Chapter 17.17.17
HISTORIC PRESERVATION AND CULTURAL RESOURCE ORDINANCE

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17.17.100 Title.

This Chapter shall be known as the "Historic Preservation and Cultural Resource Ordinance" of the City of Orange, Orange County, California.

17.17.101 Enabling Authority.

California Government Code Sections 65850 and 37361 enable municipal legislative bodies to "provide for places, buildings, structures, works of art, and other objects, having a special character or special historical or aesthetic interest or value, special conditions or regulations for their protection, enhancement, perpetuation or use, which may include appropriate and reasonable control of the use or appearance of neighboring private property within public view, or both."

17.17.102 Purpose.

This Chapter implements the Cultural Resources & Historic Preservation Element of the General Plan, which establishes the City's responsibility to identify, preserve, and manage the full range of Historical Resources that embody Orange's cultural heritage. These resources include archaeological and Tribal Cultural resources, historic buildings, structures, signage, objects, sites, historic districts, cultural landscapes, natural features, and public art. The Historic Preservation and Cultural Resource Ordinance is established to promote public health, safety, and general welfare by ensuring the identification, designation, protection, enhancement, and continued use of Historical Resources that represent the City's cultural heritage.

The City of Orange is home to a broad range of significant Historical Resources that embody the shared cultural heritage and history as a city. Protecting and managing change to these Historical Resources is essential to maintaining and preserving the City's heritage. The City Council also acknowledges the rights of private property owners and strives to balance the community's interest in historic preservation with the rights of individual property owners.

Through adoption of this Chapter, the Orange City Council intends to:

A. Protect the City's heritage and character for both current and future generations by ensuring that Historical Resources, as defined in this article, are thoughtfully managed and preserved;

B. Strengthen stewardship, recognition, and awareness of the City's archaeological and Tribal Cultural resources;

C. Build public appreciation for the City's heritage and reinforce civic and neighborhood identity and pride through the acknowledgment of Historical Resources;

D. Support the preservation and maintenance of cultural landscapes that shape the historic character of neighborhoods and the built environment;

E. Affirm the role of the City's Historical Resources as important economic assets and catalysts for new growth, tourism, and investment;

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F. Improve and stabilize property values and expand the economic and financial benefits available to the City and its residents through the rehabilitation, preservation, and continued use of Historical Resources;

G. Ensure that the conservation of Historical Resources is incorporated into both private and public development activities;

H. Carry out the goals and policies established in the General Plan Cultural Resources and Historic Preservation Element;

I. Meet the requirements of the National Historic Preservation Act (NHPA) and the California Environmental Quality Act (CEQA) related to cultural and historical resources;

J. Maintain the City's diverse and significant architectural styles and property types, and encourage new construction and design that complement the City's historic scale and character;

K. Establish and promote historic preservation incentives—regulatory as well as economic—to further the retention, rehabilitation, and protection of Historical Resources.

17.17.103 Definitions.

The following terms when used in this Chapter shall have the meaning set forth in this Section, unless a different meaning clearly appears from the context:

"Alteration" means any act or process that modifies a Historical Resource that either: (1) requires a building or other permit and/or changes one or more of the features of a landscape or structure including, without limitation, the setting of the resource or the construction, reconstruction, or relocation of any structure or any part of a structure; or (2) significantly changes the setting and/or any Character-Defining Feature of a landscape or exterior of a structure that relates to its status as a historic landmark or contributing resource.

"Archaeological Resource" means a Historical Resource that is any material remains of past human life, activities, or habitation that are of historic or prehistoric significance. Such resources might include, but are not limited to, tools, pottery, weapons, weapon projectiles, structures or portions/remnants of structures, rock carvings, graves, skeletal remains, personal items and clothing, or other items.

"California Environmental Quality Act" (or "CEQA") shall mean the statute and regulations applying to public agencies in California as codified in the California Public Resources Code Section 21000 et seq., as it may be amended from time to time, and the corresponding Guidelines for the California Environmental Quality Act in the California Code of Regulations, Section 15000-15387, Title 14, Chapter 3, as it may be amended from time-to-time.

"California Historical Building Code" (or "CHBC;" also known as the "State Historical Building Code," or "SHBC"), as codified in Part 8, Title 24 of the State Building Standards Code, shall apply to all qualified Historical Resources designated or included in an adopted inventory per federal, state, and local authority. The CHBC provides alternative, performance-based building

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and zoning regulations to allow for upgrades, changes to, and ongoing use of historically significant properties that preserve their historic integrity.

"Certification of Appropriateness" means the preservation project review completed by the Heritage Commission to determine if an application to make Major Alterations, relocate, or demolish a Historical Resource is historically appropriate. Completion of the Certificate of Appropriateness will result in a finding that the proposed changes are in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (*Secretary's Standards*) as well as all applicable adopted historic preservation design standards provided for in this Chapter and therefore will result in no significant adverse impacts to the Historical Resource.

"Certificate of Economic Hardship" means the certificate granted to a property owner or applicant by the City Council to approve a Project Review or Certificate of Demolition for a project that, due to undue economic hardship on the owner, does not comply with the *Secretary's Standards for the Treatment of Historic Properties*.

"Character-Defining Feature" means the physical elements and characteristics of a Historical Resource that lend the resource its authenticity and significance. Character-Defining Features can include, but are not limited to, a property's setting and site plan, overall form and massing, architectural style, materials, finishes, and decorative detailing, as well as relationship to neighboring properties, planning features, hardscaping and landscaping, and interior features.

"Community Development Director" (or "Director") means the Director of the Community Development Department or her/his designee.

"Contributing Resource" (or "Contributor") means a Historical Resource that is any building, structure, object, site, planning feature, sign, area, place, landscape, or natural feature within a historic district that contributes to the district's historic, cultural, or architectural significance.

"Cultural Resource" means the broad category of all historic and prehistoric (archaeological and Tribal Cultural) resource types that are significant in the history or prehistory of the city, region, state, or nation as defined in this Chapter. Cultural Resources include resources listed in or found eligible for listing on the National Register of Historic Places, California Register of Historical Resources, Orange Register of Cultural Resources, and the Orange Inventory of Cultural Resources. Cultural Resources can include archaeological and Tribal Cultural resources, buildings, structures, objects, historic districts, sites, public art and parks, cultural landscapes and natural features, and/or any resource defined by the CEQA Guidelines [California Code of Regulations Title 14] Section 15064.5(a).

"Cultural Resource Sensitivity Map" means the confidential map commissioned and maintained by the Director showing the location of culturally sensitive areas, including parcels and/or properties known or suspected to contain archaeological and/or Tribal Cultural resources. Access to the Cultural Resource Sensitivity Map shall be subject to the provisions of the federal Archaeological Resources Protection Act (16 USC Section 470hh), which requires that archaeological Cultural Resource site locations remain confidential in order to ensure their

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preservation. The California Public Records Act also provides for the nondisclosure of archaeological Cultural Resource information (California Government Code, Section 6254.10).

"Demolition" means any act or process that destroys, in whole or in part, a building, structure, or site or permanently impairs its structural integrity and which is not in conformance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

"Director" means the Director of the Community Development Department or her/his designee.

"Historic Context" means the broad patterns of historical development of a community or region that are represented by the physical development and character of the built environment. Contexts typically are based on one or more themes, a geographical area, and periods of significance. They also identify important associated property types and establish eligibility criteria and integrity thresholds.

"Historic District" means a type of Historical Resource that is a geographic area having a significant concentration, linkage, or continuity of buildings, structures, objects, planning features, sites, natural/landscape features and other features united historically or aesthetically by plan or physical development.

"Historic Integrity" refers to the authenticity of a property's historic identity. Properties with historic integrity are those properties that retain enough of their materials, features, and characteristics from their period of significance that they continue to convey the reasons for their significance. Often these are original materials that date from the property's construction or early period. As defined by the National Park Service and in accordance with the accepted standards of professional preservation practice, historic integrity is the composite of seven aspects of integrity: location, design, setting, materials, workmanship, feeling and association. Historic integrity is not the same as condition; a deteriorated property may still retain historic integrity.

"Historic Landmark" means a type of Historical Resource that is any improvement or natural feature that meets the eligibility criteria defined in Section 17.17.107 (Designation Criteria for Historic Landmarks) and is subsequently nominated and added to the Orange Register of Historical Resources.

"Heritage Commission" (or "Commission") means the Heritage Commission established pursuant to this Chapter.

"Historic Resource Evaluation" means an in-depth study of a property to determine its eligibility as a federal, state, or local historic landmark. A historic resource evaluation generally results in a report including detailed, property-specific information about the resource. This information can include ownership/occupant history, historic context and themes of significance, Character-Defining Features, as well as building type, dates of construction, architectural style, description of other design aspects, materials, and setting, approximate dates of exterior alterations, physical condition, and historic integrity analysis.

"Historic Resource Survey" means a neighborhood- or city-wide survey to identify eligible Historical Resources, including buildings, structures, objects, sites, Historic Districts, planning

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features, public art and parks, cultural landscapes, Neighborhood Character Areas, and other features. A historic resource survey generally results in an inventory of properties that are potentially eligible for national, state, or local landmark designation. The survey produces basic information about each resource. This information generally includes building type, dates of construction, architectural style, description of other design aspects, materials, and setting, approximate dates of exterior alterations, physical condition, and notes on historic integrity.

"Historical Resources" are defined pursuant to CEQA as resources that are either designated or eligible for landmark listing, individually or as contributors to historic districts, at the local, state, or federal levels. Historical Resources in Orange include those properties listed in the Register, in the Inventory, or identified as significant in a historical resource survey or evaluation prepared in accordance with Public Resource Code requirements.

"Improvement" means any building, structure, sign, fence, gate, wall, landscape, work of art, or other object affixed to and constituting a physical betterment of real property, or any part of such betterment.

"Major Alterations" means any work to a property that includes the alteration, removal, or obstruction of Character-Defining Features, elevations, and spaces, or additions measuring 120 square feet and over to a property that are visible from the public right-of-way, or, for properties not visible from the public right-of-way, those Character-Defining Features that are visible from the front of the property. Major Alterations to Historical Resources listed in the Register and Inventory are subject to a Tier 1 Certificate of Appropriateness through Commission review.

"Mills Act Historic Property Contract" (or "Mills Act Contract") shall mean the historic property contract between the City and property owner that provides the potential for reduced property taxes in return for the rehabilitation, restoration, and preservation of an historic resource, pursuant to California Government Code Section 50280 et seq. and California Revenue and Taxation Code Section 439 et seq.

"Minor Alterations" means any work to a property that does not include changes/removal of Character-Defining Features, including additions under 120 square feet on an elevation that is not visible from the public right-of-way, as determined by the Director, and is subject to a Tier 2 Certificate of Appropriateness – Administrative Review.

"Minor Design Review Certificate of Appropriateness" means the review completed by City staff, at the administrative level, finding that an application for a Minor Alteration to a Historical Resource is historically appropriate and in accordance with the *Secretary's Standards* as well as all applicable adopted historic preservation design standards provided for in this Chapter and therefore will result in no significant adverse impacts to the Historical Resource.

"Multi-Property Nomination" shall mean a group of thematically related properties that are nominated to the Orange Register. Such properties may be physically dispersed but share a common history and/or significance.

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"National Environmental Policy Act" (or "NEPA") shall mean the statute codified in 42 USC Section 4321 et seq., and the regulations established in the Code of Federal Regulations, Title 40, Sections 1500-1508, requiring environmental review and outreach for qualifying projects.

"Neighborhood Character Area" means an area that contains, within defined boundaries, a cohesive concentration of related buildings, structures, sites, objects, planning features, or natural/landscape features. A Neighborhood Character Area is distinguished from a Historic District in that it does not qualify as a Historic District as defined in this Chapter but nonetheless contains a cohesive collection of related properties that, considered together, are of interest to local planning. The Neighborhood Character Area corresponds to the "6L" California Historical Resources status code ("may warrant special consideration in local planning") and is therefore not a qualifying historical resource for purposes of CEQA. Neighborhood Character Areas may include individually eligible or designated properties, which are qualifying historical resources for purposes of CEQA.

"Non-contributing Resource" (or "Non-contributor") means any building, structure, object, site, sign, area, place, or natural feature within a historic district that does not meet the criteria for eligibility, does not contribute to the district's historic, cultural, or architectural significance, and therefore is not a Cultural Resource for the purposes of this Chapter.

