

ORDINANCE NO. 2006-063

Adopted by the Sacramento City Council

October 24, 2006

ADDING CHAPTER 17.134 TO DIVISION V, SPECIAL DISTRICTS, OF TITLE 17 OF THE SACRAMENTO CITY CODE (THE ZONING CODE) RELATING TO HISTORIC PRESERVATION AND ESTABLISHING THE PRESERVATION COMMISSION AND REPEALING CHAPTER 15.124 OF TITLE 15 OF THE SACRAMENTO CITY CODE (M06-017)

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1. Chapter 17.134 is added to Division V Special Districts of Title 17 of the Sacramento City Code to read as follows:

Chapter 17.134 Historic Preservation

Article I. General Provisions

17.134.010 Findings and declaration of purpose.

A. The city council finds and declares that significant aspects of the city's rich and diverse historic resources deserve recognition and preservation to foster an understanding of our heritage, and to promote the public health and safety and the economic and general welfare of the people of the city. The preservation and continued use of historic resources are effective tools to sustain and revitalize neighborhoods and business districts within the city, enhance the city's economic, cultural, and aesthetic standing, its identity and its livability, marketability and urban character.

B. The city council further finds and declares that the purpose of this chapter shall be as follows:

1. To establish a city preservation program, commission and staff, to implement the Preservation Element of the city's General Plan;
2. To provide mechanisms, through surveys, nominations and other available means, to identify significant historic, prehistoric and cultural resources, structures, districts, sites, landscapes and properties within the city;
3. To provide mechanisms and procedures to protect and encourage the preservation of the city's historic and cultural resources;

4. To provide standards, criteria and processes, consistent with state and federal preservation standards and criteria, for the identification, protection and assistance in the preservation, maintenance and use of historic and cultural resources.

C. The city council further finds and declares that the administrative responsibilities of the preservation program established under this chapter shall be assigned to a preservation commission, a preservation director, and preservation staff as follows:

1. The preservation commission's primary responsibilities shall be to develop and recommend to the council preservation policies appropriate for inclusion in the General Plan and other regulatory plans and programs of the city and to provide oversight relative to the maintenance and integrity of the Sacramento Register of Historic and Cultural Resources. The preservation commission shall review, nominate, and make recommendations to the council on properties eligible for listing in the Sacramento Register as landmarks, historic districts, and contributing resources as set forth in this chapter. The preservation commission's role in reviewing development projects shall be limited to hearing projects of major significance and appeals of the preservation director's decisions as set forth in this chapter.

2. The primary responsibilities of the preservation director shall be to manage the preservation program, conduct surveys, make preliminary determinations relative to properties' eligibility for listing on the Sacramento Register, the potentiality for listing on the California Register relative to discretionary development project review under CEQA, maintain and update the Sacramento Register, review and take action on development project applications as set forth in this chapter, manage incentive programs as established by the council, and advise property owners, the public, other city departments, and other governmental agencies on preservation standards and incentives.

3. The primary responsibilities of the preservation staff under the general direction of the preservation director shall be to coordinate surveys, inventories, and nominations to the Sacramento Register, recommend to the preservation director on the eligibility of properties for listing on the Sacramento Register and California Register relative to discretionary development project review and proposals to demolish structures fifty years old and older, and review and take action on development project applications, as set forth in this chapter.

17.134.020 Definitions.

"Building official" means the building official designated in Chapter 15.04 of Title 15 of this code, and his or her designee(s).

"California Environmental Quality Act" or "CEQA" means the California Public Resources Code Section 21000 et seq. as it may be amended.

"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 listed in the California Register as it may be amended from time to time.

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

"Certificate of appropriateness" shall mean the certificate required pursuant to Article VI.

"Certified local government" (CLG) means a local government that has been certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.) as amended, pursuant to Section 101(c) of that Act and the regulations adopted under this Act, which are set forth in Part 61 (commencing with Section 61.1) of Title 36 of the Code of Federal Regulations.

"Commission" or "preservation commission" means the preservation commission as designated in Article II of this chapter.

"Contributing resource" means a resource designated as a contributing resource by the city council in accordance with Article IV of this chapter.

"Dangerous building" means a dangerous building as that term is defined in Section 8.96.110 of this code.

"Demolition" means the following:

1. The complete demolition of the entirety of a landmark or contributing resource;
2. The partial demolition of a landmark or contributing resource that involves any of the following:
 - a. the demolition of an aggregate of fifty (50) or more linear feet of exterior wall or more than fifty percent (50%) of the footprint of the landmark or contributing resource, whichever applies;
 - b. the remodeling or other alteration of the landmark or contributing resource, where the proposed work affects or may affect significant features or characteristics (as defined in this chapter);

c. the demolition is other than minor, inconsequential or insignificant and has been determined will affect the significance of the landmark or contributing resource;

3. For purposes of Article VIII of this chapter, the demolition of any structure fifty (50) years old or older means the removal of an aggregate of fifty (50) or more linear feet of exterior wall or more than fifty percent (50%) of the footprint of the structure, whichever applies.

“Development project” shall be liberally interpreted in light of the findings and purpose of this chapter and shall include the following:

1. The demolition of a landmark or a contributing resource;
2. The relocation of a landmark or a contributing resource;
3. The addition to, remodel, repair, rehabilitation, and any other modification of the exterior of a landmark, contributing resource, or non-contributing resource, along with all associated facilities and appurtenances such as walls, fences, and signs;
4. The remodel, repair, rehabilitation, or any other modification of the interior of a landmark or contributing resource where the interior constitutes “features or characteristics” as defined herein and is accessible to or is made available to the public.
5. The new construction of a building or structure on the same lot as a landmark, contributing resource, or non-contributing resource, or on a vacant lot in a historic district;
6. The relocation of an existing building or structure to the same lot as a landmark, contributing resource, or non-contributing resource, or to a vacant lot in a historic district.

“Feature or characteristic” means fixtures, components or appurtenances attached to, contiguous with or otherwise related to a structure or property including but not limited to landscaping, setbacks, massing, distinguishing aspects, roof attributes, materials, 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 those properties determined to be a historic resource or cultural resource under CEQA or NEPA, under any other provision of California law, or listed or nominated for listing on the Sacramento Register.

"Historic district" means a geographic area designated as a historic district by the council in accordance with Article IV of this chapter.

"Historic district plan" means a plan adopted by the council pursuant to Article IV of this chapter or the prior versions of this chapter.

"Immediately dangerous building or structure" means an immediately dangerous building or structure as defined in Section 8.96.120 of Title 8 of this code.

"Landmark" means all historic resources designated as landmarks by the council in accordance with Article IV of this chapter.

"Landscaping" means plants, other physical site elements, and plans.

"Listed historic resource" means any resource listed in the Sacramento Register, the California Register, or the National Register of Historic Places; provided, that "listed historic resource" does not include a non-contributing resource in a historic district or resources in the Old Sacramento National Historic Landmark District.

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

"National Environmental Policy Act" or "NEPA" means 42 U.S.C. Section 4321 et seq., as it may be amended from time to time.

"National Historic Preservation Act" means 16 U.S. Section 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 listing on the Sacramento Register as provided for in Article IV of this chapter.

"Nomination" means a nomination for listing of a resource on the Sacramento Register pursuant to Article IV of this chapter.

"Non-contributing resources" means all resources within a historic district that are not identified as contributing resources.

