Modify Chapter 10.46, Historic Overlay District and Local Register, as follows:

Chapter 10.46

HISTORIC PRESERVATION ~~HISTORIC OVERLAY DISTRICT AND LOCAL REGISTER~~

Sections:

10.46.010 Purpose

10.46.020 Applicability

10.46.030 Conflicts Between Provisions

10.46.040 ~~Conditional uses~~ Establishment of Local Historic Register and Inventory of Historic Resources

10.46.050 ~~Procedures for listing a site or structure on the local register~~ Local Historic Register Designation

10.46.060 ~~Procedures for demolition, addition, or modifications~~ Property and Permit Requirements

10.46.070 Property Maintenance Requirements

10.46.080 Incentives for Preservation

10.46.010 Purpose.

In addition to the general purposes established in SMC 10.10.030 (Title and purpose), the purpose of this Chapter is to provide the ability to acknowledge, honor, and encourage the continued maintenance and preservation of those select properties in the City that contribute to the City's architectural and cultural history. Further, it is the purpose of this Chapter to promote the public health, safety, and general welfare by providing for the identification, recognition, designation, protection, enhancement, perpetuation, and use of historic resources that reflect associations important in the City's history and to: ~~the specific purposes of this chapter establishing regulations for the historic overlay district and properties listed on the local register are as follows~~:

A. Safeguard the character and history of the City which is reflected in its unique architectural, historic, and cultural heritage through the designation of properties to the Local Historic Register ~~To provide uniform regulations for the historic overlay district and sites and structures listed on the local register~~;

B. Provide a method for the identification and designation of properties to the Local Historic Register~~To preserve structures that are unique and irreplaceable assets to the City and its neighborhoods~~;

C. ~~To d~~Deter the demolition, alteration, misuse or neglect of historic or architecturally significant structures and sites;

D. Encourage preservation and adaptive reuse of properties on the Local Historic Register and within a Historic Overlay Zoning District by allowing changes to accommodate new functions and uses; ~~To provide flexible land use and development regulations to allow preservation of structures and sites~~;

E. ~~To p~~Provide a review process for alterations, modifications and additions on Local Historic Register properties and properties within a Historic Overlay Zoning District, including applying applicable adopted guidelines and policies as adopted by the Historic Landmarks Board and City Council; ~~to structures within the historic overlay district and/or listed on the local register~~; ~~and~~

F. Enhance property values, stabilize neighborhoods, and render City properties on the Local Historic Register and within a Historic Overlay Zoning District eligible for benefits and incentives;

G. Ensure that properties and areas in the City that are located on the National Register of Historic Places and/or the California Register of Historic Resources and/or Local Historic Register and/or within a Historic Overlay Zoning District are protected through the review of exterior alterations by the Historic Landmarks Board;

H. Foster civic and neighborhood pride and a sense of identity based on the recognition of the City's past accomplishments as reflected through its buildings, structures, objects, landscapes, natural features, infrastructure, and engineering;

I. Strengthen the City's economy by protecting and enhancing the City's attraction to residents, tourists, visitors, and others, thereby serving as a stimulus and support to local business; and ~~To provide a process for listing a site or structure on the local register.~~

J. Identify incentives that are intended to encourage owners to designate, maintain, reuse, rehabilitate, and improve properties on the Local Historic Register and in a Historic Overlay Zoning District.

10.46.020 Applicability.

The requirements of this chapter apply to properties and areas that are proposed for designation to the Local Historic Register and/or in Historic Overlay Zoning Districts, and those that are listed on the Local Historic Register and located within a Historic Overlay Zoning District. ~~proposed land uses and physical alterations to structures located within the historic overlay district and for all sites and structures listed on the local register.~~ In addition, the requirements of this Title 10, Zoning, and associated regulations and adopted guidelines shall apply. ~~Chapters 10.20 through 10.28 (Zoning Districts Regulations), 10.40 (General Development Regulations), 10.42 (Sign and Awning Regulations), 10.44 (Specific Use Requirements) SMC and any other applicable requirements of this title shall apply.~~

10.46.030 Conflicts between provisions.

In the event of any conflict between this chapter and other chapters of this title, the more restrictive regulations shall apply.

