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1 **Section 1: Purpose**

2 The purpose of this legislation is to promote the education, safety and general
3 welfare of the citizens of the City by:

4 **A. Recognition and protection of Historic and Cultural Resources:** The
5 recognition, protection, enhancement, perpetuation and use of historical-
6 cultural structures, sites, parks, landscaping, streets, signs, markers,
7 protected trees, lamp standards, and neighborhoods that are reminders of
8 past eras, events and persons important to local, state or national history, or
9 that provide distinctive examples of architectural styles of the past, or that are
10 unique and irreplaceable assets to the City;

11 **B. Fostering of civic pride:** The fostering of civic pride in the beauty and
12 character of the city and in its past accomplishments;

13 **C. Enhancement of City character:** The enhancement of the visual character
14 of the City by encouraging new design and construction that complements the
15 City's historic buildings and districts.

16 **D. Enhancement of property values:** The enhancement of property values, the
17 stabilization of neighborhoods, and the increase of economic and financial
18 benefits to the City and its inhabitants through promotion of Heritage Tourism;

19 **E. Identification and resolution of conflicts between preservation and land**
20 **use:** The early identification and resolution of conflicts between the

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21 preservation of Landmarks, Historic Districts, and Historical-Cultural
22 Resources and proposed alternative land uses.

23

24 **Section 2: Historic Advisory Board established**

25 The Historic Advisory Board shall have and exercise the powers and perform the
26 duties set forth in this section with respect to historical, cultural, and architectural
27 preservation.

28 **A. HAB membership:** The Historic Advisory Board shall consist of five
29 members:

- 30 1. One California licensed architect;
- 31 2. One architectural historian, historian or California licensed landscape
32 architect,
- 33 3. One California licensed general building contractor;
- 34 4. Two residents of the City.

35 All members shall have a demonstrated interest in the architecture, culture,
36 heritage, and history of the City of Alameda and shall serve without pay. All
37 Historic Advisory Board members shall, at the time of their appointment and
38 continuously during their incumbency, be residents of the City of Alameda.

39 In the event that the City Council determines that any of the positions described
40 in subsections 1, 2, or 3 cannot be filled by a person with the stipulated
41 qualification, the Council may fill any such position by appointing a person
42 qualified under subsections 1, 2, 3 or 4.

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44 **B. Procedures for appointing and removing members:** Upon nomination of
45 the Mayor, the City Council shall appoint, between May 1 and July 1 of each
46 year, such members as are necessary to maintain a full Board, for terms
47 commencing on the first day of July following such appointment and continuing
48 for four years thereafter until the successor of such member is appointed and
49 qualified. A member of the Historic Advisory Board may be removed by the vote
50 of a majority of the full City Council. A vacancy in the office of a member shall be
51 filled by appointment of a new member by the City Council for the duration of an
52 unexpired term of office.

53

54 **C. Term of office:** Members of the Historic Advisory Board shall serve four year
55 terms. Terms shall be staggered so that the number of terms expiring in any year
56 shall not differ by more than one from the number of terms expiring in any other
57 year. Members may be reappointed to serve a maximum of two consecutive full
58 four-year terms of office. Should a vacancy occur, the remainder of the vacated
59 term shall be filled in the manner set forth above. Historic Advisory Board
60 members serving the remainder of another Historic Advisory Board member's
61 term shall not have that time counted towards their two term limit.

62

63 **D. Meetings, officers and rules:** The Historic Advisory Board shall hold regular
64 meetings in the City Council Chamber on the first Thursday of each month,
65 unless proper notification is given for a change of location or time, and shall hold

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66 such additional meetings necessary for discharge of its responsibilities. The
67 Historic Advisory Board shall select a Chair and a Vice Chair who shall serve one
68 year terms or until successors are selected. Former officers may be returned to
69 office. The City Manager or his or her designee shall be the Secretary of the
70 Historic Advisory Board and he or she shall cause minutes and records of the
71 Historic Advisory Board meetings be kept. Meetings shall be generally
72 conducted under Robert's Rules of Order. The Historic Advisory Board shall
73 develop, maintain, and amend as needed "Rules and Procedures."

74

75 **E. Quorum:** Three members of the Historic Advisory Board shall constitute a
76 quorum. A decision of the Historic Advisory Board shall be determined by a
77 majority vote of those members present at the meeting, with three or more votes
78 required for passage.