"Old Sacramento National Historic Landmark District" means the Old Sacramento National Historic Landmark District as listed and described on the National Register of Historic Places established pursuant to the National Historic Preservation Act, an area located in the Sacramento central city roughly bounded by the Sacramento River on the west, Capitol Mall on the south, the Interstate 5 freeway on the east and I Street and the I Street Bridge on the north.

"Preservation director" means the individual designated by the city manager to carry out the functions of the preservation director under this Chapter 17.134 and this code.

"Relocation" means the moving of a building or structure from one place to another.

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

"Richards Boulevard area architectural and historical property survey" means the "Richards Boulevard area architectural and historical property survey" prepared for the city by historic environment consultants, as updated and revised in September 2000.

"Sacramento Register of Historic and Cultural Resources" or "Sacramento Register" means the register created by Article IV of this chapter.

"Secretary of the Interior's Standards" means the Secretary of the Interior's 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 city council as significant from a historical standpoint pursuant to Article IV of this chapter.

"Survey" means a process by which properties are documented for eligibility for listing in the Sacramento Register, the California Register, or the National Register of Historic Places.

Article II. Preservation Commission

17.134.030 Preservation commission--Established.

The preservation commission is established.

17.134.040 Preservation commission—Appointment and qualifications.

A. Members of the preservation commission shall be appointed by the mayor, with the consent of the city council. The general requirements of Article XV of the city charter and of Chapter 2.40 of this code, governing the appointment of board and commission members, attendance at board and commission meetings, voting, term limits, and removal shall apply to the preservation commission. A member is subject to removal for good cause, neglect of duty or misconduct as provided in City Charter Section 232.

B. All members of the preservation commission shall be residents of the city or the owner of a business located in the city.

C. The preservation commission shall consist of seven members. Each member shall have demonstrated knowledge of the Secretary of the Interior's Standards for the Treatment of Historic Properties and the California Historical Building Code. In addition, the seven members of the preservation commission shall be qualified by reason of training or professional experience as follows:

1. Seat 1: a member who is a licensed historical architect who meets the Secretary of the Interior's qualifications for historical architects;

2. Seat 2: a member who is an architectural historian with training or experience in the architectural history of Sacramento, the Sacramento region, Northern California, or the West and who meets the Secretary of the Interior's qualifications for architectural historians;

3. Seat 3: a member who is a registered structural engineer;

4. Seat 4: a member who is a licensed contractor and who has training or experience in restoration of historic properties;

5. Seat 5: a member who is a landscape architect, designer, or historian with training or experience in historical landscapes.

6. Seat 6: an at-large member with a preference for an individual with training or experience in historic preservation and/or urban planning;

7. Seat 7: an at-large member with a preference for an individual with training or experience in the history of Sacramento, the Sacramento region, Northern California, or the West and who meets the Secretary of the Interior's qualifications for historians.

17.134.050 Preservation commission—Term of office.

Except as provided in this section for the terms of the initial members, the term of office for each member of the preservation commission shall be three years. Terms shall be staggered. In selecting the initial members of the preservation commission, the mayor shall appoint two to each serve a term of two years, two to each serve a term of three years, and three to each serve a term of four years. Thereafter, members shall be appointed to serve three year terms. If a vacancy occurs during the term of any member, the mayor shall appoint, with the approval of the city council, a successor to serve during the unexpired term. The successor shall possess the qualifications required for the seat being filled.

17.134.060 Preservation commission—Conflict of interest and financial disclosure statements.

All appointees to the preservation commission shall be subject to Chapter 2.16 of this code relating to conflicts of interest and shall be required to file statements disclosing financial interests pursuant to the city's conflict of interest code.

17.134.070 Preservation commission—Compensation.

Each member of the preservation commission shall receive compensation as determined by the compensation commission under Section 29 of the city charter.

17.134.080 Preservation commission—Organization and procedures.

A. At its first meeting, and annually thereafter, the preservation commission shall elect from among its membership a preservation commission chairperson and a vice chairperson, who shall each hold office at the pleasure of the preservation commission. When there is a vacancy in the office of chairperson or vice chairperson, the preservation commission shall fill that office from among its members.

B. The preservation commission shall establish a time and place for regular meetings to be held not less frequently than monthly. Each meeting shall be noticed and held in accordance with the Ralph M. Brown Act (Cal. Gov. Code section 54950 *et seq.*). The preservation commission chairperson shall have the authority to notice and hold special meetings in the manner specified in the Ralph M. Brown Act.

C. A quorum comprised of preservation commission members present and qualified to act shall be required for the preservation commission to conduct a meeting and take action. A quorum shall consist of four members. The affirmative vote of a majority of the members present and qualified to vote shall be necessary to pass any motion.

D. The preservation commission shall adopt such rules and regulations as it shall deem necessary, and consistent with the provisions of this chapter, for the conduct of its business.

17.134.090 Preservation commission—Powers and duties.

Unless otherwise specified herein the powers and duties of the preservation commission shall be as follows:

A. Exercise the authority set forth in this chapter and as otherwise provided in this code;

B. Recommend to the city council policies and programs in support of historic preservation, including but not limited to goals and policies for the General Plan Preservation Element and other regulatory plans; periodic updates of the preservation program, including the standards, criteria, and procedures set forth in this chapter; and programs for historic preservation incentives;

C. Evaluate and submit comments and recommendations on proposed plans, public and private development projects, and environmental reviews that are not subject to review under this chapter but that may potentially affect the physical development and historic preservation of the city involving landmarks, contributing resources, historic districts, nominated resources, or the historical value of any other building, structure, or neighborhood, in coordination with review and action by the city council, planning commission, or other public agencies on the plan, project, or environmental review;

D. Review and make recommendation to the State Office of Historic Preservation regarding nominations of property located within the city to the National Register of Historic Places;

E. Assume duties assigned to the preservation commission by the city council pursuant to the certified local government provisions of the National Historic Preservation Act of 1966, or duties that may be assigned to the preservation commission through any agreement(s) approved by the city council. This shall include undertaking review and comment upon those projects on which the city, 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 the Old Sacramento national historic landmark district;

F. Consult with, advise, and report to the city council on an annual basis in connection with the exercise of the preservation commission's duties and functions;

G. Any other powers and duties conferred upon the preservation commission by the city council.

17.134.100 Preservation commission—Secretary.

The preservation director shall serve as a non-voting secretary to the preservation commission.

Article III. Preservation Director

17.134.110 Preservation director—Office established.

To implement the city’s historic preservation program and to assist the preservation commission in the performance of its historic preservation duties pursuant to this chapter, there is hereby created the position of preservation director

17.134.120 Preservation director—Authority.

The preservation director shall have the authority to:

- A. Exercise the authority set forth in this chapter and as otherwise provided in this code.
- B. Oversee the operation of the city’s historic preservation program established by this chapter;
- C. Advise the city council, the planning commission, the preservation commission, the design commission, the housing code advisory and appeals board, other advisory boards and commissions of the city, and city staff on historic preservation issues, including rehabilitation standards and historic resources surveys performed in conjunction with adoption of new or amendments to existing community plans, specific plans, this code, public and private development projects, and other discretionary actions;
- D. Maintain a list of properties for which a preliminary determination of eligibility has been made in accordance with the criteria of the Sacramento Register or the California Register; consult with city departments regarding potential protections, mitigations, thresholds of significance and standards suitable for historic resources involved in the adoption of new or amendments to existing community plans, specific plans, this code, public and private development projects, and other discretionary actions; and monitor cultural resource mitigation measures;
- E. Perform such other functions as are provided for in this chapter or any other applicable law.