"Ordinary Maintenance and Repair" means work on a Historical Resource that (i) does not, by law, require issuance of a permit; (ii) involves regular or customary care of an existing building, structure, object, or site, for the purposes of preserving the property and maintaining it in a safe and sanitary condition; and (iii) does not involve a change of design, material, or appearance of any identified Character-Defining Features.

"Preservation" means the act or process of sustaining the existing materials, form, and integrity of a historic property. The focus of Preservation is protecting and stabilizing the property, through on-going Maintenance and Repair of historic materials and features, rather than extensive replacement and new construction.

"Property Owner" or "Owner" means the person or persons appearing as the latest owner of the improvement, natural feature or site on the most recent equalized assessment roll of the County of Orange.

"Qualified Professional(s) shall mean any of the following professions/occupations:

- Archaeologist shall refer to an archaeologist who meets and/or exceeds the Secretary of the Interior's Professional Qualifications Standards in archaeology, as defined by the National Park Service (36 CFR 61).
- Architectural Historian shall refer to an architectural historian who meets and/or exceeds the Secretary of the Interior's Professional Qualifications Standards in architectural history, as defined by the National Park Service (36 CFR 61).
- Economic Professional shall refer to a qualified economic consultant selected and approved by the City.

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- Historian shall refer to a historian who meets and/or exceeds the Secretary of the Interior's Professional Qualifications Standards in history, as defined by the National Park Service (36 CFR 61).
- Historic Architect shall refer to a licensed architect who meets and/or exceeds the Secretary of the Interior's Professional Qualifications Standards in historic architecture, as defined by the National Park Service (36 CFR 61).
- Native American Monitors shall refer to experienced cultural resource monitors recommended by culturally affiliated Native Americans listed by the California Native American Heritage Commission (NAHC) as local contacts for the region.
- Structural Engineer means any individual registered by the State of California to practice structural engineering and to use the title Structural Engineer pursuant to the State of California Business and Professions Code, Chapter 7, Section 6701. When working with historic buildings and structures for the City of Orange, the Structural Engineer shall satisfy the Secretary of the Interior's Professional Qualifications Standards for Engineering and have demonstrable project experience in historic preservation and the use of the California Historical Building Code.

"Rehabilitation" means 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 historical, cultural, or architectural significance.

"Restoration" means 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, which may include the limited and sensitive upgrade of mechanical, electrical, and plumbing systems and other code-required work to make the property functional and safe.

"Orange Inventory of Historical Resources" (or "Inventory") means the inventory of buildings, structures, objects, sites, historic districts and historic district contributors, signs, areas, landscapes, places, and natural features in the City that have been found potentially eligible for historic designation through an adopted historic resource survey prepared and approved in accordance with the provisions of this Chapter. The Inventory shall be prepared and approved in accordance with Section 17.17.105. The locations of archaeological resources shall remain confidential, pursuant to the federal Archaeological Resources Protection Act (16 USC Section. 470hh) and California Public Records Act (California Government Code, Section 6254.10).

"Orange Register of Historical Resources" or ("Register") means the list or register of designated Historical Resources, including individual historic landmarks, historic districts, and their contributing features, archaeological resources, and Tribal Cultural resources, prepared and approved in accordance with the provisions of this Chapter. The locations of archaeological resources shall remain confidential, pursuant to the federal Archaeological Resources Protection Act (16 USC Section 470hh) and California Public Records Act (California Government Code, Section 6254.10).

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"*Secretary of the Interior's Standards for the Treatment of Historic Properties*" (or "*Secretary's Standards*") means the Standards and Guidelines developed by the United States Department of the Interior, National Park Service (36 CFR 68), for the preservation, rehabilitation, restoration, and reconstruction of Historic Resources. In accordance with California Code of Regulations Title 14, Chapter 3, Sections 15064.5, 15126.4(b)(1), and 15331, physical changes to historical resources that conform with the *Secretary's Standards* are generally considered to be mitigated to a level of less than significant under CEQA. Projects complying with the *Secretary's Standards* may be eligible for a Class 31 Categorical Exemption from CEQA.

"Tribal Cultural resources" means sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe.

17.17.104 Heritage Commission.

A. Establishment of Commission. There is hereby created the Orange Heritage Commission (Commission). The Commission shall have and exercise the powers and perform the duties set forth in Chapter 17.08. Except as otherwise specified in this Chapter, the Commission shall be subject to the provisions of OMC Chapter 2.06 (Commissions, Committees and Boards).

B. Composition and Appointment of Members. Commissioners shall be appointed pursuant to OMC Chapter 2.06 (Commissions, Committees and Boards) and Chapter 17.08 (General Administrative Procedures, Reviewing Bodies).

17.17.105 Orange Inventory of Historical Resources.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which establishes the City's responsibility to identify, document, and preserve both designated and potentially eligible historic resources. The General Plan calls for maintaining an accessible inventory of historic resources and ensuring that such resources are used, maintained, and rehabilitated in a manner consistent with accepted preservation standards. This section furthers those objectives by establishing the Orange Inventory of Historical Resources ("Inventory"), which includes properties that appear eligible for local, state, and/or federal designation.

B. Intent. The intent of this section is to ensure that potentially eligible Historical Resources are identified, documented, and maintained. The Inventory serves as the City's working list of properties that may meet local, state, and national significance criteria for designation, whether individually or as contributors to historic districts. This section establishes how properties are added to the Inventory so the City can proactively manage its Historical Resources and avoid the inadvertent loss of potentially significant properties.

C. Inventory of Historical Resources Established. The City shall establish and maintain an official list of properties known as the Orange Inventory of Historical Resources ("Inventory"). The Inventory shall consist of eligible Historical Resources identified through a historic resource survey or intensive-level historic resource evaluations approved by the Commission. The Inventory shall include properties listed in the City's 2010 Historic Resources Inventory (adopted by Resolution No. . 10426), as well as those identified in any subsequent survey updates. On a schedule determined jointly by the Director and the Commission, the Inventory shall

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be updated through a historic resource survey. The survey shall be conducted by a qualified architectural historian and/or historian meeting the minimum qualification standards set forth in this Chapter and shall conform to accepted professional practices. Prior to, or concurrent with, initiation of a historic resource survey, the City shall undertake preparation of a thematic Historic Context Statement to provide the evaluative framework for the survey and for subsequent historic resource evaluations.

D. Inventory Updates. To support the proactive identification of Historical Resources, and consistent with the intent of California Public Resources Code Section 5024.1.g(4), the Director will endeavor to review the Inventory periodically and update it as needed. Updates may include new or revised historic resource surveys and intensive-level historic resource evaluations, which will be submitted to the Commission for approval.

E. Inventory Notification. The City shall notify owners and residents of properties placed on the Inventory, following procedures to determined by the Director. To promote awareness of Historical Resource status among owners, potential owners, and residents, the Director shall establish and oversee a system for identifying Inventory listed properties within the City's building records.

F. Inventory of Historical Resources and CEQA. Those properties included on the Inventory shall be considered historical resources for purposes of CEQA, in accordance with California Code of Regulations Title 14, Chapter 3, Section 15064.5(a)(2).

17.17.106 Orange Register of Historical Resources.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which establishes the City's responsibility to identify, recognize, and preserve historic resources. The General Plan calls for maintaining an accessible list of designated and potentially eligible historic resources and ensuring that such resources are used, maintained, and rehabilitated in a manner consistent with accepted preservation standards. This section furthers those objectives by establishing the Orange Register of Historical Resources ("Register"), the City's official list of designated Historical Resources.

B. Intent. The intent of this section is to ensure that formally designated Historical Resources are clearly identified, documented, and protected through their inclusion on the Register. The Register serves as the City's authoritative list of properties that have been evaluated and found to meet local, state, and/or national significance criteria for designation, whether individually or as contributors to historic districts. This section establishes how properties are added to and maintained on the Register so that the City can provide long-term stewardship of its designated Historical Resources and ensure their preservation through consistent application of this Chapter.

C. Register of Historical Resources Established. The Orange Register of Historical Resources ("Register") is hereby created. The Register shall include all Historical Resources designated by the City, together with all properties listed in the National Register of Historic Places and the California Register of Historical Resources. Contributors to designated historic districts and individually designated properties shall likewise be included. The Director shall ensure that

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the Register is routinely updated and made accessible to the public in a format of the Director's choosing.

D. Automatic Nomination. Properties already listed in the National Register of Historic Places or California Register of Historical Resources, either individually or as contributors to historic districts, shall be automatically added to the Orange Register. No further application or Commission action shall be required.

E. Prior Local Designations. Any property previously designated as a local landmark by the City Council on or before the effective date of this Chapter shall be deemed a Historical Resource for purposes of this Chapter and shall be automatically included on the Register.

F. Existing Mills Act Properties. Any property with an active Mills Act Historic Property Contract as of the effective date of this Chapter shall be automatically added to the Orange Register, provided that adequate documentation was previously submitted to the City to demonstrate that the property meets the designation criteria in Section 17.17.107 (Designation Criteria for Historic Landmarks) or Section 17.17.108 (Designation Criteria for Historic Districts).

G. New Designations. Designations of Historical Resources shall be initiated in accordance with the criteria and procedures set forth in this Chapter. Any person may request the designation of a Historical Resource by filing an application with the Community Development Department on a form furnished by the Department.

H. Designation Runs with the Land. The designation of a Historical Resource shall run with the land and shall not be affected by a change in property ownership.

I. Rescission of Designation. The conditions and process for amendment or rescission of a Historical Resource designation are described in Section 17.17.112 (Amendment or Rescission of Designation).

17.17.107 Designation Criteria for Historic Landmarks.

A. Purpose. Acting on the recommendation of the Commission, the City Council may designate a property, site, public art, park, cultural landscape, or natural feature as a historic landmark and add it to the Orange Register upon determining that it meets the requirements described in subsections B and C.

B. The property meets at least one of the following eligibility criteria:

1. Association with important events: It is, or was at one time, associated with important events or broad patterns of development that have played a significant role in shaping the cultural, architectural, social, historical, economic, or political history of the city, region, state, or nation.

2. Association with important persons: It is, or was at one time, associated with an individual or individuals whose contributions significantly influenced the history, development, or culture of the city, region, state, or nation.

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3. Architectural, artistic, or design significance: It reflects the distinctive characteristics of a particular style, type, period, or method of construction; represents the work of a master; possesses notable artistic or aesthetic merit; or stands as one of the last or finest remaining examples of an architectural type or style once common but now increasingly rare.

4. Information pertaining to prehistory: It has produced, or has the capacity to produce, information important to understanding the prehistory or history of the city, region, state, or nation.

C. In addition to meeting at least one of the criterion above, the property also retains historic integrity from its period of significance as determined by a qualified architectural historian or historian as defined in this Chapter. A potential historic landmark need not retain all seven aspects of historic integrity (location, design, setting, materials, workmanship, feeling, and association), but it must retain sufficient integrity to convey the reasons for its cultural, architectural, social, historical, economic, and political significance.

D. A proposed historic landmark shall not be deemed to have lost integrity solely because of deferred maintenance or deteriorated physical condition. Integrity must be assessed with reference to the particular Character-Defining Features that establish the property's eligibility under the relevant criteria and theme of significance.

17.17.108 Designation Criteria for Historic Districts.

A. When recommending the designation of a historic district to the City Council, in addition to the criteria listed in Section 17.17.107(B), the Commission shall also determine the following:

1. That the proposed historic district constitutes an identifiable entity with clearly defined boundaries, and that it contains a cohesive collection, linkage, or continuity of sites, buildings, structures, or objects that are historically or aesthetically unified by plan or by physical development;

2. That the district retains integrity from its period of significance, as determined by a qualified architectural historian or historian as defined in this Chapter. While not every property or feature within the district must retain all seven aspects of integrity—location, design, setting, materials, workmanship, feeling, and association—a substantial number must retain sufficient integrity to convey the district's historic, cultural, or architectural significance;

3. That at least fifty-one (51) percent of the primary buildings within the historic district boundaries have been identified as Contributors;

B. In accordance with best practices and guidance promulgated by the National Park Service, the individual components of a historic district may lack distinction on their own but still contribute to the historic district.

C. Upon recommending that a historic district be designated, the Commission shall also recommend the adoption of district-specific design guidelines to help guide subsequent in-fill and new construction, alterations and additions, and to further the purpose of this Chapter.

