

ORDINANCE NO. 03795

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF MONTEREY COUNTY ADDING CHAPTER 2.56, CHAPTER 18.85, AND SECTION 21.64.240 TO, AND AMENDING SECTION 21.54.030 AND SUBSECTION E OF SECTION 21.54.060 OF, AND REPEALING SUBSECTION B OF SECTION 21.54.020 OF, THE MONTEREY COUNTY CODE, RELATING TO THE ESTABLISHMENT OF AN HISTORIC RESOURCES REVIEW BOARD AND THE ADOPTION OF A PRESERVATION OF HISTORIC RESOURCES CODE.

County Counsel Summary

This Ordinance establishes a seven-member Historic Resources Review Board and defines its duties. This Ordinance also adopts a Preservation of Historic Resources Code and establishes appropriate criteria and procedures for the designation of historical and culturally significant resources. This Ordinance also establishes a process for the review of permits for construction or demolition which may affect properties which have been designated as historical or culturally significant resources.

The Board of Supervisors ordains as follows:

SECTION 1. Chapter 2.56 is added to the Monterey County Code to read:

**CHAPTER 2.56
HISTORIC RESOURCES REVIEW BOARD**

Sections:

02.56.010 Creation of Commission
02.56.020 Members
02.56.030 Terms of Office
02.56.040 Officers - Meetings - Rules and Records
02.56.050 Powers and Duties

02.56.010 Creation of Commission.

There is created an advisory board in the County of Monterey to be known as the Historic Resources Review Board.

02.56.020 Members.

The Historic Resources Review Board shall be composed of seven members, all of whom shall be residents of the County, and who shall be selected and appointed by the Board of Supervisors. Five members shall be appointed from among professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape

architecture or other historic preservation disciplines, including, but not limited to, urban planning, American studies, American civilization, cultural geography, or cultural anthropology, to the extent that such professionals are available in the county. Two members shall be persons from the general public who have demonstrated special interest, competence, experience, or knowledge in historic preservation, American studies, cultural anthropology, cultural geography, or other historic preservation-related discipline.

02.56.030 Terms of Office.

Of the members of the Historic Resources Review Board, two shall be appointed for a term of one year, three shall be appointed for two years, and two shall be appointed for three years. Their successors shall be appointed for terms of three years. Terms of office shall expire on December 31 of the last year of each term; however, members shall remain in office until their successors are appointed and qualified.

02.56.040 Officers - Meetings - Rules and Records.

- A. The Historic Resources Review Board shall elect from its members a chair and vice-chair to serve in such capacities for a term of one year and, subject to other provisions of law, may elect such other officers as it may determine.
- B. The Director of the Planning and Building Inspection Department, or the designee of the Director, shall serve as Secretary to the Historic Resources Review Board and shall be custodian of the Board's records. The Secretary shall also generally supervise the technical and clerical work of the Historic Resources Review Board and perform such other duties as the Historic Resources Review Board may assign and the Board of Supervisors may authorize.
- C. The Historic Resources Review Board shall hold at least one regular meeting each month.
- D. The Historic Resources Review Board shall adopt rules for the transaction of business, consistent with this Code.

02.56.030 Powers and Duties.

The Historic Resources Review Board shall have the following powers and duties:

- A. Maintain a local register of historic and cultural resources consistent with the National Register of Historic Places Criteria, including without limitation, historic districts, landmark sites, and landmarks within the county including all information required for each designation.

- B. Perform, supervise, review, and distribute surveys of historic properties and cultural heritage resources in the unincorporated areas of the County, in conformance with State standards, as may be authorized by the Board of Supervisors.
- C. Recommend to the Board of Supervisors the adoption or update of specific guidelines, consistent with those of the California Office of Historic Preservation, for the designation of historic resources and historic districts and adopt prescriptive standards, consistent with such guidelines, to be used by the Historic Resources Review Board in reviewing applications for permits to construct, change, alter, modify, remodel, remove, or significantly affect any historic resource as identified in Chapter 18.25 of this Code or maintained on property zoned as an Historic Resources Zoning District ("HR") pursuant to Chapter 21.54 of this Code.
- D. Recommend to the Board of Supervisors the purchase of interests in property, including less than fee interests, transfer of development rights, easements, or other mechanisms, for the purpose of historical or cultural preservation.
- E. Investigate and report to the Board of Supervisors on the use of various federal, state, and local or private funding sources and mechanisms available to promote historical and cultural resource preservation in Monterey County.
- F. Cooperate with and assist federal, state, and local government entities in the pursuit of historic and cultural preservation objectives of the County.
- G. Advise and assist property owners, on request, on the restoration, rehabilitation, alteration, decoration, landscaping, or maintenance of any historical or cultural resource.
- H. Review and comment upon the conduct of land use, housing and redevelopment, municipal improvement, and types of planning and programs undertaken by any agency of the County or State, as they relate to historic resources or historic structures as identified in Chapter 18.25 of this Code or maintained on property zoned as an Historic Resources Zoning District ("HR") pursuant to Chapter 21.54 of this Code.
- I. Encourage and render advice and guidance to property owners or occupants on procedures for inclusion of an historical or cultural resource on the National Register of Historic Places.