10.46.040 Establishment of Local Historic Register and Inventory of Historic Resources. ~~Conditional uses.~~

A. Establishment of a Local Historic Register. A Local Historic Register of individually-designated buildings and properties is hereby created. The purpose of the Local Historic Register is to provide a means to preserve, protect, and enhance the most significant historic resources within the City. Properties listed on the Local Historic Register may be identified on site with an exterior marker or plaque in accordance with adopted City guidelines displaying pertinent information about the resource. A record of properties on the Local Historic Register shall be kept by the City and provided to the State Office of Historic Preservation and other agencies as required.

B. Establishment of a Inventory of Historic Resources. The Historic Landmarks Board, acting with the administrative support of the Director, shall maintain an Inventory of Historic Resources of individually eligible historic resources within the City as defined and provided for in the CEQA Guidelines Section 15064.5(a)(2). The Historic Landmarks Board may periodically review, amend, and update the Inventory.

~~Notwithstanding SMC 10.46.030 (Conflicts between provisions), alternate uses may be allowed for structures and/or sites within the historic overlay district and/or listed on the local register with a conditional use permit provided the following findings can be made:~~

~~A. Exception to land use regulations is necessary to permit the preservation or restoration of an historic or architecturally significant structure or site;~~

~~B. Proposed use of historic or architecturally significant structure or site will require minimal alterations to structure;~~

~~C. Alterations will be consistent with the Secretary of the Interior's Standards for Rehabilitation;~~

~~D. A preservation agreement has been prepared and recorded specifying the uses allowed on subject property and preserving property from demolition;~~

~~E. The Historical Landmarks Board has considered the proposed use and recommends approval; and~~

~~F. A public hearing has been noticed and held in accordance with Chapters 10.60 (Conditional Use Permits) and 10.82 (Public Notice and Hearings) SMC.~~

10.46.050 Local Historic Register ~~Procedures for listing a site or structure on local register.~~

A. The Historic Landmarks Board may make recommendation to the City Council regarding approval, disapproval, or modification to a property on the Local Historic Register.

B. Nomination. Nomination of a property to the Local Historic Register shall be initiated by one of the following parties:

1. Member of the Public;

2. Property Owner;

3. Historic Landmarks Board; or

4. City Council.

C. Property Owner Notification. Within ten (10) days of nomination of a property to the Local Historic Register, the owner, designated agent or agents, and tenants of the subject property(ies), shall be notified consistent with Chapter 10.82 (Public Notice and Hearings).

~~Individual structures, structures and sites with historic or architectural significance may be listed on the local register, in accordance with the following procedures:~~

~~A. Initiation and Application. The Historical Landmarks Board, Planning Commission or City Council may initiate listing a site or structure on the local register. A private interested party may also request listing a site or structure on the local register.~~

D. Application Requirements. An application for the nomination of a property to the Local Historic Register shall be filed with the Community Development Department and include the following:

1. A statement of architectural, historic, or cultural significance of the building or district and a description of the character-defining features that should be preserved;

2. A map showing the location of the individual structure and/or property;

3. Photographic document of the building(s) and/or property;

4. In lieu of items 1 through 3 above, applicants may submit a State Department of Parks and Recreation historic resources inventory form;

5. Any additional information requested or required by the Community Development Department or the Historic Landmarks Board, including plans or materials deemed necessary to support and process the application.