17.134.130-17.134.150 Reserved.

Article IV. Sacramento Register of Historic and Cultural Resources

17.134.160 Sacramento Register.

A. The ordinances adopting designations and deletions of landmarks, contributing resources and historic districts shall be known, collectively, as the "Sacramento Register of Historic and Cultural Resources" or the "Sacramento Register."

B. The original Sacramento Register and any subsequent amendments, inclusions, or deletions thereto shall be on file with the city clerk.

C. All structures and preservation areas designated on the "official register" as of the date of enactment of Ordinance No. 2001-027 and on the Sacramento Register as of the date of enactment of this chapter are included on the Sacramento Register of Historic and Cultural Resources (Sacramento Register). All structures individually designated on the "official register" as essential or priority structures are hereby designated "landmarks" on the Sacramento Register, and shall be subject to the restrictions and conditions applicable to landmarks. All geographic areas previously designated as preservation areas designated on the "official register" are hereby designated as "historic districts" on the Sacramento Register, and shall be subject to the restrictions and conditions applicable to historic districts.

D. The preservation director shall take appropriate steps to ensure that the Sacramento Register is properly maintained, regularly updated, distributed to city staff as necessary to carry out the purpose and intent of this chapter, and made available to the public. The preservation director shall also take appropriate steps to maintain and regularly update a list or compilation of resources within the city 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.

17.134.170 Criteria and requirements for listing on, and deletion from, the Sacramento Register.

The criteria and requirements for listing on, or deletion from, the Sacramento Register as a landmark, historic district or contributing resource are as follows:

A. Listing on the Sacramento Register—Landmarks.

A nominated resource shall be listed on the Sacramento Register as a landmark if the city council finds, after holding the hearing(s) required by this chapter, that all of the requirements set forth below are satisfied:

1. Requirements.

a. The nominated resource meets one or more of the following criteria:

- i. It is associated with events that have made a significant contribution to the broad patterns of the history of the city, the region, the state or the nation;
 - ii. It is associated with the lives of persons significant in the city's past;
 - iii. It embodies the distinctive characteristics of a type, period or method of construction;
 - iv. It represents the work of an important creative individual or master;
 - v. It possesses high artistic values; or
 - vi. It has yielded, or may be likely to yield, information important in the prehistory or history of the city, the region, the state or the nation.
- b. The nominated resource has integrity of location, design, setting, materials, workmanship and association. Integrity shall be judged with reference to the particular criterion or criteria specified in "a" above;
 - c. The nominated resource has significant historic or architectural worth, and its designation as a landmark is reasonable, appropriate and necessary to promote, protect and further the goals and purposes of this chapter.

2. Factors to be Considered.

In determining whether to list a nominated resource on the Sacramento Register as a landmark, the following factors shall be considered:

- a. A structure removed from its original location is eligible if it is significant primarily for its architectural value or it is the most important surviving structure associated with a historic person or event.
- b. A birthplace or grave is eligible if it is that of a historical figure of outstanding importance and there is no other appropriate site or structure directly associated with his or her productive life.
- c. A reconstructed building is eligible if the reconstruction is historically accurate, if the structure is presented in a dignified manner as part of a restoration master plan; and if no other, original structure survives that has the same association.
- d. Properties that are primarily commemorative in intent are eligible if design, age, tradition or symbolic value invest such properties with their own historical significance.

e. Properties achieving significance within the past fifty (50) years are eligible if such properties are of exceptional importance.

B. Listing on the Sacramento Register—Historic districts.

A geographic area nominated as a historic district shall be listed on the Sacramento Register as a historic district if the city council finds, after holding the hearing(s) required by this chapter, that all of the requirements set forth below are satisfied:

1. Requirements.

a. The area is a geographically definable area;

b. The area possesses either:

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

ii. The area is associated with an event, person, or period significant or important to city history; or

c. The designation of the geographic area as a historic 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 city.

2. Factors to be Considered.

In determining whether to list a geographic area on the Sacramento Register as a historic district, the following factors shall be considered:

a. A historic district should have integrity of design, setting, materials, workmanship and association,

b. The collective historic value of the buildings and structures in a historic district taken together may be greater than the historic value of each individual building or structure.

C. Listing on the Sacramento Register—Contributing Resources.

A nominated resource shall be listed on the Sacramento Register as a contributing resource if the council finds, after holding the hearing(s) required by this chapter, that all of the following requirements are satisfied:

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.

D. Deletions from the Sacramento Register.

An application to delete a listed historic resource from the Sacramento Register may be approved if the city council 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 or contributing resource 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.

17.134.180 Procedures for nomination of resources for listing on Sacramento Register.

A. Initiation of Nomination Proceedings.

1. Statement of Nomination.

The city council, preservation commission and the preservation director each shall have the authority to initiate proceedings to nominate resources for listing on the Sacramento Register as landmarks, historic districts, or contributing resources by filing a statement of nomination with the secretary to the preservation commission.

2. Hearing by Preservation Director.

The preservation director shall hold at least one public hearing on a statement of nomination filed under subsection (A)(1) of this section. The procedural requirements of the hearing and the content of the notice shall be governed by Chapter 17.200 of this title. Notice of the hearing shall be given by mail pursuant to subsection (C)(2)(c) of Section 17.200.010, except that notice shall be mailed only to the owner(s) of the resource(s) proposed for nomination or, in the case of a nomination of a historic district, to all property owners within the proposed district.

3. Decision and Notification—Concurring with Statement of Nomination.

At the conclusion of the hearing, the preservation director shall issue a written decision. The preservation director shall base his or her decision on the criteria, considerations, and assessment of integrity and significance outlined in this chapter.

a. If the preservation director concurs, in whole or in part, with the statement of nomination, the director shall issue a written statement of the reasons for the nomination based on the eligibility criteria for listing on the Sacramento Register and shall include a description of the resource's significant features and characteristics. Upon issuance of the preservation director's written statement, the resource shall be deemed nominated for listing on the Sacramento Register. The preservation director shall transmit or cause to be transmitted written notice of the decision to the preservation commission and to the owners of the nominated resources or, in the case of a nomination of a historic district, to all property owners within the proposed district. The notice shall include the following:

i. Notification that the resource has been nominated for listing on the Sacramento Register as a landmark or contributing resource, along with the statement of the reasons for the nomination issued by the preservation director. In the case of a nomination of a historic district, the notice shall include a description of the proposed boundaries of the district and whether the owner(s)' property is proposed to be added as a contributing or non-contributing resource;

ii. A general explanation of the nomination process, including the noticed hearings before the preservation commission and the council, and the provisions of Section 17.134.200 on the effects of nomination on development projects;

iii. A general explanation of the effects of placement on the Sacramento Register, including the restrictions on alteration and demolition, as well as the general benefits from placement on the register.

b. If the preservation director does not concur, in whole or in part, with the statement of nomination, the director shall issue a written statement of the reasons for not concurring in the nomination. The preservation director shall transmit written notice of the decision to the preservation commission and to the owners of the resources or, in the case of the nomination of a historic district, to all property owners within the proposed district. The notice shall include the date of the preservation commission meeting at which the preservation commission will review and consider the matter under subsection (B)(1)(b) of this section.