- J. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to historical and cultural resources preservation.
- K. Review and comment on National Register nominations submitted for properties within the County and provide recommendations to the State on whether each property meets the National Register criteria.
- L. Perform such other duties as may otherwise be required pursuant to this Code or as may be directed by the Board of Supervisors.

SECTION 2. Chapter 18.25 is added to the Monterey County Code to read:

**CHAPTER 18.25
PRESERVATION OF HISTORIC RESOURCES**

Sections:

- 18.25.010 Title
- 18.25.020 Intent and Purpose
- 18.25.030 Definitions
- 18.25.040 Finality of Decision
- 18.25.050 Notice
- 18.25.060 Designation of Historic Structures and Districts
- 18.25.070 Review Criteria
- 18.25.080 Commission Hearing
- 18.25.090 Adoption of Council
- 18.25.100 Local Official Register
- 18.25.110 Deletion of Demolished Structure
- 18.25.120 Amendment of Local Official Register
- 18.25.130 Historic District Plan and Historic Resources Plan
- 18.25.150 Approval of Permits
- 18.25.160 Dangerous Structures
- 18.25.170 Permit Review Process
- 18.25.180 Appeal Procedure
- 18.25.190 Demolition of Historic Resources, Including Structures in an Historic District
- 18.25.200 Substandard Buildings
- 18.25.210 Advice and Guidance to Property owners
- 18.25.220 Property Owned by Public Agencies
- 18.25.230 Fire and Building Codes
- 18.25.240 Duty to Keep in Good Repair

18.25.010 Title

This article shall be known as the "Preservation of Historic Resources Code of the County of Monterey."

18.25.020 Intent and Purpose

- A. The Board of Supervisors finds the protection, enhancement, perpetuation, and use of structures and districts of historic, archaeological, architectural, and engineering significance, located within the County are of cultural and aesthetic benefit to the community. It is further found that respect of the heritage of the County will enhance the economic, cultural, and aesthetic standing of the County. The purpose of this Chapter is to promote the general welfare of the public through:
1. The protection, enhancement, perpetuation and use of structures that represent past eras, events, and persons important in history, or which provide significant examples of architectural styles of the past or are landmarks in the history of architecture, or which are unique and irreplaceable assets to the County and its communities, or which provide for this and future generations examples of the physical surroundings in which past generations lived;
 2. The development and maintenance of complementary settings and environment for such structures and/or districts;
 3. The enhancement of property values, the stabilization of communities and areas of the County, the increase of economic and financial benefits to the County and its inhabitants, and the promotion of tourist trade and interest;
 4. The preservation and encouragement of a county of varied architectural styles, reflecting the cultural, social, economic, political, and architectural phases of its history;
 5. The educational and cultural enrichment of this and future generations by fostering knowledge of our heritage;
 6. The promotion and encouragement of continued private ownership and utilization of such structures so the objectives listed above can be attained under this policy;
 7. The enhancement of property values and increased economic and financial benefits to the County and its inhabitants through the exploration of creative financial incentives for preservation;

8. The protection and enhancement of the County's attraction to tourists and visitors thereby stimulating business and industry;
 9. The identification and resolution of conflicts between the preservation of cultural resources and alternative land uses, as early as possible in the planning process;
 10. The integration of the preservation of cultural resources into public and private land use management and development processes;
 11. The promotion of public awareness of the benefits of preservation and the encouragement of public participation in identifying and preserving historical and architectural resources thereby increasing community pride in the County's cultural heritage.
 12. The establishment of a basis for coordinating the goal of the preservation of historic structures and districts with the need to set standards for and implement other elements of the County's plans, policies, and programs.
- B. This Chapter constitutes an alternative process to that contained in Chapter 21.54 of this Code. The procedures and process specified in Chapter 21.54 shall be used for properties which have been zoned as an Historic Resources ("HR") District pursuant to Chapter 21.54. For properties which have not been zoned as an Historic Resources ("HR") District, the processes and procedures in this Chapter shall apply.