~~B. Submittal Requirements. The following information shall be submitted with any private-party application to list a site or structure on the local register:~~

~~1. A map showing the location of the structure and plans or photographs of the structure's exterior;~~

~~2. A statement of the architectural or historical significance of the site or structure proposed for listing on the local register and description of the particular features that should be preserved; and~~

~~3. Any additional information requested or required by the Community Development Director, including plans or materials deemed necessary to support and process the application.~~

~~Applicants may alternatively submit State Department of Parks and Recreation historic resources inventory form.~~

~~C. Listing Sites or Structures on the Local Register. Individual structures may be listed on the local register if all of the findings in subsection F of this section (Findings) can be made. A structure or site listed on the local register shall be subject to the same review procedures, and eligible for the same preservation incentives, as structures within the historic overlay district.~~

E. Interim Protection Measures. No permits for exterior alterations shall be issued for 180 days from the date of nomination without prior approval by the Historic Landmarks Board. Pending permit applications may be processed, but no final action shall be taken until after the conclusion of the designation process or the passage of 180 days, whichever occurs first. The following permits may be processed during the designation process:

1. Ordinary Maintenance and Repair. Ordinary maintenance and repairs may be approved. For the purposes of this Chapter, "ordinary maintenance and repairs" shall mean regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving said property and maintaining it in a safe and sanitary condition and does not involve a change of design, material, or appearance of the property.

2. Dangerous and Immediately Dangerous Properties. Unsafe or dangerous conditions that present an imminent threat to the public of bodily harm or of damage to adjacent property may be approved. The Building Official shall notify the Director in writing that the proposed action is necessary in order to mitigate the unsafe or dangerous condition.

F. ~~D.~~ Public Hearings. ~~The Historical Landmarks Board and Planning Commission shall make a recommendation to the City Council to list a property on the local register following a public hearing.~~

1. Historic Landmarks Board Hearing. The Historic Landmarks Board shall consider the nomination at a noticed public hearing and shall recommend approval, approval with modifications, or disapproval of the nomination to

the Local Historic Register. The decision shall be in writing and state the findings of fact and reasons relied upon to reach the decision and be forwarded to the City Council.

~~E. Historical Landmarks Board Hearing and Recommendation. A public hearing shall be noticed and held by the Historical Landmarks Board, consistent with Chapter 10.82 SMC (Public Notice and Hearings). The purpose of the public hearing shall be to receive testimony from persons interested in listing the structure or site on the local register, and to adopt a recommendation to the Planning Commission. The Historical Landmarks Board shall submit a written report conveying the Board's recommendation on the proposed amendment to the Planning Commission. The report shall provide reasons for the recommendation to place the structure or site on the local register and address its consistency with relevant general plan and specific plan policies.~~

~~F. Findings. The Historical Landmarks Board and Planning Commission may recommend, and the City Council may approve, listing a structure or site on the local register if all of the following findings can be made:~~

~~1. The structure or site proposed for the local register is significant to local, regional, State or national history.~~

~~2. Listing the proposed structure or site on the local register has been subject to environmental review and the appropriate findings have been made.~~

~~3. Listing the proposed structure or site on the local register will preserve the historic character or integrity of the structure or site.~~

~~4. Structure or site proposed to be listed on local register has a significant architectural or historical character that can be preserved or enhanced through appropriate controls and incentives on new development and alterations to existing structures and landscaping.~~

~~G. Planning Commission Hearing and Recommendation. A public hearing shall be noticed and held by the Planning Commission, consistent with Chapter 10.82 SMC (Public Notice and Hearings). The purpose of the public hearing shall be to receive testimony from persons interested in listing the proposed structure or site on the local register, to consider the recommendations of the Historical Landmarks Board and to adopt a recommendation to the City Council. The Community Development Department, on behalf of the Planning Commission, shall submit a written report conveying the Commission's recommendation on listing the proposed structure or site on the local register to the City Council. The report shall address the Historical Landmarks Board's recommendation, provide reasons for the Planning Commission's recommendations on listing the structure or site on the local register, and address its consistency with relevant general plan and specific plan policies. The recommendation to the City Council shall be in the form of a resolution and shall include findings, as identified in subsection F of this section (Findings), and reasonable conditions of approval, including any special criteria that shall apply to the structure or site.~~

2. City Council Hearing. The City Council shall consider the nomination at a noticed public hearing after receiving the Historic Landmarks Board's recommendation. The City Council may approve, approve with modifications, or disapprove the nomination to the Local Historic Register. The City Clerk shall notify the owner of the property of the City Council's action.