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D. A proposed historic district shall not be deemed to have lost integrity solely because of deferred maintenance or the dilapidated condition of its contributing buildings or landscape elements. Integrity must be assessed with reference to the particular features that establish the district's eligibility under the relevant criteria and theme of significance.

17.17.109 Designation Procedures – Historic Landmarks.

A. Application. Any individual may submit a historic landmark nomination for a property in Orange. When a landmark designation application is initiated by the City Council, a City agency, or the Commission, the Director shall be responsible for preparing and causing to be prepared the required application.

B. Notification of Property Owners. The City shall notify the property owner of any Historical Resource nominated to the Register before the Commission holds the hearing at which the application will be considered. Notification shall be sent by certified mail to the last owner of record listed in the most recent equalized assessment roll of the County of Orange. Property owners retain the right to contest the designation of their property before both the Commission and the City Council. Any such protest may be submitted in writing to the Community Development Department and/or presented through testimony before the Commission and/or the City Council.

C. Landmark Application Materials. Applications for designation shall be submitted on a form prescribed by the Director and shall include the following:

1. The legal description of the site and assessor's parcel number;

2. A description of the property and its setting and site, along with a statement explaining how the property meets the significance criteria in Section 17.17.107 or 17.17.108;

3. An architectural description, including narrative and photographs that illustrate the property's elevations, Character-Defining Features, changes over time, and overall setting and site plan features;

4. A construction chronology describing the property's development and major alterations and/or additions, to the extent such information is available;

5. A summary of the property's ownership history; when designation is sought for an association with a significant individual, the ownership history and biographical information for prior owners shall be more robust to allow for an adequate assessment of the property's eligibility under this significance criteria;

6. A statement of significance describing how the property satisfies the eligibility criteria, including its area of significance, theme, and period of significance;

7. Current photographs and, when available, historic photographs, maps, sketches, drawings, or other descriptive materials as available to support the nomination;

8. Any applicable fees established by the Director, along with any additional information requested by the Commission or the Director.

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D. Confirmation of Eligibility. To confirm a finding of eligibility, a professional peer review of a designation application may be prepared or caused to be prepared by the Director or her/his designee. Such an assessment shall be submitted to the Commission for review and concurrence. The peer review shall be completed by a qualified architectural historian or historian as defined in this Chapter and documented in a memorandum for the record.

E. Commission Review and Recommendation. The Commission shall evaluate the merits of the application and hold a public hearing to determine whether the proposed landmark meets the designation criteria set forth in Section 17.17.107. Public notice for the hearing shall be provided in accordance with the provisions of Municipal Code Section 17.08. Following the close of the hearing, the Commission shall adopt a resolution recommending to the City Council that the application be approved, continued (should additional information or evidence be required), or denied.

F. City Council Determination. The City Council may designate a property as a landmark following a recommendation from the Commission or upon appeal of a negative recommendation. After a landmark designation application is submitted, the City Council shall hold a public hearing on the request. Public notice for the hearing shall be provided in accordance with the provisions of Municipal Code Section 17.08. In considering the application, the City Council shall review the Commission's recommendation as well as any written objection submitted by the owner of the nominated property, provided that the objection is filed with the Director at least 10 business days before the City Council hearing. The City Council shall act by resolution to approve, conditionally approve, or deny the application.

G. Designation.

1. Upon designation by the City Council, the Director shall also record, or cause to be recorded, the location, characteristics, and significance of the historic landmark on a California Department of Parks and Recreation Historic Resources Inventory Form 523—or its current equivalent—in accordance with the recordation practices established by the State Office of Historic Preservation. The fee for preparation of the California Department of Parks and Recreation Historic Resources Inventory Form will be established by the Director and included in the fee schedule.

2. Upon adoption of the designation and placement of the property on the Register, the City shall record the resolution of designation with the County Recorder's office, consistent with the requirements of California Public Resources Code Section 5029, as that section may be amended over time.

3. A designated Historical Resource may be identified by an approved City marker or plaque, but installation of a marker or plaque is not required.

H. Building and Property Records for Register-Listed Properties. To ensure that owners, residents, and prospective owners are informed about the status of Historical Resources

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in the City, the Director shall establish and maintain a system for marking and identifying the City's building and property records of those properties listed in the Register.

17.17.110 Designation Procedures – Historic Districts.

A. Initiation of Request for Designation of a Historic District. Applications for historic districts may be initiated by any property owner, resident, or tenant in the potential historic district, the Commission, or the City. The request must include the draft boundaries for the historic district and be accompanied by a preliminary statement of how the potential district satisfies the historic district criteria for designation, a map, and representative photographs of the district. The request must also include a petition signed by at least 51% of the property owners within the proposed boundaries of the potential district, stating their support of pursuing historic district designation.

B. Preliminary Determination of Eligibility and Public Hearing to Take Historic District under Consideration. Upon receipt of a request for historic district consideration, the Director shall make a preliminary determination of eligibility, with the assistance of a qualified architectural historian or historian as defined in this Chapter. The Commission shall conduct a public hearing on the preliminary determination to decide whether to take the proposed district under consideration. Notice of the meeting shall be sent to all property owners and all addresses within the boundaries of the district. Following the public hearing, written notice of the decision of the Commission to proceed or not proceed with the district designation shall be sent to all property owners and all addresses within the boundaries of the district. If the Commission votes to proceed, the district shall not be established if written objections are filed by 51 percent or more of the property owners prior to the City Council public hearing. The percentage shall be calculated based on the number of Assessor's parcels within the proposed district.

C. Historic Resource Survey. If the Commission decides to proceed with the designation, the Director, in consultation with the Commission, may prepare, or cause to be prepared, an intensive-level historic resource survey of the district. This survey shall be prepared by a qualified architectural historian or historian as defined in this Chapter. Preparation of the survey, including the scope and timing of the work, shall be subject to the availability of funding and staff resources. If a survey is authorized, the survey report shall include a clear description of the district boundaries; an itemization of all contributing and non-contributing resources and features within those boundaries; a statement of the historic context of the district and how the district satisfies the designation criteria; and California Department of Parks and Recreation Inventory forms (Series 523) for the district and all properties within the district boundaries. The survey may also include recommendations for a preservation plan and design guidelines for the district.

D. Public Workshop. During or after completion of the historic resource survey, the Commission shall hold one or more public workshops to discuss the formation of the historic district. The workshop(s) shall be noticed as specified in Section 17.17.110.B (Designation Procedures – Historic Districts) of this Chapter.

E. Commission Review and Recommendation. Following completion of the historic resource survey and public workshop(s), the Commission shall review and conduct a public hearing on the survey and district application. The public hearing will be noticed as specified in

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Section 17.17.110.B (Designation Procedures – Historic Districts) of this Chapter. After the close of the hearing, the Commission shall adopt a resolution recommending to the City Council the approval, or denial of the application. The Commission may also vote to continue an item, should additional information or analysis be needed. Written notice of the recommendation of the Commission shall be sent to all property owners and addresses within the boundaries of the district.

F. City Council Determination. After receiving the Commission's recommendation, the City Council shall conduct a public hearing on the district application. The public hearing will be noticed as specified in Section 17.17.110.B (Designation Procedures – Historic Districts) of this Chapter. The City Council shall adopt a resolution approving, or denying the application. The Council may also vote to continue an item, should additional information or analysis be needed. Written notice of the City Council action shall be sent to all property owners and addresses within the boundaries of the district.

1. Whenever the City Council designates a historic district, it shall also adopt by resolution: (1) a written description and clear depiction of the district boundaries; and (2) a detailed report that identifies and describes the contributing resources and elements of the district, as well as those resources and elements that are not contributing resources.

2. Subsequent demolition of non-contributors, new construction, alterations, or additions to properties within the designated historic district shall be subject to the provisions of this Chapter for project reviews, including all requirements and findings for a Certificate of Appropriateness and/or Minor Design Review Clearance.

3. The Director or Commission shall, in a timely manner, also prepare or commission the preparation of a preservation plan and design guidelines for designated historic districts. Design guidelines shall establish standards and recommended/not recommended approaches for new construction, alterations, and additions within the boundaries of the historic district. In addition to (or in the absence of) design guidelines, the *Secretary's Standards* shall be used in the completion of the project review process for a Certificate of Appropriateness and/or Minor Design Review Clearance for new construction, alterations, and additions.

4. The City shall not establish the district if 51% of the property owners file an objection in writing prior to the City Council public hearing. The percentage is to be determined based on the number of Assessor's parcels within the district.

G. Designation. Upon designation by the City Council, the Landmark shall be recorded with the County Recorder's office pursuant to California Public Resources Code, Section 5029, as it may be amended from time to time.

17.17.111 Neighborhood Character Areas -- Criteria and Procedures.

A. Purpose. The Cultural Resources and Historic Preservation Element of the General Plan calls for the identification, conservation, and protection of the historic character of the City's neighborhoods. It directs the City to recognize areas with cultural or historical significance, such as El Modena, Cypress Street Barrio, Railroad/Packinghouse Corridor, and Orange Park Acres neighborhoods, and to support their preservation through appropriate planning tools. Neighborhood Character Areas may not retain the level of historic integrity required for formal

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historic district designation. The General Plan also encourages the identification of Neighborhood Character Areas and the use of design guidance that reflects each neighborhood's physical attributes and local context. This section implements and advances those General Plan objectives.

B. Intent. The intent of this section is to create a consistent framework for identifying and managing change within Neighborhood Character Areas, so that the distinctive physical qualities of older neighborhoods are recognized and considered in local planning. Neighborhood Character Areas are intended to acknowledge and guide change in places that retain historic character but do not qualify as historic districts. This section establishes how such areas are designated and how contributing properties within them are reviewed, ensuring that their defining features are respected through the application of context-appropriate design guidelines while maintaining their non-historic-resource status under CEQA.

C. Neighborhood Character Areas. Neighborhood Character Areas are cohesive groupings of related properties that convey an era or type of construction in the City's history. Typically, these areas retain some degree of historic character but do not qualify for designation as historic districts (usually due to alterations). This Chapter provides for the identification and management of such Neighborhood Character Areas. Alterations to properties and features found to be contributing elements of Neighborhood Character Areas shall be subject to design guidelines and standards as adopted by the Commission. For purposes of CEQA, properties within Neighborhood Character Areas are assigned the California Historical Resources (CHR) status code of "6L" ("may warrant special consideration in local planning); but they are not historical resources pursuant to CEQA.

D. Procedures. Upon verification by a qualified architectural historian or historian through a historic resource survey or evaluation, the Commission may recommend that the City Council approve a Neighborhood Character Area if the proposed area satisfies one of the following conditions:

1. The area comprises a discernible collection of properties and features with a cohesive setting, architectural style, scale, character, development history, or association that contributes meaningfully to the City's identity; or

2. The area reflects an established neighborhood identity with a distinct physical character whose preservation would enhance the City's historic character and setting.

E. Design Guidelines. Designation of a Neighborhood Character Area shall be accompanied by design guidelines with recommendations for new construction and in-fill within the boundaries of the area. The guidelines shall reference the City's adopted design guidelines and the *Secretary's Standards*, with an emphasis on compatibility of mass, scale, and overall architectural character and style.

17.17.112 Amendment or Rescission of Designation.

A. Purpose. This section establishes the process by which a Historical Resource may be removed from the Register or Inventory. Although the Cultural Resources and Historic Preservation Element of the General Plan directs the City to identify and preserve potential and designated historic resources, this section provides the steps to correct the Register or Inventory

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when substantial evidence demonstrates that a property was listed in error or no longer meets applicable designation criteria.

B. Intent. It is the intent of the City that Historical Resources meeting the criteria of significance pursuant to this ordinance, as well as state and federal significance criteria, will remain on the Register and Inventory in accordance with the purposes of this Chapter and with General Plan goals and policies. Amendment or rescission of designation is intended to be used only in rare and exceptional circumstances, and only when supported by substantial evidence demonstrating that the property does not, or no longer does, meet the criteria for designation. This section is not intended to provide an alternative path to demolition or to undermine the City's preservation goals, but rather to ensure the accuracy and integrity of the Register and Inventory.

C. Criteria for Rescission. After a Historical Resource has been designated, the City Council may repeal the designation only upon a finding, supported by substantial evidence from a qualified professional, that (1) the information used to justify the designation was incorrect; or (2) the Historical Resource no longer meets the designation criteria established in this Chapter.

