

## **Chapter 17.32 HISTORIC PRESERVATION**

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### **17.32.010 Purpose.**

The purpose of the historic preservation ordinance is to establish standards, procedures and regulations to promote identification, and preservation, and enhancement of historic resources including buildings, structures, objects, sites, districts and archaeological resources that represent the unique architectural, cultural, historic and prehistoric identity of Carmel-by-the-Sea, by:

- A. Establishing a Historic Resources Board with powers and duties to administer the City's Historic Preservation Program.
- B. Maintaining an inventory of historic resources.
- C. Identifying and protecting archaeological resources.
- D. Protecting the design character and context of the residential and commercial areas by maintenance of an appropriate setting for historic resources.
- E. Participating in Federal and State preservation processes and programs.
- F. Becoming a certified local government.

G. Incorporating historic preservation principles into the City's project review process, consistent with State and Federal standards, criteria, and practices.

H. Avoiding and minimizing potential impacts on historic resources when developing and enforcing land use, design review, zoning, fire code, environmental review and other City regulations.

I. Pursuing and supporting the use of appropriate capital, Federal, State and local private grants, loans, tax credits and tax relief.

J. Providing financial, technical and legal assistance programs to encourage and assist with rehabilitation and maintenance of historic resources. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.020 Historic Resources Board.**

A. Establishment. There is hereby established in the City a Historic Resources Board consisting of five members with powers and duties to administer the City's historic preservation program. Specific duties, responsibilities and functions of the Board are established in this title.

#### **B. Board Member Qualifications.**

1. Members of the Board shall have demonstrated interest in and knowledge of architectural history, architecture, archaeology, anthropology, paleontology, architecture, historic architecture, local history or fields related to historic preservation such as construction, planning, geography, landscape architecture, urban design, ethnography, fine arts, or real estate.

2. The Board shall be comprised of three professional members, consisting of one member each, from the following combined fields: (1) history, architectural history, or urban design, (2) architecture or historic architecture, and (3) archaeology, anthropology, or paleontology. The remaining two public members may represent any of the related historic preservation fields noted above.

3. All members shall be residents and electors of the City, except in the event that no resident with the requisite expertise needed for a professional member can be found. In such case one professional member appointee may reside outside the City limits but within the sphere of influence. In any event, a majority of the Board shall at all times be composed of resident-electors of the City and all public members shall at all times be resident-electors.

4. If professional members with the required expertise cannot be found, the City Council may substitute one or more additional public members with a demonstrated interest in historic preservation.

#### **C. Term.**

1. Board members shall serve for a term of four years. Terms of the members shall be staggered so that at least one term, but no more than two terms, shall expire annually. Appointments shall be made, where possible, prior to the beginning of the term of office, in order that the new member(s) may become familiar with the functions of the Board.

2. Terms of office for new members shall commence at the beginning of the first regular meeting in the month of October. Terms of outgoing members shall end simultaneously.

D. Board Member Appointment.

1. Members of the Historic Resources Board shall be nominated by the Mayor whose nomination shall be ratified by at least three members of and appointed by the City Council. The City Clerk shall swear in the newly appointed member(s).

2. In the event an appointment cannot be made in a timely manner, the City Council with consent of the incumbent, may extend the incumbent's term for up to 90 days. Any new appointee to a scheduled or unscheduled vacancy shall hold office until the expiration date of that position.

3. All members shall serve at the pleasure of the City Council. Any member may be removed from the Board upon a majority vote of the City Council. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

**17.32.030 Duties and Powers of the Historic Resources Board.**

The Historic Resources Board, established in accordance with the provisions in Chapter [2.24](#) CMC, shall have the following duties, powers and responsibilities:

A. To administer the historic preservation program pursuant to this chapter.

B. To review, and approve, deny or approve with conditions, determinations of consistency with the Secretary of Interior's Standards for all major alterations involving historic resources.

C. To administer the Carmel Inventory and the Carmel Register.

D. To approve or deny requests submitted by owners of identified historic resources to place the resources on the Carmel Register.

E. To approve or deny requests to remove resources from the Carmel Inventory and/or the Carmel Register.

F. To advise the Planning Commission and the City Council on amendments to the Historic Context Statement, Historic Preservation Ordinance and the provisions of the General Plan related to historic resources.

G. To advise the Planning Commission and the City Council on the establishment of historic districts.

H. To advise the City Council on becoming a certified local government for purposes of historic preservation.

I. To advise the Planning Commission on the adequacy of environmental documents involving potential impacts to identified historic resources.

J. To advise the City Council on proposed Mills Act contracts and proposed tax credit applications.

K. To hear appeals of actions by staff to approve or deny determinations of consistency for minor alterations and/or track one projects affecting historic resources.

L. To hear appeals of any administrative determination that a property is not eligible for the Carmel Inventory and to reverse where necessary such determinations, thereby placing such properties on the inventory.

M. To develop historic resource interpretive programs that will foster greater understanding of, and appreciation for, historic resources including Carmel's origins and history.

N. To review and advise the City Council periodically on updating the Historic Context Statement. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.040 Eligibility Criteria for the Carmel Inventory.**

The following types of resources are to be included in the Carmel Inventory: individual properties, historic districts, and archeological resources. Historic districts may consist of multiple properties that are united geographically and located with a defined boundary, or isolated properties that do not share a geographic boundary but are united by a common theme (also known as a thematic grouping). The Director and the Historic Resources Board, based on recommendations of qualified professionals shall use the following criteria in making determinations on the eligibility of properties for the Carmel Inventory. To be eligible for the Carmel Inventory, historic resources:

A. Should be representative of at least one theme included in the Historic Context Statement.

B. Shall retain substantial integrity. Integrity (association, feeling, setting location, design, materials and workmanship) shall be documented by comparing the existing condition of the resource with the original building plans or early records and photographs, or other substantial evidence (e.g., literature review, Sanborn maps, architectural files, land records) and/or by physical inspection by a qualified professional. Integrity shall be assessed by (1) defining the physical features that must be present for a property to represent its significance, (2) determining whether these features are still visible enough to convey significance, (3) determining whether the property needs to be compared to other similar properties to understand its significance, and (4) determining which aspects of integrity are vital if the property is to qualify as a resource (see National Register of Historic Resources, Bulletin #15).

C. Should be a minimum of 50 years of age and shall meet at least one of the four criteria for listing in the California Register at a national or Statewide level of significance (primary resource) or at a regional or local level of significance (local resource) per CEQA Guidelines Section 15064.5(a)(3):

1. Is associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States;

2. Is associated with the lives of persons important to local, California or national history;

3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master, an important creative individual, or possesses high artistic values; or

4. Has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California or the nation.

D. To qualify for the Carmel Inventory, an historic resource eligible under California Register criteria No. 3 (subsection (C)(3) of this section) only, should:

1. Have been designed and/or constructed by an architect, designer/builder or contractor whose work has contributed to the unique sense of time and place recognized as significant in the Historic Context Statement; or

2. Have been designed and/or constructed by a previously unrecognized architect, designer/builder or contractor if there is substantial, factual evidence that the architect, designer/builder or contractor contributed to one or more of the historic contexts of the City to an extent consistent with other architects, designer/builders or contractors identified within the Historic Context Statement; or

3. Be a good example of an architectural style or type of construction recognized as significant in the Historic Context Statement; or

4. Display a rare style or type for which special consideration should be given. Properties that display particularly rare architectural styles and vernacular/utilitarian types shall be given special consideration due to their particularly unusual qualities. Such rare examples, which contribute to diversity in the community, need not have been designed by known architects, designer/builders or contractors. Rather, rare styles and types that contribute to Carmel's unique sense of time and place shall be deemed significant.

