

Draft  
**Historic Preservation  
Ordinance**



*The historic McManus House - 1901*

**CHC Draft – June 28, 2010**





## **San Luis Obispo City Council**

Dave Romero - Mayor  
Allen Settle – Vice Mayor  
John Ashbaugh – Council Member  
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## **San Luis Municipal Code Ch. 2.68 - Cultural Heritage Committee**

### Sections:

- 2.68.005 Established.
- 2.68.010 Findings and purpose.
- 2.68.020 Cultural Heritage Committee.
- 2.68.030 Duties.
- 2.68.040 Actions subject to Cultural Heritage Committee review.
- 2.68.045 Community Director role.
- 2.68.050 Cultural heritage review procedures.
- 2.68.060 Post-disaster historic preservation.
- 2.68.070 Non-compliance with provisions.
- 2.68.080 Appeals.
- 2.68.090 Definitions.

### **2.68.005 Established.**

**A) Cultural Heritage Committee established.** There is hereby established the San Luis Obispo Cultural Heritage Committee (CHC), consisting of seven members appointed by the Council.

**B) Committee membership.** The Committee shall include, whenever possible, a person knowledgeable in local history, a person with training or experience in architectural rehabilitation or restoration, a person with knowledge of architecture or architectural history, and a person knowledgeable in archaeology.

### **2.68.010 Findings and Purpose.**

#### **2.68.011 Findings.**

The Council hereby finds that:

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

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

- A. Identify, protect, preserve, and promote the continuing use and upkeep of San Luis Obispo's historic structures, sites and districts.
- B. Foster the retention and restoration of historic buildings and other cultural resources that promote tourism, economic vitality, sense of place, and diversity.
- C. Encourage private stewardship of historic buildings and other cultural resources through incentives where possible.
- D. Implement the goals and policies of the General Plan.
- E. Promote the conservation of valuable material and embodied energy in historic structures through their continued use, restoration and repair, and on-going maintenance of historic resources.
- F. Promote the knowledge, understanding and appreciation of the City's distinctive character, cultural resources and history.
- G. Establish the procedures and significance criteria to be applied when evaluating development project effects on historic resources.
- H. Fulfill the City's responsibilities as a Certified Local Government under State and Federal regulations and for Federal Section 106 reviews.

### **2.68.020 Cultural Heritage Committee (CHC).**

#### **2.68.021 Committee membership and terms.**

The Cultural Heritage Committee (the "CHC" or "Committee") shall be appointed by the City Council ("Council") and consist of seven members who are appointed for terms of up to four years which shall commence immediately upon appointment by the Council.

#### **2.68.022 Removal and reappointment.**

Committee members shall serve at the pleasure of the Council and may be reappointed, provided that no appointee shall serve more than two consecutive full terms (eight years). Appointment to a partial term of office following an unscheduled vacancy shall not preclude the appointee from serving two consecutive full terms following completion of the partial term; provided that the partial term is less than two years.

#### **2.68.030 Duties.**

The CHC shall:

- A. Establish and maintain historic and cultural resource preservation standards and guidelines for the use by persons planning development projects subject to Cultural Heritage Committee

review, and for guiding City and property owner decisions regarding cultural resources in San Luis Obispo.

B. Identify and recommend to the Council those properties, areas, sites, buildings, structures or other features having significant historical, cultural, architectural, community, scientific or aesthetic value to the citizens of San Luis Obispo.

C. Maintain and update the Master and Contributing Properties Lists of Historic Resources, and Historic Property and Archaeological Site Inventories.

D. Review and make recommendations to decision makers on actions that may affect significant archaeological, cultural or historic resources.

E. Advise and assist property owners, developers and staff in the application of architectural, historic and cultural preservation standards and guidelines to projects and approvals involving historic sites, districts and structures.

F. Collect and consolidate information about cultural resources and promote, participate in, or sponsor educational and interpretive programs which foster public awareness and appreciation of cultural resources.

G. Provide advice and guidance on the restoration, alteration, decoration, landscaping and maintenance of listed resources, and properties within historic preservation districts.

H. Administer incentive programs approved by the Council that are directed at preserving and maintaining cultural resources.

I. Assist property owners with the preparation of local, state and federal historic nominations to enable property owners to utilize preservation incentives, including the Mills Act and federal tax incentives such as rehabilitation tax credits.

J. Function within the guidelines and policies of the *Advisory Body Handbook* and perform other duties as assigned by Council.

#### **2.68.040 Actions Subject to Cultural Heritage Committee Review.**

The Committee shall review and make recommendations on the following actions:

A. Changes to the Inventory of Historic Resources.

B. Changes to historic districts and applications to establish new historic districts.

C. Statements of historic significance and historic inventories for existing and proposed historic districts.

D. New construction, additions or alterations located in or adjacent to historic districts, or at historically listed properties, or sensitive archaeological sites.