79

80 **F. Powers and duties:** The Historic Advisory Board shall advise the City Council
81 on all matters concerning the historical state of the City, report to the City Council
82 the historic preservation needs of the City, and recommend to the City Council
83 the means of fulfillment of those needs.

84 **1. Rules and procedures:** Adopt rules and procedures for the transaction of
85 duties and business.

86 **2. Preservation goals:** Preserve Landmarks, contributors to Historic
87 Districts, and listings on the Historical-Cultural Resources Inventory by

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88 taking all steps necessary that do not conflict with the health, safety, and
89 general welfare of the public, or the powers and duties of the City.

90 **3. Grants and funding:** Research, review, and make recommendations to
91 the City Council on the use of grants from Federal and State agencies,
92 private foundations, and individuals, and any other funding mechanisms
93 available to carry out provisions of this chapter.

94 **4. Public Awareness:** Participate in, promote, and conduct programs that
95 increase public awareness, appreciation and protection of Historical-
96 Cultural Resources, including commending historic preservation efforts,
97 emplaqueing Landmarks and contributors to Historic Districts, identifying
98 Heritage Areas, and other activities identified in the Historic Preservation
99 Element of the General Plan.

100 **5. Historic tourism:** Promote the City of Alameda as a Heritage Tourism
101 destination to stimulate economic development.

102 **6. Recommendations to Council:** Make any recommendation to the City
103 Council in connection with the exercise of the powers and duties of the
104 Historic Advisory Board, as necessary to carry out the spirit and intent of
105 this section.

106 a. Make recommendations to the City Council about the periodic update of
107 the City's preservation program, inventory, standards, procedures, and
108 criteria, including the establishment of a preservation incentive program.

109 b. Make recommendations to the City Council for the enforcement and
110 penalties covered in this ordinance.

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111 c. Make recommendations to the City Council for the expenditure of HAB
112 funds, including:

113 Studies of structures, neighborhoods and districts

114 Grants for public and private historic preservation efforts

115 **7. Recommendations to SHPO:** Review and recommend to the State Office
116 of Historic Preservation any Alameda properties that should be nominated
117 for the California Register, as California Points of Historic Interest, as
118 California Historical Landmarks and the National Register of Historic
119 Places.

120 **8. Delegation of Powers:** Resolve to delegate its review powers for specific
121 projects or categories of projects to the Historic Advisory Board Secretary.
122 Upon making a finding that such delegation is necessary, the Historic
123 Advisory Board shall approve appropriate guidelines for the Secretary.

124

125 **Section 3: Criteria and procedures for designating and** 126 **undesignating Landmarks and Historic Districts**

127

128 A. Criteria When considering buildings, sites, and areas as Landmarks,
129 contributors to an existing Historic District or as new Historic Districts, the HAB
130 shall consider

131

132 **1. Architecture**

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133 a. A property, building, site, interior feature, or area that is a significant
134 example of architectural period, style, movement or construction
135 technique;

136 b. A property, building, site, interior feature or area that is a significant
137 work of an architect, contractor, designer, developer, or master
138 builder.

139 2. **Culture:** A property, building, site or area associated with economic,
140 educational, governmental, military, political, religious, and /or social
141 development of the City of Alameda, the County of Alameda, the State of
142 California and/or the United States of America.

143 3. **History:** A property, building, site or area that embodies and expresses
144 the history of the City of Alameda, the County of Alameda, the State of
145 California and/or the United States of America.

146 4. **Listings:** Listing on the California Register, listing as a California
147 Historical Landmarks, listing as a California Point of Historical Interest or
148 Listing on the National Register of Historic Places

149 5. **Historic Districts:** Two thirds of the buildings included in a new Historic
150 District must be eligible for designation as Contributors.

151

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152 B. Procedures

153 **1. Initiation:** Initiation of designation or undesignation shall be by the Historic
154 Advisory Board, or by a resolution of intent by the City Council, or by the
155 application of the owners of the property or their authorized agents, or by
156 a valid petition to the HAB signed by 50 Alameda residents.

157 **2. Property owner permission:** Permission of the property owner is
158 encouraged but not required for designation or undesignation of a
159 Landmark or a Contributor to a District. However, interior features may
160 only be designated or undesignated with permission of the property
161 owner.