E. Districts designated as historic resources shall (1) have more than 50 percent of all properties within the district boundaries that contribute to the identifiable characteristics of the specific area or neighborhood; (2) represent a theme from the historic context of the early development of Carmel; (3) have a majority of all properties within the district boundaries that demonstrate the functions, styles, time period and lifestyles of the period of significance; (4) have a majority of all properties within the district boundaries that qualify as contributing resources that evidence a high level of integrity based on physical condition, retention of historical characteristics and relationship to the original site; and (5) represent or potentially represent historical information important locally, regionally, or to the State or nation.

F. All properties included in the inventory as of the date of final certification of the LCP, are hereby included in the Carmel Historic Resource Inventory unless removed by the Historic Resources Board pursuant to CMC [17.32.070](#)(D). Recordation and notice of the inclusion of these resources in the inventory shall be provided pursuant to CMC [17.32.070](#)(C). All subsequently identified Historic Resources shall be added to the Carmel Historic Resource Inventory and reported to the Historic Resources Board.

G. Any interested parties or organizations may submit to the City requests or applications for identification of historic resources to be included in the inventory. The City shall process such requests or applications within 60 days, consistent with the procedures established in this chapter.

H. A resource less than 50 years old may be eligible if it is of exceptional importance to the City, State, or nation based on its unusually strong contribution

to history, architecture, engineering or culture, or because it is an integral part of an historic district. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.050 Alteration of Property.**

A. It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, relocate, reconstruct or restore any property without first determining if the property is eligible for the inventory.

B. No application for property development shall be deemed complete unless it includes a determination that the property is either eligible or ineligible for the Carmel Inventory. For properties where eligibility has not yet been established, the Department shall initiate the process for determining eligibility upon the filing of any application for property development.

C. A property owner may request a determination of eligibility prior to the filing of a development application by submitting a written request to the Department. The Department shall establish the required content and form of such requests and/or applications. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.060 Determining Eligibility for the Carmel Inventory.**

##### **A. Historic Context Statement.**

1. The City shall maintain an Historic Context Statement.

2. The purpose of the Historic Context Statement is to establish a baseline of information against which the potential historic significance of a property is evaluated. ~~The~~ The significance of an historic property can be judged and explained only when it is evaluated within its historic context. Historic contexts are those patterns or trends in history by which a specific occurrence, property, or site is understood and its meaning (and ultimately its significance) within history or prehistory is made clear.+(National Register Bulletin: ~~How~~ How to Apply the National Register Criteria For Evaluation,+ p. 7). However, exclusion of a resource type from the context statement shall not preclude a finding of historical significance by a qualified professional.

3. The Historic Context Statement shall be updated at least every five years. Updates shall be submitted to the California Coastal Commission as LCP amendments.

4. Staff may, as part of any updates to the Historic Context Statement, require that a reconnaissance survey be conducted by a qualified professional.

##### **B. Initial Assessment of Historic Significance.**

1. Upon the filing of a preliminary site assessment application, development application, property owner request for determination or as initiated by the Department, an initial assessment of historic significance shall be conducted to determine whether the property may have historic resource potential sufficient to warrant conducting an intensive survey.

2. The initial assessment shall include a records search and site visit. The records search shall include a review of building permits, plans, early photographs and other substantial evidence (i.e., literature review, architectural

files, land records and Sanborn maps) in the City's or County's files, in order to determine the age and degree of prior modification to the property. The records search shall also identify whether or not the property is located within the boundaries of any archaeological overlay district or historic district, or was previously included in the Carmel Inventory or Carmel Register. During the site visit, staff shall identify the architectural style, period, and significant features of the structure or dwelling and examine the exterior of the building or structure and its setting in order to determine whether any significant alterations have occurred and/or whether sufficient integrity remains to warrant additional survey work. Staff shall also note the spatial relationships to notable site features and adjacent properties. At staff's option, the initial assessment may be performed by a qualified professional retained by the City.

3. If, based on the initial assessment, the property is determined to be ineligible for the inventory, is outside the archaeological overlay zone, and no evidence of archaeological resources is present, then no further action is required except as otherwise stated below, and the Department shall issue a determination of ineligibility consistent with subsection (D) of this section.

4. If the property appears to meet the criteria for the inventory, the Department shall order that an intensive survey of the property be conducted. All intensive surveys shall be performed by a qualified professional under contract to the City.

5. If, based on the initial assessment, a definitive determination of eligibility or ineligibility cannot be made, the Department shall require an intensive survey by a qualified professional.

#### C. Intensive Survey.

1. If an intensive survey is required it shall include a review of original research outlining the details of the property's history, a determination of the relationship of the property to the Historic Context Statement, and a finding as to whether or not the property meets the criteria for inclusion in the inventory. All properties determined to be historic shall be documented on a standardized inventory form as established by the State Office of Historic Preservation and shall become part of the Carmel Inventory after an administrative determination.

2. If the intensive survey determines that the property is ineligible for the inventory, then all provisions of subsection (D) of this section shall apply.

3. If the intensive survey determines that the property qualifies as an historic resource and is therefore eligible for the inventory, the survey also shall specify whether the property is a local resource or a primary resource.

##### a. Primary resources include:

i. Resources previously listed in the National Register at the national or Statewide level of significance.

ii. Resources formally determined by the Keeper of the National Register or by SHPO as eligible for listing in the National Register at the national or Statewide level of significance.

iii. Resources identified in the survey as eligible for listing in the National Register at the national or Statewide level of significance.

b. Local resources include resources identified in the survey as eligible for listing in the California Register and/or for listing in the National Register at less than Statewide level of significance.

i. Regionally significant shall mean resources that are important to the history and development of the Monterey Peninsula.

ii. Locally significant shall mean resources that are only important to the history and development of the City.

4. The intensive survey shall identify to the degree practicable:

a. Primary, contributing, component and noncontributing features or resources.

b. Aspects of the setting important to retaining the qualities that make the property historically significant.

D. Determinations of Ineligibility.

1. Upon making a determination that a property does not qualify for the Carmel Inventory, the City shall issue a determination of ineligibility. Each determination of ineligibility shall include the street location, the block and lot identification, age of structure, and a statement as to why the property is not eligible for the Carmel Inventory.

2. All determinations of ineligibility shall be (a) provided to the property owner, (b) provided to anyone who has requested a copy of such determinations, (c) transmitted to members of the Historic Resources Board, and (d) made available for public review during normal business hours at City Hall for 10 days. Upon receipt, any member of the Historic Resources Board may call a determination of ineligibility up for review by the Board by filing a written request with the Department during the appeal period.

3. Determinations of ineligibility made by the Department may be appealed to the Historic Resources Board by any aggrieved person as established in CMC [17.32.180](#). Determinations of ineligibility shall not be final until all appeal processes have run. The appeal period for determinations of ineligibility shall be 10 days from the date the decision was circulated and made available for public review as established above.

4. Determinations of ineligibility shall be valid for a period of five years from the date of issuance except for properties developed less than 50 years prior to the determination, but more than 45 years prior to the determination, and which are ineligible for the Carmel Inventory primarily due to insufficient age. All such determinations of ineligibility shall be valid only until the building, structure or object reaches the age of 50 years.

E. If the property is (1) located within the archaeological overlay district, or (2) is located within a commercial or R-4 district, or (3) staff determines that the site may potentially contain archaeological resources, and the project involves excavation or grading then the Department shall order that a Phase 1 Report (survey) of the property be conducted by a qualified professional to evaluate the potential for archaeological resources to be present on the property. All reports shall follow the Archeological Resources Management Report (ARMR) format.