E. Applications to demolish or relocate listed resources or structures.

F. Projects and actions referred to the Committee by the Community Development Director (“Director”), Architectural Review Commission, Planning Commission, or Council.

G. Actions of public agencies that may affect historic or cultural resources within the City.

### **2.68.045 Community Development Director Role**

The CHC is assisted by staff of the Community Development Department. The Community Development Director (“Director”) is responsible for interpreting and implementing this ordinance and helping the CHC carry out its duties. Notwithstanding Section 2.68.040 of this ordinance, the Director may determine that CHC review is not required for actions or projects that: 1) do not adversely affect historic resources, or 2) are consistent with this ordinance and the Historic Preservation Program Guidelines and no public purpose would be served by requiring CHC review.

### **2.68.050 Cultural Heritage Review Procedures.**

The Committee shall prepare and maintain Historic and Archaeological Resource Preservation Program Guidelines that implement this ordinance and set forth the guidelines for cultural heritage review. These documents shall require Council approval. A record copy of the guidelines shall be maintained in the office of the City Clerk and in the Community Development Department. Copies shall be available on the City’s website and printed versions will be available at cost.

### **2.68.051 Resource Designation**

The following classifications are used to designate historic resources and properties. The primary categories of historic significance are “Master List” and “Contributing” properties. The Master List includes the City’s most important historic resources in terms of age, architectural or historical significance, rarity, or association with important persons or events in the City’s past. Contributing properties include those properties that by virtue of their age, design and appearance, contribute to and embody the historic character of the historic district or neighborhood in which they are located.

**A. Master List Resources.** The most unique and important resources and properties meeting one or more of the criteria outlined in Section 2.68.053.

**B. Contributing Resources.** Buildings or other resources at least 50 years old that maintain their original or attained historic and architectural character, and contribute either by themselves or in

conjunction with other structures to the unique or historic character of a neighborhood, district, or to the City as a whole. They need not be located in a historic district, but should be visible to the public. In some cases, buildings or other resources that are less than 50 years old, but are nonetheless significant based on architecture, craftsmanship or other criteria as described in Section 2.68.053 may be designated as a Contributing Resource.

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

**D. Threatened Structures.** Structures or features at imminent risk of alteration, removal or relocation, or loss of historic significance through neglect. The Director or CHC may designate Threatened Structures, based on the criteria in Section 2.68.053, for a period not to exceed six months to allow sufficient time to evaluate the significance of the structure. During this period, demolition will not be allowed.

## **2.68.052 Listing Procedures for Historic Resources**

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

**B. Review process.** The CHC shall review applications for historic listing. If the CHC determines an application may meet eligibility criteria for historic listing, a public hearing will be scheduled by the Department and the Director shall provide notification as required by City standards. At the public hearing, or in no case more than 60 days from the hearing date, the CHC shall forward a recommendation on the application to the City Council. The City Council will take an action on the application to add or not add the resource to the Master or Contributing List of Historic Resources. The decision of the City Council is final.

**C. Removal from historic listing.** It is the general intention of the City to not remove a property from historic listing. Council may, however, rezone a property to remove Historic Overlay Zoning, or remove the property from historic listing if the structure on the property no longer meets eligibility criteria for listing, following the process for listing set forth herein.

## **2.68.053. Evaluation Criteria for Historic Resource Listing**

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

following criteria:

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

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

- (i) The relative purity of a traditional style ~~(as compared to vernacular building styles in San Luis Obispo)~~;
- (ii) Rarity of existence at any time in the locale; and/or current rarity although the structure reflects a once popular style;
- (iii) Traditional, vernacular and/or eclectic influences that represent a particular social milieu and period of the community; and/or the uniqueness of hybrid styles and how these styles are put together.

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

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

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

- (i) A notable architect (e.g., Wright, Morgan), including architects who made significant contributions to the state or region, or an architect whose work influenced development of the city, state or nation.
- (ii) An architect who, in terms of craftsmanship, made significant contributions to San Luis Obispo (e.g., Abrahams who, according to local sources, designed the house at 810 Osos - Frank Avila's father's home - built between 1927 – 30).

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

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

## **B. Historic Criteria**

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

- (i) Significant to the community as a public leader (e.g., mayor, congress member, etc.) or for his or her fame and outstanding recognition - locally, regionally, or nationally.
- (ii) Significant to the community as a public servant or person who made early, unique, or outstanding contributions to the community, important local affairs or institutions (e.g., council members, educators, medical professionals, clergymen, railroad officials).