162 **3. Notice of public hearing:** Notice of the public hearing shall be given by
163 posting thereof on or adjacent to the property involved not less than ten
164 days before the hearing. In addition to the posting of notice, a notice of the
165 hearing shall be mailed not fewer than ten days before the hearing to all
166 property owners having property and each residential or other unit within
167 100 feet of the property referred to in the application. The failure of any
168 such property owner or resident to receive such notice shall not affect the
169 validity of the proceedings

170 The Historic Advisory Board may also give such other notice as it may
171 deem desirable and practical, including, if requested, to organizations or
172 individuals indicating an interest in the work of the Historic Advisory Board.

173 **4. HAB public hearing:** The Historic Advisory Board shall conduct a public
174 hearing and shall recommend approval or disapproval of the application to

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175 the City Council for final certification within 70 days after the conclusion of
176 the public hearing; failure to act within said time shall constitute
177 disapproval of the application for the designation. A permanent record of
178 pertinent information presented at the hearing shall be made and
179 maintained.

180 **5. City Council hearing:** The City Council shall hold a public hearing on
181 each proposal approved by resolution of the HAB within 45 days of the
182 HAB action.

183
184

185 **Section 4. Criteria and Procedures for adding to and deleting** 186 **from the Historical-Cultural Resources Inventory**

187

188 **A. Criteria:** When considering adding to or deleting from the Inventory, the HAB
189 shall consider

190 **1. Architecture**

191 a. A property, building, site, or area that is an example of architectural
192 period, style, movement or construction technique;

193 b. A property, building, site, or area that is a work of a notable
194 architect, designer or master builder.

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195 **2. Culture:** A property, building, site or area associated with economic,
196 educational, governmental, military, political, religious, and /or social
197 development of the City of Alameda

198 **3. History:** A property, building, site or area that embodies and expresses
199 the history of the City of Alameda

200

201 **B. Procedures**

202 **1. Initiation:** Initiation of adding to or deleting from the Historic-Cultural
203 Resources Inventory shall be by a member of the Historic Advisory
204 Board, or by City Council resolution, or by the application of the owner of
205 the property or the owner's authorized agent,

206 **2. Property owner permission:** Permission of the property owner is
207 encouraged but is not required for adding to or deleting from the Inventory.

208 **3. Notice of Public Hearing:** Notice of a public hearing shall be
209 given by posting thereof on or adjacent to the property involved not
210 less than ten days before the hearing. In addition to the posting of
211 notice, a notice of the hearing shall be mailed not fewer than ten
212 days before the hearing to all property owners having property and
213 each residential or other unit within 100 feet of the property referred
214 to in the application. The failure of any such property owner or

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215 resident to receive such notice shall not affect the validity of the
216 proceedings.

217 The Historic Advisory Board may also give such other notice as it may
218 deem desirable and practical, including, if requested, to organizations or
219 individuals indicating an interest in the work of the Historic Advisory Board.

220 **4. Public Hearing:** The Historic Advisory Board shall conduct a public
221 hearing and shall approve or disapprove adding to or deleting from the
222 Historic-Cultural Resources Inventory within 70 days of the filing of the
223 application or resolution. A permanent record of pertinent information
224 presented at the hearing shall be made and maintained.

225

226

227 **Section 5: Criteria and procedures for actions subject to review**

228 **A. Review of Permit Applications:** The Secretary of the Historic Advisory
229 Board shall maintain with the Department of Community Development
230 Department a current record of Landmarks, Historic Districts, designated
231 interior features of Landmarks and Historical-Cultural Resources as well as
232 a record of those undergoing consideration for designation and
233 undesignation or for addition and deletion.

234 Upon receipt of any application for a permit to carry out any construction,
235 alteration, or demolition of a Landmark or a contributor to a Historic District, the

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236 Community Development Department shall, except in conformance with the
237 provisions of the Abatement of Dangerous Buildings listed in this ordinance,
238 promptly forward such permit application to the Historic Advisory Board for
239 review.

240 Upon receipt of any application for a permit to carry out work meeting or
241 exceeding the demolition threshold of a listing on the Historical-Cultural Inventory
242 or of a main building constructed prior to 1942, the Community Development
243 Department shall, except in conformance with the provisions of the Abatement of
244 Dangerous Buildings listed in this ordinance, promptly forward such permit
245 application to the Historic Advisory Board for review.

246 Upon receipt of any application for a permit to remove any protected tree the
247 Community Development Department shall review the application and determine
248 whether the removal is required because the tree is dangerous, diseased or
249 damaging a building, or if the protected tree removal is for other purposes
250 including future development. If the removal is for other reasons including future
251 development the Community Development Department shall promptly forward
252 such permit application to the Historic Advisory Board for review.

