation at the address shown on the latest assessment roll and published once in a local newspaper of general circulation not less than ten (10) days prior to the date of the hearing. The Secretary may also give such additional notices as he or she deems desirable and practicable.

(3) The property owner and/or any authorized representative shall be prohibited from undertaking any alteration, construction, grading, demolition or removal of such property, and no permit to undertake such work shall be issued by the city for 90 days from the date the Specialist mails the initial notice of hearing to determine historic resource designation to the property owner and/or any authorized representative. If no final action has been taken as to the historic resource designation within the 90 day period, said restrictions shall be removed unless the Commission, with the consent of the property owner and/or any authorized representative, elects to continue its consideration of the property for historic resource designation. If the Commission, with the consent of the owner and/or any authorized representative, makes such an election, said restrictions shall remain against the property until final action and the Specialist shall notify the appropriate city officials of said restrictions. Nothing in this provision shall be construed as a prohibition or infringement on the legal use of a property pending consideration by the Commission.

The provisions of this section shall not apply to the construction, grading, alteration, demolition or removal of any structure or other feature, where a permit for the performance of such work was issued prior to the date of notice of hearing to consider the designation of the historic resource, and where such permit has not expired or been canceled or revoked, provided that construction is started and diligently pursued to completion in accordance with the Building Code.

Prior to the Commission's hearing on the designation of the property, upon application by the property owner and/or any authorized representative, the Specialist may approve a permit for alterations, construction or reconstruction consistent with the ordinary maintenance and repair of the property, to the extent that such work does not adversely affect the exterior architectural features of the property.

(4) The Specialist shall prepare a staff report for the Commission which shall also be mailed to the owner of the property and/or any authorized representative with the above-described notice of hearing.

(c) Commission Hearing:

(1) The Commission shall review all materials prepared and submitted and only members of the Commission who have physically visited and seen the proposed property may vote on the designation recommendation.

(2) At the conclusion of the hearing, the Commission shall recommend to the Council approval, disapproval or modification of the proposal for designation and make findings in support of that recommendation; or the Commission may continue the hearing.

(3) An affirmative roll call vote of a majority of the authorized membership of the Commission is required for a recommendation to the City Council.

(4) Within ten (10) days of the final Commission action, the Secretary shall send a copy of the recommendation, findings and all submitted materials to the City Clerk. The City Clerk shall place on the agenda of the Council the Commission's recommendation for Council consideration. The owner of the property shall thereafter be given notice of the time and place of the Council hearing at least ten days prior to the hearing date, together with a copy of the Commission's recommendation, findings and submitted materials to the Council. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1610. - LOCAL HISTORIC DISTRICTS.

(a) Requests for Designation: Designation of a Local Historic District may be initiated by the Council, the Commission, or property owners within the proposed District and shall consist of an initial, preliminary submission and, if recommended by the Commission, a subsequent, formal submission.

(b) Initial Application: The initial application shall be filed with the Specialist using the form(s) approved by the Secretary and shall include the following information:

(1) Proposed District Boundaries.

(2) A Statement of how the proposed Local Historic District meets the Designation Criteria of Section 12-1607(b) of this article.

The initial application shall be the subject of a staff report and will be scheduled for a determination by the Commission as to whether the initial application should proceed to a formal application. If the Commission so recommends, a formal application shall be developed and submitted for Commission consideration at a future meeting. If the Commission does not so recommend, no further action shall be taken with respect to the proposed Local Historic District.

(c) Formal Application: The formal application for Local Historic District designation consideration must be consented to by a majority of the property owners within the proposed district. For purposes of determining whether a majority of property owners have consented, each property owner is entitled to one vote. Owners of more than one property within the proposed district are entitled to one vote per property and multiple owners of a single property are collectively entitled to one vote. The formal application shall be filed with the Specialist using the form(s) approved by the Secretary and shall include the following information:

(1) A clearly defined and explained boundary for the proposed district shown on an Assessor's Map or Maps.

(2) A concise description of the general physical or historical elements (buildings, structures, objects and sites) and qualities which make this area a Local Historic District with a description of building types, architectural styles and periods represented in the proposed district.

(3) A concise statement that clearly documents why the proposed district has significance (areas of significance that reflect the proposed district's historic importance), the period of time for which it is significant, why it substantially meets Local Historic District criteria for listing as set forth in section 12-1607(b) above and, if applicable, why it substantially meets National Register Historic District criteria for listing as set forth in section 12-1607(c) above.

(4) A definition of what types of buildings contribute and do not contribute to the significance of the proposed Local Historic District as well as an estimate of the percentage of buildings within the proposed district that do not contribute to its significance.

(5) A map illustrating all buildings in the proposed district with an identification of contributing and non-contributing resources.

(6) Photographs of streetscapes in the proposed district and the contributing and non-contributing resources.

(7) Completed Department of Parks and Recreation forms for each building, structure, object or site within the proposed Local Historic District which also identify the potential contributors and non-contributors to the district.