18.25.020 Definitions

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this Chapter, and, except to the extent that a particular word or phrase is otherwise specifically defined in this section, the definitions and provisions contained in Chapters 18.26 and 21.06 of this Code shall also govern the construction, meaning, and application of words and phrases used in this Chapter.

"Alteration" means any exterior change or exterior modification of any historic resource. Alteration includes, but is not limited to:

1. exterior structural change or modification of a site, fence or structure;

2. change or modification of the exterior architectural features of a site, fence, or structure, including surface texture and materials;
3. change or modification of a site, including grading, paving, cutting or removal of trees, removal or modification of significant vegetation, or other natural features;
4. new structures or fences;
5. demolition of structures or fences;
6. placement or removal of exterior objects or features such as signs, plaques, light fixtures, street furniture, walls, fences, and steps;
7. disturbance of any archaeological site; and,
8. alteration does not include ordinary maintenance and repair of structures and maintenance of gardens.

"Cultural" means related to the origins or history of humans in Monterey County.

"Cultural Resource" means buildings, structures, signs, features, sites, places, areas, or other objects of scientific, aesthetic, educational, cultural, architectural, or historic significance to the residents of the County.

"Design Criteria" means the criteria that must be followed pursuant to this Chapter to improve or modify an historic resource or a structure within an historic district.

"Designated Site" means that portion of a parcel on which a significant historic resource is or has been situated and has been listed on the National Register of State Historic Places, the California Register of Historic Places, the State Historic Landmark Register, or the County Register of Historic Sites.

"Historic District" means an area, which may include public rights-of-way, within the county having special historic and architectural worth and designated as such by the Board of Supervisors pursuant to the provisions of this Chapter. The area may predominantly, though not exclusively, contain historic resources.

"Historic Resource" means any structure, object, fence, site, or portion of a site which has a significant historic, archaeological, architectural, engineering or cultural value, real property or improvement thereon such as a structure, archaeological excavation, or object that is unique or significant because of its location, design, setting, materials,

workmanship, or aesthetic feeling and is designated as such by the Board of Supervisors pursuant to the provisions of this Chapter.

"Historic Resources Review Board" or "Review Board" means the Historic Resources Review Board of the County of Monterey.

"Integrity" means soundness or completeness.

"Local Official Register" or "Local Official Register of Historic Resources" means the inventory of structures and areas designated by the Board of Supervisors as historic resources and historic districts.

"Minor Alteration" means any of the following alterations: placement, removal, exterior structural change or modification of a fence, sign, plaque, light fixture, street furniture, steps, platforms, walks, driveway, temporary motion picture, television, and theater stage steps and scenery.

"National Register of Historic Places" means a national list, administered by the Keeper of the Register, United States Department of the Interior, of districts, sites, buildings, structures, and objects of local, state, or national importance that are significant for their historical, architectural, archaeological, or cultural values.

"Object" means an item of significant historic value that can be seen or touched, such as an artifact, monument, or work of art.

"Ordinary Maintenance and Repair" means any work for which a building permit is not required by law where the purpose and effect of such work is to prevent or correct any deterioration of or damage to a structure or any part thereof and to restore the structure or part thereof to its condition prior to the occurrence of such deterioration or damage.

"Preservation" means use of long-term or permanent safeguards to guarantee the viability of man-made resources.

"Regulated Permits" means any permit issued for any work on an historic structure, its site, or a structure within any historic district. For the purposes of this Chapter, "regulated permit" does not mean a building permit issued for the demolition of a structure.

"Secretary" means the Director of the Department of Planning and Building Inspection or the Director's designee.

"Significant" means having historic, archaeological, architectural, or engineering value.

"State Office of Historic Preservation" means a division of the State Department of Parks and Recreation which serves as the staff to the State Historic Preservation Officer, or such other official designated and appointed by the Governor to administer the historic preservation programs of the State and which administers the California Register of Historic Places.

18.25.040 Finality of Decision

Any decision of the Board of Supervisors shall be final. Any decision of the Review Board shall become final if no appeal is taken from such order or decision within the time limits prescribed by the applicable appeal provision of this Chapter. No permit regulated by the provisions of this Chapter shall be issued, nor shall any rights vest therein, until the decision of the Review Board is final or any appeal therefrom is disposed of in the manner prescribed by this Chapter.

18.25.050 Notice

Excepting public notice and notice by publication, and unless otherwise specified herein, any notice may be effected by personal delivery in writing, or by first class mail, postage prepaid, which shall be deemed communicated as of mailing. Failure to receive notice shall not affect in any manner the validity of any proceedings thereafter taken.