~~H. City Council. A public hearing shall be noticed and held by the City Council, consistent with Chapter 10.82 SMC (Public Notice and Hearings). The purpose of the public hearing shall be to hear testimony regarding listing the proposed structure or site on the local register and consider the recommendations of the Historical Landmarks Board and the Planning Commission.~~

G. ~~F.~~ Findings. The Historic~~al~~ Landmarks Board ~~and Planning Commission~~ may recommend, and the City Council may approve, listing a structure or site on the Local Historic Register ~~local register~~ if all of the following findings can be made:

1. The structure or site ~~proposed for the local register~~ is significant to local, regional, State or national history.

2. Listing the ~~proposed~~ structure or site on the Local Historic Register ~~local register~~ has been subject to environmental review and the appropriate findings have been made.

3. Listing the ~~proposed~~ structure or site on the Local Historic Register ~~local register~~ will preserve the historic character or integrity of the structure or site.

4. The structure or site ~~proposed to be listed on local register~~ has a significant architectural or historic~~al~~ character that can be preserved or enhanced through appropriate controls and incentives on new development and alterations to existing structures and landscaping.

H. Recordation of Decision. A certified copy of the City Council decision shall be recorded in the office of the County Recorder by the City Clerk immediately following its effective date. The property shall be added to the Local Historic Register kept by the City and provided to the State Office of Historic Preservation.

~~I. Resolution. The City Council may approve, approve with conditions or deny a request to list a structure or site on the local register. Any decision shall be in the form of a resolution and shall include findings. The City Council may also specify special design or other criteria to be applied to listing the structure or site on the local register. Any application of conditions or criteria shall be subject to review and comment by the Historical Landmarks Board and Planning Commission.~~

I. Disapproval of Proposed Designation. Whenever an nomination of a property to the Local Historic Register has been rejected by the City Council, no nomination that contains the same or substantially the same information as the one disapproved shall be resubmitted within a period of three years from the date of the final action on the prior nomination. However, if significant new information is made available and provided by and at the expense of the owner(s), the Director

may waive the time limit and permit an application for a new nomination to be filed.

J. Effect of Designation. Upon designation the provisions of this Chapter shall apply to the designated property on the Local Historic Register. Any removal or demolition, exterior construction, addition, alteration, or modification, including modifications to landscapes, are subject to the provisions of this Chapter.

K. Repeal of a Local Historic Register Designation. In order to repeal the Local Historic Register designation of structure and/or site, the City Council must, following public hearings as established Subsection F above, find that the Local Historic Register property no longer meets the criteria for designation due to damage caused by natural disaster (e.g., flood, earthquake, etc.) or reasons otherwise outside of the control of the owner.

Changes of use, differences of opinion of subsequent City Councils, desires of the property owner, or financial considerations are not sufficient reasons to repeal a designation. If the Local Historic Register designation is repealed, the decision shall be recorded in accordance with Subsection H above.

10.46.060 Historic Design Review Permit ~~Procedures for demolition, addition or modifications.~~

A. Historic Design Review Permit Required. No person, owner, or other entity shall restore, rehabilitate, alter, develop, construct, demolish, remove, or change the exterior appearance of a property on the Local Historic Register or within a Historic Overlay Zoning District without first having applied for and been granted a Historic Design Review Permit unless the work proposed is exempt as follows:

1. Interior Alterations. If any proposed interior alteration(s) would result in any visual or material impact to the exterior of the subject building, a Historic Design Review Permit shall be required. Interior alterations on a privately-owned structure or on a publicly-owned structure do not require a Historic Design Review Permit unless the interior has been included as part of the designation.

2. Ordinary Maintenance and Repair. Ordinary maintenance and repairs do not require a Historic Design Review Permit. For the purposes of this Chapter, "ordinary maintenance and repairs" shall mean regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving said property and maintaining it in a safe and sanitary condition and does not involve a change of design, material, or appearance of the property.