1. Phase 1 Report: Archaeological Survey. A Phase I survey and report shall be prepared by a qualified professional and shall include a records search

from the Northwest Regional Information Center, documentation of an on-site survey, and archival research on the history of the property. Native American consultation(s) may also be appropriate. As part of the Phase I survey process, the Department may require preparation of a California Archaeological Inventory form (DPR 422A) and/or a California Archaeological Isolated Artifact form (DPR 422H). If the Phase 1 Report concludes that the property clearly does not contain archaeological resources, then no further action or mitigation is required and the Department shall issue a determination of ineligibility for the inventory.

2. Phase II Report: Testing. If the Phase 1 Report concludes that the property does or may contain archeological resources, then a Phase II Report shall be prepared by a qualified professional, in consultation with appropriate Native American representative(s), in order to identify appropriate mitigation measures (e.g., monitoring, avoidance, capping, documentation, recovery, etc.).

3. Phase III Report: Recovery. If the Phase II Report concludes that recovery is the appropriate mitigation then a Phase III Report shall be prepared by a qualified professional in consultation with appropriate Native American representative(s).

4. A copy of each Archaeological Resources Management Report shall be forwarded to the Northwest Regional Information Center. The City shall keep confidential the specific location of archeological resources, where appropriate. A copy of any Archaeological Resources Management Report that does not identify the specific location of the resource on the property may be made public by the City.

5. Archaeological reports shall be conducted under contract to the City, at the property owner's expense. The property owner shall provide access to the site and interior of any building or structure thereupon at a mutually agreed time. All recovered artifacts shall become the property of the City for use in research, interpretation and/or transmittal to appropriate entities. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.070 Maintaining the Inventory.**

A. Eligibility for the Carmel Inventory shall be established in conformance with the criteria and procedures in CMC [17.32.040](#), Eligibility Criteria for the Carmel Inventory, and [17.32.060](#), Determining Eligibility for the Carmel Inventory. Properties determined to be eligible by an administrative determination, or by the Historic Resources Board on appeal, shall become part of the inventory upon completion of an inventory form documenting the resource and issuance of an administrative determination finding by the Department or adoption of a finding by the Board that the property meets the criteria for historic resources.

B. Resources included in the inventory shall be considered historic resources for purposes of CEQA.

C. Consistent with Public Resources Code Section 5029, staff shall within 90 days submit to the County Recorder for recordation, and the County Recorder shall record, the administrative determination that the property is an historic resource and document inclusion of the resource in the Carmel Inventory.

1. The resolution shall include the name of the current property owner, the designating entity (Department), the specific historical resources designation (inventory), and a legal description of the property.

2. A copy of the recorded resolution shall be mailed to the property owner.

3. The inclusion of a property in the inventory is not subject to appeal. Property owners that dispute the historic significance of their property shall follow the procedures for removal of a resource from the inventory.

D. Removal of Resources from the Inventory.

1. A property owner of a resource included in the inventory may apply to the City to have the resource removed from the inventory.

2. An historic resource in the Carmel Inventory shall be presumed historically significant and shall not be removed unless substantial evidence demonstrates that it is not an historic resource. Any decision to remove a resource from the inventory shall require a public hearing by the Historic Resources Board and shall be based on a recommendation by a qualified professional. Substantial evidence shall include, but is not limited to:

a. An intensive survey prepared by a qualified professional under contract to the City re-evaluating whether the property is eligible for the Carmel Inventory. If the new intensive survey provides substantial evidence that the property does not meet the historic resource criteria and recommends removal from the inventory, the survey shall document why prior survey documentation affirming that the property met the criteria for inclusion in the inventory was inaccurate or inappropriate or otherwise is no longer valid.

b. A finding supported by substantial evidence that any loss of integrity, from the level of integrity documented in prior survey(s), was not the result of unapproved alterations, neglect or property nuisance as established in CMC [8.64.010](#). If any documented losses of integrity are found to be due to unapproved alterations, neglect or property nuisance, the property owner shall be subject to the enforcement actions of this chapter.

3. The removal of a resource from the inventory shall require Board approval. Board actions regarding removal of a resource from the inventory (approvals or denials), may be appealed to the City Council.

4. If the final action on the application is to approve removal, staff shall within 90 days submit to the County Recorder for recordation, and the County Recorder shall record the administrative determination by the Department specifying that the property is not an historic resource and has been removed from the inventory.

a. The resolution shall include the name of the current property owner, the decision-making body, the specific action taken regarding historical resources designation (removal from inventory), and a legal description of the property.

b. A copy of the recorded resolution shall be mailed to the property owner.

5. Resources removed from the inventory shall not be considered historic resources for purposes of the California Environmental Quality Act upon final City approval of the removal. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.080 Qualifications of Professional Consultants.**

A. City List of Pre-Approved Professional Consultants. The City shall maintain a list of State-certified, qualified professionals capable of performing surveys, evaluating projects for consistency with the Secretary's Standards, assisting staff and the Historic Resources Board with the preparation of determinations of consistency, evaluating the impact of projects on historic resources and developing mitigation measures, evaluating compliance with the State Historic Building Code, and preparing Historic Context Statement updates.

B. Work to Be Done Under City Contract. The work of the qualified professionals shall be conducted under contract to the City. If the need for the work is the result of an application, the work shall be performed at the applicant's expense. If the work is the result of a City project or general request of the public pursuant to CMC [17.32.040](#)(G), the work shall be performed at the City's expense.

C. Conflicts of Interest.

1. The qualified professional shall not have performed work under contract to the applicant for a period of one year prior to authorization to proceed with the work effort by the City.

2. Any additional work performed by the qualified professional related to the subject application shall be performed under contract to the City. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.090 Carmel Register of Historic Resources.**

The City shall maintain a Register of Historic Resources designated by the City for public recognition and benefits. Only identified historic resources included in the Carmel Inventory are eligible for the register.

A. Individual Resources.

1. Resources, identified as significant at a State or national level in the inventory, shall be automatically listed in the register.

2. Resources, identified as significant at a local or regional level in the inventory, shall be eligible for listing in the register only at the request of the property owner. Listing of a local resource in the register shall be subject to approval by the Board.

3. All historic resources previously designated for listing under prior City ordinances shall remain on the register except as provided in subsection (C) of this section.

B. Historic Districts.

1. Historic districts may be considered for inclusion in the Carmel Register at the request of a property owner within the proposed district, or as initiated by the Historic Resources Board, or the City Council, if the district meets the criteria for inclusion in the Carmel Inventory. After preparation of explanatory and supporting material by the City or other interested party, the City shall notify owners of contributing properties within the proposed historic district of the request for consideration of listing and shall provide owners an opportunity and time frame in which to file a notice of objection to listing. Such objection shall take the form of a notarized letter certifying that (1) the party is the sole or partial owner of a contributing resource and (2) the party objects to listing on the

register. No action on listing of a historic district in the register shall be taken if owners of more than 50 percent of the contributing resources within the district file an objection to listing.

C. Resources Not Currently in the Inventory.

1. A property not previously surveyed, or a property previously surveyed but not included in the inventory, may be evaluated or reevaluated to determine if it is eligible for the register at the property owner's request.

2. In order to determine eligibility, the initial assessment and survey requirements of CMC [17.32.040](#) shall be followed.

3. The property owner shall request in writing that the Department initiate an historic assessment of the property.

4. Upon completion of the survey the Department shall determine whether the property meets the criteria as an historic resource and is therefore included on the Carmel Inventory, consistent with CMC [17.32.040](#), Eligibility Criteria for Carmel Inventory, and CMC [17.32.060](#), Determining Eligibility for the Carmel Inventory. Properties that are determined not to be historic shall not be eligible for the inventory or the register.

a. Resources that qualify as primary resources shall be automatically listed in the register.

b. Resources determined to be local resources shall be listed in the register, subject to Board approval.