18.25.060 Designation of Historic Resources and Districts

- A. Designation of historic resources and districts may be initiated by the Board of Supervisors, the Planning Commission, the Review Board, the Secretary, or upon application of the owner of the property for which designation is requested, or the authorized representative of the owner. No property shall be designated pursuant to this Chapter without the consent of the property owner. Any such proposal shall be filed with the Secretary and may include the following information:
1. Assessor's parcel number of site of the structure proposed for designation or legal description of the district proposed for designation;
 2. Description detailing the structure or district proposed for designation;
 3. Description of special aesthetic, cultural, architectural, or engineering qualities which justify such designation;
 4. Sketches, drawings, photographs, or other descriptive material;

5. Statement of condition of structure or district;
 6. Statement of architectural and historic significance of the structure or district; and,
 7. Other information requested by the Secretary or the Historic Resources Review Board.
- B. All applications by property owners for historical designation shall be filed with the Secretary on forms prescribed by the Secretary, and shall be accompanied by all data required pursuant to subsection A of this Section. Where such application is submitted for designation of an historic district, the application must be subscribed by, or on behalf of, a majority of the property owners in the proposed district.
- C. No building, alteration, demolition, or removal permits for any improvement, building, or structure relative to any proposal for designation as an historical resource or within an area proposed for designation as an historical district shall be issued between the date on which the proposal was initiated and date the Board of Supervisors takes final action on such proposal, unless a permit pursuant to Chapter 18.26 has been secured.

18.25.070 Review Criteria

An improvement, natural feature, or site may be designated an historical resource and any area within the County may be designated a historic district if such improvement, natural feature, site, or area meets the criteria for listing on the National Register of Historic Places, the California Register of Historic Resources, or one or more of the following conditions are found to exist:

- A. Historical and Cultural Significance.
1. The resource or district proposed for designation is particularly representative of a distinct historical period, type, style, region, or way of life.
 2. The resource or district proposed for designation is, or contains, a type of building or buildings which was once common but is now rare.
 3. The resource or district proposed for designation was connected with someone renowned.
 4. The resource or district proposed for designation is connected with a business or use which was once common but is now rare.
 5. The resource or district proposed for designation

represents the work of a master builder, engineer, designer, artist, or architect whose talent influenced a particular architectural style or way of life.

6. The resource or district proposed for designation is the site of an important historic event or is associated with events that have made a meaningful contribution to the nation, state, or community.
7. The resource or district proposed for designation has a high potential of yielding information of archaeological interest.

B. Historic, Architectural, and Engineering Significance.

1. The resource or district proposed for designation exemplifies a particular architectural style or way of life important to the county.
2. The resource or district proposed for designation exemplifies the best remaining architectural type of a community.
3. The construction materials or engineering methods used in the resource or district proposed for designation embody elements of outstanding attention to architectural or engineering design, detail, material or craftsmanship.

C. Community and Geographic Setting.

1. The proposed resource materially benefits the historic character of the community.
2. The unique location or singular physical characteristic of the resource or district proposed for designation represents an established and familiar visual feature of the community, area, or county.
3. The district is a geographically definable area, urban or rural possessing a significant concentration or continuity of site, buildings, structures, or objects unified by past events, or aesthetically by plan or physical development.
4. The preservation of a resource or resources is essential to the integrity of the district.

18.25.080 Review Board Hearing

- A. Each proposal or application for designation shall be considered by the Review Board at a public hearing. The time and place of such hearing shall be set by the Secretary.
- B. Notice of the time, place, and purpose of such hearing shall be mailed to the owner of the property proposed for designation at the address shown on the application, and published once in a local newspaper of general circulation, not less than ten (10) days prior to the date of the hearing. The Secretary may also give such additional notice as the Secretary deems desirable and practicable.
- C. At the conclusion of the public hearing, but in no event more than thirty (30) days from the date set for the initial public hearing on the proposal or application for designation, the Review Board shall recommend to the Board of Supervisors approval, approval with conditions, disapproval, or modification of the proposal. The Review Board's recommendation shall be in writing and shall include findings of fact relating to the criteria for designation contained in Section 18.25.070 of this Code that constitute the basis for the Review Board's recommendation.
- D. Within ten days of the receipt of the Review Board's recommendation, the Clerk to the Board of Supervisors shall set a hearing date at which the Board of Supervisors shall consider the recommendation of the Review Board. The owner of the property shall thereafter be given notice of the time and place of the Board hearing at least ten (10) days prior to the hearing date, together with a copy of the Review Board's recommendation to the Board.