(8) Whether the application is seeking the designation of a Local Historic District (and thereafter the nomination of a National Register Historic District) or only the designation of a Local Historic District.

(9) The signed property owners' consent form which shall clearly indicate the name, district property address, district property parcel number and mailing address of each consenting property owner.

(10) A draft council resolution for Local Historic District designation.

(d) Procedural Requirements in advance of Hearing:

(1) The formal application and all supporting information shall be reviewed by the Specialist for adequacy and completeness under the requirements of this section. The Specialist shall be responsible for determining whether the formal application has been consented to by a majority of the property owners within the proposed district as required by this article. A hearing on the application will be scheduled within 45 days of the date the Specialist determines that the application is adequate and complete or as soon thereafter as is practicable.

(2) A copy of the formal application and notice of the time, place and purpose of such hearing will be mailed to the owners of all properties included within the district proposed for designation at the addresses shown on the latest assessment roll and published once in a local newspaper of general circulation not less than ten (10) days prior to the date of the hearing. The Secretary may also give such additional notices as he or she deems desirable and practicable.

(3) No permit shall be issued by the city for the undertaking of any alteration, construction, grading, demolition or removal of any property within a proposed historic district and all property owners and/or their representatives shall be prohibited from undertaking any such work for 90 days from the date the Specialist mails the initial notice of hearing to determine Local Historic District designation to the property owners and/or their authorized representatives. If no final action has been taken as to the proposed Local Historic District designation within the 90 day period, said restrictions shall be removed, unless the Commission, with the consent of the property owners and/or their authorized representatives, elects to continue its consideration of the Local Historic District designation. If the Commission, with the consent of the property owners and/or their authorized representatives, makes such an election, said restrictions shall remain against the properties in the proposed Local Historic District until final action and the Specialist shall notify appropriate city officials of said restrictions. Nothing in this provision shall be construed as a prohibition or infringement on the legal use of properties within the proposed historic district pending consideration by the Commission.

The provisions of this section shall not apply to the construction, grading, alteration, demolition or removal of any structure or other feature, where a permit for the performance of such work was issued prior to the date of notice of hearing to consider the designation of the Local Historic District, and where such permit has not expired or been canceled or revoked, provided that construction is started and diligently pursued to completion in accordance with the Building Code.

Prior to the Commission's hearing on the designation of the Local Historic District, the provisions of this section shall not apply to permits for alterations, construction or reconstruction consistent with the ordinary maintenance and repair of a property, as defined in Attachment A to the June 1997 Programmatic Agreement among the city, the Advisory Council on Historic Preservation and the State Office of Historic Preservation. Upon application by any property owner or authorized representative, the Specialist shall approve such permits for alterations, construction or reconstruction to the extent that the proposed work is consistent with Attachment A and does not adversely affect the exterior architectural features of the property.

(4) The Specialist shall prepare a staff report for the Commission which shall also be mailed to the owners of all properties within the proposed Local Historic District with the above-described notice of hearing.

(e) Commission Hearing:

(1) The Commission shall review all materials prepared and submitted and only members of the Commission who have physically visited and seen the proposed Local Historic District may vote on the designation recommendation.

(2) Any property owner or his or her representative may make a presentation to the Commission on the issue of whether his or her property should be considered as a contributor or non-contributor to the proposed district and on the issue of whether or not the district should be formed.

(3) At the conclusion of the hearing, the Commission shall recommend to the Council approval, disapproval or modification of the proposal for Local Historic District designation; make findings in support of that recommendation; make findings on issues or concerns

raised by any individual property owner; identify any property owner objecting to the inclusion of their property within the district; or the Commission may continue the hearing.

(4) An affirmative roll call vote of a majority of the authorized membership of the Commission is required for a recommendation to the Council.

(5) Within ten (10) days of the final Commission action, the Secretary shall send a copy of the recommendation, findings and all submitted materials to the City Clerk. The City Clerk shall place on the agenda of the Council the Commission's recommendation for Council consideration. The owners and/or authorized representatives of all of the properties within the proposed Local Historic District boundaries shall thereafter be given notice of the time and place of the Council hearing at least ten days prior to the hearing date, together with a copy of the Commission's recommendation, findings and submitted materials to the Council.

(f) Adoption of a Conservation/District Plan: After the declaration of any Historic District by the Council pursuant to section 12-1613 of this article, the applicant shall have 90 days to develop a Conservation/District Plan which will set forth the manner in which the preservation objectives of the Local Historic District will be met. Prior to approval of the Plan by the Commission, design review in other than Specific Plan areas shall be conducted by the Commission. The Plan must include but is not limited to:

(i) A statement of significance which includes a description of contributing resources and significant elements.

(ii) The goals and objectives of the proposed district.