B. Nomination of Resource to Sacramento Register--Hearing by the Preservation Commission.

1. Notice and Hearing.

a. If the preservation director concurred with the statement of nomination, the preservation commission shall hold at least one public hearing on the nomination. The procedural requirements of the hearing and the content of the notice shall be governed by Chapter 17.200 of this title. The notice shall also include the statement of the reasons for the nomination issued under subsection (A)(3) of this section. The identification of significant features and characteristics in the notice shall not be considered binding on the preservation commission or council, and nothing shall prevent or preclude the preservation commission or council from identifying different, additional or fewer significant features and characteristics. Notice of the hearing shall be given by mail pursuant to subsection (C)(2)(c) of Section 17.200.010.

b. If the preservation director did not concur with the statement of nomination, the preservation director shall present the matter to the preservation commission for its review and consideration at its next available regular meeting or at a special meeting. The preservation commission may direct the preservation director set the nomination for hearing under subsection (B)(1)(a) of this section, in which case the resource shall be then deemed nominated for listing on the Sacramento Register. The preservation director shall transmit written notice of the commission's action to owners of the nominated resources or, in the case of a nomination of a historic district, to all property owners within the proposed district, in the manner provided in subsection (A)(3) of this section.

2. Recommendation.

At the conclusion of the hearing, the preservation commission shall make a recommendation to the city council on the nomination. The preservation commission shall base its recommendation on the criteria, considerations and assessment of integrity and significance outlined in this chapter. If it recommends for listing of the nominated resource on the Sacramento Register, the preservation commission shall specify the significant features or characteristics of the nominated resource. In the case of a recommendation for listing of a historic district on the Sacramento Register, the preservation commission shall identify as "contributing resource(s)" all properties, structures, features or other resources within the nominated historic district that it determines contribute to the district's designation as a historic district. Properties, structures, features or other resources that happen to be located within the nominated historic district boundaries, but that have no relevance to the area's identified significance, significant physical features or identifying characteristics, shall be deemed non-contributing resources.

3. Transmittal to City Council.

The preservation director shall transmit to the city clerk for review by the city council the preservation commission's recommendations on placement of nominated resources on the Sacramento Register.

C. Nomination of Resource to Sacramento Register—Hearing and Decision by City Council.

1. Notice and Hearing.

The city council shall hold at least one public hearing on the nomination as recommended by the preservation commission. The procedural requirements of the hearing and the content of the notice shall be governed by Chapter 17.200 of this title. Notice of the hearing shall be given by publication and mail pursuant to subsections (C)(2)(a) and (c) of Section 17.200.010.

2. Decision.

At the conclusion of the hearing, the city council may adopt, modify or reject the action(s) recommended by the preservation commission. In the alternative, the city council may refer the proposed action(s) to the preservation commission for further hearings, consideration or study. The significant features and characteristics of the nominated property identified by the preservation director and the preservation commission shall not be considered binding on the council, and nothing shall prevent or preclude the council from identifying different, additional or fewer significant features and characteristics. Adoption of any listing on or deletion from the Sacramento 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 Sacramento Register, and shall identify contributing resources and non-contributing resources in a historic district.

17.134.190 Procedures for deletion of listed resources from the Sacramento Register.

A. Request to Delete Historic Resource from the Sacramento Register.

1. Historic Districts.

The city council, preservation commission and the preservation director shall have the authority to initiate proceedings to request the deletion of a historic district from the Sacramento Register by filing a statement of deletion with the secretary to the preservation commission.

2. Landmarks and Contributing Resources.

The owner of a landmark or contributing resource may submit an application for deletion of the listed historic resource from the Sacramento Register by filing an application with the preservation director.

3. Historic Resources No Longer Eligible for the Sacramento Register.

The preservation director shall periodically propose and process for deletion from the Sacramento Register those listed historic resources that have been lawfully removed, demolished or disturbed to such an extent that, in the preservation director's opinion, they no longer qualify for listing on the register.

4. Early Notification.

The preservation director shall provide early notification of requests for the deletion of a listed historic resource from the Sacramento Register in accordance with the policies and procedures established under Section 17.134.320.

B. Request to Delete Landmarks and Contributing Resources--Preliminary Determination of Preservation Director.

1. Preliminary Determination.

Within such time that is reasonable and practicable after the preservation director has determined that an owner's application for deletion is complete, the preservation director shall make a preliminary determination on whether the listed historic resource is eligible for deletion from the Sacramento Register based on the criteria specified in Section 17.134.170. If the preservation director determines that the listed historic resource is eligible for deletion from the Sacramento Register, the application shall be set for hearing by the preservation commission pursuant to subsection (C) of this section. If the preservation director determines that the listed historic resource is not eligible for deletion from the Sacramento Register, the application shall be considered to be denied.

2. Notice of Preliminary Determination.

The preservation director shall give written notice of the preliminary determination to the applicant and to those who received early notice of the application for deletion under subsection (A)(4) of this section.

3. Appeal.

Any person dissatisfied with a preliminary determination by the preservation director that a listed historic resource is not eligible for deletion from the Sacramento Register may appeal the determination to the preservation commission. The appeal hearing by the preservation commission shall be noticed, heard, and otherwise governed by the provisions of subsection (C) of this section.

C. Request to Delete Historic Resource from Sacramento Register--Hearing by the Preservation Commission.

1. Notice and Hearing.

Upon receipt of a statement of deletion, an application by an owner to delete a historic resource from the Sacramento Register, or an appeal from the preservation director's preliminary determination that a historic resource is not eligible for deletion from the Sacramento Register, the preservation commission shall hold at least one public hearing on the nomination. The procedural requirements of the hearing and the content of the notice shall be governed by Chapter 17.200 of this title. Notice of the hearing shall be given by mail pursuant to subsection (C)(2)(c) of Section 17.200.010.

2. Recommendation.

a. Except as provided in subsection (C)(2)(b) of this section, the preservation commission shall make a recommendation to the city council on the proposed deletion. The preservation commission shall base its recommendation on the criteria, considerations and assessment of integrity and significance outlined in this chapter.

b. In the case of an appeal from the preservation director's preliminary determination that a historic resource is not eligible for deletion from the Sacramento Register, if the preservation commission determines that the historic resource is not eligible for deletion and denies the appeal, the decision of the preservation commission shall be final and shall not be subject to appeal, but shall be subject to call-up by the city council under section 17.200.040.

3. Transmittal to City Council.

The preservation director shall transmit to the city clerk for review by the city council the preservation commission's recommendations on the deletion of historic resources from the Sacramento Register.

D. Request to Delete Historic Resource from Sacramento Register—Hearing and Decision by City Council.

1. Notice and Hearing.

The city council shall hold at least one public hearing on the proposed deletion as recommended by the preservation commission. The procedural requirements of the hearing and the content of the notice shall be governed by Chapter 17.200 of this title. Notice of the hearing shall be given by publication and mail pursuant to subsections (C)(2)(a) and (c) of Section 17.200.010.

2. Decision.

At the conclusion of the hearing, the city council may adopt, modify or reject the action(s) recommended by the preservation commission. In the alternative, the city council may refer the proposed action(s) to the preservation commission for further hearings, consideration or study. Approval of the deletion of a historic resource

from the Sacramento Register shall be made by uncodified ordinance that shall contain findings of fact in support of each resource.

17.134.200 Nominated resources--Protections pending final decision.

A. Subject to the time limits set forth in subsection (B) of this section, any resource nominated as a landmark or contributing resource under subsections (A) or (B)(1)(b) of Section 17.134.180 shall be considered to be a landmark or contributing resource for purposes of Article VI Development Project Review of this chapter, and it shall be subject to the restrictions and protections of Article VI as further provided in Section 17.134.300. Any geographic area nominated as a historic district under subsections (A) or (B)(1)(b) of Section 17.134.180 shall be considered to be a historic district for purposes of Article VI of this chapter, and the properties located within the proposed historic district shall be subject to the restrictions and protections of Article VI as further provided in section 17.134.300.