18.25.090 Board of Supervisors Hearing

- A. The sole authority to declare an historic resource or historic districts shall be vested in the Board of Supervisors.
- B. Within thirty days following receipt by the Clerk to the Board of Supervisors of the Review Board's recommendation or as soon thereafter as is practicable, a hearing shall be set by the Clerk to the Board of Supervisors and held by the Board. Following such hearing, the Board shall adopt, modify, or reject the designation recommended by the Review Board. In the alternative, the Board may continue its consideration of the matter, or refer the proposed designation to the Review Board for further

hearings, consideration, or study within a period to time designated by the Board. Adoption of the designation shall be made by resolution which shall contain findings of fact as specified in Section 18.25.070. If the Board fails to act within the thirty (30) day period, the recommendation of the Review Board for designation shall be deemed approved.

- C. Within ten days of the Board's decision, notice thereof shall be mailed by the Secretary to the record owner of the property proposed for designation at the address shown on the application, the State Office of Historic Preservation, and to such other persons that the Secretary may deem appropriate. Such notice shall include the basis for any historical designation and a summary of the regulations which result from such designation.

18.25.100 Local Official Register

Resolutions adopting designations of historic resources and historic districts shall collectively be known as the Local Official Register of Historic Resources. The Local Official Register shall be kept on file with the Secretary, who shall transmit copies to the Clerk of the Board of Supervisors and to the Director of Planning and Building Inspection, the Director of Public Works, the Director of the County Library Department, and such other entities as the Secretary or the Review Board deems appropriate.

18.25.110 Deletion of Demolished Structure

When a listed historical resource has been demolished pursuant to any provisions of this Code, the Secretary, upon notice thereof, shall cause the designation of such structure to be deleted from the Local Official Register. Upon such deletion the provisions of this Chapter shall not be deemed to encumber or otherwise restrict the use of such property.

18.25.120 Amendment of Local Official Register

Any amendment, additions, or deletions to the Local Official Register shall be initiated, considered, and approved or disapproved according to the procedures set forth in Sections 18.25.060 through 18.25.100 of this Code.

18.25.130 Historic District Plan and Historic Resources Plan

- A. The Review Board shall develop and promulgate an Historic District Plan which shall be used in the implementation of this Chapter as applied to each historic district. The plan shall contain, but is not limited to, the following elements:

1. A statement of the goals for the preservation of the historic district;
 2. Analysis of physical and socio-economic conditions of the district;
 3. Analysis of the compatibility of the district with existing plans, policies, and programs;
 4. A description of the structures, design elements, and heritage which combine to constitute the historic district;
 5. The predominant historic and/or architectural periods or styles;
 6. The specific features of the architectural periods or styles represented in the historic district including, but not limited to, building height, bulk, distinctive architectural details, materials, textures, and landscaping; and
 7. Recommendations for implementation of the plan based upon the findings, standards, and design criteria contained therein.
- B. The Review Board shall develop and promulgate an Historic Resources Plan which shall be used in the implementation of this Chapter. The plan shall contain but is not limited to the following elements:
1. A statement of the goals for the preservation of the historic resources;
 2. Analysis of physical conditions of the resource; district;
 3. Analysis of the compatibility of the resource with existing plans, policies, and programs of the county;
 4. A description of the resource, including its design elements, and heritage which combine to make it historically significant;
 5. The predominant historic and/or architectural period or style, represented by such resource;
 6. The specific features of such architectural periods or styles represented in the historic resource, including, but not limited to, building height, bulk, distinctive architectural details, materials, textures, and landscaping; and
 7. Recommendations for implementation of the plan based

upon the findings, standards, and design criteria contained therein.

18.25.150 Approval of Permits

Except as provided in Section 18.25.190, relating to demolition of historic structures, no regulated permit or entitlement shall be issued for any construction work on an historic resource, its site, or within any historic district, unless and until the issuance thereof occurs pursuant to the procedures set forth in this Chapter.

18.25.160 Dangerous Structures

The provisions of this Chapter shall not be construed to prevent any construction, alteration, or demolition necessary to correct the unsafe or dangerous condition of any structure, or part thereof, where such condition has been declared unsafe or dangerous by the Building Official or the Fire Marshal, and where the proposed measures are necessary to correct such condition, or in instances of natural disaster, where the State Office of Historic Preservation determines, pursuant to Public Resources Code Section 5028, as amended, that a structure should be demolished, destroyed, or significantly altered.