3. Dangerous and Immediately Dangerous Properties. Unsafe or dangerous conditions due to damage caused by natural disaster (e.g., flood, earthquake, etc.) or reasons otherwise outside the control of the owner do not require a Historic Design Review Permit. The Building Official shall notify the Director in writing that the proposed action is necessary in order to mitigate any unsafe or dangerous condition.

B. Application Requirements. An application for a Historic Design Review Permit shall contain:

1. Plans and specifications showing the existing and proposed exterior appearance, including detailed drawings;

2. Details and samples of materials to be used, where applicable;

3. Photographs showing the property; and

4. Any additional material required by the Director or the Historic Landmarks Board.

C. Review Procedures.

1. Administrative Historic Review Design Permit. The Historic Landmarks Board may define certain categories of work as minor alterations and delegate decisions on such minor alterations to the Director via an Administrative Historic Design Review Permit. The Director may act upon an Administrative Historic Review Design Permit, subject to the following procedures.

a. Public notice shall be provided pursuant to Chapter 10.82 (Public Notice and Hearings).

b. Any decision by the Director on an Administrative Historic Design Review Permit may be appealed to the Historic Landmarks Board within ten (10) days of the date of the written decision.

c. The Director may refer items to the Historic Landmarks Board when in the Director's opinion the public interest would be better served by review and action by the Historic Landmarks Board.

2. Study Session. The Historic Landmarks Board may hold a study session on a Historic Design Review Permit to provide general comments and direction to the applicant. Public notice shall be provided for the study session pursuant to Chapter 10.82 (Public Notice and Hearings) after an application has been submitted to the Department.

3. Historic Design Review Permit Review. The Historic Landmarks Board shall approve, conditionally approve, or disapprove the Historic Design Review Permit at a noticed public hearing pursuant to Chapter 10.82 (Public Notice and Hearings).

a. If the project requires Planning Commission action on a Design Review Permit per Section 10.54.050, the Historic Landmarks Board shall hold a joint meeting with the Planning Commission at which the Historic Landmarks Board shall consider and act upon the Historic Design Review Permit and the Planning Commission shall consider and act upon the Design Review Permit.

b. If the project requires a land use permit, other than a Design Review Permit per Section 10.54.050, the Historic Landmarks Board shall consider and act on the Historic Design Review Permit prior to action taken on any other land use permit.

D. Required Findings. The Historic Landmarks Board shall approve a Historic Design Review Permit only if the following findings can be made:

1. The work complies with the Secretary of Interior's *Standards For The Treatment of Historic Properties With Guidelines For Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings*, or its successor, as well as any applicable state or local ordinances and adopted guidelines, or other policies; and

2. Additional findings for Local Historic Register properties:

a. The proposed work shall preserve, enhance or restore, and shall not damage or destroy, the exterior architectural features of the structure and, where specified in the designating ordinance, its major interior architectural features; and

b. The proposed work shall not adversely affect the special character and/or special historic, architectural or aesthetic interest or value of the structure and its site, as viewed both in themselves and in their setting, nor of the Historic Overlay Zoning Districts, if located within one;

3. Additional findings for Properties in Historic Overlay Zoning Districts:

a. Any new construction, addition or exterior change shall be compatible with the character of the Historic Overlay Zoning District as described in the designating ordinance;

b. Exterior change shall preserve, enhance or restore, and shall not to damage or destroy the exterior architectural features of the subject property which are compatible with the character of the Historic Overlay Zoning District; and

c. For any exterior change where the subject property is not already compatible with the character of the Historic Overlay Zoning District, reasonable efforts shall be made to produce compatibility, and in no event shall there be a greater deviation from compatibility.

4. Additional findings for Sign Applications:

a. The proposed sign complies with all applicable provisions of Chapter 10.42 (Sign and Awning Regulations);

b. Is consistent with the applicable sign standards and adopted guidelines, where applicable; and

c. The proposed color, design, material, and location of the proposed sign are compatible with the architectural design of the building and Historic Overlay Zoning District.