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

- (i) A landmark, famous, or first-of-its-kind event for the city - regardless of whether the impact of the event spread beyond the city.
- (ii) A relatively unique, important or interesting contribution to the city (e.g., the Ah Louis Store as the center for Chinese-American cultural activities in early San Luis Obispo history).

(c) **History-Context:** Associated with and also a prime illustration of predominant patterns of political, social, economic, cultural, medical, educational, governmental,

military, industrial, or religious history. Historic context will be evaluated as a measure of the degree to which it reflects:

- (i) Early, first, or major patterns of local history, regardless of whether the historic effects go beyond the city level, that are intimately connected with the building (e.g., County Museum).
- (ii) Secondary patterns of local history but closely associated with the building (e.g., Park Hotel).

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

- (a) Whether or not a structure occupies its original site and/or whether or not the original foundation has been changed, if known.
- (b) The degree to which the structure has maintained enough of its historic character or appearance to be recognizable as an historic resource and to convey the reason(s) for its significance.
- (c) The degree to which the resource has retained its design, setting, materials, workmanship, feeling and association.

## **2.68.054 Historic Gardens, Site Features, and Other Cultural Resources**

**A. Historic Site and landscape features.** Historic gardens, site features and improvements, accessory structures, signs, Native American Sacred Places, cultural landscapes and areas or objects of archaeological, architectural, cultural or historic significance not part of a designated property may be added to the Inventory of Historic Resources through CHC review as specified herein.

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

## **2.68.055 Historic District Designation, Purpose and Application**

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

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

- (a) Implement cultural resource preservation policies of the General Plan, the preservation provisions of adopted area plans, the Historic Preservation and Archaeological Resource Preservation Program Guidelines, and
- (b) Identify and preserve definable, unified geographical entities that possess a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development;
- (c) Implement historic preservation provisions of adopted area and neighborhood improvement plans;
- (d) Enhance and preserve the setting of historic resources so that surrounding land uses and structures do not detract from the historic or architectural integrity of designated historic resources and districts; and
- (e) Promote the public understanding and appreciation of historic resources.

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

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

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

**F. Statement of historic significance.** A Historic (H) designation shall include a statement of historic significance as described herein, and be prepared by a qualified professional, as listed in the City's List of Qualified Historians.

### **2.68.056 Process for Establishing or Amending Historic Districts:**

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

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

- (a) A map (8-1/2" x 11") from the official zoning map, with the area to be changed shaded or outlined in a heavy, black line, with the proposed area to be changed clearly labeled, and
- (b) Information showing how the application meets the criteria to establish or alter a historic district designation.

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

**D. Review criteria.** When considering a Historic Preservation District application, the reviewing body shall consider the following criteria:

- (a) Environmental Design Continuity: Describes the inter-relationship of structures and their relationship to a common environment; Refers to the continuity, spatial relationship, and visual character of a street, neighborhood, or area. Environmental design continuity is comprised of:
  - (i) Symbolic importance to the community of a key structure in the area and the degree to which it serves as a conspicuous and pivotal landmark (e.g., easily accessible to the public, helps to establish a sense of time and place); or
  - (ii) Compatibility of ~~a~~ structures with neighboring structures in their setting on the basis of period, style (form, height, roof lines), design elements, landscapes, and natural features; and how these combine together to create an integral cultural, historic, or stylistic setting; or
  - (iii) Similarity to and/or compatibility of structures over 50 years of age which, collectively, combine to form a geographically definable area with its own distinctive character; and
- (b) Whether the proposed district contains structures which meet criteria for inclusion on the City's Lists of Historic Resources-

### **2.68.057 Historic District Documentation:**

**A. Documentation required.** Statements of Historic Significance, as described herein, shall be adopted by the CHC at an advertised public hearing prior to recommending designation of a historic district. Designation of a historic district shall require rezoning with an “H” overlay zone, as described in Zoning Regulations (Ch. 17, SLOMC). Statements of historic significance shall be reviewed by the CHC at an advertised public hearing. Statements associated with an application to modify an existing district shall be adopted following the same public hearing and notification requirements.

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

- (a) A visual and written description of the district’s boundaries.
- (b) A description of the district’s architectural and historic character.
- (c) A description of the district’s architectural, historic, and cultural resources and significance, including a historic survey documenting the period of significance and how historic properties meet adopted local, state and where applicable, federal criteria for historic listing.
- (d) Preservation goals and concerns for the district including but not limited to;
  - i) Identification of preservation priorities, important features, goals and objectives, and
  - ii) Identification of prominent or unique obstacles to preservation, and
  - iii) Identification of historic land use policies and goals for future land use, and
  - iv) Special considerations for development review of projects both involving and not involving historic resources.
- (e) Graphic and written design guidelines applicable to the district’s preservation goals, historic character and features which shall include, but not be limited to:
  - (i) Guidelines for projects involving historic resources, focused on preserving the district’s character and significant archeological, architectural, and historic features; and
  - (ii) Guidelines for projects within the district but not involving historically designated properties, focused on maintaining street character and compatibility with the district’s historic character while not mimicking historic styles.