18.25.170 Permit Review Process

- A. All applications for regulated permits shall be filed with the Secretary upon the prescribed form and shall contain a clear statement and description of the proposed work, together with any other information deemed necessary by the Secretary, including applicable plans and specifications.
- B. Within five working days after the Secretary has received a completed application, the Secretary shall conduct a field investigation of the site and shall review the request in accordance with such procedure as the Secretary may establish. If the Secretary determines that the proposed work will affect only the interior, or will not have more than a minor effect upon the exterior appearance of any historic resource, the Secretary shall approve the permit. All other applications shall be referred to the Review Board for determination.
- C. All applications referred by the Secretary to the Review Board shall be considered by the Review Board together with the report and recommendation of the Secretary at the next regularly scheduled meeting or special meeting of the Review Board following notice thereof to the applicant.
- D. No application shall be approved or approved with modifications unless findings are made as follows:

1. With regard to a designated resource, the proposed work is found to be consistent with the purposes of this Chapter and will neither adversely affect the significant architectural features of the designated resource nor adversely affect the character of historical, architectural, or aesthetic interest or value of the designated resource and its site.
 2. With regard to any property located within an historic district, the proposed work is found to be consistent with the purposes of this Chapter and conforms to the prescriptive standards and design guidelines for the district adopted by the Board of Supervisors and does not adversely affect the character of the district.
 3. In the case of construction of a new improvement, addition, building, or structure upon a designated historic resource site, the use and exterior of such improvements will not adversely affect and will be compatible with the use and exterior of existing designated historical resources, improvements, buildings, natural features, and structures on such site.
 4. The action proposed is necessary to correct an unsafe or dangerous condition on the property and such unsafe or dangerous condition has not been ordered to be corrected pursuant to Section 18.25.160; or
 5. Denial of the application will result in immediate and substantial financial hardship as established pursuant to Section 18.25.175.
- E. The Secretary shall give written notice of the recommendation regarding the regulated permit to the applicant and to the Building Official. If the application is approved with modifications or denied, the notice shall contain findings of fact in support thereof.

18.25.175 Substantial Financial Hardship

- A. In the event an applicant presents facts and clear evidence demonstrating to the Review Board that failure to approve the application for a permit will cause an immediate and substantial financial hardship because of conditions peculiar to the particular structure or other feature involved, and the damage to the owner of the property is unreasonable in comparison to the benefit conferred to the community, the Review Board may approve or conditionally approve such permit even though it does not meet the standards set forth in this Chapter. The burden of establishing substantial financial hardship

shall be on the applicant.

- B. The Review Board shall be authorized to request the applicant to furnish material evidence supporting the applicant's request for a permit on the basis of immediate and substantial financial hardship. Such evidence may include, but need not be limited to, the following:
1. Cost estimate of the proposed construction, alteration, demolition, or removal, and an estimate of the additional costs that would be incurred to comply with the recommendations of the Review Board for issuance of a permit.
 2. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for any rehabilitation.
 3. Estimated market value of the property in its current condition; estimated market value after completion of the proposed construction, alteration, demolition, or removal; after any change recommended by the Review Board; and, in the case of a proposed demolition, after renovation of the existing property for continued use.
 4. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property and its market value for continued use after rehabilitation.
 5. For income producing properties, information on annual gross income, operating and maintenance expenses, depreciation deductions, and annual cash flow after debt service, current property value appraisals, assessed property valuations, real estate taxes, and any other information considered necessary by the Review Board to determine whether substantial evidence of economic hardship exists.
 6. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, for the previous two years.
 7. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property.
 8. Amount paid for the property, the date of purchase,

and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property is purchased, and any terms of financing between the seller and buyer; any listing of the property for sale or rent, price asked, and offers received, if any, within the previous two years.

9. Assessed value of the property according to the two most recent assessments.
 10. Real estate taxes for the previous two years.
 11. Form of ownership or operation of the property, whether sole proprietorship, for profit or nonprofit corporation, limited partnership, joint venture, or other.
 12. Any other information, including the income tax bracket of the owner, applicant, or principal investors in the property considered necessary by the Commission to determination as to whether the property does yield or may yield a reasonable return to the owners.
- C. In considering an application for permit based on immediate and substantial financial hardship, the Review Board must make a finding that without approval of proposed demolition, alteration, remodeling, removal, or construction, or reasonable use of or return from a designated landmark or property within an historic district will be denied a property owner. In this context, personal, family, or financial difficulties, loss of prospective profits, and neighboring violations are not justifiable hardships. In the case of a proposed demolition, the Review Board must make a finding that the designated landmark cannot be remodeled or rehabilitated in a manner which would allow a reasonable use of or return from the property to the property owner.
- D. In the case of a finding of immediate and substantial financial hardship, this finding shall be accompanied by a plan developed by the applicant to relieve economic hardship. This plan may include, but is not limited to, property tax relief, loans or grants from the County or other private sources, acquisition by fee purchase or eminent domain, use of the State Historic Building Code, redevelopment funds, development fees for historic preservation, changes in applicable zoning regulations, transfer of unused development rights, or relaxation of the provisions of this Chapter sufficient to allow reasonable beneficial use or return from the property. The Review Board and the County shall have a period not to exceed one hundred and twenty (120) days to review and