D. Amendment or Rescission. The City Council may begin the process to amend or rescind the designation of any Historical Resource by following the same procedures required for designation. The substantial evidence presented should adequately answer the questions posed in subsection C and be peer-reviewed by a qualified professional. This action shall be treated as a discretionary action under CEQA.

17.17.113 Duty to Maintain Register- and Inventory-Listed Historical Resources.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which directs the City to identify and preserve historic resources, ensure their continued use and maintenance in a manner consistent with accepted preservation standards, and protect designated resources from deterioration. Consistent with those objectives, this section requires owners of Historical Resources listed in the Register and Inventory to maintain exterior features in good repair and to comply with all applicable maintenance-related codes, laws, and regulations.

B. Intent. The intent of this section is to ensure the continued preservation and stability of Register- and Inventory-listed Historical Resources by preventing deterioration, neglect, and the incremental loss of character-defining features. This section establishes maintenance expectations and identifies conditions that would potentially lead to the loss of Historical Resources.

C. Duty to Maintain/Conditions Constituting Inadequate Maintenance. The owner of, or other person responsible for, a Historical Resource listed in the Register or Inventory is required to maintain exterior features in good repair and to comply with applicable maintenance-related codes, laws, and regulations. This section is intended to prevent deliberate or inadvertent decay of exterior features—and of interior features when such maintenance is necessary to protect the exterior from deterioration. Historical Resources on the Register shall be protected from decay and structural failure through timely correction of any of the following defects:

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1. Sagging, leaning, splitting, or buckling caused by the deterioration of exterior walls, foundations or other vertical supports, or of flooring, floor supports, or other horizontal members;

2. Leaning, sagging, splitting, or buckling of external chimneys caused by deterioration;

3. Deterioration and crumbling of exterior materials, such as plaster or mortar;

4. Failure of exterior waterproofing systems for walls, roofs, or foundations, including broken windows or doors;

5. Deficient or missing weather protection for exterior walls and roof coverings, including the absence of paint or other protective finishes.

6. Delamination, structural instability, or deformation caused by the deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, decorative elements, trim, and other architectural features.

D. Procedures for Enforcement.

1. On the recommendation of City staff, the Commission, or City Council, the Director may issue a code enforcement citation listing specific defects requesting the correction of defects and/or repairs to designated Historical Resources.

2. After this code enforcement citation is filed, the Code Enforcement Manager or Supervisor, or a designee of the Director, shall attempt to personally contact the owner or any individual with legal possession, custody, or authority over the property. If personal contact cannot be made, written notice outlining the specific defects and the City's right to inspect the property shall be mailed to the owner or responsible party and posted prominently at a location relevant to the identified issues. The written notice shall describe the defects in detail and specify the corrective measures ordered.

3. Once the owner, representative, or other person with legal possession, custody, or control of the property grants permission for an inspection, the Code Enforcement Manager or Supervisor, or the Director's designee, together with the Director or their designee, shall conduct an investigation and prepare a written report determining whether the property requires work to comply with Section 17.17.113.

4. If the investigation determines that work is required for the property to comply with Section 17.17.113, the owner, representative, or other person with legal possession, custody, or control shall be served, within fifteen (15) business days, with a complaint identifying the deficiencies and providing notice that a hearing will be scheduled before the Commission at its next available meeting. The hearing shall be held for the following purposes:

a. Review and discuss evidence about the deteriorated conditions and the appropriate path moving forward;

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b. Establish a plan and schedule for completing the repairs necessary to stabilize the building or structure and prevent further deterioration.

5. After the notice and hearing, a written determination of the Commission's decision, and the specific conditions requiring correction or repair, shall be prepared; the owner or other interested parties shall be served with an order directing that the defective elements be repaired within a specified and reasonable period.

6. Should the owner fail to undertake the necessary repairs within the allotted period, the City may employ any legal means to remedy the deficiencies that pose hazards or unsafe conditions to life, health, or property. The expenses incurred by the City in performing this work may be assessed as a lien on the property.

17.17.114 Tiered Historic Preservation Project Review Requirements and Applicability.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which directs the City to identify and preserve Historical Resources and to ensure that such resources are used, maintained, and rehabilitated in a manner consistent with established preservation standards. In furtherance of these objectives, this section requires that proposed Major and Minor Alterations to properties listed in the Register or Inventory be reviewed through a Certificate of Appropriateness or a Minor Design Review Clearance. Approval or denial of such applications is a discretionary action under CEQA (California Code of Regulations, Title 14, Section 15002(i)).

B. Intent. The intent of this section is to protect designated and potentially eligible Historical Resources from inappropriate alteration or relocation by ensuring that proposed work is reviewed for consistency with applicable preservation standards. Requiring a Certificate of Appropriateness or Minor Design Review Clearance ensures that changes do not diminish a resource's historic, architectural, or cultural significance and that work governed by this Chapter proceeds with appropriate review and approval.

C. Relationship to City's Adopted Historic Preservation Design Standards. Projects subject to a Tier 1 Certificate of Appropriateness or a Tier 2 Minor Design Review Clearance shall comply with all applicable City-adopted historic preservation design standards, whether existing or adopted in the future, in addition to the *Secretary's Standards*. Where conflicts arise, the more specific or restrictive set of standards (with guidance tailored to the resource type, architectural feature, or district context) shall apply. For purposes of this subsection, the City's adopted historic preservation design standards include any standards, guidelines, or review thresholds adopted by City Council that govern alterations to Historical Resources.

D. Tiered System for Streamlining. To provide for the responsible oversight of Historical Resources listed in the Register and Inventory while also safeguarding property rights, this Chapter establishes a process for conceptual review and three tiers of projects affecting Historical Resources: (Tier 1) Major Alterations, which is subject to a Certificate of Appropriateness through Commission review; (Tier 2) Minor Alterations, which is subject to a Minor Design Review Certificate of Appropriateness through City staff review; and (Tier 3)

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Ordinary Maintenance and Repair, which is exempt from review. The applicability of each is described below.

1. Early Stage Conceptual Review. Prior to the hearing for a Certificate of Appropriateness, staff may recommend that applicants discuss with the City's historic preservation staff any early-stage conceptual plans that involve alterations or additions to Historical Resources as well as new construction in designated or eligible historic districts, or within a Neighborhood Character Area. The purpose of this conceptual review shall be to streamline the process of project reviews and obtain preliminary comments and direction on project design and options prior to the Tier 1 or Tier 2 Certificate of Appropriateness review or hearing.

2. Tier 1/Major Alterations: Certificate of Appropriateness – Commission Review, shall apply to:

a. Those projects meeting the definition of "Major Alterations" as defined in this Chapter, including those project types the Commission has, by resolution, determined to constitute Major Alterations;

b. Any project type that the City's adopted historic preservation design standards—whether existing or adopted in the future—identify as a Major Alteration requiring review by the Commission;

c. Relocation of a Historical Resource listed in the Register or Inventory, including, but not limited to, all properties identified as contributing to a Historic District listed in the Register or Inventory;

d. New construction within a Historic District listed in the Register or Inventory;

e. Any other project referred to the Commission by the City Council, Planning Commission, or City staff.

f. Any project that, in the judgment of the Director or her/his designee, has the potential to affect a Character-Defining Feature or the historic integrity of a Historical Resource.

3. Tier 2/Minor Alterations: Certificate of Appropriateness - Administrative Review, shall apply to:

a. Those projects meeting the definition of "Minor Alterations" as described in this Chapter, including any other project types the Commission has, by resolution, determined to constitute Minor Alterations;

b. Any project type that the City's adopted historic preservation design standards—whether existing or adopted in the future—defines as a Minor Alteration eligible for Tier 2 Certificate of Appropriateness approved at the administrative level;

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c. The Minor Design Review Clearance shall not apply to any project type that qualifies as a Major Alteration or that the City's adopted historic preservation design standards identify as requiring review by the Commission.

4. Tier 3/Exemptions: Ordinary Maintenance and Repair and Other Exemptions, shall apply as follows:

a. An exemption from project review applies for work completed to Register- and Inventory-listed properties that meets this Chapter's definition of Ordinary Maintenance and Repair. Ordinary Maintenance and Repair includes projects that do not, by law, require issuance of a permit and do not involve a change of design, materials, or exterior appearance.

b. The following project types are considered Ordinary Maintenance and Repair and do not require a Tier 1 or Tier 2 Certificate of Appropriateness:

(1) Any project type that the City's adopted historic preservation design standards—whether existing or adopted in the future—defines as qualifying for an exemption from project review;

(2) Exterior or interior paint color, except where the project includes painting an exterior Character-Defining Feature that was historically unpainted or painting an interior Character-Defining Feature specifically identified as such in a landmark designation adopted by the City;

(3) All work that is entirely interior and does not affect the exterior of a Historical Resource, except for interior features that are specifically identified as Character-Defining Features in a landmark designation adopted by the City or character-defining interior features that were originally accessible by the public;

(4) Ordinary Maintenance and Repair that does not require a building permit, as defined in Section 17.17.103 (Definitions) of this article;

(5) Replacement of existing electrical panels, roof sheathing materials, window screens, and awnings that have the same materials, form, and shape and that are compatible with the historic character of the building;

(6) Routine landscaping, including sprinkler system work, that does not affect a Character-Defining Feature;

(7) Routing hardscaping and paving work that does not affect a Character-Defining Feature;

(8) Other projects as determined by the Director.

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c. Exemptions shall also apply, as determined by the Director, to projects that are statutorily exempt from zoning codes, environmental review under CEQA, or the requirements of certain other local, state, or federal laws intended to streamline permitting and accelerate new housing development.

17.17.115 Tier 1/Major Alterations: Certificate of Appropriateness – Commission Review, Procedures.

A. Application. The owner or authorized representative proposing Major Alterations, as defined in this Chapter, to a Historical Resource listed in the Register or Inventory shall submit an application for a Certificate of Appropriateness, together with any required fee.

1. The application for a Certificate of Appropriateness shall include the following data:

a. A detailed description of the project, including a written narrative and photographs to illustrate existing conditions and project areas,

b. A list of the City's adopted historic preservation design standards that apply to the project and a written explanation of how the project components comply with each of these standards;

c. A list of the applicable *Secretary's Standards* and a written explanation of how the project complies with each of these standards;

d. Detailed architectural plans, including floor plans, elevations, and drawings, illustrating the scale, massing, character, and detailing of the proposed work, including existing and proposed elevations and plans. Information on the specifications and appearance of existing and proposed replacement materials and features should also be included;

e. A site plan showing all existing buildings and structures and the relationship of the proposed work to the surrounding environment;

f. Relationship to the existing scale, massing, architectural style, site and streetscape for new construction in historic districts;

g. Other information deemed necessary by the Director or her/his designee.

2. Upon deeming the application to be complete, the Community Development Department shall transmit the application to the Commission within thirty (30) business days of the receipt of a complete application.

3. Commission Review. The Commission shall hold a public hearing on each Certificate of Appropriateness application and, following the close of the hearing, shall adopt a resolution approving, conditionally approving, or denying the application.

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4. Issuance of Certificate of Appropriateness Findings. Upon approval, the Certificate of Appropriateness Findings shall be transmitted to the applicant, .

5. Appeal. Decisions of the Commission or the City regarding a Certificate of Appropriateness may be appealed in accordance with Section 17.17.125 (Appeals) of this Chapter. A Certificate of Appropriateness shall not become effective until the appeal period has expired.

6. Public Notice Requirements. For all projects requiring a Certificate of Appropriateness subject to Commission approval, the City shall provide public notification in accordance with Section 17.08.040.