### **2.68.060 Post-Disaster Historic Preservation.**

Contents:

2.68.061 Purpose and goals.

- 2.68.062 Emergency Response Committee (ERC) established.
- 2.68.063 Provisions and fee waiver.
- 2.68.064 Stabilization of historic buildings.
- 2.68.065 Demolition of historic buildings.
- 2.68.066 City assistance.

**2.68.061 Purpose and goals.**

**Purpose:** California is a seismically active area. State-wide experience shows that earthquakes can seriously damage or destroy important historic buildings. The 2003 San Simeon Earthquake and 1989 Loma Prieta earthquake demonstrated that historic buildings can be lost through actions taken by public agencies after an earthquake. These actions usually occur within ten days after a declared emergency. This would also apply to damage by fire, wind and flood. The purpose of these regulations is to facilitate recovery following a disaster in a way that balances the need to protect public health and safety, the economic interests of property owners and the need to preserve the community's most important historic buildings. These standards implement and are consistent with California Public Resources Code Section 5028 pertaining to natural disaster damage to historic properties.

**Goals:** It is the goal of the City of San Luis Obispo to:

- (a) Continue to identify and designate archetypal or particularly significant historical structures within the City of San Luis Obispo. Such properties are identified by the Council as having the highest historical value by virtue of their unique architectural, historical or cultural significance, and are included in the Master List of Historic Resources.
- (b) Continue to preserve Master List resources and provide for their stabilization, restoration and/or reconstruction in the event of a disaster such as earthquake, fire, windstorm, or flooding.
- (c) Establish post-disaster historic preservation procedures that are consistent with state and local law, and specifically SLOMC Section 15.48; and
- (d) Establish an Emergency Response Committee that will develop, implement and monitor procedures for stabilization or demolition of Master List buildings which are damaged by an earthquake or other disaster.
- (e) Integrate post-disaster historic preservation with the City's disaster planning and emergency response protocols.

**2.68.062 Emergency Response Committee (ERC) established.**

- (a) The Council hereby establishes an "Emergency Response Committee" (ERC). The ERC's membership shall consist of:
  - i) Community Development Director ("Director")

- ii) City Engineer
- iii) Chief Building Official
- iv) Fire Marshall
- v) Cultural Heritage Committee member
- vi) Citizen Architect or Engineer

(b) The Council, upon the recommendation of the Committee shall appoint members under subsection (a)(v) and (a)(vi), and shall appoint alternates for both positions. Committee members shall serve on a volunteer basis for 2-4 year terms.

(c) City officials on the Committee may be represented by their designees. The ERC shall meet as needed, and shall be convened by the Director. All decisions shall require a majority vote of the quorum of ERC members. A quorum shall consist of four Committee members.

(d) The citizen architect or engineer should be knowledgeable in historic building construction and preservation methods, to assist the City and owners of historically-listed buildings.

(e) The citizen architect or engineer should be registered as a Disaster Service Worker with the Office of Emergency Services.

#### **2.68.063 Provisions and fee waiver.**

If a Master List resource is damaged by a disaster, the following provisions shall guide actions of the City and owners of Master List properties. City development review and permit fees for restoration or reconstruction of Master List properties may be reduced or waived by the City Council to facilitate preservation of significant historic resources and to expedite recovery from the disaster.

#### **2.68.064 Stabilization of historic buildings.**

Within the first 90 days of a disaster, the City shall work with the property owners and all agencies concerned for the shoring and stabilization of Master List buildings that the ERC or Chief Building Official determines to be hazardous buildings. The following provisions shall apply unless waived by the Council:

(a) As per SLOMC 15.48, placards shall be used to identify buildings the Chief Building Officer determines to be restricted or unsafe to occupy. In addition, buildings on the Master List of Historic Resources that are determined to be restricted or unsafe to occupy shall be clearly labeled by the City with the words "Master List Historic Building- This Placard is not a Demolition Order."

(b) Members of the ERC shall be "on-call" as stated in Section 2.68.062(d), and should be able to assist disaster personnel and advise owners on emergency stabilization measures for Master List resources, consistent with City authority granted by law under emergency conditions.

(c) City shall maintain a list of qualified architects and engineers, and make the list available to owners of Master List resources, to assist in preparing shoring and stabilization programs.