adopt a plan in order to relieve economic hardship and to allow the applicant a reasonable use of, and economic return from, the property or otherwise preserve the subject property. If, by the end of this one hundred and twenty (120) day period, the Review Board has found that without approval of the proposed work, the property cannot be put to a reasonable economic return therefrom, then the Review Board shall issue a permit approving the proposed work. If the Review Board finds otherwise, it shall deny the application for a permit and notify the applicant by mail of the final denial.

- E. If approval of a permit will result in the demolition of a designated historical resource, the applicant shall be required to provide documentation of the resource proposed for demolition to the standards of the Historic American Building Survey. Such documentation may include photographs, floor plans, measured drawings, archaeological survey, or other documentation stipulated by the Review Board.

18.25.180 Appeal Procedure

- A. Any decision relating to the approval, approval with modifications, or disapproval of an application for any permit pursuant to Sections 18.25.170 and 18.25.190 may be appealed to the Board of Supervisors by the property owner not later than ten days following transmittal of the notice of decision and findings. Such appeal shall be taken by filing a notice of appeal with the Clerk to the Board of Supervisors. An appeal shall not be accepted by the Board of Supervisors unless it is complete and complies with all requirements. The Clerk to the Board of Supervisors shall not accept a notice of appeal if it is obvious on the face of the notice that it is incomplete.
- B. The Clerk to the Board of Supervisors shall cause the appeal to be set for hearing before the Board within thirty days of receipt of the notice of appeal. Not later than ten days prior to the date of the hearing on the appeal, the Clerk to the Board of Supervisors shall notify the appellant and all persons requesting such information in writing, pursuant to the provisions of Section 18.25.050.
- C. Following consideration of the appeal, the Board may approve, approve with modifications, or disapprove the application, or may refer the appeal to the Review Board for further consideration.

18.25.190 Demolition of Historic Resources, Including Structures in an Historic District

- A. Demolition, wholly or partially, of a designated historic resource or a structure in a designated historic district is prohibited unless the property owner of such structure, or the Secretary, gives the Resource Board one hundred eighty days' prior written notice that such act is planned for such structure. Subject to the provisions of subsection B below, no application for a permit to carry out such demolition will be deemed complete until the notice has been provided and the one hundred-eighty-day period has been completed. Following the receipt of such notice, the Review Board may take such steps as it determines are necessary to preserve the structure concerned. The Review Board may, among other things:
1. Seek local trusts and other financial sources which may be willing to purchase the resource for restoration;
 2. Publicize the availability of the resource for purchase for restoration purposes;
 3. Make recommendations to the Board of Supervisors concerning the acquisition of development rights or facade easements and the imposition or negotiation of other restrictions for the preservation of the resource;
 4. Investigate possible sites for relocation of the resource; and
 5. Recommend to the Board of Supervisors that the County purchase the resource where it does not appear that private preservation is feasible.
- B. The Review Board, upon the request of the property owner, or the Secretary, may waive the requirement of one hundred eighty days' prior written notice, if the action planned involves:
1. An emergency repair to, or removing an unsafe condition of, the structure; or
 2. A relocation of the structure to a site approved by the Review Board; or
 3. Relief of extreme financial hardship to the owner of the structure.

- C. The prohibitions of subsection A and B shall not apply to the demolition of a structure that has been damaged due to a natural disaster and the structure presents an imminent threat to the public of bodily harm or damage to adjacent property, or unless the State Office of Historic Preservation determines pursuant to Public Resources Code Section 5028, as amended, that the structure may be demolished, destroyed, or significantly altered.

18.25.200 Substandard Buildings

- A. The Building Official or the Fire Marshal shall notify the Secretary whenever such official declares an historic resource or structure within an historic district to be a substandard or dangerous building.
- B. Upon receipt of notice from the Building Official or the Fire Marshal, the Review Board shall evaluate the historic and architectural merit of the resource or structure, and shall submit an advisory report to the Building Official or the Fire Marshall within thirty (30) days.

18.25.210 Advice and Guidance to Property Owners

The Review Board may render advice and guidance with respect to any proposed work not requiring a permit on a designated historic resource or in a designated historic district. Examples of work referred to are: Painting and repainting of exterior surfaces; fencing; landscaping; and, installation of lighting fixtures. In rendering such advice and guidance, the Review Board shall be guided by the purposes and standards of this Chapter.