17.17.116 Tier 1/Major Alterations: Certificate of Appropriateness – Commission Review, Findings.

A. The following considerations shall guide the issuance of a Certificate of Appropriateness approved by the Commission.

1. The Commission may approve or approve with conditions a Certificate of Appropriateness for projects involving Major Alterations to Historical Resources that:

a. Are compatible with the historic character and scale of the Historical Resource, including its size, massing, proportions, orientation, architectural details, and the spatial relationships that characterize the property and its site;

b. Do not result in a change of design, material, or appearance of the property's Character-Defining Features (except those changes determined to be in compliance with the City's adopted historic preservation design standards and the *Secretary's Standards*, per subsections A.1.c. and A.1.d below);

c. Comply with the City's adopted historic preservation design standards, including but not limited to the Old Towne Orange Historic Preservation Design Standards, City of Orange Eichler Tract Design Standards, and any other district- or resource-specific design standards that are existing or adopted by City Council;

d. Comply with the *Secretary's Standards* and therefore are either mitigated to a less-than-significant impact on historical resources under CEQA (CEQA Guidelines [California Code of Regulations. Title 14] Section 15064.5(b)(3)) or categorically exempt from CEQA under the Class 31 exemption, which applies to "projects limited to maintenance, repair, stabilization, rehabilitation, restoration, preservation, conservation or reconstruction of historical resources in a manner consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings* (1995), Weeks and Grimmer" (CEQA Guidelines [California Code of Regulations Title 14] Section 15331);

e. Will not cause a substantial adverse change in the significance of a Historical Resource, whether an individual property or a historic district, in accordance with CEQA;

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f. Are consistent with the goals and policies of the General Plan; and

g. Are consistent with the provisions of this Chapter.

h. The Community Development Department may approve changes to plans approved through a Certificate of Appropriateness if and when the Department determines the change is in substantial conformance with the approved plans. This determination may be made for minor changes and must be supported by documentation demonstrating consistency with the applicable design standards and *Secretary's Standards*. If, in the judgment of the Director, a proposed change is not minor or raises questions about consistency with the approved plans or applicable standards, the Director may refer the change to the Commission for review and approval.

2. A Certificate of Appropriateness completed in accordance with this section shall expire two years from the date of effectiveness unless work is started within that time; the Director may, on her or his discretion, grant one extension of up to one year upon written request.

17.17.117 Tier 2/Minor Alterations: Minor Design Review Clearance, Procedures.

A. Application. The owner or authorized representative proposing Minor Alterations, as defined in this Chapter, to a Historical Resource listed in the Register or Inventory shall submit an application for Minor Design Review Clearance, together with any required fee.

1. The application for Minor Design Review Clearance shall include the following data:

a. A description of the project,

b. Documentation demonstrating consistency with the City's adopted historic preservation design standards and Secretary's Standards;

c. Drawings or sketches sufficient to show the proposed change;

d. Information on materials, products, and color palette, where applicable;

e. Other information deemed necessary by the Director or her/his designee.

2. Eligibility. Minor Alterations that may be eligible for a Minor Design Review Clearance include the following:

a. Minor Alterations shall include those project types that the City's adopted historic preservation design standards, whether existing or adopted in the future, identify as eligible for administrative review. In cases where the City's adopted historic preservation design standards require review by the designated historic preservation review body, those requirements shall take precedent.

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b. Re-roofing if the proposed roofing material is comparable in appearance, color, and profile to the existing material (if the existing material is appropriate to the style of the property) or original roofing material, as shown through physical or documentary evidence;

c. Replacement of windows and doors if the proposed replacements match historic materials, dimensions, size, framing profiles and patterns, form, and color as the existing or original windows and doors, as shown through physical or documentary evidence or of a historic style typical for the historic architectural style of the structure where documentation is not available;

d. Replacement of non-character-defining windows and doors with largely similar or alternative materials, when these windows and doors are not visible from the public view; the Director or her/his designee will make the determination of what constitutes visibility from the public view;

e. Foundation work that does not affect Character-Defining Features;

f. Removal of non-historic features, demonstrated through physical or documentary evidence, and replacement with historically compatible features;

g. Sign refacing/maintenance where there is no change in method of attachment or style of illumination;

h. Reversible window signs, limited to temporary decals, lettering, or similar applications that can be removed without damage to historic materials and that do not affect any interior or exterior Character-Defining Feature identified in a landmark designation;

i. Landscape alterations, or removal or installation of tree and plant material not specifically designated or listed as Character-Defining Features in the landmark nomination applications;

j. Hardscape added, expanded, or replaced in front or side yards visible from the street, provided the features are not listed as Character-Defining Features in the landmark nomination applications;

k. Installation of exterior lighting;

l. Permitted exterior electrical, plumbing, utility, mechanical, and related building-system work, including rooftop equipment and appurtenances, provided such features are not visible from the public view or from neighboring properties at street level;

m. Repair or in-kind replacement of deteriorated historic materials with components of the same material, appearance, and function as the original character-defining features;

n. Additions of fewer than 120 square feet located on rear elevations that are not visible from the public view, that have materials, scale, and detailing compatible with

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the historic building, and that do not change, remove, or obscure Character-Defining Features, including but not limited to service porches; the Director or her/his designee will make the determination of what constitutes visibility from the public view;

o. Other minor rehabilitation work as determined by the Director or her/his designee;

p. Minor changes to a previously approved Minor Design Review Certificate of Appropriateness as determined by the Director or her/his designee.

17.17.118 Tier 2/Minor Alterations: Minor Design Review Certificate of Appropriateness – Findings.

A. The City may administratively approve projects involving Minor Alterations to Historical Resources that:

1. Comply with the City's adopted historic preservation design standards, including but not limited to the Old Towne Orange Historic Preservation Design Standards, City of Orange Eichler Design Standards, and any other district- or resource-specific design standards;

2. Comply with the *Secretary's Standards* and therefore qualify for the Class 31 Categorical Exemption from further CEQA review (CEQA Guidelines [California Code of Regulations Title 14] Section 15331);

3. Are compatible with the historic character and scale of the Historical Resource, including its size, massing, proportions, orientation, architectural details, and the spatial relationships that characterize the property and its site;

4. Do not result in a change of design, material, or appearance of the property's Character-Defining Features (except those changes determined to be in compliance with the City's adopted historic preservation design standards and the *Secretary's Standards*);

5. Are consistent with the goals and policies of the General Plan and with the provisions of this Chapter.

B. A Minor Design Review Certificate of Appropriateness completed in accordance with this section shall expire two years from the date of effectiveness unless work is started within that time; the Director may, on her or his discretion, grant one extension of up to one year upon written request.

C. If the Director determines that proposed work involving a Historical Resource could damage or significantly change the appearance of a Character-Defining Feature or could conflict with the *Secretary's Standards* or the City's adopted design standards, the Director may refer the project to the Commission for additional review and a Tier 1 Certificate of Appropriateness.

17.17.119 Relocation of Register- and Inventory-Listed Historical Resources.

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A. Purpose. Relocation has the potential to diminish or destroy the significance of Historical Resources and is therefore strongly discouraged. When relocation of a Register- or Inventory-listed Historical Resource is proposed, this section establishes the procedures and findings required for issuance of a Certificate of Appropriateness for relocation.

B. Procedure. Applications to relocate a Register- or Inventory-listed Historical Resource shall be reviewed by the Commission for consideration and action.

C. Required Findings for Relocation. A Certificate of Appropriateness for relocation may be approved only when relocation is consistent with the goals and policies of the General Plan, this Chapter, and any applicable specific or area plan, and only when all of the following findings can be made:

1. Integrity: Relocation will not significantly change, destroy, or adversely affect the historic integrity of the Historical Resource;

2. Context and Setting: Relocation will not result in a significant adverse effect on the character of the historic district, neighborhood, or surrounding properties at either the original site or the proposed receiver site;

3. Control of Sites: The applicant has demonstrated control of both the original site and the proposed receiver site through ownership, long-term lease, or other assurance acceptable to the Director or Commission; and

4. Necessity: Relocation is necessary to retain the Historical Resource and/or to correct an unsafe or dangerous condition for which no other feasible corrective measures exist, or relocation is necessary to preserve the Historical Resource and all other feasible options for preservation on the original site have been exhausted, as determined by the Commission.

D. Relocation Timing. The Historical Resource shall not be relocated until all required entitlements, approvals, and permits have been obtained.

E. Relocation Plan. Relocation shall be carried out in accordance with a Relocation Plan approved by the Commission. The Relocation Plan shall include, at minimum:

1. A completed application on a form provided by the Director;

2. Documentation of the existing conditions of the Historical Resource and both the original and receiver sites;

3. A detailed description of the relocation method, route, and schedule;

4. Measures to ensure protection of the Historical Resource before, during, and after relocation.

5. The Commission shall hold a noticed public hearing and approve or deny the relocation. The Commission shall not approve a relocation unless all required findings in subsection C of this section are met.

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17.17.120 Certificate of Demolition.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which directs the City to identify and preserve potential and listed historic resources. To support this objective, the General Plan calls for consideration of alternatives to demolition—such as rehabilitation, adaptive reuse, compatible new construction, and relocation—and requires that no alteration or demolition of properties listed in the Orange Register or Inventory proceed until preservation alternatives have been fully evaluated. This section carries out that goal and these policies by establishing the process for obtaining a Certificate of Demolition for any property listed in the Register or Inventory. No demolition permit shall be issued for a Register- or Inventory-listed Historical Resource unless a Certificate of Demolition has first been approved. Approval or denial of a Certificate of Demolition is a discretionary action under CEQA (California Code of Regulations, Title 14, Section 15002(i)). Penalties for noncompliance with this Chapter are provided in Section 17.17.128 (Enforcement and Penalties).

B. Intent. It is the intent of the City that Historical Resources will not be demolished except if and when extraordinary circumstances, demonstrated on the basis of substantial evidence, are shown to exist. Consistent with the General Plan and this Chapter, Historical Resources are to be retained and preserved for the benefit of current and future generations. The provisions of this section are intended to ensure that Historical Resources are not inadvertently or unnecessarily destroyed, and that all feasible alternatives to demolition are thoroughly explored and exhausted before demolition is considered.

C. Compliance with Federal and State Laws. Review of all applications for a Certificate of Demolition shall comply with applicable state and federal laws and regulations, including without limitation, CEQA, the National Historic Preservation Act and the National Environmental Policy Act.

D. Application Materials. All applications for a Certificate of Demolition will include, at a minimum:

1. Demolition permit application, on a form prescribed by the Director.

2. Imminent hazard documentation, if applicable, including a written determination by the Director supported by a report from a qualified Structural Engineer, as defined in Section 17.17.103 (Definitions).

3. Additional materials as required by the Director, which may include:

a. Current photographs of the Historical Resource and its setting;

b. A plot plan identifying all buildings, structures, and historic features on the property;

c. Documentation supporting any claims regarding the condition of the resource or the cost of repair, rehabilitation, or stabilization;

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d. Any other information necessary to evaluate the feasibility of alternatives to demolition.

e. The demolition permit application, on a form prescribed by the Director;

f. If the Historical Resource has been determined an imminent hazard, documentation from the Director, including documentation from a qualified Structural Engineer, as defined in Section 17.17.103 (Definitions), describing the basis for this determination;

g. Other materials as requested by the Director. Such materials may include (but not be limited to) current photographs of the resource(s) for which the Certificate of Demolition is requested; a plot plan identifying the resource(s) proposed for demolition and any other buildings, structures or historic features on the property; and documentation of any claims by the applicant regarding the condition or costs for repair of the resource.

E. In cases where an applicant seeks to demolish a Historical Resource on the grounds that it no longer meets the criteria for designation, the applicant must first complete the steps outlined in 17.17.112 (Amendment or Rescission of Designation).

F. 180-Day Waiting Period. For any Historical Resource not determined to be an imminent hazard by a qualified Structural Engineer as defined in this Chapter, the Director may delay demolition for a period of up to but not exceeding 180 calendar days. The waiting period is intended to ensure that demolition is considered only after all reasonable preservation options have been fully explored. During this period, the Commission and Director shall work with the property owner to explore all feasible alternatives to demolition, including adaptive re-use and/or rehabilitation in accordance with the *Secretary's Standards*, application of the California Historical Building Code to allow for flexibility in code requirements in cases of adaptive reuse or rehabilitation, use of financial incentives such as the Mills Act Historic Property Contract program, relocation, resale, or other provisions as appropriate.

G. Procedure.

1. Notice of Intent to Demolish. Upon receipt of an application for a Certificate of Demolition, the applicant shall post a Notice of Intent to Demolish on the property in a location clearly visible from the public right-of-way, using a form approved by the Director. The notice shall remain posted continuously until final action is taken on the application.

2. Completeness Review. The Director or her/his designee shall review the application to confirm that all required materials have been submitted. Once deemed complete, the application shall be referred to the Commission at their next available meeting and noticed in accordance with City procedures for public hearings. Such notice shall also be sent to the property owner(s) of record and to other persons who have requested to be notified of such matters, or whom the Director determines may have an interest in the matter.