(d) Owners of Master List resources shall submit a written report prepared by a qualified architect or engineer, outlining shoring and stabilization measures to be taken to the ERC for review and recommendation to the Chief Building Official for approval.

(e) Members of the ERC, owners of Master List buildings, and owners' representatives shall have physical access to hazardous Master List buildings, at the Community Development Director's discretion, to recommend appropriate shoring and stabilization measures to be undertaken to the Chief Building Official.

(f) Stabilization actions should occur within the time period specified by the ERC. A construction permit shall be obtained for stabilization actions, unless the requirement is waived by the City or is exempt from permit requirements.

#### **2.68.065 Demolition of historic buildings.**

If a Master List resource is damaged by a disaster, demolition of the structure may be authorized under the provisions of the California Building Code (CBC) and under following provisions:

The issuance of a demolition permit is governed by the provisions of this ordinance, which shall serve as local amendments to the procedures contained in the CBC. Removal or destruction of any character-defining feature of a Master List building, as determined by the Director or Chief Building Official, constitutes a demolition. Recommendations regarding stabilization methods and emergency demolition shall be made by the ERC.

(a) Within 90 days of the initial date of the disaster, demolition permits shall not be issued unless the Director or Chief Building Official, upon the recommendation of the ERC, determines that earlier demolition is necessary to:

- i) eliminate an imminent, demonstrable threat to human life and/or undamaged property on adjacent streets or sites; or
- ii) provide access for emergency vehicles and personnel where no alternative route or service strategy is available.

(b) After 90 calendar days following the initial date of the disaster, the issuance of demolition permit for a Master List building is subject to the normal permit processing procedures for demolition or relocation of historic buildings. The CHC shall make a recommendation to the Architectural Review Commission regarding demolition of Master List buildings. To recommend approval of a demolition permit application, the CHC must determine that:

i) The historic resource is a hazard to public health or safety, and repairs, stabilization, preservation or rehabilitation is not structurally feasible. Deterioration resulting from the neglect

or failure of the owner to maintain the property need not be considered in making this finding. The applicant shall provide one or more structural reports to document that repairs or stabilization are not feasible.

ii) Denial of the application will deprive the property owner of the economically viable use of the property, after application of financial, land use and other incentives available to the property.

ii) The proposed demolition is consistent with the General Plan and the California Environmental Quality Act.

(c) To assist in the determination required by subsection (b), property owners shall submit a written report prepared by a licensed architect or engineer, knowledgeable in historic building construction, assessing the condition of the damaged building and evaluating strategies and costs for its restoration or reconstruction.

- i) As a condition of any permit to demolish a Master List building or portion thereof that remains after a disaster, the owner shall provide photo-documentation to the Director showing building setbacks from property line, floor area, height, exterior architectural details, building form and materials, in a form acceptable to the CHC.
- ii) The ERC or CHC shall use photo-documentation to determine if any architectural features should be saved for reuse on the reconstructed building. If the property owner is unwilling or unable to save the identified architectural features, the City may, at its option, store the features for later use, consistent with Historic Preservation Program Guidelines, with the agreement of the property owner. Cost of City storage of the features if any will be borne by the property owner.
- iii) The ERC reserves the right to consider third-party assessments of the structural condition of the Master List building prepared by qualified professionals.

#### **2.68.066 City assistance.**

To assist owners of buildings on the Master List of Historic Resources with stabilization, restoration and reconstruction work, the City shall:

(a) Maintain photographic records of the exteriors of Master List buildings.

(b) Give priority to the processing of applications and the issuance of building permits for restoration and reconstruction work.

(c) Provide and distribute information brochures to local disaster personnel and Master List building owners with information describing funding sources, policies, and laws applicable to historical buildings, seismic hazard mitigation and response strategies, and historic preservation

measures following a disaster.

(d) Make available any of the applicable benefits listed in Chapter 4 of the Historic Preservation Program Guidelines.

## **2.68.070 Non-Compliance With Provisions**

Contents:

- 2.68.071 Severability
- 2.68.072 Legal authority and enforcement
- 2.68.073 Enforcement
- 2.68.074 Historic Property Maintenance Standards
- 2.68.075 Economic Hardship
- 2.68.076 Historic and cultural resources trust fund

### **2.68.071 Severability.**

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

### **2.68.072 Legal authority and enforcement.**

**A. Authority.** The Director, Chief Building Official, City Attorney, Cultural Heritage Committee, Council and their designees are hereby authorized to enforce the provisions of this ordinance.

**B. Fees.** Council shall, by resolution, establish the fee(s) for applications and submissions made pursuant to this ordinance, fines, and fees for non-conformance with this ordinance and adopted Historic Preservation Program guidelines.