B. Subsection (A) of this section shall apply for a period of one hundred eighty (180) days from the date the property becomes a nominated resource. After one hundred eighty (180) days have elapsed, if the city council has not adopted an ordinance designating the nominated resource as a landmark, contributing resource or historic district, subsection (A) of this section shall no longer apply; provided, that the council may adopt an ordinance to extend the time to consider the nomination one time up to an additional one hundred eighty (180) days.

C. Listed historic resources proposed for deletion from the Sacramento Register shall be subject to the restrictions and protections of Article VI unless and until a final decision is made by the city council to delete the listed historic resources from the Sacramento Register.

17.134.210 Frequency of nominations.

When a nomination for listing of a resource on the register has been denied, no new nomination for listing of the same or substantially the same resource may be filed or submitted for a period of one year from the effective date of the final denial of the nomination, except that an owner of a property 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.

Article V. Historic District Plans

17.134.220 Historic district plans.

A. The preservation commission shall promulgate and recommend to the council for adoption a historic district plan for each preservation area existing as of the date of enactment of this chapter, and for each historic district designated pursuant to this chapter. Each historic district plan shall include:

1. A statement of the goals for review of development projects within the historic district;
2. A representation of the historical development of land uses, existing land uses, and any adopted plans for future land uses;
3. A statement of findings, including the following:
 - a. The historical or pre-historical period to which the area is significant,
 - b. The predominant periods or styles of the structures or features therein, and
 - c. The significant features and characteristics of said periods or styles, as represented in the historic district, including, but not limited to, structure height, bulk, distinctive architectural details, materials, textures, archeological and landscape features and fixtures; and
 - d. A statement, consistent with Article IV, Sacramento Register of Historic and Cultural Resources, of this chapter, of the standards and criteria to be utilized in determining the appropriateness of any development project involving a landmark, contributing resource or non-contributing resource within the historic district.

B. The preservation commission shall conduct a public hearing or hearings on the proposed historic district plan. At the conclusion of the hearing or hearings, the preservation commission may affirm, modify or rescind any portions of the proposed historic district plan. A notice of decision and recommendations in support thereof shall be filed in the office of the preservation director.

C. The preservation director shall transmit the preservation commission's recommended historic district plan to the city clerk for the council's review. The procedures set forth in Article IV Sacramento Register of Historic and Cultural Resources of this chapter shall govern the city council's action on any proposed historic district plan. No historic district plan shall be considered adopted unless it had been approved by the council.

17.134.230-17.134.270 Reserved.

Article VI. Development Project Review

17.134.280 Review of development projects required.

No permit shall be issued for, and no person shall commence construction of or otherwise undertake, a development project as defined in this chapter unless and until an application for preservation review of the proposed project is reviewed and approved or conditionally approved as required by this chapter. For purposes of this chapter, a permit shall include without limitation a building permit, a demolition permit, a sewer or water connection or disconnection permit, a sign permit, a grading permit, an encroachment permit, and a certificate of occupancy.

17.134.285 Certificate of appropriateness.

A certificate of appropriateness issued by the preservation director under subsection (F) of Section 17.134.320 shall be required to undertake any of the work specified in Section 17.134.280. This requirement shall be in addition to any other permit or requirement required by this code.

17.134.290 Review of development projects—Authority to review.

A. Projects Subject to Preservation Commission Review and Hearing.

The following development projects subject to preservation review under this chapter or under any other provision of this code shall be subject to review by the preservation commission and shall require a public hearing:

1. Any development project involving a landmark, contributing resource, or noncontributing resource that, in the determination of the preservation director, involves one or more of the following:

a. Significant alteration to an existing landmark or contributing resource that would have a significant impact upon the character-defining features of the resource or upon original fabric, or would impact the resource's eligibility for listing in the Sacramento Register;

b. New construction of a building or structure on the site of an existing landmark, contributing resource, or non-contributing resource that would have a significant impact upon the character-defining features of the resource or upon original fabric, or would impact the resource's eligibility for listing in the Sacramento Register;

c. Relocation of a building or structure to the site of an existing landmark, contributing resource, or non-contributing resource that would have a significant impact upon the character-defining features of the resource or upon original fabric, or would impact the resource's eligibility for listing in the Sacramento Register;

2. Any development project that involves the demolition or relocation of a landmark or contributing resource, except the demolition or relocation of accessory

buildings and structures that are not identified as significant features or characteristics of the landmark or contributing resource.

3. Any development project that involves the relocation of a building or structure to a vacant lot in a historic district;

4. Any project subject to preservation director review under this chapter that the preservation director, in his or her sole discretion, elects to elevate to the preservation commission for hearing and decision.

B. Projects Subject to Preservation Director Review and Hearing.

The following development projects subject to preservation review under this chapter or under any other provision of this code shall be subject to review by the preservation director and shall require a public hearing:

1. Any development project involving a landmark, contributing resource, or noncontributing resource that is not subject to review by the preservation commission pursuant to subsection (A) of Section 17.134.290 and that involves one or more of the following:

a. New construction of a building or structure on the site of an existing landmark, contributing resource, or non-contributing resource or on a vacant site in a historic district;

b. Additions of new porches, dormers, or new conditioned space on primary facades or affecting significant features or characteristics;

c. Alterations such as new openings in primary facades, raising the structure, partial demolitions or other changes with the potential for having impacts on character-defining features of the property or district, or on existing original fabric;

d. Demolition or relocation of accessory buildings and structures which are not identified as significant features or characteristics of the landmark or contributing resource.

2. Any project subject to staff review under the general direction of the preservation director under this chapter that the preservation director, in his or her sole discretion, elects to elevate to the preservation director for hearing and decision.

C. Projects Subject to Staff Review Under the General Direction of the Preservation Director.

All development projects subject to preservation review under this chapter or under any other provision of this code that are not required to be reviewed by the preservation commission or the preservation director under subsections (A) or (B) of

this section shall be subject to staff review under the general direction of the preservation director and shall not require a public hearing.

D. Projects Exempt from Preservation Review.

Notwithstanding the provisions of subsections (A), (B), and (C) of this section to the contrary, preservation review shall not be required for the following projects:

1. Repainting of surfaces that were originally painted and the color scheme is not a significant character-defining feature of the historic resource;
2. Routine non-abrasive cleaning and maintenance;
3. Site plantings when plantings and landscape elements are not significant character-defining features of the historic resource.

E. Preservation Director Determination.

The preservation director shall review and determine whether a development project application is subject to staff review under the general direction of the preservation director, a preservation director hearing, or a preservation commission hearing under this chapter. The determination of the preservation director on this issue shall be final and shall not be subject to appeal.

F. Determination Regarding Applicability of Chapter 17.134 and Chapter 17.132.

An application for a development project that is subject to both preservation review under this Chapter 17.134 and design review under Chapter 17.132 shall be accepted, processed, and reviewed under Chapter 17.134 only, and not under Chapter 17.132; provided, that the review and decision shall be made in consultation with the design director or his or her designee and shall be based on the applicable standards and criteria of both Chapter 17.132 and Chapter 17.134.

G. Director Determination on Landmarks and Contributing Resources without Identified Significant Features and Characteristics.