5. Additional findings for Landscaping Applications:

a. The proposed removal or alterations will not affect the character of the property on the Local Historic Register or in the Historic Overlay Zoning Districts~~historic overlay district or structure listed on the local register~~; or

b. The safety of persons or property requires the removal or alteration.

6. Additional findings for Demolition Applications:

a. A replacement project shall be proposed.

b. The requirements of the California Environmental Quality Act and SMC Title 11 (Environmental Protection) have been met.

c. Alternatives to demolition have been considered, including re-using the structure with an alternate use that may not be consistent with existing zoning (See 10.46.090(D), Additional Uses).

d. All financial alternatives have been evaluated, including use of historic tax credit and acquisition by a third party.

e. Additional findings for Demolition Applications for accessory structures:

i. The accessory structure proposed for demolition is listed in the designation as a non-contributing feature.

ii. The demolition of the accessory structure will not adversely affect integrity of the Local Historic Register site or Historic Overlay Zoning District.

iii. Where applicable, a replacement project is proposed.

E. Conditions. The Historic Landmarks Board may impose such conditions that are necessary to accomplish the purposes of this Chapter and prevent or minimize adverse impacts to the character defining features of the Local Historic Register property or the Historic Overlay Zoning District.

~~10.46.060 Procedures for demolition, addition or modifications~~

~~Design review shall be required for any proposal to demolish, make an addition to, or otherwise modify an existing structure that is located in the historic overlay district or is listed on the local register. Design review shall be conducted in accordance with Chapter 10.54 SMC (Design Review Procedures) and the following:~~

~~A. Submittal Requirements. In addition to the submittal requirements established by Chapter 10.54 SMC (Design Review Procedures), any application for demolition, addition or modification to existing structures in the historic overlay district, or listed on the local register, shall include the following:~~

~~1. Plans showing all historic elements of structure or site, including materials and date of construction;~~

~~2. Plans showing proposed alterations of all historic elements of structure or site, including materials to be removed, materials to be added, and materials to be altered;~~

~~3. Explanation of proposed changes to historic structure or site, including the reasons for alterations, addition or demolition;~~

~~4. Explanation of use of State Historic Building Code and the way the code is being applied to the project, if applicable; and~~

~~5. Explanation of the use of the Secretary of the Interior's Standards, if applicable.~~

~~B. Joint Meeting. Design review shall be subject to review and approval by the Historical Landmarks Board and Planning Commission. A joint meeting shall be held to conduct design review. A subcommittee of the Historical Landmarks Board and Planning Commission may be formed and convene to review design review permit applications and work with applicants.~~

~~C. Prior Approval Required. Prior approval by the Historical Landmarks Board shall be required for any permit issued by the Building Official for construction, alteration, enlargement, or demolition of a structure located in an historic overlay district or listed on the local register.~~

~~D. Review Criteria. In addition to the requirements of Chapter 10.54 SMC (Design Review Procedures), the Community Development Director and Historical Landmarks Board shall use the following when reviewing and approving any proposed demolition, new construction or alteration to existing structures or landscaping:~~

~~1. Applicable design or other guidelines;~~

~~2. The architectural or historical value and significance of the site and structure in relation to the overlay district; and~~

~~3. The visual relationship of proposed architectural design elements to the surrounding area, including scale, height, rhythm of spacing, pattern of windows and doorways, structure siting and relationship to landscaping, roof pitch, architectural style, and structural details, materials, colors and textures.~~

~~The Historical Landmarks Board and Planning Commission shall review removal and/or alteration of landscape materials for consistency with any applicable design guidelines.~~

F~~E~~. Additional Demolition Procedures. The following procedures apply to any application for a demolition permit for a property on the Local Historic Register or a property ~~structure that is listed on the Local Register or~~ located within a ~~h~~Historic ~~o~~Overlay Zoning ~~d~~District:

1. If, after review of request for a demolition permit, the Historic Landmarks Board ~~or Planning Commission~~ determines the structure itself has historic, architectural or cultural interest or value, the Historic Landmarks Board ~~and Commission~~ may withhold approval of demolition for 180 days (from the date of Board ~~or Commission~~ action) or until environmental review, whichever occurs later. The 180-day delay shall be for the purpose of providing time to explore alternatives to demolition. During the 180 days, the Historic Landmarks Board ~~Planning Commission~~ may direct the Community Development Department to consult with recognized historic preservation organizations and other civic groups, public agencies and interested citizens, make recommendations for acquisition of property by public or private bodies or agencies, explore the possibility of moving one or more structures or other features, and take any other reasonable measures.