(iii) The means by which conservation objectives will be enforced:

1. A proposed Design Review Committee with all conditions for formation, membership and operations specified;

2. The Historic Preservation Commission serving as the Design Review Committee for the Local Historic District; or

3. A Specific Plan Design Review Committee with all conditions for formation, membership and operations specified.

(iv) Identification of the standards and guidelines which will be applied to design review within the district.

(v) The activities regulated by the Conservation/District Plan which shall exclude activities determined exempt under this article.

(vi) The public education/outreach program to be conducted by the Conservation/District Plan.

(vii) The provision of an annual report to the Commission on compliance with and implementation of the Conservation/District Plan. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1611. - NATIONAL REGISTER HISTORIC DISTRICTS

(a) Requests for Recommendation: Recommendation of a designated Local Historic District to the National Register of Historic Places, as a National Register Historic District, may be requested by more than fifty (50) percent of the property owners within such Historic District or the Commission or Council.

(b) Procedural Requirements in advance of Hearing:

(1) The recommendation application and all supporting information shall be reviewed by the Specialist for adequacy and completeness under the requirements of this article and the National Register of Historic Places. A hearing on the recommendation will be scheduled within 45 days of the date that the Specialist determines that the application is adequate and complete or as soon thereafter as is practicable.

(2) Notice of the time, place and purpose of such hearing will be mailed to the owners of all properties included within the designated Local Historic District proposed for recommendation as a National Register Historic District at the addresses shown on the latest assessment roll and published once in a local newspaper of general circulation not less than ten (10) days prior to the date of the hearing. The Secretary may also give such additional notices as he or she deems desirable and practicable.

(3) The Specialist shall prepare a staff report for the Commission addressing the consequences and procedural requirements of listing the Local Historic District on the National Register of Historic Places as a National Register Historic District which shall also be mailed to the owners of all properties within the proposed National Register Historic District with the above described notice of hearing.

(c) Commission Hearing

(1) The Commission shall review all materials prepared and submitted and only members of the Commission who have physically visited and seen the proposed National Register Historic District may vote on the District recommendation.

(2) At the conclusion of the hearing, the Commission shall recommend to the chief elected local official and Council approval, disapproval or modification of the proposal for the National Register Historic District and make findings in support of that recommendation; or the Commission may continue the hearing.

(3) An affirmative roll call vote of a majority of the authorized membership of the Commission is required for a recommendation to the chief elected local official and Council.

(4) Within ten (10) days of the final Commission action, the Secretary shall send a copy of the recommendation, findings and all submitted materials to the chief elected local official and the City Clerk. The City Clerk shall place on the agenda of the Council the Commission's recommendation for Council consideration.

The owners of all properties within the proposed National Register Historic District boundaries shall thereafter be given notice of the time and place of the Council hearing at least ten days prior to the hearing date, together with a copy of the Commission's recommendation, findings and submitted materials to the Council. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1612. - HERITAGE PROPERTIES.

- (a) Requests for Designation: Designation of a Heritage Property may only be initiated by the property owner or an authorized representative of the owner. The application for Heritage Property designation consideration shall be filed with the Specialist, using a form approved by the Secretary and shall include the following information:
- (1) The Assessor's parcel number for the property containing the building, structure, object or site proposed for designation along with the name and address of the current owner(s) of record;
 - (2) Whether the proposed resource takes the form of a building, structure, object or site as same, are defined in this article;
 - (3) A detailed description of the specific building, structure, object or site proposed for designation including its dates of construction and significant alterations and its architectural style;
 - (4) The manner in which the proposed building, structure, object or site meets the definition of a Heritage Property contained in Section 12-1602(n) of this article;
 - (5) Current photographs of all aspects of the proposed Heritage Property, supplemented by sketches, drawings or other descriptive materials;
 - (6) A description of the physical condition and appearance of the proposed Heritage Property;
 - (7) The applicant's objectives in seeking Heritage Property designation; and
 - (8) Any other information determined necessary by the Specialist to be required for a complete and adequate application.
- (b) Procedural requirements in advance of hearing:
- (1) The application and supporting information shall be reviewed by the Specialist for adequacy and completeness under the requirements of this section. A hearing on the application will be scheduled within 45 days of the date the Specialist determines that the application is adequate and complete or as soon thereafter as is practicable.
 - (2) At least 10 days prior to the date set therefore, notice of the time, place and purpose of such hearing will be mailed to the owner of the property proposed for designation at the address shown on the latest assessment roll. The Secretary may also give such additional notices as he or she deems desirable and practicable.
 - (3) The Specialist shall prepare a staff report for the Commission which shall also be mailed to the owner of the property with the above-described notice of the hearing.
- (c) Commission Hearing:
- (1) The Commission shall review all materials prepared and submitted and only members of the Commission who have physically visited and seen the proposed property may vote on the Heritage Property designation recommendation.
 - (2) At the conclusion of the hearing, the Commission shall approve, disapprove or modify the proposal for Heritage Property designation by an affirmative roll call vote of a majority of the Commissioners present.
 - (3) Unless the Commission decision is set for hearing to the Council in accordance with subsection (d), the decision of the Commission shall be final and effective at 12:01 a.m. on the sixteenth day after the date of the decision, subject to writ proceedings pursuant to the Code of Civil Procedure. Failure by the property owner, or authorized representative of the property owner to petition Councilmembers or the Mayor for said appeal will constitute a failure to exhaust administrative remedies.
- (d) Council Review following Commission Decision.
- (1)