For development project applications involving landmarks and contributing resources which are on the Sacramento Register because they were essential or priority structures on the official register created under the prior versions of this chapter and for which there are no identified significant features and characteristics, the preservation director shall identify the significant features and characteristics and determine whether the application is subject to staff review under the general direction of the preservation director, a preservation director hearing, or a preservation

commission hearing under this chapter. The determination of the preservation director on this issue shall be final and shall not be subject to appeal.

17.134.300 Review of development projects involving nominated resources.

A. Resources Nominated as Landmarks and Contributing Resources.

For purposes of this chapter, resources nominated as landmarks and contributing resources under Section 17.134.180 shall be treated as if they are landmarks and contributing resources on the Sacramento Register, and development projects involving these resources shall be subject to staff review under the general direction of the preservation director, a preservation director hearing, or a preservation commission hearing pursuant to Section 17.134.290.

B. Other resources within nominated historic districts.

Resources within geographic areas nominated for consideration as historic districts that are not nominated or identified as potential contributing resources shall be treated as non-contributing resources in a historic district. Development projects involving these resources shall be subject to staff review under the general direction of the preservation director, a preservation director hearing, or a preservation commission hearing pursuant to Section 17.134.290.

17.134.310 Standards and criteria for evaluation.

The staff under the general direction of the preservation director, the preservation director, and the preservation commission shall apply and consider the following when reviewing a development project or other matter pursuant to this chapter:

A. The Secretary of Interior standards;

B. When the project involves a resource located within a historic district, the applicable provisions of the historic district plan, if any;

C. The goals and policies of this chapter; and

D. The goals and policies of the general plan and any applicable specific or community plan.

17.134.320 Procedures for preservation review.

A. Preservation Review Applications.

Any person proposing a development project subject to preservation review under the provisions of this chapter or any other provision of this code, prior to filing for a building permit or entitlement of use, and prior to commencing the development project, whether or not a building permit or other entitlement of use is required, shall file an application for preservation review with the preservation director. Such application shall be in the form as required by the preservation director.

B. Early Notice.

The preservation director shall establish and implement policies and procedures to provide early notification and information to the public regarding the filing and acceptance of an application for preservation review as determined appropriate by the preservation director. In developing the policies and procedures for early notice under this section, the preservation director shall seek to accomplish the following objectives:

1. Encourage applicants to contact, obtain input from, and work out differences with affected neighbors and neighborhood associations early in the project design process;
2. Garner the support of affected neighbors and neighborhood associations for the project through the creation of a transparent process that encourages mutual trust and minimizes adversarial hearings and appeals;
3. Improve the quality of projects and the built environment.

C. Procedures for Staff Review under the General Direction of the Preservation Director.

1. Review and Decision.

Except as provided in subsections (C)(2), (3), and (4) of this section, an application for preservation review that requires staff review under the general direction of the preservation director under subsection (C) of Section 17.134.290 shall not require notice and hearing. In considering approval of an application, the standards set forth in Section 17.134.310 shall be applied. Such conditions as may be required to ensure conformance with the applicable guidelines, standards, and policies may be imposed. The decision made under this subsection (C)(1) shall be final and shall not be subject to appeal.

2. Special Notice and Reconsideration Procedures.

a. The following development projects subject to staff review under the general direction of the preservation director shall be subject to the notice and reconsideration procedures established pursuant to this subsection (C)(2). The preservation director shall determine whether a development project application is

subject to the special notice and reconsideration procedures under this subsection, and the determination of the preservation director on this issue shall be final and shall not be subject to appeal.

i. Major changes or additions involving conditioned space affecting non-character defining features of the property's secondary facades;

ii. Removal of non-significant original features on the property's primary facades.

b. In addition to the early notice provided pursuant to subsection (B) of this section, the preservation director shall establish policies and procedures to provide notice and reconsideration of the preservation review decision made under this subsection (C)(2), including at a minimum:

i. notification of staff action on the application, including all conditions and findings; and

ii. an opportunity for any person dissatisfied with the decision to request review and reconsideration of the decision by the preservation director before the decision is final.

c. The decision of the preservation director after reconsideration under this subsection (C)(2) shall be final and shall not be subject to appeal.

3. Review by Zoning Administrator.

If a project subject to staff review under the general direction of the preservation director also requires approval of one or more zoning administrator entitlements, the zoning administrator shall act on the preservation review in conjunction with the other entitlements, in consultation with the preservation director or his or her designee.

4. Elevation to Preservation Director Hearing.

At the discretion of the preservation director, the application for staff review under the general direction of the preservation director may be elevated to the preservation director for hearing and decision, and the application shall be heard and decided by the preservation director in the same manner as preservation director review under subsection (D) of this section. No hearing shall be required on the decision by the preservation director to elevate the application to the preservation director hearing level, and this decision of the preservation director shall be final and shall not be subject to appeal.

D. Procedure for Review by the Preservation Director.

1. Notice and Hearing.

At least one public hearing shall be held on an application for preservation review that requires action by the preservation director under subsection (B) of Section 17.134.290. The procedural requirements for the hearing and the contents of the notice shall be governed by the provisions of Chapter 17.200 of this code. Notice of the hearing shall be given by posting the property and by mail pursuant to subsections (C)(2)(b) and (c) of Section 17.200.010.

2. Decision and Notification.

At the conclusion of the hearing, the preservation director shall issue a written decision setting forth approval, conditional approval, or disapproval of the application, and the findings supporting the decision, and shall transmit or cause to be transmitted to the applicant written notice of the decision pursuant to section 17.200.020(C).

3. Elevation to Preservation Commission.

At the discretion of the preservation director, the application for preservation review by the preservation director may be elevated to the preservation commission for hearing and decision, and the application shall be heard and decided by the preservation commission in the same manner as preservation commission review under subsection (E) of this section. No hearing shall be required on the decision by the preservation director to elevate a preservation review application to the preservation commission, and this decision of the preservation director shall be final and shall not be subject to appeal.

4. Appeal.

Except as provided in subsection (D)(3) of this section, any person dissatisfied with the decision of the preservation director made under this subsection (D) may appeal the decision to the preservation commission. The appeal shall be noticed, heard, and otherwise governed by section 17.200.030.

E. Procedures for Review by the Preservation Commission.

1. Notice—Hearings.

At least one public hearing shall be held on an application for preservation review that requires action by the preservation commission under subsection (A) of Section 17.134.290. The procedural requirements for the hearing and the contents of the notice shall be governed by the provisions of Chapter 17.200 of this code. Notice of the hearing shall be given by posting the property and by mail pursuant to subsections (C)(2)(b) and (c) of Section 17.200.010.

2. Decision and Notification.

At the conclusion of the hearing, the preservation commission shall issue its written decision setting forth its approval, conditional approval, or disapproval of the application, and the findings supporting the decision, and shall transmit or cause to be transmitted to the applicant written notice of its decision pursuant to section 17.200.020(C).

3. Appeal.

a. Any person dissatisfied with the decision by the preservation commission on an application described in subsection (A) of Section 17.134.290 may appeal the decision to the city council. The appeal shall be noticed, heard, and otherwise governed by Section 17.200.030.

b. A decision by the preservation commission on an appeal of a decision of the preservation director under subsection (D)(4) of this section shall be final and shall not be subject to appeal, but shall be subject to call-up for consideration by the city council under Section 17.200.040.

F. Final plan certification—Issuance of Certificate of Appropriateness.

Upon final approval of a preservation review application and acceptance of the conditions of approval by the applicant, the applicant shall file final working drawings and a landscaping plan. The preservation director, upon receipt of said drawings and plans, shall certify that the final plans submitted under this paragraph are in accord with the decision and issue a certificate of appropriateness. After such certification any permits or entitlements may be issued in accordance with the provisions of this code.