**C. Time to correct.** Director shall provide written notice of non-compliance to property owners. Notice shall be by certified mail or other method approved by the City attorney. Following receipt of notice, property owner shall have 30 days to correct the violation. Additional time to correct the violation may be allowed by the Chief Building Official where appropriate. Failure to demonstrate timely response to correct the violation may result in enforcement penalties.

### **2.68.073 Enforcement.**

**A. Violations.** Violating the provisions of this ordinance or of the Historic Preservation Program Guidelines, failure to obey an order issued by those authorized to enforce it, or failure to comply with a condition of approval of any discretionary City approval, certificate or permit issued under this ordinance shall constitute a misdemeanor.

**B. Failure to protect property.** No property owner or other responsible party shall cause or permit, by action or inaction, alteration of, damage to, deterioration, or demolition of in whole or part, of any significant features or characteristics of a listed historic property or resource without first having obtained proper city authorization.

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

**D. Penalties.** Following notice and public hearing, the Council, may enforce the following penalties for violations of this ordinance:

(a) Fine. The owner of the listed historic property may be assessed a one time fine of up to \$10,000 per violation, as established by Council. In addition, the City may assess a fine ranging from \$100 to \$5,000 per day, up to a maximum of 30 days, for continuing violations.

(b) Building permit restriction. City may prohibit the owner(s), successors, or assigns from obtaining a building permit for the subject property for a period of up to five (5) years from the date of violation, unless such permit(s) is for the purpose of correcting a building or zoning code violation or for complying with provisions of this ordinance. City shall initiate proceedings to place a deed restriction on the property to ensure enforcement of this penalty. The property owner shall be required to maintain the property during that period in conformance with maintenance standards set forth in this ordinance.

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

(d) Restoration required. Any responsible party who demolishes or alters a property or structure in violation of this ordinance may be required to restore the property or structure to its appearance prior to the violation to the satisfaction of the Director. This shall be in addition to and not in lieu of any criminal prosecution and penalty, and applicable fines.

(e) Other remedies. In addition to any other penalty authorized by law, failure to maintain the property shall constitute a public nuisance resulting in the issuance of an order that the owner perform the maintenance necessary to comply with this section. Any failure to comply with such an order shall entitle the City to cause the maintenance to be performed at the owner's expense and in addition to the penalties provided by this code for violation thereof, such cost may be recovered of such owner or occupant by civil action in any court of competent jurisdiction. In addition, any such costs shall become a lien against the property. The fines and penalties contained herein are non-exclusive and are in addition to any other remedies the City may have.

#### **2.68.074 Historic Property Maintenance Standards**

**A. Preservation of listed historic resources.** To prevent their deliberate or inadvertent neglect and potential loss, the property owner shall maintain listed historic resources in good repair, preserved against vandalism, unauthorized entry, decay and deterioration, and free from structural defects and safety hazards, consistent with the Property Maintenance Standards (SLOMC Ch. 17.17), Community Design Guidelines, and standards as specified herein.

**B. Property and building defects.** The property owner of a listed historic property shall promptly repair the property if it is found to have any of the following defects:

- (1) Building elements in a condition that they may fall or otherwise damage property or injure members of the public.
- (2) Deteriorated, defective or inadequate foundation, flooring or floor supports causing exterior signs of structural failure, such as those listed in 3, 4, and 5 below.
- (3) Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective materials or deterioration.
- (4) Members of ceilings or roofs, ceiling or roof supports or other horizontal members which sag, split, or buckle due to defective materials or deterioration.
- (5) Fireplaces or chimneys which list, bulge, or settle due to defective materials or deterioration.
- (6) Deteriorated, crumbling or loose exterior plaster.
- (7) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
- (8) Defective or insufficient weather protection for exterior wall covering, including lack of paint or other protective covering.
- (9) Any fault, defect or deterioration in the building which renders it structurally unsafe or not properly watertight.
- (10) Unsecured windows, doors or other openings that allow unauthorized entrance or use of building or site.
- (11) Excessive trash, debris, un-maintained landscaping or other conditions that in the opinion of the Director or Chief Building Official may pose a public nuisance or hazard, or adversely affect the safety and condition of the property or adjacent properties.

**C. Imminent threat.** If the Community Development Director or the Chief Building Official determines there is an imminent threat to a listed historic or cultural resource, the property owner shall be required to provide urgent measures for the protection of the resource within 72 hours of

notification, including, but not limited to the securing of building openings, roof or wall repairs, fencing, site lighting, site clean up, private security services, or other measures deemed reasonable and necessary to protect the resource and public health and safety.