3. Imminent Hazard Exception. If the Historical Resource has been determined by the City Building Official to pose an imminent threat to public health, safety, or welfare, based on substantial evidence, the Director or her/his designee may approve or deny the

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demolition request without Commission review. Such determinations must be supported by documentation from a qualified Structural Engineer as defined in Section 17.17.103 (Definitions).

4. Public Notification. All applications for a Certificate of Demolition require public notification. No later than ten (10) calendar days prior to the hearing, the City shall issue a public hearing notice stating the date, time, and location of the Commission meeting and a brief description of the proposed demolition. Public notification shall be provided as follows:

a. Notice to Applicant and Nearby Owners/Occupants. Notice shall be provided to the applicant, all owners of real property within a 300-foot radius of the subject parcel as shown on the County's latest equalized assessment roll, and all legal occupants within the same radius.

b. Notice to Owners and Occupants of Historic District Properties. For demolition requests within a locally designated historic district or a district listed in the California Register, notice shall also be provided to all owners and legal occupants of properties within the district, in addition to the notification required in subsection (a).

5. Commission Hearing and Action. The demolition request will be presented in a public hearing before the Commission. At the public hearing, the Commission shall review the application, staff report, and all evidence presented by the applicant, staff, and members of the public. The Commission shall determine whether the criteria for demolition approval have been met and may approve, deny, delay the demolition for a specified period, approve with conditions, or continue the application to obtain additional information necessary to consider the demolition request.

6. Appeal. If the Commission denies the demolition request, the owner or applicant may appeal the decision to the City Council by submitting a written appeal within ten calendar days of the Commission's decision, in accordance with Section 17.17.125 (Appeals) of this Chapter.

7. Conditions Prior to Issuance of Certificate of Demolition. If a Certificate of Demolition is approved on any basis other than imminent hazard or economic hardship, the City shall not issue the Certificate until:

a. HABS/HAER Documentation has been completed by a qualified Architectural Historian, Historian, or Historic Architect as defined in this Chapter, documenting the Historical Resource and its setting; and

b. A Replacement Plan has been approved by the Commission. The replacement plan must comply with existing zoning, the General Plan, any applicable specific or neighborhood plan, and all applicable design guidelines. Vacant land or non use shall not constitute a valid replacement plan

8. Review of Replacement Plan. The Director shall evaluate the replacement plan for conformance with the *Secretary's Standards* (as applicable) and City's adopted historic preservation design standards and shall prepare a staff report with recommendations.

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a. Commission Action. The Commission shall review the replacement plan and may approve, deny, approve with conditions, or continue the matter with specific direction regarding additional information needed.

b. Appeal of Replacement Plan Decision. If the Commission denies the replacement plan, the owner or applicant may appeal the decision to the City Council within ten (10) days of the Commission's action, pursuant to Section 17.17.125 (Appeals).

H. Mandatory Findings. The City shall not issue a Certificate of Demolition for a Historical Resource listed in the Register or Inventory unless all of the following findings can be made:

1. The 180 calendar day waiting period or other period as required by the Commission has expired, and all steps to explore alternatives to demolition, as described in Section 17.17.120 (Certificate of Demolition), have been explored to the Commission's satisfaction;

2. Any deterioration of the Historical Resource is not the result of the failure of the owner to maintain the property in accordance with Section 17.17.113 (Duty to Maintain Register- and Inventory-Listed Historical Resources) of this Chapter;

3. As a condition of approval, all permits have been granted for the replacement structure;

4. CEQA analysis has been conducted, and the owner has provided substantial evidence, as defined in CEQA (Public Resources Code § 21080(e)), demonstrating that no feasible alternative exists that would avoid a significant adverse impact to the Historical Resource.

17.17. 121 Proposed Demolition of Properties Forty-Five Years Old or Older.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which establishes the City's commitment to identifying, preserving, and protecting potential and listed historic resources. To advance this goal, the General Plan calls for consideration of alternatives to demolition—such as compatible rehabilitation, adaptive reuse, new construction, and relocation—and requires that no alteration or demolition of properties listed on the Orange Register or Inventory proceed until those alternatives have been fully evaluated. This section carries out these goals and policies by establishing a review process for older properties that may qualify as Historical Resources.

B. Intent. The intent of this section is to prevent the inadvertent demolition of properties that may qualify as Historical Resources but have not yet been evaluated. This section requires the Director or her/his designee to determine whether a property proposed for demolition that is at least forty-five (45) years old may meet national, state, or local criteria for designation, and to initiate a historic resources assessment when appropriate.

C. Applicability. If a permit is sought to demolish a property that was constructed at least 45 years prior to the date of application for demolition, the application shall be referred to the Director to make a preliminary determination as to whether the property meets national, state, or local criteria for designation, if the property:

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1. is not already listed in the Register or Inventory;

2. is not the subject of a pending landmark nomination for the Register, either individually or as a contributor to a historic district.

D. Exception, Properties within Recently Surveyed Areas. If the property proposed for demolition falls within an area of the City that was subject to a historic resource survey approved and adopted by the City Council within the last five (5) years, and the property was not identified as a potential Historical Resource, a historic resources assessment will not be required.

E. Eligibility Review Process.

1. Preparation of Historic Resources Evaluation (HRE). Upon receipt of an application to demolish a property subject to subsection H, the Director or her/his designee shall, within a reasonable time, obtain an intensive-level Historic Resources Evaluation (HRE) prepared by a qualified Architectural Historian or Historian, as defined in Section 17.17.103 (Definitions), consistent with practices promulgated by the State Office of Historic Preservation.

2. Preliminary Determination by Director. Based on the substantial evidence provided in the HRE, the Director shall make a preliminary determination as to whether the property appears potentially eligible for federal, state, or local listing. The Director shall forward the HRE and the preliminary determination to the Commission for review and concurrence.

3. Notice to Property Owner. The Director shall notify the property owner in writing of the preliminary determination within a timely manner.

4. Commission Review and Determination. The Commission shall review the HRE and the Director's preliminary determination at the next available meeting and determine whether the property appears potentially eligible for local, state, or federal listing; the meeting shall be noticed in accordance with City procedures for public hearings.

a. If the Commission determines that the property is not eligible at the federal, state, or local level, the permit to demolish the property shall be issued without further restrictions under this Chapter.

b. If the Commission determines that the property may be eligible at any of these levels, the property shall be added to the Inventory, and the provisions of Section 17.17.120 (Certificate of Demolition) shall apply to the proposed demolition.

17.17.122 Work Hold Pending Designation.

A. Work Hold – Pending Historic Landmark Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 17.17.124 (Unsafe or Dangerous Conditions), no person shall carry out, or cause to be carried out, any activity requiring a Tier 1 Certificate of Appropriateness or Tier 2 Minor Design Review Clearance on a proposed Historical Resource for which a landmark application has been filed until final action on the designation. An exception to the work hold applies to alterations demonstrated, through the project review process and criteria established in this Chapter, to comply with the *Secretary's Standards*.

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B. Work Hold – Pending Historic District Designation. Except as necessary to correct an unsafe or dangerous condition pursuant to Section 17.17.124 (Unsafe or Dangerous Conditions), no person shall carry out, or cause to be carried out, any activity requiring a Tier 1 Certificate of Appropriateness or Tier 2 Minor Design Review Clearance on any property within the boundaries of a proposed historic district while an application for district designation is pending. An exception to the work hold applies to alterations demonstrated, through the project review process and criteria established in this Chapter, to comply with the *Secretary's Standards*.

17.17.123 Certificate of Economic Hardship.

C. Purpose. The City recognizes that the provisions of this Chapter may, in limited circumstances, create an undue economic hardship. This section establishes the criteria and process by which property owners may demonstrate such hardship. The City Council may issue a Certificate of Economic Hardship to allow alteration or demolition of a Historical Resource listed in the Register or Inventory when denial of the request would impose an undue economic hardship on the owner.

D. Threshold. For income-producing properties, an economic hardship shall be established when the applicant demonstrates that a reasonable rate of return cannot be obtained from the property in its current condition or if rehabilitated in accordance with this Chapter. For non-income-producing properties, an economic hardship shall be established when the applicant demonstrates that, without approval of the proposed alteration or demolition, the owner would be deprived of all reasonable use of or return from the property. In cases involving proposed demolition, the Commission must additionally find, based on substantial evidence, that the Historical Resource cannot be rehabilitated or reused in a manner that would allow for a reasonable use of or return from the property.

E. Applications. An application for a Certificate of Economic Hardship shall be subject to a pro forma evaluation completed for the City by a qualified economic professional selected from a list of qualified economic professionals to be maintained by the City. The application shall be made on the prescribed form and shall include the following information, unless the Director makes the written determination based on expert opinion that such information is not required:

1. The estimated market value of the property in its current condition, with supporting documentation;

2. The estimated market value of the property following the proposed alteration or demolition, with supporting documentation;

3. Itemized estimates of the costs associated with the proposed alteration or demolition;

4. For proposed demolition, the estimated market value of the property after rehabilitation for continued use, and an estimate from a qualified Historic Architect as defined in Section 17.17.103 (Definitions) regarding the economic feasibility of rehabilitation or reuse;

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5. A rehabilitation report from a qualified Structural Engineer or Historic Architect, as defined in Section 17.17.103 (Definitions), addressing the structural condition of the property and feasibility and cost estimates of stabilization and rehabilitation;

6. For income producing properties, documentation of annual gross income, operating and maintenance expenses, depreciation deductions, annual cash flow after debt service, current appraisals, assessed valuations, and real estate taxes;

7. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.

8. All appraisals obtained by the owner or applicant within the previous two years in connection with the purchase, financing, or ownership of the property;

9. If the property was purchased within the previous 36 months, the purchase price, date of purchase, the identity of the seller, any relationship between the parties, and the terms of any financing;

10. Any listing of the property for sale or rent within the previous two years, including asking prices and offers received;

11. Any additional information the Director reasonably determines is necessary to evaluate whether the property may yield a reasonable use or return.

F. Commission Review and City Council Hearing. The Commission shall review all applications for a Certificate of Economic Hardship through a public hearing and shall forward a written recommendation to the City Council. The City Council shall hold a public hearing on the application and may approve ~~e~~ or deny the application following the close of the hearing. The Council hearing may be held concurrently with any related site redevelopment applications.

G. Findings. The City Council shall approve a Certificate of Economic Hardship only if it finds, based on substantial evidence in the record, including the pro forma evaluation required by this Chapter and the Commission's recommendation, that all of the following conditions are met:

1. Denial of the application would deprive the owner of a reasonable economic return on the property or would otherwise preclude all reasonable use of the property.

2. Sale or rental of the property is not financially feasible, taking into account the cost of holding the property for uses permitted in the applicable zoning district.

3. Adaptive reuse or rehabilitation of the property is not feasible, whether due to structural limitations, physical constraints, or economic infeasibility; this finding shall be supported by substantial evidence submitted by the applicant and by any additional analysis required by this Chapter;

4. The hardship to the property owner outweighs the benefit to the community of retaining the Historical Resource in its current condition; this finding shall be supported by

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substantial evidence submitted by the applicant and by any additional analysis required by this Chapter.

H. Approval.

1. Upon approval, copies of the Certificate of Economic Hardship shall be forwarded to the applicant.

2. A Certificate of Economic Hardship shall not become effective until the expiration of the appeal period established in this Chapter.

17.17.124 Unsafe or Dangerous Conditions.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which directs the City to identify and preserve Historical Resources and to ensure that they are used, maintained, and rehabilitated in a manner consistent with established preservation standards. Consistent with these objectives, this section ensures that unsafe or dangerous conditions are addressed in a way that protects public health and safety while preserving Historical Resources and making use of the flexibility provided by the California Historical Building Code.

B. Intent. The intent of this section is to ensure that Historical Resources are not altered or demolished under the pretext of unsafe or dangerous conditions and that emergency actions are limited to the minimum necessary to protect public health and safety. This section is intended to require the use of the California Historical Building Code to identify preservation-sensitive alternatives, to ensure early notification to the Commission, and to provide an opportunity for stabilization, rehabilitation, relocation, documentation, or salvage whenever feasible. Emergency authority under this section is to be exercised narrowly and only when supported by substantial evidence of an unsafe or dangerous condition.

C. Emergency Work Authorized. None of the provisions of this Section shall be construed to prevent construction, alteration, removal, demolition, or relocation necessary to correct an unsafe or dangerous condition of any structure or feature where the Building Official, based on a report from a Qualified Structural Engineer or other qualified professional, has determined that such condition exists and that the proposed work is necessary to correct it. Only the minimum work required to abate the unsafe or dangerous condition may be performed pursuant to this Section. All assessments shall utilize the California Historical Building Code and the Uniform Code for Building Conservation.