D. Notification of Property Owners. Consistent with Public Resources Code Section 5029, staff shall within 90 days submit to the County Recorder for recordation, and the County Recorder shall record, a certified resolution by the Department establishing the listing in the register.

1. The resolution shall include the name of the current property owner, the designating entity (Department), the specific historical resources designation (inventory), and a legal description of the property.

2. A copy of the recorded resolution shall be mailed to the property owner.

E. Removal of Resources from the Register.

1. Primary Resources. A primary resource shall not be removed from the register unless it has been previously removed from the inventory. The removal of a primary resource from the register shall be subject to Board approval and may occur concurrent with removal from the inventory.

2. Local Resources. A local resource may be removed from the register at the request of the property owner. The removal of a resource from the register shall be subject to Board approval.

3. Appeals. Board actions regarding removal of a resource from the register (approvals or denials), may be appealed to the City Council.

4. Following final action approving removal, staff shall within 90 days submit to the County Recorder for recordation, and the County Recorder shall record, a certified resolution by the Department specifying that the property has been removed from the register.

a. The resolution shall include the name of the current property owner, the decision-making body, the specific action taken regarding historical resources designation (removal from the register), and a legal description of the property.

b. A copy of the recorded resolution shall be mailed to the property owner.

5. To the extent feasible, as determined by the Board, benefits received as a consequence of listing on the register shall be removed, terminated or returned to the City as appropriate to the nature of the benefit. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.100 Benefits Available to Historic Resources on the Register.**

The Board is authorized to develop and implement preservation incentive programs that are consistent with this chapter. The following preservation incentives are available to owners of resources listed in the Carmel Register:

A. Historic Plaque Program. Historic resources listed on the Carmel Register shall be provided with a brass plaque suitable for mounting on or near the resource. The plaque shall include the name of the resource, the date of construction, the City seal and other information appropriate for the resource as determined by the Board. In developing this program the Board shall establish criteria for uniform design, content and location.

#### **B. Mills Act Historical Property Contracts.**

1. Purpose. A Mills Act contract under State law is an agreement between the City of Carmel and a property owner of an historic building listed on the Carmel Register. The property owner benefits from a reduction in property taxes, and the City is assured that the historic building is rehabilitated, maintained and preserved. All Mills Act contracts shall be established, processed and approved in conformance with California law.

2. Applicability. Properties in the R-1 district that have been, and will be, preserved in their historic size, form and design without significant alterations or additions are eligible for Mills Act contracts. Mills Act contracts for properties in the R-4 and commercial districts shall be limited to those creating new low-, very low- or moderate-income housing through conversion of existing floor space occupied by market-rate housing or occupied by nonresidential uses. Properties that are not currently on the register shall not be eligible for a Mills Act contracts with the City.

3. Term of Contract. All Mills Act contracts shall have a term of 10 years and one year shall be added to this term annually upon each anniversary date of the contract unless one or both parties have taken action to terminate the contract. The City Administrator shall be authorized to initiate contract termination on behalf of the City based on recommendations of the Department. The contract rights and obligations are binding upon all successive owners of the property during the life of the contract. The property retains the lower Mills Act tax rate when the property is sold. To end a contract, either party may submit a notice of nonrenewal to the other party. Such notices shall cause the contract to terminate at the end of the then-current 10-year contract period. Cancellation of a contract by the City due to noncompliance requires a public hearing and, if cancelled, results in the immediate termination of the contract and a penalty equal to 12.5 percent of the assessed market value of the property.

4. Contract Requirements. The contract will require that the historic elements of the property are maintained in good condition. This will include a

plan for maintenance and may include a program to restore deteriorated elements. All recipients of Mills Act contracts are required to implement a maintenance plan prepared by a qualified professional and to submit an annual report to the Department specifying all work that has been done to maintain and preserve the historic resource over the year in compliance with the approved maintenance plan. All maintenance work shall be completed in conformance with the Secretary of Interior's Standards for Rehabilitation. All Mills Act contracts shall specify that the maintenance plan shall be updated at least every 10 years by a qualified professional and approved by both parties.

#### 5. Applications.

a. Staff shall make available appropriate Mills Act application materials. Applications for contracts that will commence in the following calendar year shall be submitted no later than June 30th of each year. This annual schedule provides sufficient time from receipt of application materials for a recommendation by the Board, the City Council to approve and the City Clerk to cause to be recorded approved contracts within the calendar year in which application materials are received. The contract term would begin January 1st of the year following the application.

b. The following materials are required for a complete application:

i. A completed application form and all filing fees as established by resolution of the City Council.

ii. A full legal description of the property attached and labeled as Exhibit A.+

iii. A maintenance plan for the historic resource prepared by a qualified professional together with a cost estimate of the work to be done attached and labeled as Exhibit B.+

iv. Photos of the exterior of the property attached as Exhibit C.+

#### 6. Review Process.

a. Upon submittal of a complete application, staff will prepare a staff report for review by the Board. The Board shall consider each application for a Mills Act contract and make recommendations to the City Council to approve, approve with conditions or deny the application.

b. The City Council shall, in a public hearing, consider recommendations from the Board and resolve to approve, approve with conditions, or deny the proposed contract with sufficient time for action by the City Clerk so that recordation of approved contracts occurs prior to December 31st of the year in which the application is received.

c. To grant approval of a Mills Act contract, the Board and City Council shall make all of the following findings:

i. The building is designated as an historic resource by the City and is listed on the Carmel Register.

ii. The proposed maintenance plan is appropriate in scope and sufficient in detail to guide long-term maintenance.

iii. Alterations to the historic resource have been in the past, and will continue to be in the future, limited to interior work and to exterior rehabilitation and alterations that:

(A) Comply with the Secretary's Standards, and do not affect the basic form and design of the original historic resource, and

(B) Do not affect any primary elevation, and

(C) Do not alter, damage or diminish any character-defining feature, and

(D) Do not increase floor area on the property by more than 15 percent beyond the amount established in the documented original or historic design of the resource, and

(E) Do not result in any second-story addition to a single-story historic resource, and

(F) Meet all zoning standards applicable to the location of the property.

iv. The Mills Act contract will aid in offsetting the costs of rehabilitating and/or maintaining the historic resource and/or will offset potential losses of income that might otherwise be achieved on the property.

v. Approval of the Mills Act contract will represent an equitable balance of public and private interests and will not result in substantial adverse financial impact on the City.

d. Upon approval of a contract by the City Council, the City Clerk shall transmit the contract, with the appropriate fee, to the County Recorder's Office. The property owner is responsible for all filing fees. After recordation, the recorded contract shall be transmitted to the County Assessor. The Assessor calculates the exact tax savings. Property owners are required to report to the State Office of Historic Preservation that a Mills Act contract has been completed.

C. Parking Reductions. On-site parking requirements for any continued occupancy, change, or intensification in use for any register-listed resources may be waived by the Board. In granting such waivers, the Board may establish that the number of parking spaces required shall be the same as the number of spaces that exist on the property as of the effective date of listing in the register.

D. Nonconformities. Existing structural nonconformities associated with a historic resource listed on the register (e.g., setback encroachments, excess height or insufficient parking, etc.) that are essential to maintaining the integrity of the resource shall be treated as conforming for the purposes of applying CMC [17.36.030](#) and [17.36.040](#), in the review of maintenance, repair, alterations and additions. Design nonconformities shall be expanded or created only when this is found necessary to achieve consistency with the Secretary's Standards.