17.134.330 Decision and findings after hearing by preservation director and preservation commission.

A. Projects Not Involving the Demolition or Relocation of a Landmark or Contributing Resource.

For projects not involving the demolition or relocation of a landmark or contributing resource, the preservation director or preservation commission shall not approve the application unless the preservation director or preservation commission makes one or more of the following findings concerning the project, as it may have been conditioned or modified:

1. The project is consistent with the Secretary of Interior standards and the goals and policies of this chapter;

2. The project is not fully consistent with the Secretary of Interior standards, due to economic hardship or economic infeasibility, but the project is generally

consistent with, and supportive of, the goals and policies of this chapter. The applicant shall have the burden of proving economic hardship or economic infeasibility;

3. The project is not fully consistent with the Secretary of Interior standards, but is consistent with and supportive of identified goals and policies of the general plan or applicable community or specific plan(s); and the project is either generally consistent with, and supportive of, the goals and policies of this chapter, or if not, the benefits of the project and furthering the identified goals and policies of the general plan or applicable community plan outweigh any impacts on achieving the goals and policies of this chapter.

B. Projects Involving Demolition or Relocation of a Landmark or Contributing Resource.

For projects involving the demolition or relocation of a landmark or contributing resource, the preservation director or preservation commission shall not approve the application unless the preservation director or preservation commission makes one or more of the following findings concerning the project, as it may have been conditioned or modified:

1. Based upon sufficient evidence, including evidence provided by the applicant, the property retains no reasonable economic use, taking into account the condition of the structure, its location, the current market value, the costs of rehabilitation to meet the requirements of the building code or other city, state or federal law;

2. That the demolition or relocation of the landmark or contributing resource is necessary to proceed with a project consistent with and supportive of identified goals and policies of the general plan or applicable community or specific plan(s), and the demolition of the building or structure will not have a significant effect on the achievement of the purposes of this chapter or the potential effect is outweighed by the benefits of the new project; or

3. In the case of an application for a permit to relocate, that the building may be moved without destroying its historic or architectural integrity and importance; or

4. That the demolition or relocation of the landmark or contributing resource is necessary to protect or to promote the health, safety or welfare of the citizens of the city, including the need to eliminate or avoid blight or nuisance, and the benefits of demolition or relocation outweigh the potential effect on the achievement of the goals and policies of this chapter.

17.134.340 Term-Extension-Modification.

A. Certificate of Appropriateness.

1. General.

Except as provided in subsection (A)(2) of this section, a certificate of appropriateness shall expire at the end of three years from the date of issuance by the preservation director 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" shall mean 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.

2. Certificate of Appropriateness--Demolition.

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" shall mean 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. Extensions.

1. General.

Except as provided in subsection (B)(2) of this section, a certificate of appropriateness may be extended for a period of up to an additional two years upon application to the preservation director filed no later than thirty 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 preservation director pursuant to subsection (C) of Section 17.134.320.

2. Demolitions.

A certificate of appropriateness for the demolition of a building or structure may be extended for a period of up to an additional 45 days upon application to the preservation director filed no later than thirty 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 preservation director pursuant to subsection (C) of Section 17.134.320.

C. Modifications.

An application for a modification to a final approval of a preservation review application or a condition of approval of a preservation review application shall be heard

and/or considered in the same manner and by the same body as the original preservation review application.

17.134.350 City projects.

A. General.

Except as provided below, the provisions of this chapter requiring review and approval by the preservation commission or the preservation director shall apply to development projects involving landmarks, contributing resources or non-contributing resources that are owned by the city, including public projects within the Old Sacramento National Historic Landmark Historic District; provided that the preservation commission or preservation director shall make a recommendation to the city council or other city decision-making body, entity or person, rather than issuing a decision. When acting on city projects, the city council or other city decision-making body, entity or person shall apply the same standards, and make the same findings, required by this chapter for private projects.

B. Exception.

The council may, by resolution or ordinance, exempt from review by the preservation director or preservation commission individual city projects or categories of city projects.

17.134.360-17.134.380 Reserved.

Article VII. Dangerous and Immediately Dangerous Buildings, Structures or Resources

17.134.390 Notice by building official to preservation director.

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

17.134.400 Reports of notices and orders to preservation director.

The secretary of the housing code advisory and appeals board, the code enforcement manager, and the building official shall forward to the preservation director all notices and orders involving any nominated resource and any listed historic resource within ten (10) days of any such notices or orders.

17.134.410 Demolition of immediately dangerous structures—Listed historic resources.

A. The provisions of this chapter shall not be construed to regulate, restrict, limit or modify the authority of the city 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, pursuant to the summary procedures set forth in Chapter 8.96 of Title 8 of the this code; provided that the procedures set forth in this section are followed. Whenever a provision of this section requires that an action be taken by the building official and the building official is absent or otherwise unavailable, then the building official's designee shall be authorized to take the action.

B. Any permits authorizing the demolition of a nominated resource or a listed historic resource determined to be immediately dangerous pursuant to the summary procedures set forth in Chapter 8.96 of Title 8 of the this code shall be issued personally by the building official after complying with the review and consultation process set forth in this section.

C. The building official may issue a permit authorizing the demolition of a nominated resource or a listed historic resource determined to be immediately dangerous pursuant to the summary procedures set forth in Chapter 8.96 of Title 8 of the this code; provided that prior to issuing the demolition permit, the building official shall first consult with the preservation director and the chairperson of the preservation commission for the purpose of discussing (i) whether the condition of the building, structure or other resource is immediately dangerous within the meaning of this code; and (ii) whether there are any feasible alternatives to demolition that will protect adequately the health and safety of the public, including but not limited to abatement of the immediate threat through repair as specified in Chapters 8.96 and 8.100 of Title 8 of this code, securing the premises through security fencing or other measures, stabilization, and limited demolition; and provided further that if the building official determines that the building, structure, or resource is immediately dangerous and that there is no feasible alternative to demolition to abate the immediate and present threat to life, health or safety of the public, the building official may issue a permit authorizing the demolition of the structure without complying with the consultation process, although the building official shall make all reasonable efforts to comply with the consultation process before issuing such permit.

17.134.420 Lawful demolition, removal, or disturbing of listed historic resource—
Deletion—Restrictions.

A. When an individually listed landmark on the Sacramento Register, or portion thereof, has been lawfully demolished, removed, or disturbed pursuant to any provisions of this chapter, the city clerk upon notice from the preservation director, shall cause such landmark, or portion thereof, to be deleted from the Sacramento Register. Upon deletion, the provisions of this chapter shall not be considered to encumber any remaining property on which the landmark 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 city clerk upon notice from the preservation director, shall cause such listed historic resource, or portion thereof, to be downgraded to a non-contributing 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

Article VIII. Proposed Demolition or Relocation of Building or Structure Fifty Years Old or Older.

17.134.430 Proposed demolition or relocation of buildings or structures that are fifty years old or older--Review for nomination for listing on Sacramento Register.

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 official register, is not the subject of a pending nomination, has not been nominated for listing on the official register or reviewed pursuant to this section within the past three years, the permit application shall be referred to the preservation director to allow the director to make a preliminary determination whether the structure should be nominated for listing on the official register. For purposes of this section, a building or structure for which a building permit 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.

1. Exceptions:

a. Buildings and Structures within the Richards Boulevard Special Planning District.