D. Notification. The Building Official shall inform the Director and the Commission prior to authorizing any work pursuant to this Section unless she/he determines that immediate action is required to correct the unsafe or dangerous condition. In such cases, the Building Official shall report her/his actions to the Director within 48 hours and to the Commission at its next regular meeting.

E. Commission Review for Work Not Requiring Immediate Correction. If work authorized by the Building Official pursuant to this Chapter is not immediately necessary to correct the unsafe or dangerous condition, the Commission may advise the Building Official of the historic

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significance of the building and recommend a reasonable period of postponement for the purpose of arranging for rehabilitation, relocation, documentation, and/or salvage of the Historical Resource.

F. Time Limits. If no arrangements have been made for rehabilitation, relocation, or salvage within 60 calendar days of an order to abate a nuisance, or within a shorter period if determined necessary by the Building Official, the Building Official may proceed with the abatement action.

17.17.125 Appeals.

A. The owner of a property subject to review, or the applicant, if different than the owner, may appeal any decision by the Director or Commission under this Chapter pursuant to the limitations and procedures in Orange Municipal Code § 17.08.050 (Appeals). All appeals brought under this Section shall be accompanied by a filing fee following a fee structure established by the City Council.

17.17.126 Preservation Incentives.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which establishes the City's goal to expand incentives and education programs that support historic preservation. Consistent with the General Plan's direction, this section promotes the preservation, rehabilitation, and long-term stewardship of Historical Resources by providing financial and regulatory incentives to encourage the maintenance and rehabilitation of historic properties.

B. Intent. The intent of this section is to promote the preservation and continued use of Historical Resources by reducing financial and regulatory barriers. This section is further intended to encourage owners to pursue rehabilitation rather than demolition, to leverage state and federal preservation programs, and to support the City's efforts to secure and distribute funding for preservation activities. Incentives established under this section are intended to complement, not replace, the regulatory protections of this Chapter and to advance the City's broader preservation, education, and community-engagement goals.

C. Authority to Establish Incentives. The Commission may recommend and the City Council may, by resolution or ordinance, adopt preservation incentives to encourage the designation, preservation, maintenance, and rehabilitation of the City's Historical Resources. Such incentives may include financial or regulatory benefits and shall be made available to owners of Historical Resources listed in the Orange Register, California Register of Historical Resources, and National Register of Historic Places. The Director shall administer all preservation incentives in accordance with procedures adopted by the City Council.

D. Mills Act Historic Property Contract Program. The City may enter into Mills Act Historic Property Contracts with owners of Historical Resources listed in the Orange Register, the California Register of Historical Resources, or the National Register of Historic Places, or designated as California Historic Landmarks or National Historic Landmarks. The Mills Act Program provides a reduction in property taxes in exchange for a commitment to complete specified repair, restoration, rehabilitation, and ongoing maintenance in accordance with the

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Secretary's Standards and applicable City design standards. The state-level enabling legislation for the Mills Act Program is contained in California Government Code Sections 50280–50290.

1. Relationship to Previously Adopted Resolutions. The provisions of this subsection shall govern the administration of the Mills Act Program and shall supersede any conflicting provisions of previously adopted resolutions.

2. Purpose. The purpose of the Mills Act Program is to provide a financial incentive through a potential reduction in property taxes in exchange for the preservation, rehabilitation, and long-term maintenance of Historical Resources. This program supports the City's General Plan goal to provide incentives for historic preservation by encouraging long-term investment in the protection and stewardship of the City's Historical Resources.

3. Intent. By enacting this section, the City seeks to advance its historic preservation goals and promote the long term retention, rehabilitation, and stewardship of Orange's Historical Resources. The Mills Act Program is intended to support investment in the preservation of properties that contribute to the architectural, cultural, and historical character of the City. These incentives are intended to prioritize projects that yield the highest preservation and public benefit and demonstrate a clear plan for ensuring that tax savings are reinvested in the long-term protection of the property.

4. Eligibility for Mills Act. Properties eligible to apply for the Mills Act shall include: (1) properties designated on the City of Orange Register, either individually or as contributors to designated historic districts and (2) properties designated on the NRHP or CRHR, or as California Historic Landmarks or National Historic Landmarks. This incentive shall be made available to qualifying properties that undergo (1) rehabilitation; (2) preservation/maintenance; or (3) restoration when such work is consistent with the Secretary's Standards. Eligible work includes, but is not limited to: (1) Preservation, repair, or restoration of character defining features; (2) Rehabilitation of historic resources that have been significantly altered over time; (3) Structural or seismic upgrades necessary to ensure the continued viability of the resource; (4) Work necessary to address deterioration, deferred maintenance, or life safety concerns; and (5) Restoration of missing or altered features based on documentary or physical evidence.

5. Administration of New Mills Act Contracts. The Mills Act Program shall be administered in accordance with the Mills Act Program Guidelines adopted by City Council Resolution (Resolution ###), or as amended.

6. Notice to State Agencies**.** The City shall provide written notice of the Contract to the California Office of Historic Preservation within one hundred eighty (180) days of execution, as required by state law.

7. Non-Renewal Procedures. The procedures for non-renewal by either the property owner or the City shall be as set forth in Government Code Section 50282(a), (b), and (c). Upon issuance of a Notice of Non-Renewal, the Contract shall remain in effect for the balance of the existing term, and no additional years shall be added.

8. Noncompliance and Cancellation. The contract shall state that the City may cancel the contract after a duly noticed public hearing if it determines that the owner is in

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noncompliance with the Mills Act Workplan and/or has breached the conditions of the contract. Cancellation shall be conducted in accordance with state law. If the City cancels the contract, the owner shall pay a cancellation fee equal to **twelve and one-half percent (12.5%)** of the current fair market value of the property, as determined by the County Assessor without regard to the restrictions imposed by the contract.

9. Cancellation Without Penalty in Cases of Natural Disaster**.** The contract shall provide that the City may cancel the contract without imposing the cancellation fee if preservation, rehabilitation, or restoration becomes infeasible due to damage caused by natural disaster (including but not limited to earthquake, fire, or flood) in accordance with the provisions of Public Resources Code Section 5028.

E. Other Financial Preservation Incentives. In addition to the Mills Act Historic Property Contract program, the following financial incentives may be made available to owners of Historical Resources listed in the Orange Register, California Register of Historical Resources, or the National Register of Historic Places in accordance with procedures adopted by City Council and/or established by the Director.

1. Preservation Easements. Preservation easements may be acquired by the City through donation or purchase and shall be held by the City or by a qualified state or local nonprofit organization dedicated to historic preservation. Such easements shall run with the land and shall include conditions necessary to preserve and maintain the Register-listed Historical Resource.

F. Regulatory Preservation Incentives. The following regulatory preservation incentives are available as specified below, to encourage the preservation and ongoing use of the City's Historical Resources:

1. California Historical Building Code. The California Historic Building Code (Title 24, Part 8, California Administrative Code) shall guide upgrades and alterations to Historical Resources that are part of an adopted Register.

2. Exemption for Nonconforming Uses. On a case-by-case basis, a preexisting nonconforming use or site condition may be formally recognized as a permitted use or site condition at the discretion of the Director, if the exemption encourages the retention and ongoing viable use of a Historical Resource listed in the Register.

3. Reduction of Commercial Parking Requirements. At the discretion of the Director, commercial properties listed in the Register may be granted a reduction in parking requirements, to a maximum of 50 percent, based on the degree to which the historic character of the Historical Resource would be preserved, enhanced, or made more viable through the reduction in parking requirements. Parking reductions granted under this subsection operate in addition to any parking reductions or prohibitions required under state law.

17.17.127 Application Filing Fees.

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A. Adoption of Fee Schedule. The City Council shall by resolution adopt a schedule of fees, including potential fee waivers, for any application for designation, termination of a designation, for demolition permits, and for appeals pursuant to this Chapter.

17.17.128 Enforcement and Penalties.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which establishes the City's responsibility to "identify and preserve potential and listed historic resources" and to ensure that such resources are protected, maintained, and rehabilitated in accordance with the Secretary's Standards. The purpose of this section is to provide clear and effective enforcement mechanisms to prevent the unauthorized alteration or demolition of Historical Resources and to ensure compliance with the requirements of this Chapter.

B. Intent. The intent of this section is to deter violations, ensure timely correction of unauthorized work, and provide the City with the tools necessary to restore, stabilize, or otherwise mitigate damage to Historical Resources. Enforcement actions under this section are intended to protect the public interest in the preservation of the City's historic character.

C. General Enforcement Authority. Any person who violates a requirement of this Chapter, fails to comply with a condition of approval, or fails to obey an order issued by the City Council, Commission, or Director shall be subject to the enforcement provisions of the Orange Municipal Code.

D. Nuisance Declaration. Any alteration or demolition of a Historical Resource in violation of this Chapter is hereby declared a public nuisance and may be abated by the City through any lawful means.

E. Moratorium on Development. In addition to all other remedies, the City shall have the authority to impose a temporary moratorium on the development of a property for a period not to exceed 60 months from the date the City becomes aware of any alteration or demolition in violation of this Chapter, unless the owner obtains permits to restore or reconstruct the property to its original condition prior to the violation and the work is consistent with the *Secretary's Standards*. The purpose of the moratorium is to provide the City with an opportunity to study and determine appropriate mitigation measures for the alteration and/or removal of the Historical Resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures, as determined by the Commission and/or Director, shall be imposed as a condition of any subsequent permit for development of the subject property.

F. Injunctive Relief and Court-Ordered Restoration. The City Attorney may bring a civil action to stop any violation of this Chapter and may request a court order requiring that any Historical Resource altered or demolished without approval be fully or partially restored, reconstructed, or replaced.

G. Administrative Restoration Orders. Any person who constructs, alters, removes, or demolishes a Historical Resource without required approval may be ordered by the City to restore the property to its appearance prior to the violation, to the extent such restoration is physically

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feasible, under the direction of the Director. This remedy is in addition to any civil or criminal penalties.

H. Civil Actions and Cumulative Remedies. Any violation of this Chapter may be enforced by civil action brought by the City. Remedies under this Chapter are cumulative and not exclusive of any other remedies or penalties, whether civil or criminal. In any civil action, the City may seek one or more of the following:

1. A temporary or permanent injunction;

2. Recovery of the costs of investigation, inspection, monitoring, and enforcement, including reasonable attorney's fees and costs.

I. Criminal Penalties. Any person who violates any provision of this Chapter is guilty of a misdemeanor punishable by a fine of up to $1,000.00, or by imprisonment in the County Jail not exceeding six months, or by both pursuant to Chapter 1.08; except the City Attorney, in their discretion, may prosecute a violation of this Chapter as an infraction subject to the penalties in of this Code.

J. Administrative Citations. Administrative citations may be issued for violations of this Chapter, with progressive fines established by City Council resolution pursuant to Chapter 1.10 of the Municipal Code.

K. Aiding, Abetting, and Omissions. Whenever in this Chapter any act or omission is made unlawful, it shall include causing, permitting, aiding, abetting, suffering, or concealing the fact of such act or omission.

L. Ongoing Violations. Each and every day a violation is maintained, caused, aided, abetted, concealed, suffered, or permitted is a separate offense.

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17.17.130 Identification, Documentation, and Management of Archaeological and Tribal Cultural Resources.

A. Purpose. This section implements the Cultural Resources and Historic Preservation Element of the General Plan, which directs the City to preserve archaeological and cultural heritage through development and implementation of procedures to identify, document, evaluate, and manage prehistoric and historic archaeological resources and Tribal Cultural Resources. The purpose of this section is to ensure that such resources are recognized early in the project review process; that archaeologically sensitive areas, such as Santiago Creek, receive appropriate consideration; and that significant resources are preserved in place whenever feasible, or otherwise curated and documented for public education and appreciation.

B. Intent. The intent of this section is to protect archaeological and Tribal Cultural Resources by requiring early consultation, professional investigation, and appropriate mitigation during project review. This section is further intended to ensure that resource identification is informed by the City's Research Design and Sensitivity Assessment, that Tribal governments are meaningfully engaged in the treatment of Tribal Cultural Resources, and that any recovered materials are curated in accordance with professional standards. The procedures established in this section are intended to complement CEQA requirements, support the City's stewardship responsibilities, and promote a deeper public understanding of the many cultures that have shaped the City of Orange.