2. At the end of the 180-day period, the demolition permit shall be issued if the requirements of the California Environmental Quality Act, Chapter 10.50.080 (Environmental Review), and SMC Title 11 (Environmental Protection) have been met.

~~F. Design Review Findings. The Historical Landmarks Board and Planning Commission may approve a design review permit to allow new construction or alterations to a property within the historic overlay district or listed on the local register, if all of the following findings can be made, to the extent applicable:~~

~~1. The proposed new construction or alteration is compatible with the architectural and historical features of the structure and/or district.~~

~~2. The historical context of the original structure or district has been considered during the development and review of the proposal.~~

~~3. The criteria for listing the structure or site on the local register do not apply, or the historic overlay district will not be affected by the new construction or alterations.~~

~~4. The State Historic Building Code is being applied to minimize alterations to the original historic structure.~~

~~5. The Secretary of the Interior's Standards for Treatment of Historic Properties have been used to review and consider the new construction and proposed alterations.~~

~~6. Alternative uses and configurations have been considered as part of the design review process.~~

~~7. Findings specified by Chapter 10.54 SMC (Design Review Procedures) can be made.~~

~~8. The proposed new construction or alteration will be compatible with, and help achieve the purposes of, the historic overlay district.~~

~~G. Landscaping Findings. The Historical Landmarks Board and Planning Commission may approve a design review permit to allow landscaping beyond routine maintenance if the following findings can be made:~~

~~1. Proposed removal or alterations will not affect the character of the historic overlay district or structure listed on the local register; or~~

~~2. The safety of persons or property requires the removal or alteration.~~

~~H. Demolition Findings. The Historical Landmarks Board and Planning Commission may approve a design review permit to allow partial or complete demolition of a structure listed on the local register or located in the historic overlay district if the following findings can be made:~~

~~1. The requirements of the California Environmental Quality Act and SMC Title 11 (Environmental Protection) have been met.~~

~~2. Alternatives to demolition have been considered, including re-using the structure with an alternate use that may not be consistent with existing zoning.~~

~~3. All financial alternatives have been evaluated, including use of historic tax credit and acquisition by a third party.~~

G. Effective Date. Historic Design Review Permits shall become effective at the end of the appeal period, provided no appeal has been submitted. ~~Decisions of the Historical Landmarks Board and Planning Commission shall become effective 10 days after the decision date, provided no appeals have been filed.~~

H. Expiration of Permit. Historic Design Review Permits shall expire in two years following the effective date of the permit, provided no extension has been filed prior to the expiration date.

I. Extension. The applicant may request an extension to a Historic Design Review Permit prior to expiration of the permit. The Zoning Administrator or the Historic Landmarks Board may grant one extension for up to two years, in accordance with Section 10.50.140 (Extension of Approved Permits).

J. Appeals. All decisions of the Historic~~al~~ Landmarks Board ~~and Planning Commission~~ may be appealed to the City Council within ten (10) days of the decision date. ~~City Council appeal considerations shall be subject to the same requirements of the Historical Landmarks Board and Planning Commission and shall include consideration of any applicable plans or guidelines. Any significant change to a permit by the City Council shall be referred to the Historical Landmarks Board and Planning Commission for review and comment prior to final action.~~

10.46.070 Property Maintenance Requirements

Every owner in possession or control of a Local Historic Register property shall take measures to ensure that the property does not fall into disrepair or become a public health and safety hazard. Measures shall include ordinary repair and maintenance activities consisting of regular, customary, or usual care of an existing building, structure, object, or site, for the purposes of preserving said property and maintaining it in a safe and sanitary condition and does not involve a change of design, material, or appearance of the property. In the case that a property constitutes a public nuisance, the City may take enforcement action to prevent further vandalism or public nuisance pursuant to SMC Chapter 12.20 (Nuisance Abatement).