Within fifteen (15) days of the decision of the Commission, either a Councilmember or the Mayor may, on his or her own initiative, or upon receiving a petition from the property owner or authorized representative of the property owner, file a letter with the Secretary to set a hearing in front of Council to consider the Commission's decision. When a letter from a Councilmember or Mayor is timely filed with the Secretary, the decision of the Commission shall be set aside. A public hearing on the matter shall be set before the Council so that it occurs within thirty (30) days of the date the letter is filed with the Secretary. The same noticing procedures set forth in subsections (b)(2) and (3) that set forth the noticing procedures for the Commission's consideration of the Heritage Property designation shall be followed, except that the staff report referenced in subsection (b)(3) shall be prepared for the Council. If prior to the Council's consideration of the Commission's decision, the Councilmember or Mayor withdraws his or her letter requesting the matter be heard by the Council, the decision of the Commission shall be reinstated immediately.

- (2) The Council shall approve, disapprove or modify the proposal for Heritage Property designation by an affirmative vote of a majority of the Councilmembers present.
- (3) The Council decision shall be final and effective and subject to writ proceedings immediately upon Council action. Within 10 days of the Council decision, the Secretary shall mail a courtesy notice to the property owner setting forth the Council's decision. Any statute of limitations begins to run as of the date of the Council decision, not as of the date of the mailing of the courtesy notice to the property owner.
- (e) The designation of a resource as a Heritage Property, in and of itself, does not create any presumption the resource qualifies as a "historic resource" pursuant to the California Environmental Quality Act or its implementing CEQA Guidelines.
- (f) The owner or their authorized representative may amend or rescind the designation of a Heritage Property in the same manner and procedure as was followed in the original designation.
- (g) Notwithstanding subsection (f), a Councilmember may request that Council consider rescinding the designation of a Heritage Property by filing a letter with the Secretary to set a hearing before Council to consider the Councilmember's request. A public hearing on the matter shall be set before the Council so that it occurs within thirty (30) days of the date the letter is filed with the Secretary. The same noticing procedures set forth in subsections (b)(2) and (3) that set forth the noticing procedures for the Commission's consideration of the Heritage Property designation shall be followed, except that the staff report referenced in subsection (b)(3) shall be prepared for the Council. The Council shall rescind the designation of a Heritage Property only if it finds that the resource does not satisfy the requirements for a Heritage Property as set forth in section 12-1603(n) or that circumstances exist to make the Heritage Property designation no longer applicable. The Council decision shall be final and effective and subject to writ proceedings immediately upon Council action. Within 10 days of the Council decision, the Secretary shall mail a courtesy notice to the property owner setting forth the Council's decision. Any statute of limitations begins to run as of the date of the Council decision, not as of the date of the mailing of the courtesy notice to the property owner.

(Am. Ord. 82-137, § 3, eff. 1-21-83; Am. Ord. 87-80, § 1, eff. 7-24-87; Am. Ord. 91-125, §§ 55—61, eff. 12-20-91; Am. Ord. 2001-11, § 1, eff. 3-18-01; Am. Ord. 2008-59, § 2, eff. 11-10-08; Am. Ord. 2012-6, § 1, eff. 3-23-12).

SEC. 12-1613. - ADOPTION BY COUNCIL.

- (a)

The sole authority to declare Historic Resources or Historic Districts and to endorse Local Historic Districts to the National Register of Historic Places shall be vested in the Council and shall be exercised only after completion of the Commission's responsibilities under the designation process set forth above in section 12-1607

- (b) Within thirty days following receipt by the City Clerk of the Commission's recommendations or as soon thereafter as is practicable, a hearing shall be set by the Clerk and held by the Council. Following such hearing, the Council shall adopt, modify or reject the designation recommended by the Commission and, in the instance of a district designation, make findings as to which properties shall be considered contributors and non-contributors to the district. In the alternative, the Council may continue its consideration of the matter, or, in the event that new information is presented, refer the proposed designation to the Commission for further hearings, consideration or study within a period of time designated by Council. Adoption of the designation shall be made by resolution which shall contain findings of fact as specified in Section 12-1607
- (c) Within ten days of the Council's designation decision, notice thereof shall be mailed by the Secretary to the owner of record of each property proposed for designation at the address shown on the latest assessment roll and to such other persons that the Secretary may deem appropriate, and shall be recorded with the County Recorder. Such notice shall include the basis for any historical designation, a summary of the regulations which result from such designation and a copy of project activities which are exempt from regulation under this article.
- (d) No proposal for designation once considered and disapproved by the Council shall be reconsidered except upon the affirmative vote of four Council members. Any decision to reconsider shall be treated as a new proposal for designation pursuant to Sections 12-1608, 12-1609, 12-1610 or 12-1611 of this article. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1614. - AMENDMENT OR RESCISSION OF DESIGNATION.