C. Scope and Applicability. Identification and documentation of archaeological and Tribal Resources shall be accomplished with consideration to the Cultural Resources and Historic Preservation Element and related technical studies of the 2010 General Plan (including the 2006 *Research Design and Sensitivity Assessment for the City of Orange* and the historic contexts and Cultural Resources Sensitivity Maps therein, as it may be revised or superseded by a Cultural Resources Management Plan). Potential project impacts to those Cultural Resources that are significant archaeological and/or Tribal Cultural Resources shall be addressed during project review as described in this Section. This shall be accomplished through, as appropriate, 1) a desktop literature review, including records searches at the California Historical Resources Information System (CHRIS) Information Center and the Native American Heritage Commission; the identification of potentially significant Cultural Resources (Phase I or Extended Phase I); the evaluation of those resources' significance (Phase II); and, where necessary and indicated, the mitigation of substantial adverse impacts that cannot be avoided through preservation in place or data recovery (Phase III) or other creative mitigation measures, These records searches, reports, and mitigation measures shall be accomplished by Qualified Professionals as defined in Section 17.17.103 (Definitions) of this Chapter. The provisions of this policy shall apply to properties containing known archaeological or Tribal Cultural Resources or which are highly sensitive for the discovery of Cultural Resources meeting one of the following conditions:

1. Listed in the Register or Inventory;

2. Listed in the California Register of Historical Resources or in the National Register of Historic Places;

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3. Determined by the Director or the State Historic Preservation Officer on the basis on an Extended Phase I or Phase II report prepared by a Qualified Professional Archaeologist or with Tribal consultation, as applicable, to be eligible for listing on the California Register of Historical Resources, the National Register of Historic Places, or the Register; or

4. Located in areas with a high potential for the presence of Cultural Resources. In order to make this determination, the City shall reference and update the most current Cultural Resource Sensitivity Maps and Research Design and Sensitivity Assessment Report maintained by the Community Development Department or associated with the General Plan Cultural Resources and Historic Preservation Element. The maps shall be updated regularly by City staff with GIS data submitted with Cultural Resources reports.

5. The provisions of this policy shall apply to all activities on the properties specified above, including but not limited to proposed new construction of structures or landscapes, expansions, additions, alterations, grading, excavation, trenching, and/or demolition, except as exempted from the provisions of this section as described in Subsection E below.

D. Report Preparation.

1. All non-exempt development applications satisfying the above criteria shall be required to submit a Phase I or Extended Phase I Cultural Resources Report to the City as a part of their application. Applications for properties that contain potential Cultural Resources that have not been evaluated for significance and cannot be avoided or preserved in place and where project plans call for ground disturbance exceeding 18 inches in depth shall be required to submit a Phase II Cultural Resources evaluation report to the City as part of their application. The evaluation shall examine the Cultural Resources under all local, California Register of Historical Resources, and National Register of Historic Places criteria of significance and consider possible association with a known Historical Resource or District, era of history, or under-represented cultural group identified in the Historic Context Statement or the Research Design and Sensitivity Assessment Report. A development application shall not be considered complete until said report(s) as required by this Chapter is submitted to the City.

2. If the Director determines that the proposed project could potentially affect a known or suspected cultural resource adjacent to the project site, then the applicant will be required to submit a Phase I Cultural Resources inventory report in order to determine whether the project has the potential to impact the Cultural Resource.

3. The requirement for a Phase II Report shall be waived if a Phase I or Extended Phase I Report either a) demonstrates to the satisfaction of the Director that the proposed project has been redesigned to avoid impacts to, or preserves in place, Cultural Resources, or b) proposes mitigation acceptable to the Director for Cultural Resources potentially affected by the proposed project, regardless of historic significance, and such mitigation is made a condition for approval of the proposed project.

4. Cultural resources reports shall be the responsibility of the applicant. The reports shall be prepared by Qualified Professional Archaeologists as defined in Section 17.17.103 (Definitions) of this Chapter.

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5. Cultural Resources Reports shall be prepared in a standard format: the California Office of Historic Preservation Archaeological Resource Management Reports (ARMR): Recommended Contents and Format. All Cultural Resources reports and appended resource records shall be filed with the local California Historical Resources Information System Information Center.

6. The report shall include a description and map indicating location of specific sites, features, and isolates analyzed within the report. The mapped location of archaeological sites and Tribal Cultural resources is confidential information, not to be released for public view. It is to be provided to the City as an appendix to the main report.

7. The City may prepare or commission the preparation of a citywide Cultural Resources Management Plan, in conjunction with a Qualified Professional Archaeologist, in order to update the City's cultural resources sensitivity maps and to establish more specific requirements for identifying, recording, evaluating, and mitigating impacts to archaeological and Tribal Cultural resources, and for the preparation of Phase I, Extended Phase I, Phase II, and Phase III reports and associated documentation.

E. Exemptions. The following applications shall be exempt from the requirements for submitting reports:

1. Applications for a property for which a Phase I or Extended Phase I Cultural Resources inventory report has been accepted by the City within the last five years, provided that there were no significant errors in methodology or content as determined by the Director and that the application complies with any applicable mitigation requirements;

2. Projects that require a permit application that will not excavate deeper than 18 inches or excavate more than 50 cubic yards of earth, or those for which the Director, based on advice from a Qualified Professional Archaeologist, has determined in writing, that the sediments to be disturbed do not have the potential to yield artifacts or archaeological features;

3. Projects that are limited to repair and maintenance of existing facilities and/or utilities without ground disturbing activities that extend beyond the footprint of those facilities or utilities;

4. Projects located in areas not identified as high sensitivity on the Cultural Resources Sensitivity Maps;

5. Projects with ground-level additions totaling less than 10 percent of the existing habitable floor plan;

6. Projects that are redesigned to avoid or preserve in place potential or identified resources that are assumed to be significant, thus avoiding impacts;

7. Projects that are statutorily exempt from zoning codes, environmental review under CEQA, or the requirements of certain other local, state, or federal laws intended to streamline permitting and accelerate new housing development.

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F. Review Process.

1. All development applications subject to the provisions of this Section shall be reviewed in the following manner in order to effectively identify and evaluate any Cultural Resources that exist on the project site and to mitigate substantial adverse changes to their significance.

2. The applicable preliminary report (Phase I or Extended Phase I) shall be submitted to the Director. The Director may take the following actions:

a. If the report finds and the Director concurs that no known significant Cultural Resources are present but there is a potential for the discovery of significant Cultural Resources within specific areas of the project during ground disturbance, and the proposed project plans include measures to avoid or preserve potential Cultural Resources in those defined areas, then the Director shall accept the Phase I report as submitted and deem the application complete.

b. If the report finds and the Director concurs that no known significant Cultural Resources are present but there is a potential for the discovery of significant Cultural Resources without avoidance or preservation measures included in the proposed project application, the Director can request an Extended Phase I assessment to identify the presence or absence of Cultural Resources prior to deeming the application complete. If the applicant elects not to prepare an Extended Phase I report, then the Director shall require that the project comply with On-site Monitoring and Mitigation (see subsection F below), to ensure that significant Cultural Resources are avoided, recovered or preserved in situ, as a condition of approval of the proposed project application. The Director can direct the City to retain the services of a separate Qualified Professional to provide an independent review of these findings

c. If the Phase I, or Extended Phase I Report identifies the presence of archaeological or Tribal Cultural Resources, and the resources cannot be avoided or preserved in place, the Director shall require preparation of a Phase II report prior to deeming the application complete. The application package shall then be submitted to the Commission for consideration.

3. The Commission, in reviewing the development proposal, shall evaluate the applicable Phase I and Phase II Reports and incorporate mitigation conditions for the project in order to avoid or preserve any known or identified significant Archaeological or Tribal Cultural Resources.

4. Any conditions or mitigation measures resulting from a Phase I or Phase II Report or other technical studies or reports, or as required by the Director or Commission shall be forwarded to the Building and Safety division of the Community Development Department and enforced in accordance with Section 21081.6 of the California Public Resource Code.

5. All decisions of the Director can be appealed to the Commission, and all decisions of the Commission can be appealed to the City Council in accordance with the City's standard appeals process.

G. On-Site Monitoring and Mitigation (Archaeological/Tribal Cultural Resources).

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1. When On-site Monitoring is required as a condition of approval of a development proposal, the project proponent shall provide the Community Development Department an executed consultant services contract with the individual responsible for supervising onsite archaeological monitoring, who shall be a Qualified Professional Archaeologist selected from approved list of qualified archaeologists to be maintained by the City.

2. In instances, due to known or expected existence of subsurface Tribal Cultural Resources or as an outcome of Tribal Cultural consultation, the consulting archaeologist or the Director may request that a Tribal Cultural Monitor be present on-site during grading operations. If so requested, a qualified Tribal Cultural Monitor shall be retained by the project applicant.

3. If unanticipated subsurface Cultural Resources are discovered at the site, the archaeologist shall take immediate steps to stop all construction activity within 25 feet of the cultural material. The Director shall be immediately informed of the situation. If it is determined by the Director in consultation with the Qualified Professional Archaeologist that the find is an isolated occurrence or that the remaining construction activity will not significantly impact the Cultural Resource, work shall be permitted to continue on the site. A report by the Qualified Archaeologist shall be submitted prior to the final inspection of the site, detailing the contents of the unearthed Cultural Resource.

4. In the event of an unanticipated discovery of Cultural Resources when neither an archaeologist nor Tribal Cultural Monitor is on site, the information is to be communicated to the Director at once. In the event that the discovery includes potential human remains, Section 7050.5 of the California Health and Safety Code and Section 5097.98 of the Public Resources Code shall be followed.

5. Should unanticipated Cultural Resources be encountered, work shall be halted or diverted from the vicinity of the discovery until the significance of the Cultural Resource can be determined by the Director in consultation with a Qualified Professional Archaeologist. A recommendation will be prepared by the qualified archaeologist indicating whether the find is potentially significant and the recommended course of action for its protection or further evaluation. The Director shall determine if the City should retain the services of a separate consulting archaeologist to provide an independent recommendation of site significance.

6. On the Director's recommendation, reports relating to the discovery of significant Archaeological or Tribal Cultural Resources shall be referred to the Commission at their next available meeting and noticed in accordance with City procedures for public hearings. Such notice shall also be sent to the property owner(s) of record and to other persons who have requested to be notified of such matters, or whom the Director determines may have an interest in the matter.

7. The Commission, after considering the contents, recommendations, and findings of the report, and after receiving and considering testimony by interested individuals or groups, may take the following actions:

a. Determine that the find is not significant and allow work to resume.

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b. Determine that additional testing is necessary to evaluate the significance of the find. If additional testing is determined necessary, similar procedures as defined in Section 17.17.130.F.4-5. shall be followed.

c. Determine that the proposed project will not significantly affect the Cultural Resource and that it can be documented and left in situ without compromising the integrity of the cultural resource.

8. If the Commission determination for either data recovery or protection in situ conflicts with currently approved plans, the item may be appealed to the City Council on an urgent basis. The decision of the City Council shall be considered final.

9. In the event that an unanticipated discovery of cultural material is made, all expenses related to work performed shall be reimbursed by the permit applicant.

10. Whether cultural material is discovered or not, all monitors (archaeologists and Tribal Cultural) shall submit a written summary of their services and observations to the Director.

11. Prior to the issuance of any permit or action to proceed for the demolition of a significant Cultural Resource, the owner may be required to allow for the removal of significant features. The owner shall make these features available to local historic interest or Tribal Cultural groups. The expense of the removal and storage of recovered features is to be borne by the historic interest or Tribal Cultural groups. The owner may also be required, as a mitigation measure for any proposed demolition or alteration of a Cultural Resource, to document the cultural resource through photographs and historic narrative. These records shall be submitted prior to final inspection and will become the property of the City.

H. Consultation with California Tribal Cultural Groups

1. California Tribal Cultural tribes traditionally and culturally affiliated with Orange may have expertise concerning their Tribal Cultural resources, and consultation with these groups is a required element of compliance with CEQA (Section 21080.3.1of the Public Resources Code).

17.17.131 Severability of Provisions.

Should any section or provision of this Chapter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of this Chapter as a whole or any section thereof other than the section or provision specifically declared to be invalid.

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