E. Tax Credits for Commercial Properties. Commercial properties listed on the Carmel Register and the National Register may be eligible for Federal rehabilitation tax credits.

F. Fee Reductions. When a property on the register is rehabilitated in conformance with the Secretary's Standards, the City will reduce the building permit fee, applicable to the specific area of the rehabilitation, by 25 percent. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.110 California Historical Building Code (SHBC).**

A. The SHBC provides alternative regulations for the rehabilitation, preservation, restoration, or relocation of qualified historical buildings or

properties. Resources in the inventory shall be treated as qualified historical buildings or properties.

B. The SHBC shall be used for any resource in the inventory. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.120 Alteration of Historic Resources.**

A. Determination of Consistency. It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, relocate, reconstruct or restore any historic resource without first obtaining a determination of consistency with the Secretary's Standards, complying with the requirements of the CEQA, and obtaining a building permit or other applicable permit from the City. Demolition of structures identified as historic resources on the Carmel Inventory is prohibited except as provided in CMC [17.30.010](#). The alteration of any structure identified as an historic resource on the Carmel Inventory in a manner that is inconsistent with the Secretary's Standards is prohibited unless one or more of the findings established in CMC [17.64.050](#) is adopted.

B. Routine Maintenance. Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior improvement or any exterior architectural feature in or on any historic resource that does not involve a change in design, materials, or external appearance thereof, nor does this chapter prevent the alteration, restoration, demolition, removal, or relocation of any such improvement or architectural feature when the Department certifies to the Historic Resources Board that such action is required for the public safety due to an unsafe or dangerous condition and cannot be remedied under the California Historical Building Code.

C. Duty to Keep in Good Repair. Duty to Keep in Good Repair. The owner, occupant or any other person in actual charge of a historic resource shall keep in good repair the exterior portions of all such buildings, structures, or improvements, and all interior portions thereof whose maintenance is necessary to prevent the deterioration and decay of any exterior improvement or exterior architectural features.

D. Tax Credit Certifications. Alterations or relocations that are the subject of a tax credit certification application shall be submitted to the Board for informational purposes. The Board shall have the option to submit comments on the application to the appropriate State or Federal reviewing agency. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.130 Design Study, Building Permit or Other Application for Alteration of Property.**

A. Upon submittal of a design study, building permit or other application for alteration of the property, the City shall determine if the subject property contains historic resources and is therefore eligible for the Carmel Inventory of Historic Resources.

1. Properties that are already known to contain historic resources are included in the inventory.

2. Properties that are known not to contain historic resources are those that have been subject to an initial assessment or intensive survey and received a determination of ineligibility pursuant to this chapter. A determination of ineligibility issued by the Department within five years of the date of the application shall constitute a showing that the property is not an historic resource. The Department shall have the discretion to accept determinations of ineligibility that are older than five years, if there have been no changes to the Historic Context Statement or other demonstrated changes in circumstance that are applicable to the subject property and if there is no substantial new evidence available that would affect the determination.

3. If a property is not included in the inventory and has not been subject to a previous site assessment or survey, the City shall require that the procedures for the identification of historic resources be followed, prior to determining whether a determination of consistency, pursuant to this chapter, is required for the project.

B. If the applicant has applied for, but has not completed the process of eligibility determination, the applicant may request that the property be treated as eligible for purposes of expediting the application review.

C. If it is determined that the subject property contains historic resources, the applicant shall be required to obtain a determination of consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties as part of the project review process. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.140 Determination of Consistency with the Secretary's Standards.**

A. All major and minor alterations to historic resources shall require a determination of consistency with the Secretary's Standards. The Department shall make consistency determinations for minor alterations. Staff may retain a qualified professional, when necessary, to assist in making the determination.

B. Consistency determinations for major alterations shall require an evaluation by a qualified professional and review and approval by the Historic Resources Board. Qualified professionals retained by the City to evaluate proposed alterations to historic resources shall be at the applicant's expense. The Department shall determine whether the proposed project constitutes a minor or major alteration. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.150 Historic Evaluation Process for Minor Alterations.**

A. For the purposes of evaluating alterations to historic resources, the following shall constitute minor alterations:

1. Any alteration that is not a major alteration.
2. Maintenance, repair, restoration or in-kind replacement of severely deteriorated component features.

3. Electrical and or plumbing work within buildings, limited to upgrading or in-kind replacement, with the exception of historic fixtures that shall be repaired.

4. Installation of mechanical equipment within a building, that does not affect the exterior of the building, visible elements of the interior, or require installation of new duct work throughout the interior.

5. Repair or partial replacement of porches, cornices, exterior siding, doors, balustrades, stairs, or other trim when the repair or replacement is done in-kind to match existing material and form.

6. Replacement of severely damaged or deteriorated windows when the replacement is done in-kind to match the existing materials and form.

7. Replacement of window panes in-kind or with double or triple glazing so long as the glazing is clear and untinted and the window does not alter the existing window material and form. The replacement of existing archaic or decorative glass is not included in this exclusion.

8. Repair or replacement of roofing, gutters and downspouts when replacement is done in-kind to match existing materials and form.

9. Repair or replacement of roadways, driveways and walkways when work is done in-kind to match existing material and form.

10. Repair or replacement of fencing and freestanding exterior walls when work is done in-kind to match existing materials and form.

11. Repair or replacement of signs or awnings when work is done in-kind to match existing materials and form.

12. Repair or replacement of interior stairs when work is done in-kind to match existing materials and form.

B. Repair of interior walls including plaster and dry wall to match existing walls. This can include the repair of interior cracks up to one inch wide.

C. Temporary bracing or shoring as part of stabilization.

1. Anchoring of masonry walls to floor systems so long as anchors are embedded and concealed from exterior view.

2. Reconstruction or repair of parapets, chimneys, and cornices to match existing in all material and visual aspects. Bracing and reinforcing of chimneys and fireplaces as long as bracing and reinforcing are either concealed from exterior view or removable in the future.

3. Stabilization of foundations and the addition of foundation bolts.

4. The installation of the following seismic upgrades; provided, that such upgrades are not visible on the exterior or within character-defining historic interiors: cross bracing on pier and post foundations; metal fasteners; collar ties; gussets; tie-downs; strapping and anchoring of mechanical, electrical or plumbing equipment; installation of plywood diaphragms beneath first floor joists, above top floor ceiling rafters and on roofs; and the addition of seismic automatic gas shut-off valves.

5. Installation of temporary, reversible barriers such as chain link fences, and polyethylene sheeting or tarps.

D. Staff shall issue a determination of consistency for minor alterations that comply with the Secretary's Standards. In approving minor alterations, staff shall ensure that integrity of the resource is maintained, that all character-defining features are maintained and that no change will be authorized that would diminish the historic resource's value or result in a subsequent determination that

the resource is no longer eligible for the Carmel Inventory. Staff may prepare and process a categorical exemption for the proposed alteration. The Department shall then cause the processing of the permit application to continue pursuant to standard City practices. Minor alterations that are found not to comply with the Secretary's Standards shall be considered and processed as major alterations requiring an evaluation by a qualified professional and final action by the Historic Resources Board. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

**17.32.160 Historic Evaluation Process for Major Alterations.**

A. For the purposes of evaluating alterations to historic resources the following shall constitute major alterations:

1. Any minor alteration not in compliance with the Secretary's Standards.
2. Substantial alterations as defined in CMC [17.70.020](#).
3. Additions exceeding two percent of existing floor area or volume.
4. Relocation on the same site and with the same setting or context.
5. Demolitions as defined in CMC [17.70.020](#).