**D. Demolition by neglect.** If the Director, Chief Building Official, or the CHC determines a listed historic or cultural resource is being adversely affected due to neglect, the property owner or other person having legal custody and control of the resource shall be directed to take actions necessary to repair damage, protect and stabilize the property, and prevent further damage or deterioration. If, in the determination of the Director, Chief Building Official or the CHC, insufficient effort is made to correct the problem within 30 days of written notice to the property owner, the Director or the Chief Building Official shall initiate enforcement action.

#### **2.68.075 Economic Hardship.**

If the applicant presents evidence clearly demonstrating to the satisfaction of the CHC or the City Council that the CHC's action will cause an extreme hardship because of conditions peculiar to the particular structure or other feature involved, the CHC may recommend approval, and the Council may approve or conditionally approve a demolition or other application to modify a listed historic resource even though it does not meet one or more standards set forth herein. The applicant shall bear the burden of proving the extreme hardship and shall provide substantiation of the claim to the CHC, which shall then make a recommendation to the Council on the hardship request. The CHC is authorized to request that the applicant furnish additional information, documentation and expert testimony, the cost of which shall be paid by the applicant, to be considered by the Committee in its related findings. All additional required information shall be provided by a qualified individual or firm selected by the City. In determining whether extreme hardship exists, the Committee and Council shall consider evidence that demonstrates:

- (a) Denial of the application will diminish the value of the subject property so as to leave substantially no value; or
- (b) Sale or rental of the property is impractical, when compared to the cost of holding such property for uses permitted in the zoning district; or
- (c) Utilization of the property for lawful purposes is prohibited or impractical; or
- (d) Rental at a reasonable rate of return is not feasible.

#### **2.68.076 Historic and cultural resource preservation fund established.**

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

- A. Program Administration. The Director shall administer the Fund, following specific procedures and funding priorities adopted by the Council.
- B. Purpose. The purpose of the Fund is to provide funds for historic preservation projects within the City. All funds deposited in the Fund shall be used for the conservation, preservation, restoration and rehabilitation of historic or cultural resources, as provided in this section and as directed by the Council
  - 1. Financial Administration. Financial administration of the Fund shall be by the City Finance Director or his designee, in accordance with State and local law. Any interest earned on the fund shall accrue to the funds, unless Council specifically designates such funds for another purpose.
  - 2. Grants, Gifts and Donations. The Finance Director shall deposit into the fund any grants, gifts, donations, rents, royalties, or other financial support earmarked by Council for historic or cultural resource preservation.
- C. Cultural Heritage Committee Role. The Committee shall advise the Council on the Fund regarding:
  - 1. Criteria for use and award of funds;
  - 2. Entering into any contract, lease, agreement, etc. for use of funds;
  - 3. Any other action or activity necessary or appropriate to achieve the Fund purposes and the intent of this ordinance.
- D. Uses of Fund. The Fund may be used for: 1) the identification and protection of cultural resources, including preparation of historic surveys and design guidelines, 2) for the repair, restoration, rehabilitation, preservation and maintenance of historical buildings, features, or archaeological sites, 3) for public education on cultural resources, 4) for real property acquisition, including lease, purchase, sale, exchange or other forms of real property transfer or acquisition to protect significant historic resources, or 5) any other purpose approved by the Council provided that Council determines such actions are necessary to preserve the resource and in the best interests of the City. Council decisions on the use of funds are final.
- E. Loans and Grants. The Fund may be used, upon Council approval and recommendation by the Committee, for loans and grants to public agencies, nonprofit organizations and private entities to carry out the purposes of this ordinance.
- F. Preservation Agreements. Loans, grants or other financial assistance shall require execution of an agreement between the City and the recipient to ensure that such award or assistance carries out the purposes of this ordinance and is consistent with applicable State and local standards.

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

### **2.68.080 Appeals**

Decisions of the Director or Committee are appealable to the Council and shall be filed with the City Clerk. Action on appeals shall be considered at a public hearing, in accordance with the provisions of Ordinance 1.20 of the Municipal Code. Where applicable, claims of economic hardship shall include sufficient evidence documenting that ordinance enforcement would cause serious economic deprivation to the property owner(s).

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**2.68.090 Definitions.** For the purposes of this ordinance, certain terms, words and their derivatives shall be defined as specified herein;

**1. Accessory Structure:** a structure which is subordinate or incidental and directly related to a permitted use or structure on the same parcel. “Accessory structures” that include habitable space, as defined by the California Building Code, shall be no larger than 450 square feet. (Ord. 941-1(part), 1982: prior code – 9204.11 (part)) “Accessory structures” are located on the same parcel and are related to the primary structure but are subordinate or incidental, but may include structures that have achieved historic significance in their own right, as determined by the Director, Committee or Council. (see “primary structure”)

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

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

**4 Alteration:** any change, repair, replacement, modification, or new construction to: (1) the exterior of an historic resource or adjacent building, (2) the exterior and interior structural elements which support the exterior walls, roof, or exterior elements of the historic resource or adjacent building, (3) other construction on a lot, or (4) Character Defining Features of the interior of a historic resource, unless the interior is exempt from historic review by the Cultural Heritage Committee. “Alteration” does not include ordinary landscape maintenance unless the landscaping is identified as significant at the time a property is listed, receives historic “H” zoning, or is identified in an adopted historic preservation report.