The Historic Preservation Commission may amend or rescind any designation of an Historic Resource, an Historic District, a contributor to an Historic District or a non-contributor to an Historic District in the same manner and procedure as was followed in the original designation. This action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors which justified the designation of the Resource or District. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1615. - LOCAL REGISTER OF HISTORIC RESOURCES.

Resolutions adopting designations of Historic Resources and Local Historic Districts shall collectively be known as the Local Register of Historic Resources. The local register shall be kept on file with the Secretary, who shall transmit copies to the City Clerk, and to the Development Director, the Public Works Director, the Fire Chief, the Chief of Police, the Director of the Fresno City and County Historical Society, and the main branch of the Fresno County Library. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1616. - DELETION OF DEMOLISHED, RELOCATED OR RESCINDED DESIGNATED HISTORIC RESOURCES.

When a designated Historic Resource has been demolished or relocated outside the city limits or when its designation has been rescinded pursuant to the provisions of this article, the

Secretary, upon notice thereof, shall cause such resource to be deleted from the Local Register of Historic Resources and from the Historic Property Data File for Fresno County maintained by the State Office of Historic Preservation. The Secretary shall also cause a Rescission of Designation to be recorded with the County Recorder. Upon such deletions and such rescission, the provisions of this article shall not be deemed to encumber or otherwise restrict the use of such property. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1617. - HISTORIC RESOURCE PERMIT REVIEW PROCESS.

(a) It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, remove, construct, reconstruct or restore any Historic Resource without first obtaining a city permit and the written approval of the Historic Preservation Commission.

(b) Upon receipt of an application or proposal for a demolition, grading, removal or building permit for any Historic Resource, the city department or agency receiving same shall, within five (5) calendar days, notify the Secretary and forward said permit application or proposal and accompanying documentation to the Secretary and shall not process the application or proposal without the authorization of the Specialist. The Specialist may approve, in the name of the Commission, non-substantial alterations to the Historic Resource based on the application presented.

(c) Any application or proposal which proposes the substantial alteration of an Historic Resource shall also be referred to the Director of the Development Department for environmental review. No hearing shall be held by the Commission for applications or proposals to demolish, grade, remove or substantially alter the Historic Resource until such application or proposal has undergone environmental review in accordance with the California Environmental Quality Act.

(d) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any Historic Resource covered by this article that does not involve a change in design, materials or external appearance.

(e) Nothing in this section shall be construed to prevent the Director of the Development Department from issuing a building permit if he or she determines that demolition, removal or substantial alteration of the Historic Resource is immediately necessary to protect the public health, safety or general welfare.

(f) Upon completion of any required environmental review and thirty (30) calendar days prior to a scheduled hearing, the owner or applicant shall provide whatever detailed information (plans, drawings, agreements, etc.) is required or necessary to describe the intended work. The Specialist may require additional information determined to be necessary for the Commission to act on the matter. The Specialist shall refer the matter to the Commission with a report and recommendation which is accompanied by the final environmental document.

(g) After consideration of the final environmental document, all evidence and testimony, the Commission shall have the authority to approve, deny or approve with modifications, any application or proposal.

(h) No application or proposal shall be approved or approved with modifications unless the Commission makes the following findings:

(1) The proposed work is found to be consistent with the purposes of this article and the Secretary of the Interior's Standards, not detrimental to the special historical, architectural or aesthetic interest or value of the Historic Resource; or

(2) The action proposed is necessary to correct an unsafe or dangerous condition on the property; or

(3) Denial of the application will result in unreasonable economic hardship to the owner. In order to approve the application, the Commission must find facts and circumstances, not of the applicant's own making, which establish that there are no feasible measures that can be taken that will enable the property owner to make a reasonable economic beneficial use of the property or derive a reasonable economic return from the property in its current form; or

(4) The site is required for a public use which will directly benefit the public health, safety and welfare and will be of more benefit to the public than the Historic Resource.

(5) For applications for relocation of an Historic Resource, the Commission shall find that one or more of the above conditions exist, that relocation will not destroy the historical, architectural or aesthetic value of the Resource and that the relocation is part of a definitive series of actions which will assure the preservation of the Resource.

(i) Any finding that denial of the application or proposal will result unreasonable economic hardship to the owner, pursuant to Section 13-412(h)(3) above, may be based upon the application of the following factors:

(1) Any economic feasibility analysis conducted pursuant to this section shall include the determination of an "after-rehabilitation" value of the property calculated on an income approach utilizing the capitalization rate determined appropriate by the Director of the Development Department. This "after-rehabilitation" value shall be determined in the following manner:

(i) The potential residential or commercial rental rate(s) which could be generated by the property after an appropriate rehabilitation shall be determined by a review of current market rates for comparable properties within comparable neighborhoods.