B. Determinations of consistency for major alterations shall be prepared by a qualified professional and shall be supported by written documentation that (1) identifies which of the Secretary's Standards are applicable to the project, (2) reviews the proposed project, and (3) explains the basis of the determination.

1. If a proposed major alteration is found by the qualified professional to be consistent with the Secretary's Standards, the project shall be presumed to be consistent for purposes of making a preliminary determination regarding any required environmental documentation and staff shall forward the application and evaluation to the Board for action.

a. If the Board concurs with the evaluation, the Board shall issue a determination of consistency and adopt any appropriate conditions of approval. Any finding of compliance by the Board shall be supported by substantial evidence.

b. If the Board does not concur, the Board may request additional information prior to issuance of a determination of consistency, or may issue a finding of noncompliance with the Secretary's Standards. Any finding of noncompliance by the Board shall be supported by substantial evidence.

C. If an evaluation concludes that a proposed alteration is not consistent with the Secretary's Standards, the report shall list aspects of the project that are not consistent along with guidance for modifying the project to comply with the Secretary's Standards. The applicant shall be required to elect in writing within 10 days of receipt of the evaluation whether they will (a) work with the City to modify the project to conform, (b) request a mediation process, or (c) request that processing of the application proceed without modification.

1. An evaluation that concludes that a project is not consistent with the Secretary's Standards shall constitute evidence of substantial adverse impact to an historic resource. If the applicant does not choose to modify the proposed alteration to comply with the Secretary's Standards, the Department shall require preparation of an EIR as part of the environmental review process prior to review issuance of any permits for the project.

2. If the applicant chooses to work to modify the proposed project to comply with the Secretary's Standards, and the required revisions would be substantial, the Department may require that the applicant withdraw the current permit application and resubmit the revised project as a new application.

3. Staff, with the concurrence of the applicant, may authorize the qualified professional to work with the applicant to develop a revised plan that complies with the Secretary's Standards, or may require the qualified professional to recommend conditions of approval that, if adopted and implemented, would cause the project to comply with the Secretary's Standards. This additional work shall be performed under contract to the City, at the applicant's expense. The qualified professional upon completion of consultation shall submit to the Department a summary of the results of the process.

4. If the applicant requests a mediation process and staff concurs, the City shall retain, at the expense of the applicant, a second qualified professional to serve as an independent mediator. Parties to the mediation shall include (1) the applicant and their representatives, (2) the City as represented by the Director, and (3) the original qualified professional(s) that determined that the proposed alteration does not comply with the Secretary's Standards. The mediator shall be responsible for structuring the mediation process and facilitating negotiation among the parties. The mediator shall complete an independent evaluation of the project, determine if it complies with the Secretary's Standards and, if necessary, make recommendations for modifications to achieve compliance.

a. If all parties reach agreement that the proposed alteration is consistent with the Secretary's Standards, or reach agreement on modifications that will achieve consistency, staff shall forward the application, evaluation, and work products of the qualified professional, along with any conditions of approval to the Board for review and approval of a determination of consistency.

b. If all parties to the mediation do not reach agreement, then the original determination of inconsistency shall be considered evidence of substantial adverse impact and an Environmental Impact Report shall be prepared prior to any further action on project permits.

5. Staff shall forward the application, evaluation, and work products of the qualified professional(s), along with any conditions of approval to the Board for review and approval of a determination of consistency.

D. If the Board issues a determination of consistency, the Director shall determine whether the project is eligible for a categorical exemption consistent with the CEQA Guidelines. Further environmental review may still be required to address other aspects of the project. The Department shall cause to be prepared the appropriate environmental documentation for the project and shall cause the processing of the permit application to continue pursuant to standard City practices. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.170 Projects That Adversely Impact Historic Resources.**

A. No permit authorizing significant adverse impacts to an historic resource inconsistent with the Secretary's Standards shall be issued unless necessary to address a public health and safety emergency as provided in CMC

[17.30.010](#) or until completion of the environmental impact report (EIR) process and adoption of one or more of the findings in CMC [17.64.050](#). Preparation of an EIR for such projects shall include a review of project alternatives and/or mitigation measures that would achieve consistency with the Secretary's Standards, including consideration of the %no project+ alternative. The EIR also shall include an analysis of the feasibility of each alternative.

B. Approval of any permit that will authorize significant adverse impacts to any historic resource shall require adoption of the findings found in Chapter [17.64](#) CMC, Findings.

C. Except as authorized by the City Administrator consistent with CMC [17.30.010](#), approval of a permit to demolish or alter an historic resource that will cause significant adverse impacts to the resource shall incorporate conditions of approval deemed appropriate by the Historic Resources Board or Planning Commission which may include any of the following:

1. Documentation may be required of any resource in the inventory to be demolished and/or for the property as a whole;

2. Design review for compliance with the Secretary's Standards may be required for any subsequent development on the property. With respect to demolition of resources located within a district, the City shall take into account the importance of the affected resource to the integrity of the district, and may: limit the size of new development to that of the existing structure; require that the scale of new development be harmonious with other structures which contribute to the district's character; require retention or reconstruction of one or more building features; and/or require that any replacement structure be of like kind or quality to the demolished structure and contribute to or otherwise support the character and context of the district;

3. Suspension of the issuance of the demolition permit for 180 days to allow time to take such steps as the City deems necessary to preserve or rehabilitate the structure concerned. Such steps may include consultation with civic groups, public agencies and interested citizens, exploration of the possibility of moving the resource proposed for demolition, and exploration of the possible acquisition of the property by public and private agencies. In the case of purchase or relocation by a third party, demolition may be denied where a third party is willing and able to purchase the property or relocated the resource, and makes a bona fide offer to purchase the property or resource at fair market value, as determined by appraisal, within the time established by this section.

D. No permit to demolish an historic resource shall be issued without the concurrent issuance of a building permit for a replacement structure or project for the property involved unless necessary to address a public health and safety emergency.

E. Upon demolition of a resource the Department shall remove the resource from the inventory. Where adverse impacts result from substantial alterations, the Board shall determine if the resource retains historic integrity. If the resource has lost integrity, the Board shall direct that the resource be removed from the inventory. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.180 Appeals.**

A. The issuance of a determination of ineligibility for the inventory may be appealed to the Historic Resources Board, in accordance with standard City appeals procedures as established in CMC [17.32.060](#)(D) and [17.54.040](#)(B).

B. The denial of a determination of consistency for any minor alteration to an historic resource may be appealed to the Historic Resources Board, in accordance with standard City appeals procedures as established in CMC [17.54.040](#)(B).

C. Denials of determinations of consistency for major alteration of historic resources may be appealed to the City Council, in accordance with standard City appeals procedures as established in CMC [17.54.040](#)(B).

D. Denials of permits for the demolition, alteration, or relocation of a resource in the inventory or new construction on a property included in the inventory may be appealed to the City Council, in accordance with standard City appeals procedures as established in CMC [17.54.040](#)(B). (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.190 Enforcement and Penalties.**

A. General. It shall be unlawful for any person to permit or maintain violations of any of the provisions of this title by undertaking the alteration, grading, removal, demolition or partial demolition of an historic resource without first obtaining the written approval of the City as provided in this code, or to defy any order or decision rendered by the Department, Board, Commission or Council.

B. Criminal Penalties. Any person who violates a requirement of this title or fails to obey an order issued by the City or comply with conditions of approval of any certificate or permits issued under this section shall be guilty of a misdemeanor.