**5. Archaeological Site:** those areas where archaeological resources are present and may be larger or smaller than the project site.

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

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

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

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

**10. City:** the City of San Luis Obispo.

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

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

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

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

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

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

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

**18. Disaster:** "Disaster" shall include fire, flood, earthquake, landslide, subsidence, tsunami, acts of war or civil unrest, or other catastrophic event as declared by the Council, the Governor of the State of California or the President of the United States.

**19. Feasible:** capable of being accomplished in a successful manner within a reasonable period of time, taking into account cultural, economic, environmental, historic, legal, social and technological factors.

**20. Historic Building Code:** the most recent version of the California Historical Building Code, Title 25, Part, 8, as defined in Sections 18950 to 18961 of Division 12, Part 2.7 of Health and Safety Code (H&SC), a part of California State law. Its purpose is to provide regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation as applicable to all historical buildings, structures and properties deemed of importance to the history, architecture, or culture of an area by an appropriate local or state governmental jurisdiction.

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

**22. Historic District/Historical Preservation District:** areas or neighborhoods with a collection or concentration of listed or potentially contributing historic properties or archaeologically significant sites, where historic properties help define the area or neighborhood's unique architectural, cultural, and historic character or sense of place. Historic districts may be, delineated on the official zoning map as Historic (H) overlay zone under San Luis Obispo Municipal Code Chapter 17.54.

**23. Historic Preservation Program Guidelines:** the most recent version of the Historic Preservation Program Guidelines, as adopted from time to time.

**24. Historic Preservation Report.** a document which describes preservation, rehabilitation, restoration, or reconstruction measures for a historic resource, based on the Secretary of the Interior's Standards for Treatment of Historic Properties, and which includes standards and guidelines for recommended treatments for preserving the resource. A historic preservation report shall require approval by the CHC and the approval shall remain in effect for a period of at least three years from the approval date. The Director or on referral from the Director, the CHC may extend or re-adopt an approved program for a period of up to ten years.

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

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

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

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

**29. Inappropriate Alteration:** alterations to historic resources which violate these provisions and/or the Historic Preservation Program Guidelines.

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

**31. Inventory of Historic Resources:** the list of historically designated resources and properties consisting of Master List and Contributing Properties List Historic Resources, and any

properties, objects, sites, gardens, sacred places and resources subsequently added to the inventory as determined to meet criteria outlined herein and approved by the City Council.

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

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

**34. Master List Resource:** designation which may be applied to the most unique and important historic properties and resources meeting criteria outlined herein.

**35. Minor Alteration.** Any structural or exterior change to a historic resource which the Director determines to be consistent with the Historic Preservation Program Guidelines and other applicable standards.

**36. Modern Contributing Resources:** designation which may be applied to properties and resources which are less than 50 years old, but which exemplify or include significant works of architecture or craftsmanship.

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

**38. Neglect:** the lack of maintenance, repair or protection from natural elements or vandalism of a listed property, resource, site or structure, whether intentional or not, which results in significant deterioration, as determined by the Director, CHC or City Council based on visual and physical evidence.

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

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

**41. Property Owner:** the person or entity holding fee title interest or legal custody and control of a property.

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

**43. Qualified Professional.** an individual meeting the Secretary of the Interior's Professional Qualifications Standards (36 CFR Part 61 Appendix A) in history, architectural history, historic

architecture and other designated categories, or an individual determined by the CHC to have the qualifications generally equivalent to the above standards based on demonstrated experience.

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

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

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

**47. Remodel:** Alteration of a structure which retains at least 75 percent of the original building framework, roof and exterior bearing walls and cladding, in total, and which reuses the original building materials to the maximum extent possible.

**48. Responsible party:** any person, business, company or entity, and the parent or legal guardian of any person under the age of eighteen (18) years, who has done any act for which an administrative penalty may be imposed.

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

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

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

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

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

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

any existing structure. In general terms, site also includes the landscape surrounding a building or other structure and contained within an individual parcel or contiguous parcels of land.

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

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

**57. Statement of Historic Significance:** A statement of significance is an analysis-based argument or explanation of why a resource is important within its historic context. It explains how the resource meets the eligibility criteria and integrity thresholds as established by local, state or federal government.

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

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

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

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

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