(ii) The potential annual net income that could be generated by the property after an appropriate rehabilitation, taking into consideration standard vacancy and expense factors, shall be determined.

(iii) The appropriate capitalization rate shall be applied to the potential annual net income to determine the "after-rehabilitation" value of the property.

(2) The fair market value of the land, exclusive of improvements and without development restrictions pursuant to this ordinance, shall be determined by a standard appraisal.

(3) The monetary cost of an appropriate rehabilitation of the resource, in accordance with the standards of this ordinance, shall be determined by professionals qualified to make such a determination.

(4) If the fair market value of the land, combined with the costs of rehabilitation, exceed the "after-rehabilitation" value of the property by more than twenty percent, the Commission shall find that denial of the application will result in an unreasonable economic hardship to the owner.

(j) If the Commission determines a permit should not be issued for the demolition, alteration, relocation or new construction, or the Council on appeal concurs, a new application affecting the same property may be submitted during the twelve (12) month period after the disapproval only if a substantial change is made in the plans for the project.

(k) The Specialist shall give written notice of the decision regarding the regulated permit to the property owner/applicant and to the Director of the Development Department. The notice shall contain the Commission's findings in support thereof. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1618. - HISTORIC DISTRICT PERMIT REVIEW PROCESS.

(a) It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, remove, construct, reconstruct or restore any property within any Historic District without first obtaining a city permit, review by the appropriate Design Review Committee and the written approval of the Historic Preservation Commission.

(b) Upon receipt of an application or proposal for a demolition, grading, removal or building permit for any property within any Historic District, the city department or agency receiving same shall, within five (5) calendar days, notify the Secretary and forward said permit application or proposal and accompanying documentation to the Secretary and shall not process the permit or proposal without the authorization of the Specialist. The Specialist may approve, in the name of the Commission, non-substantial alterations to the property based on the application presented.

(c) Any application which proposes the substantial alteration of any property within any Historic District shall also be referred to the Director of the Development Department for environmental review. No hearing shall be held by the Commission for applications which propose to demolish, grade, remove or substantially alter a property within any Historic District until such proposal has undergone environmental review in accordance with the California Environmental Quality Act.

(d) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this article that does not involve a change in design, materials or external appearance.

(e) Nothing in this section shall be construed to prevent the Director of the Development Department from issuing a building permit if he or she determines that demolition, removal or substantial alteration of a property within any Historic District is immediately necessary to protect the public health, safety or general welfare.

(f) Upon completion of any required environmental review and thirty (30) calendar days prior to a scheduled hearing, the owner or applicant shall provide whatever detailed information (plans, drawings, agreements, etc.) is required or necessary to describe the intended work. The Specialist may require additional information determined to be necessary for the Commission to act on the matter. The Specialist shall refer the matter to the Commission with a report and recommendation which is accompanied by the final environmental document.

(g) After consideration of the final environmental document, all evidence and testimony, the Commission shall have the authority to approve, deny or approve with modifications, any proposed application or permit application.

(h) No application shall be approved or approved with modifications unless the Commission makes the following findings:

(1) For a Contributor to any Historic District, the proposed work is found to be consistent with the general purposes of this article and the Secretary of the Interior's Standards, not detrimental to the special historical, architectural or aesthetic interest or value of the Contributor or the respective Historic District in general and consistent with the District's adopted design standards; or

(2) For a Non-Contributor to any Historic District, the proposed work is found not detrimental to the historical or architectural values of the respective Historic District in general and consistent with the District's adopted design standards; or

(3) For new in-fill construction within any Historic District, the proposed work is found not detrimental to the historical or architectural values of the respective Historic District in general and consistent with the District's adopted design standards; or

(4) The action proposed is necessary to correct an unsafe or dangerous condition on the property; or

(5) Denial of the application will result in unreasonable economic hardship to the owner. In order to approve the application, the Commission must find facts and circumstances, not of the applicant's own making, which establish that there are no feasible measures that can be taken that will enable the property owner to make a reasonable economic beneficial use of the property or derive a reasonable economic return from the property in its current form; or

(6) The site is required for a public use which will directly benefit the public health, safety and welfare and will be of more benefit to the public than the Contributor to the respective Historic District.

(7) For applications for relocation of a Contributor from any Historic District, the Commission shall find that one or more of the above conditions exist, that relocation will not destroy the historical, architectural or aesthetic value of the resource and that the relocation is part of a definitive series of actions which will assure the preservation of the resource.