10.46.080 Incentives for preservation.

Owners of property within ~~the downtown h~~Historic ~~o~~Overlay Zoning ~~d~~District, or owners of Local Historic Register property, ~~property listed on the local register~~, are eligible to apply for the following preservation benefits:

A. Fees. Historic Design Review Permit ~~Design review~~ application fees, for structures located in ~~the downtown h~~Historic ~~o~~Overlay Zoning ~~d~~District or listed on the ~~local~~ Local Historic Register, may be waived pursuant to SMC Chapter 1.09, Fees, ~~by the Community Development Director~~ for those applications which restore and rehabilitate the significant character of the structure.

B. Building Code Exceptions. Deviations from SMC Title 8, Buildings and Construction, will be allowed when the construction is in conformance with the State of California Historic Building Code.

C. Development Standards. Exceptions to development standards (including but not limited to setback, height, parking, coverage, or floor area ratio (FAR)) may be granted for legal nonconforming structures. The Planning Commission may grant an exception if the following findings can be made:

1. The exception is the continuation of an existing condition and the exception will not exceed the deviation already existing on the structure.

2. The exception would be more in character with the architectural character of the structure than adhering to the standard requirements.

3. The exception would not be in violation of the State Historic Building Code provisions for health and safety, would not be detrimental to any adjacent property and would not be injurious to public health, safety or welfare.

D. Additional Uses. Uses that are not normally allowed in a base zoning district may be allowed in structures that are located in a ~~the~~ ~~h~~Historic ~~o~~Overlay Zoning ~~d~~District or listed on the ~~local~~ Local Historic Register, subject to a conditional use permit (Chapter 10.60 SMC). The Historic~~al~~ Landmarks Board shall review and make a recommendation on the proposed use(s) to the Planning Commission. ~~and~~ The Planning Commission shall consider the recommendation of the Historic Landmarks Board, the impact of adaptive reuse proposals on the integrity of the historic structure and the neighborhood and shall make findings specified in SMC 10.46.040 (Conditional uses).

1. Required Findings. The Planning Commission shall not approve alternative uses pursuant to this Section unless the following findings are made:

a. Exception to land use regulations is necessary to permit the preservation or restoration of an historic or architecturally significant structure or site;

b. Proposed use of historic or architecturally significant structure or site will require minimal alterations to structure;

c. Alterations will be consistent with the Secretary of the Interior's Standards for Rehabilitation;

d. A preservation agreement has been prepared and recorded specifying the uses allowed on subject property and preserving property from demolition;

e. The Historic Landmarks Board has considered the proposed use and recommends approval; and

f. A public hearing has been noticed and held in accordance with Chapter 10.60 (Conditional Use Permits) and Chapter 10.82 (Public Notice and Hearings).

E. Parking. Uses in sites or structures within the ~~h~~Historic ~~o~~Overlay Zoning ~~d~~District or listed on the ~~local register~~ Local Historic Register may be eligible for reduced parking requirements, consistent with SMC 10.40.110(D)(3) (Historic Overlay Zoning District) and 10.40.110(G) (Other Reductions).

F. Written Agreement. The granting of any exceptions shall be conditional upon a written agreement between the City and the property owner that ensures preservation of the structure's significant character. The agreement shall give the City

the right to revoke the approval at any time the applicant has not complied with the conditions of approval. The agreement shall be recorded with the County Recorder.

G. Termination. The approval of exceptions from the standard code provisions for structures in an ~~h~~Historic ~~o~~Overlay Zoning ~~d~~District or listed on the ~~local register~~ Local Historic Register is terminated when the structure is demolished, or when the structure is altered in a manner that destroys or diminishes the significant character of the structure. All benefits derived from approval shall be removed.

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