In the Richards Boulevard special planning district, the requirements of this section shall apply only to applications to demolish or relocate buildings or structures that are identified in the "Richards Boulevard Area Architectural and Historical Property Survey" (hereinafter "survey"), as either potential essential structures, priority

structures, or contributing structures within the potential North 16th Street preservation area. Applications to demolish or relocate buildings or structures within Richards Boulevard special planning district that are not so identified in the survey shall not be subject to the requirements of this section.

b. Buildings and Structures within other Surveyed Areas.

To the extent that surveys have been prepared for other areas, and the council has approved and adopted these surveys, the council may provide, by resolution or ordinance, that this section shall apply only to those buildings or structures that the survey has identified as potential landmarks or contributing resources.

B. Preliminary Determination by Preservation Director.

1. Preliminary Determination—Time Limit--Criteria.

Within forty-five (45) days of receipt of an application to demolish or relocate a building or structure under subsection (A) of this section, the preservation director shall make a preliminary determination of whether the building or structure is eligible for listing on the Sacramento Register. In making this preliminary determination, the preservation director shall apply the eligibility criteria and factors specified in Section 17.134.170. The preservation director shall find that the building or structure is eligible for consideration for listing on the Sacramento Register if the director finds that there is a reasonable likelihood that the building or structure will be placed on the Sacramento Register following completion of the notice and hearing requirements of this chapter.

2. Preliminary Determination--Notice.

The preservation director shall notify the property owner of the preliminary determination by first-class, prepaid mail. Failure of the preservation 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. Preliminary Determination—Effect

a. If the preservation director determines that the building or structure is eligible for listing on the Sacramento Register, the building or structure shall be deemed nominated for listing on the Sacramento Register under subsection (A) of Section 17.134.180 and shall be subject to Section 17.134.200, except that the restrictions of subsection (B) of Section 17.134.200 shall apply for a period of forty-five (45) days from the date of the preservation director's preliminary determination under this subsection (B) and the time by which the council may extend the time period shall be limited to an additional forty-five (45) days.

b. If the preservation director determines that the building or structure is not eligible for listing on the Sacramento Register, the permit to demolish or relocate the building or structure shall be issued without further restrictions under this chapter. The decision of the preservation directors that the building or structure is not eligible for listing on the Sacramento Register shall be final and shall not be subject to appeal.

17.134.440-17.143.450 Reserved.

Article IX. Preservation Incentives

17.134.460 Incentive programs.

The preservation commission is authorized to develop and implement preservation incentive programs that are consistent with this chapter.

17.134.470 California 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 preservation commission and the preservation director are authorized to and shall utilize the California Historical Building Code for preservation projects.

17.134.480 Mills Act contracts.

A. Mills Act contracts granting property tax relief shall be made available by the city only to owners of properties listed in the Sacramento Register (either as landmarks or as contributing resources within historic districts), as well as properties located within the city that are listed in: the National Register of Historic Places (either as individual listings or as contributing properties within National Register historic districts); or the California Register of Historical Places. 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 city.

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

C. Mills Act contract applications shall be made to the preservation director, 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 city council. A fee for the application, to cover all or portions of the costs of the preparation of the contract in the amounts set by city council resolution may be charged.

D. The city council shall, in public hearing, resolve to approve, approve with conditions, or deny the proposed contract. Should the city council 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 city council cannot be resubmitted for one year from the date of city council action, or where the council fails to take action, within one year from the date that the application is deemed denied pursuant to subsection D of this section.

Article X. Minimum Maintenance Requirements

17.134.490 Minimum maintenance requirements.

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. Additionally, 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:

- A. Facades which may fall and injure members of the public or property;
- B. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
- C. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
- D. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors;
- E. Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering;
- F. Any fault or defect in the building which renders it not properly watertight or structurally unsafe.

Article XI. Enforcement and Penalties

17.134.500 Application of chapter and enforcement powers.

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, are specifically authorized to utilize the provisions of Chapter 1.28 of Title 1 of this code in the enforcement of this chapter. The city attorney is authorized to

take such legal actions as are lawfully available, including but not limited to the remedies set forth in Chapter 1.28 of Title I of this code.

17.134.510 Prohibitions.

A. It shall be unlawful and a violation of this chapter for any person to commence or continue work on a development project involving a landmark or contributing resource, or a non-contributing resource in a historic district unless review and approval pursuant to this chapter has occurred; provided that development projects lawfully commenced prior to July 26, 2001, either with or without review under the previous version of this chapter, shall not be subject to any further review under this chapter or title.

B. It shall be unlawful and a violation of this chapter for any person to cause, willfully or otherwise, by action or inaction, the 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 district, or other listed historic resource, or National Register resource or California Register resource, without first having obtained a proper city authorization for same.

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

D. Willful violation of this chapter shall constitute a misdemeanor.

17.134.520 Additional penalties.

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

Article XII. General Provisions

17.134.530 Judicial review.

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.

17.134.540 Fees.

The city council 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 city council resolution, the preservation director may establish the fee and charge schedule.

17.134.550 City 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.

17.134.560 Severability.

Should any section or other portion of this chapter be determined 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.

SECTION 2. Chapter 15.124 of Title 15 of the Sacramento City Code is repealed.

SECTION 3. Adoption of this ordinance repealing Sacramento City Code Chapter 15.124 and enacting Sacramento City Code Chapter 17.134 is not intended to and does not affect any approvals made, and entitlements issued, with attendant conditions, by the Design Review and Preservation Board prior to the effective date of this ordinance and prior to dissolution of the Design Review and Preservation Board under the terms of this ordinance and Ordinance No. 2006-XXX. All such approvals and entitlements shall continue in effect subject to the terms and conditions established by the Design Review and Preservation Board and the provisions of Chapter 15.124 as they existed prior to the effective date of this ordinance.

SECTION 4. Adoption of this ordinance repealing Sacramento City Code Chapter 15.124 and enacting Sacramento City Code Chapter 17.134 is not intended to and does not affect any administrative, civil, or criminal prosecutions or proceedings brought or to be brought pursuant to Chapter 15.124 or other provisions of the Sacramento City Code, or pursuant to applicable federal, state, or local laws, to enforce the provisions of Chapter 15.124 as they existed prior to the effective date of this ordinance. The provisions of Chapter 15.124, as they exist on the effective date of this ordinance, shall continue to be operative and effective with regard to any acts occurring prior to the effective date of this ordinance.

SECTION 5. This ordinance shall take effect on January 1, 2007, the same date that Ordinance No. ____ enacted on the same date as this ordinance takes effect. Upon the effective date of this ordinance and Ordinance No. ____, the Design Review and Preservation Board, created and existing pursuant to Sacramento City Code Chapter 15.124 as formerly written, shall dissolve and no longer exist or exercise authority. All matters then pending under the jurisdiction of the Design Review and Preservation Board pursuant to Chapter 15.124 shall be transferred to the Preservation Commission, and all matters then pending under the jurisdiction of the Design Review and Preservation Board pursuant to Chapter 17.132 shall be transferred to the Design Commission, as determined by the city manager's designee.

Adopted by the City of Sacramento City Council on October 24, 2006 by the following vote:

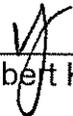
Ayes: Councilmembers, Cohn, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters and Vice Mayor Fong.

Noes: None.

Abstain: None.

Absent: Mayor Fargo.

Attest: 
Shirley Concolino, City Clerk


Robert King Fong, Vice Mayor

Passed for Publication October 17, 2006
Published October 20, 2006
Effective October 24, 2006