(i) Any finding that denial of the permit application will result in unreasonable economic hardship to the owner, pursuant to Section 12-1618(h)(5) above, may be based upon the application of the following factors:

(1) Any economic feasibility analysis conducted pursuant to this section shall include the determination of an "after-rehabilitation" value of the property calculated on an income approach utilizing the capitalization rate determined appropriate by the Director of the Development Department. This "after-rehabilitation" value shall be determined in the following manner:

(i) The potential residential or commercial rental rate(s) which could be generated by the property after an appropriate rehabilitation shall be determined by a

review of current market rates for comparable properties within comparable neighborhoods.

(ii) The potential annual net income that could be generated by the property after an appropriate rehabilitation, taking into consideration standard vacancy and expense factors, shall be determined.

(iii) The appropriate capitalization rate shall be applied to the potential annual net income to determine the "after-rehabilitation" value of the property.

(2) The fair market value of the land, exclusive of improvements and without development restrictions pursuant to this ordinance, shall be determined by a standard appraisal.

(3) The monetary cost of an appropriate rehabilitation of the resource, in accordance with the standards of this ordinance, shall be determined by professionals qualified to make such a determination.

(4) If the fair market value of the land, combined with the costs of rehabilitation, exceed the "after-rehabilitation" value of the property by more than twenty percent, the Commission shall find that denial of the application will result in an unreasonable economic hardship to the owner.

(j) A decision relating to the approval with modifications or disapproval of an application for any permit may be appealed pursuant to section 13-415 of this article.

(k) If the Commission determines a permit should not be issued for the demolition, alteration, relocation or new construction, or the City Council on appeal concurs, a new application affecting the same property may be submitted during the twelve (12) month period after the disapproval only if a substantial change is made in the plans for the project.

(l) The Specialist shall give written notice of the decision regarding the regulated permit to the property owner/applicant and to the Director of the Development Department. The notice shall contain the Commission's findings in support thereof. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1619. - HERITAGE PROPERTY PERMIT REVIEW PROCESS.

(a) It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, remove, construct, reconstruct or restore the Heritage Property without first obtaining a city permit and the written approval of the Historic Preservation Commission.

(b) Upon receipt of an application or proposal for a demolition, grading, removal or building permit for a Heritage Property, the city department or agency receiving same shall, within five (5) calendar days, notify the Secretary and forward said permit application or proposal and accompanying documentation to the Specialist and shall not process the permit or proposal without the authorization of the Specialist. The Specialist may approve, in the name of the Commission, non-substantial alterations to the Heritage Property based on the application presented.

(c) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this section that does not involve a change in design, materials or external appearance.

(d) Nothing in this section shall be construed to prevent the Director of Development from issuing the appropriate permit if he or she determines that demolition, removal or substantial alteration of the Heritage Property is immediately necessary to protect the public health, safety or general welfare.

(e) The State Historical Building Code may be used, in conjunction with any other applicable codes, for any rehabilitation and/or improvements to the Heritage Property as deemed appropriate by the Director of Development.

(f) The Heritage Property may be brought before the Commission for designation as a Historic Resource in accordance with the provisions of Section 12-1608 of this article and, if so designated, the property shall thereafter be subject to all provisions pertaining to designated Historic Resources under this article. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1620. - APPEAL PROCEDURE.

(a) Any decision relating to the approval with modifications or disapproval of an application for any permit pursuant to Sections 12-1617 and 12-1618 may be appealed to the Council by the property owner not later than twenty (20) days following service by mail by the Specialist of the notice of decision and findings on the property owner. Service shall be deemed complete on the date of mailing. Such appeal shall be taken by filing a notice of appeal in duplicate, in the following format, with the Secretary who shall forthwith transmit to the City Clerk all papers and documents on file with the Secretary relating to the appeal:

- (1) A caption reading "Appeal of _____" giving the name and address of the applicant;
- (2) A brief description of the specific order, decision or determination being appealed;
- (3) A statement of the relief sought;
- (4) The reasons why such relief should be granted.

(b) The City Clerk shall cause the appeal to be set for hearing before the Council within thirty days of receipt of the notice of appeal. Not later than ten days prior to the date of the hearing on the appeal, the City Clerk shall notify the appellant and all persons requesting such information in writing, of the date, time and location of the appeal.

(c) Following consideration of the appeal, the Council may approve, disapprove or approve with modifications the application, or may refer the appeal to the Commission for further consideration. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1621. - FINALITY OF DECISION.

Any decision of the Council under this article shall be final. Any decision of the Commission under sections 12-1617 or 12-1618 of this article shall become final if no appeal is taken from such order or decision within the time limits prescribed by the applicable appeal provision of this article. No permit regulated by the provisions of this article shall issue, nor shall any rights vest therein, until the decision of the Commission is final or any appeal therefrom is disposed of in the manner prescribed by this article. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1622. - SUBSTANDARD BUILDINGS.

(a) The Director of Development or the Fire Marshal shall notify the Secretary whenever such official declares an Historic Resource or any property within an Historic District to be a substandard or unsafe building or structure pursuant to the Fresno Municipal Code, state or federal law.