C. Civil Penalties. Any person who alters, relocates, or demolishes an historic resource in violation of this title shall be subject to an administrative penalty of up to \$250,000 for each violation. As part of any enforcement proceeding, violators may be required to reasonably restore the historic resource to its appearance, condition or setting prior to the violation, or shall be subject to one of the following limitations on the use of the property.

1. All subsequent development shall be limited to floor area, volume, coverage and height limits equal to 75 percent of the limits applicable to the property prior to the violation; or

2. The property shall be ineligible for issuance of any building permits and shall be precluded from development for a period of up to 10 years.

D. Civil Remedies. Any action to enforce civil penalties may be brought by the City or any other interested party. These civil remedies shall be in addition to, and not in lieu of any criminal prosecution and penalty and any other remedy provided by law. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.200 Public Safety Exceptions.**

A. Disasters and Emergencies.

1. In the event an historic resource is damaged as a result of a disaster or emergency, such that the historic resource is rendered uninhabitable, the City shall determine the level of risk associated with temporary retention of the historic resource in a deteriorated state. To the extent feasible, the deteriorated resource shall be fenced or otherwise secured to protect the public from the threat posed by the structure, until such time as the City can determine whether feasible alternatives to demolition exist.

2. In the event of a Federally declared disaster, the City shall consult with appropriate Federal and State agencies to determine if assistance is available to aid in the preservation of historical resources. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

### **17.32.210 Maintenance and Upkeep.**

#### **A. Minimum Maintenance.**

1. All resources included in the inventory shall be preserved against decay and deterioration, kept in a state of good repair and free from structural defects. The purpose of this section is to prevent an owner or other person having legal custody and control over a property from facilitating demolition of a historic resource by neglecting it and by permitting damage to it by weather and/or vandalism.

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

a. Building elements so attached that they may fall and injure members of the public or property.

b. Deteriorated or inadequate foundation.

c. Defective or deteriorated flooring.

d. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration.

e. Members of ceilings, roofs, ceilings or roof supports or other horizontal members which that sag, split or buckle due to defective materials or deterioration.

f. Fireplaces or chimneys that list, bulge or settle due to defective material or deterioration.

g. Deteriorated, crumbling or loose exterior plaster.

h. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.

i. Defective or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering.

j. Any fault, defect or deterioration in the building which that renders it structurally unsafe or not properly watertight.

3. If the Building Official determines that a historic resource or any other property is being neglected and subject to damage from weather or vandalism, the Director and/or Building Official shall meet with the owner or other person

having legal custody and control of the historic resource to discuss with them ways to improve the condition of the property. If no attempt or insufficient effort is made to correct any noted conditions thereafter, the Building Official may issue a notice to comply requiring the owner or other person having legal custody and control of the historic resource to take action to require corrections of defects in the subject property in order that such historic resource may be preserved in accordance with this section.

B. Protection of Deteriorated, Vacant and Vandalized Resources.

1. The Building Official shall have the authority to issue an order to comply to any owner of any property included in the inventory if the Building Official determines that the property has become subject to vandalism or constitutes a public nuisance. In such circumstances, the Building Official shall have the authority to issue any order deemed appropriate to keep the property from being further vandalized or from becoming a public nuisance including, but not limited to, ordering that the building be secured and fenced.

2. For the purposes of this provision, the property shall include the interiors and exteriors of any accessory building located on a property in the inventory.

3. Security measures that the Building Official may order shall include, but not be limited to, the following:

a. The installation of the maximum allowed height, under this code, chain-link perimeter fencing with at least one securely locked pedestrian gate and the posting of ~~No~~ Trespassing signs at regular intervals.

b. Steel or plywood closures, with one-inch diameter air holes, installed at all doors and windows. (Sandwich panel installation shall be used so as to avoid drilling into window frames and sashes, doors, ornament or masonry units.)

c. The removal of all debris from the premises, including but not limited to wood, paper, cans, bottles and fecal matter.

d. Any temporary modifications required to be made to secure the building shall be reversible.

4. Any plans or proposals for work required to be performed pursuant to an order to comply to secure any building from being further vandalized or from becoming a public nuisance must first be reviewed by the Department and the Building Official to ensure that any work done to secure the building will not damage or alter the historic character of the building. This review by the Department and the Building Official shall be completed within 10 working days from the date any request for review is submitted. If the work to be performed includes substantial alteration, the procedures set forth in this section shall be utilized for review.

5. Nothing herein shall be interpreted to prohibit an owner from taking immediate temporary measures to secure a building from unauthorized entry.

6. It shall be unlawful for any property owner to fail to comply with any order to comply issued by the Building Official under this provision.

7. Additional Remedies . Notice of Intention. In addition to the remedies provided by this code, should an owner fail to comply with an order to comply, the City may take the necessary measures, including those authorized under this

code, to immediately secure the property against vandalism or prevent it from becoming a public nuisance. The City shall have the authority to assess the cost of performing this work as a lien against real property on which the building is located and take whatever additional action the City deems necessary to recover its costs and further secure the property and provide for its preservation. Prior to taking these measures, the City shall send a notice of intention to the owner. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.220 Telecommunications Facilities.**

A. Proposals for telecommunications facilities shall be subject to review under this section if located within a district or within the boundaries of a property included in the inventory.

B. Co-location and use of stealth camouflaged equipment shall be required to the extent feasible for telecommunications facilities located within a district or within the boundaries of a property included in the inventory. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).

#### **17.32.230 Definitions.**

A. ~~%~~Archaeological Resources Management Report+ (also ~~%~~ARMR+) shall mean the standard report format established by the Department for documentation of archaeological resources and attached as Appendix G<sup>1</sup> to this title. A Phase I report, records search and on-site survey shall identify the nature of the archaeological resource (e.g., privy, foundations, midden, etc.) and its location on the property. A Phase II report shall identify appropriate mitigations and treatments (e.g., monitoring, avoidance, capping, documentation, recovery, etc.). A Phase III report addresses recovery of resources.

B. ~~%~~Building+ shall mean a construction created to shelter any form of human activity, use or occupancy.

C. ~~%~~California Historical Building Code+ (also ~~%~~State Historical Building Code+ or ~~%~~SHBC)+ shall mean Part 8 of Title 24 (California Building Standards Code) of the California Code of Regulations.

D. ~~%~~California Register of Historical Resources+ (also ~~%~~California Register+) shall mean the inventory as required by the California Public Resources Code Section 5020.1 et seq. and regulations codified in the California Code of Regulations Section 4850 et seq.

E. ~~%~~Carmel Inventory of Historic Resources+ (also ~~%~~Carmel Inventory+ or ~~%~~Inventory)+ shall mean the ongoing collection of information for buildings, structures, objects, sites and districts surveyed by qualified professionals for the City and found to meet the criteria established in the City's GP/LUP. Properties included in the inventory have been surveyed in accordance with the requirements of California Public Resources Code (PRC) Section 5024.1(g), are recognized as historically significant as established in PRC Section 5024.1(k) and therefore meet the CEQA standard for a historical resource per CEQA Section 21084.1 and Guidelines Section 15064.5(a)(2).

F. ~~%~~Carmel Register of Historic Resources+ (also ~~%~~Carmel Register+) shall mean the historic resources designated by the City for public recognition and

benefits. All surveyed historic resources that are significant at the national or State level are listed on the Carmel Register. All surveyed historic resources that are significant at the local or regional level may be listed on the Carmel Register upon request of the property owner and designation by the City. Properties included in the register are part of the Carmel Inventory and meet the CEQA standard for historical resources per CEQA Section 21084.1 and Guidelines Section 15064.5(a)(2).

G. ~~C~~ertified local government+ (also ~~C~~LG+) shall mean the program authorized by the National Historic Preservation Act of 1966 (16 U.S.C. Section 470 et seq., as amended) and the subsequent participatory agreement between the City and the California Office of Historic Preservation.