18.25.220 Property Owned by Public Agencies

The Review Board shall take appropriate steps to notify all public agencies and public utilities which own or may acquire property, including easements and public rights-of-way in the county about the existence and character of designated resources and historic districts, and the Review Board shall cause a current record of such resources and districts to be maintained with each such public agency and public utility. In the case of any publicly owned property in an historic district which is not subject to the permit review procedures of the county, the agency owning such property is encouraged to seek the advice of the Review Board prior to approval or authorization of any construction, alteration, or demolition thereon, including the use and placement of street furniture, signs, lighting, and landscaping; and the Review Board shall render a report to the owner as expeditiously as possible, based on the purposes and standards in this Chapter. If Review Board review of a public project involving construction, alteration, or demolition of an historic resource or a structure in an historic district is

required under any other law, the Review Board may render the report referred to in this section to such public agency without specific request therefore.

18.25.230 Fire and Building Codes

Issuance of a permit in conformance with this Chapter shall not alter conformance requirements with the other standards and requirements of this Title including the Fire and Building Codes and the Uniform Code for Building Conservation. The Building Official and the Fire Marshal are encouraged to liberally construe and apply all pertinent codes so as to effectuate the purposes of this Chapter.

18.25.240 Duty to Keep in Good Repair

The owner or the occupant of an historic resource or a structure within an historic district should keep in good repair all of the exterior portions of such structure and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.

SECTION 3. Section 21.54.030 of the Monterey County Code is amended to read:

21.54.030 Definitions

Unless the particular provision or the context otherwise requires, the definitions and provisions contained in this Title and Chapters 18.25 and 18.26 of this Code shall also govern the construction, meaning, and application of words and phrases used in this Chapter.

SECTION 4. Subsection B of Section 21.54.020 is repealed.

SECTION 5. Subsection E of Section 21.54.060 is amended to read:

- E. In order for the Appropriate Authority to approve or conditionally approve any application, the following findings shall be made:
 - 1. With regard to a designated resource, the proposed work is found to be consistent with the purposes of this Chapter and will neither adversely affect the significant architectural features of the designated resource nor adversely affect the character of historical, architectural, or aesthetic interest or value of the designated resource and its site.
 - 2. With regard to any property located within an historic district, the proposed work is found to be consistent with the purposes of this Chapter and conforms to the prescriptive standards and design guidelines for the district adopted by the Board of

Supervisors and does not adversely affect the character of the district.

3. In the case of construction of a new improvement, addition, building, or structure upon a designated historic resource site, the use and exterior of such improvements will neither adversely affect nor be incompatible with the use and exterior of existing designated historical resources, improvements, buildings, natural features, and structures on such site.
4. The action proposed is necessary to correct an unsafe or dangerous condition on the property and such unsafe or dangerous condition has not been ordered to be corrected pursuant to Section 18.25.160 of this Code; or,
5. Denial of the application will result in immediate and substantial financial hardship as established pursuant to Section 18.25.175 of this Code.

SECTION 6. Section 21.64.240 is added to the Monterey County Code to read:

21.64.240. Regulations for Historic Resources.

- A. Purpose: To provide reasonable flexibility of zoning standards to encourage and accommodate the renovation and rehabilitation of historic resources and structures within historic districts.
- B. Following the provision of notice pursuant to Chapter 21.70 of this Code, the Director of Planning and Building Inspection may grant an exception to the zoning district regulations when such exception is necessary to permit the preservation or restoration of, or improvements to, a structure designated as historically significant pursuant to the provisions of Chapter 18.85 of this Code. Such exceptions may include, but are not limited to, parking, yards, height, and coverage regulations. Such exceptions shall not include approval of uses not otherwise allowed by the zoning district regulations.

Section 7. This ordinance shall become effective on the thirty-first day after adoption.

PASSED AND ADOPTED by the Board of Supervisors of the County of Monterey this 13th day of December, 1994, by the following vote:

AYES: Supervisors Salinas, Shipnuck, Perkins, Johnsen and Karas.

NOES: None.

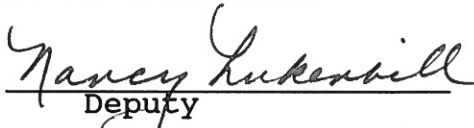
ABSENT: None.



BARBARA SHIPNUCK, Chairwoman

ATTEST:

ERNEST K. MORISHITA
Clerk of said Board

By: 

Deputy

APPROVED AS TO FORM:

DOUGLAS C. HOLLAND
County Counsel

By: 

Title: County Counsel

Hist.Final