(b) Upon receipt of notice from the Director of Development or the Fire Marshal, the Commission shall evaluate the historic and architectural merit of the Resource or property, and shall submit an advisory report to the Director of Development or Fire Marshal within thirty (30) days. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1623. - ADVICE AND GUIDANCE TO PROPERTY OWNERS.

The Commission may render advice and guidance with respect to any proposed work not requiring a city permit on any designated Historic Resource or any property within any Historic District.

Examples of work referred to above are: Painting and repainting of exterior surfaces; fencing; landscaping; and, installation of lighting fixtures. In rendering such advice and guidance, the Commission shall be guided by the purposes and standards of this article. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1624. - PROPERTY OWNED BY PUBLIC AGENCIES.

The Commission shall take appropriate steps to notify all public agencies and public utilities which own or may acquire property, including easements and public rights-of-way, in the city about the existence and character of designated Historic Resources and Historic Districts, and the Commission shall cause a current record of such Resources and Districts to be maintained with each such public agency and public utility. All such designated Resources and Districts shall be subject to the provisions of this article regardless of ownership.

In the case of publicly owned properties which are not subject to the permit review procedures of the city, including this article, but are more than fifty (50) years of age or are located within any Historic District, the agency owning the said property is encouraged to seek the advice of the Commission prior to approval or authorization of any construction, alteration, or demolition thereon, including the use and placement of street furniture, signs, lighting, and landscaping; and, the Commission shall render a report to the owner as expeditiously as possible, based on the purposes and standards in this article. If Commission review of a public project involving construction, alteration, or demolition of any building, structure, object or site is required under any other law, the Commission may render the report referred to in this section to such public agencies without specific request therefor. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1625. - FIRE AND BUILDING CODE.

Issuance of a permit in conformance with this article shall not alter conformance requirements with the other standards and requirements of this chapter. The Director of Development and the Fire Marshal shall liberally construe and apply all pertinent codes, including the State Historical Building Code and the Uniform Building Conservation Code so as to effectuate the purposes of this article. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1626. - MINIMUM MAINTENANCE.

(a) All designated Historic Resources including Contributors to any Historic District shall be preserved against decay and deterioration, kept in a state of good repair and free from structural defects. The purpose of this section is to prevent an owner or other person having legal custody and control over a property from facilitating demolition of a Historic Resource by neglecting it and by permitting damage to it by weather and vandalism.

(b) Consistent with all other state and city codes requiring that buildings and structures be kept in good repair, the owner or other person having legal custody and control of a property shall repair such building or structure if it is found to have any of the following defects:

- (1) Building elements so attached that they may fall and injure members of the public or property.
- (2) Deteriorated or inadequate foundation.
- (3) Defective or deteriorated flooring.
- (4) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.
- (5) Members of ceilings, roofs, ceiling or roof supports or other horizontal members which sag, split or buckle due to defective materials or deterioration.
- (6) Fireplaces or chimneys which list, bulge or settle due to defective material or deterioration.
- (7) Deteriorated, crumbling or loose exterior plaster.
- (8) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
- (9) Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
- (10) Any fault, defect or deterioration in the building which renders it structurally unsafe or not properly watertight.

(c) If the Commission has reason to believe that a Resource is being neglected and subject to damage from weather or vandalism, the Commission shall direct staff 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 Development 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. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1627. - STATUS OF PROPERTIES PREVIOUSLY DESIGNATED.

(a) All Historic Resources and Historic Districts previously designated under Article 16 of Chapter 12 of the Fresno Municipal Code shall retain such status for a period of 30 days from the

date of passage of this article, at which time they will automatically be redesignated pursuant to the provisions of and subject to the terms of this article.

(b) Historic Resources and Contributors to Historic Districts which have an application for a regulated permit on file at the time this article becomes effective shall remain in the regulatory scheme established by the version of this article in effect at the time application was made for such regulated permit. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1628. - CIVIL AND CRIMINAL PENALTIES.

It shall be unlawful for any person to permit or maintain violations of any of the provisions of this article by undertaking the alteration, grading, removal, demolition or partial demolition of an Historic Resource or a building, structure, object or site within a Historic District without first obtaining the written approval of the Specialist, Commission or Council as provided in this article, or to defy any order or decision rendered by the Specialist, Commission or Council. Any violations of this article may be enforced as provided in this Code, except in the case of administrative citations issued pursuant to this Code, wherein the administrative penalty imposed shall be up to \$10,000 for each violation. As part of any enforcement proceeding, violators may be required to reasonably restore the building, structure, object or site to its appearance or condition prior to the violation, under the guidance of the Development Department. (Added Ord. 99-50, §§ 1, 2, 9-9-99)

SEC. 12-1629. - SEVERABILITY.

(a) If any section, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this article. The Council hereby declares that it would have passed this ordinance and adopted this article and each section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Added Ord. 99-50, §§ 1, 2, 9-9-99)