H. ~~C~~haracter-defining features+ shall mean a prominent or distinctive aspect, quality, physical feature or characteristic that contributes significantly to the physical character of a resource. This may include the overall shape of the structure, building or property, its materials, craftsmanship, decorative details, as well as the various aspects of its site and environment.

I. ~~C~~onservation+ shall mean allowing change and new construction as long as it is consistent with an established context or character. This approach is appropriate for new buildings, remodels, facade changes and public way improvements involving nonhistoric resources. (GP/LUP, 57.)

J. ~~D~~epartment+ shall mean the Department of Community Planning and Building.

K. ~~D~~esign review guidelines+ shall mean the residential design guidelines, commercial design guidelines and public way guidelines of the City and the Secretary of Interior's Standards and Guidelines.

L. ~~D~~etermination of consistency+ shall mean a finding adopted by the City that the proposed new construction, addition, alteration, and/or relocation complies with all of the provisions of this chapter and the Secretary's Standards.

M. ~~H~~istoric Context Statement+ shall mean the adopted Historic Context Statement that documents the historic periods, themes, events, people, architects and builders who have contributed to the cultural and developmental history of the City.

N. ~~H~~istoric resource+ (also ~~h~~istorical resource+) shall mean a building, structure, object, site, or district that meets the criteria for the Carmel Inventory as established in the City's GP/LUP. Historic resource types include, but are not limited to:

1. ~~C~~ultural landscape+ shall mean a geographic area (including the cultural and natural resources as well as the flora and fauna therein . whether native or domestic) associated with a historic event, activity, or person exhibiting other cultural or aesthetic values. There are four general types of cultural landscapes not mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes and ethnographic landscapes. (Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes, 4.)

2. ~~H~~istoric district (also ~~h~~istoric district+) shall mean a group of buildings, structures, sites, and objects that are united historically or aesthetically by plan or

physical development that meets the criteria for the Carmel Inventory as established in Policy P1-97 of the City's GP/LUP.

3. **%Local historic resource+** shall mean an historic resource eligible for listing in the California Register due to its regional or local significance.

4. **%Object+** shall mean constructions that are primarily artistic in nature, relatively small in scale, and associated with a specific setting or environment. For example, the Memorial Arch at Ocean Avenue and San Carlos Street would constitute an object.

5. **%Principal feature+** shall mean the most significant element or feature of an historic resource. In the case of an historic district, the district itself is the principal feature of the historic resource.

6. **%Primary historic resource+** shall mean an historic resource eligible for listing in the California Register due to its national or Statewide significance. All primary resources are included in the Carmel Inventory and the Carmel Register of Historic Resources. For example, Carmel Mission, which is listed in the National Register at the Statewide level of significance, is a primary resource.

7. **%Archaeological site+** shall mean the location of a significant event, occupation, or activity, where the location itself possesses historic, cultural, or archaeological value, regardless of the value of any existing structures. A site may include landscape features that are significant in their own right, as well as landscape features, which contribute to the significance of adjoining resources.

O. **%Imminent threat+** shall mean any condition within or affecting a structure which, in the opinion of the Building Official, would qualify a building or structure as dangerous to the extent that the life, health, property or safety of the public, its occupants or those performing necessary repair, stabilization or shoring work are in immediate peril due to conditions affecting the building or structure. Potential hazards to persons using, or improvements within, the right-of-way may not be construed to be imminent threats solely for that reason if the hazard can be mitigated by shoring, stabilization, barricades or temporary fences.

P. **%Initial assessment+** shall mean a preliminary survey to identify whether potential historic resources exist on a property.

Q. **%Integrity+** shall mean the ability of an historic resource to convey its significance through retention of location, design, setting, materials, workmanship, feeling and association. (How to Apply National Register Criteria for Evaluation, 44.) Integrity is based on why a property is significant. Ultimately, the question is answered by whether or not the property retains the identity for which it is significant. The steps in assessing integrity are (1) defining the physical features that must be present for a property to represent its significance, (2) determining whether these features are still visible enough to convey significance, (3) determining whether the property needs to be compared to other similar properties to understand its significance, and (4) determining which aspects of integrity are vital if the property is to qualify as a resource. (GP/LUP)

R. **%Intensive survey+** shall mean a review of one or more potential historic resources by a qualified professional that includes a documented site assessment, original research outlining details of property history, a

determination of the relationship of the property to the Historic Context Statement, and a finding as to whether or not the property meets the criteria for the Carmel Inventory.

S. ~~N~~ational Register of Historic Places+ (also ~~N~~ational Register+) shall mean the official inventory of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology and culture which is maintained by the U.S. Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq., 36 CFR Part 60 et seq., as amended).

T. ~~R~~econstruction consultation+ shall mean a meeting among the applicant, project architect, contractor, City Building Official and Department prior to commencement of approved construction.

U. ~~S~~alvage and reuse plan+ (also ~~I~~mplementation plan+) shall mean a detailed list of character-defining features and building materials with annotated plans and elevations that clearly identify a methodology and extent of proposed salvage and reuse of existing character-defining features and building materials consistent with the Secretary Standards.

V. ~~Q~~ualified professional+ shall mean a person meeting the qualifications established by the State Historic Preservation Office (i.e., Secretary of the Interior Professional Qualification Standards (48 FR 4716-01 and 36 CFR Part 61, Appendix A)) and approved by the Department. A qualified professional shall also be State-certified by OHP and meet the minimum requirements in history, archaeology, architectural history, or historic architecture for the type of potential historic resource being surveyed. For archaeological resources, a qualified professional shall mean a ~~r~~egistered professional archaeologist+ (or ~~R~~PA+).

W. ~~R~~econnaissance survey+ shall mean a City-wide, district-wide or neighborhood review of sites to make a preliminary identification of potential historic resources. Reconnaissance surveys are typically performed after completing an update to the Historic Context Statement.

X. ~~R~~ehabilitation+ shall mean the act or process of making possible a compatible use for a property, building or structure through repair, alterations and additions while preserving those portions or features which convey its historic, cultural or architectural values.

Y. ~~S~~ecretary of the Interior Standards for Rehabilitation+ (also ~~S~~ecretary Standards+) shall mean the Secretary of the Interior Standards for Rehabilitation (1990, 36 CFR Section 67.7) and the publication of the National Park Service, Preservation Assistance Division, Guidelines for Rehabilitating Historic Buildings (1992, NPS) and the Secretary of the Interior Standard for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings (1995, NPS), and any subsequent publication of the Secretary Standards by the NPS.

Z. ~~S~~urvey+ shall mean the act of conducting a reconnaissance or intensive survey conducted by a qualified professional to evaluate eligibility for the Carmel Inventory of Historic Resources.

AA. ~~S~~ubstantial adverse change+ (also ~~S~~ignificant adverse impact or effect+) in the significance of an historical resources shall mean ~~p~~hysical

demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired+ per CEQA Guidelines (2003) Section 15064.5(4)(b)(1) and any subsequent amendments thereto.

BB. ~~%~~Demolition by neglect+ shall mean when a property is not maintained and is allowed to fall into a state of disrepair or property nuisance.

CC. ~~%~~in-kind replacement+ is defined as the ~~%~~replacement of existing deteriorated building elements in such a manner as to match the original design using identical materials, forms and finishes as used in the original design, to the extent feasible, consistent with the Secretary of Interior's Standards.+

DD. ~~%~~feasible+ shall mean capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. (Ord. 2004-02 § 1, 2004; Ord. 2004-01 § 1, 2004).