253

254 **B. HAB Public Hearing:** The Historic Advisory Board shall conduct a public
255 hearing and shall approve or disapprove each application within 70 days after the
256 conclusion of the public hearing; failure to act within said time shall constitute
257 disapproval of the application.

258

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259 C. Landmarks and Contributors to Historic Districts

260 1. **Demolition Permit:** If an application involves the complete demolition of a
261 Landmark or a contributor to a Historic District, a Demolition Permit shall
262 be required. The decision whether to issue a Demolition Permit will be
263 made by the Historic Advisory Board. The application shall be
264 accompanied by any and all information necessary to assist the Historic
265 Advisory Board in making its determination, including historical
266 assessments from appropriate experts, who meet standards set by the
267 Secretary of the Interior. If the building is a historic resource as defined
268 under CEQA, the application shall also include the appropriate level of
269 environmental review documentation.

270 If the Demolition Permit is part of an entitlement process required for a
271 development project, the application for the Demolition Permit shall be
272 forwarded to the Historic Advisory Board for action before final action by
273 the decision-making body.

274 2. **Alteration Permit:** If an application involves an exterior alteration to a
275 property, building, site or area listed as a Landmark or a contributor to a
276 Historic District, or the alteration of a designated Interior feature of a
277 Landmark, an Alteration Permit shall be required. The decision whether to
278 issue an Alteration Permit will be made by the Historic Advisory Board.
279 The application shall be accompanied by any and all information
280 necessary to assist the Historic Advisory Board in making its
281 determination. If the Alteration Permit is part of an entitlement process

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282 required for a development project, the application for the Alteration
283 Permit shall be forwarded to the Historic Advisory Board for action prior to
284 final action by the decision-making body.

285 All work requiring an Alteration Permit shall conform to the Secretary of
286 the Interior's Standards for Rehabilitation.

287

288

289 **D. Historic-Cultural Resources and pre 1942 Structures**

290 **1. Demolition Permit:** If an application includes work meeting or exceeding
291 the demolition threshold of a structure listed on the Historic-Cultural
292 Resources Inventory, or of a main building constructed before 1942
293 according to City records, the application shall first be routed the Historic
294 Advisory Board for approval. If the building is a historic resource as
295 defined under CEQA, the application shall also include the appropriate
296 level of environmental review documentation.

297 If the building was constructed before 1942 and is not currently listed on
298 the City's Historic-Cultural Resources Inventory the Historic Advisory
299 Board may either approve the Demolition Permit or designate the
300 property, building, site or area building as a potential Landmark, a
301 contributor to a Historic District or add it to the Historic-Cultural Resources
302 Inventory.

303 If the Demolition Permit is part of an entitlement process required for a
304 development project, the application for the Demolition Permit shall be

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305 forwarded to the Historic Advisory Board for action before final action by
306 the decision-making body.

307 **2. Appeal/Call up of staff level design review**

308 Any person dissatisfied with a decision of the Community Development
309 Director relating exclusively to Design Review of a structure listed on the
310 City's Historic-Cultural Resources Inventory may file an appeal to the
311 Historic Advisory Board within 10 calendar days from the date of the
312 Notice of Decision. Any member of the Historic Advisory Board may call
313 up for review by the Historic Advisory Board a decision of the Community
314 Development Director relating exclusively to Design Review of a structure
315 listed on the City's Historic-Cultural Resources Inventory within 10
316 calendar days from the date of the Notice of Decision.

317 The Findings used by the Historical Advisory Board for the appeal/call up
318 of the staff level design review application shall be the same as the
319 Findings required in the original design review application.

320 **E. Exceptions**

321 **1. Exceptions for emergencies**

322 When immediate action is necessary to protect the public health, safety, or
323 general welfare, the Building Official or his or her designee may, after prior
324 consultation with the Secretary to the HAB, order the alteration, relocation,
325 or demolition of a Landmark, contributor to a Historic District, a Historical-
326 Cultural Resource or a pre 1942 main building. The Building Official shall
327 address the mitigation of the hazard in a manner that will have the least

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328 detrimental effect on the resource. The Building Official or his or her
329 designee shall notify the HAB within two days of the issuance of any such
330 order.

331 **2. Ordinary maintenance exemption:** When a building permit is
332 submitted to the City for ordinary maintenance and repair, this action
333 shall be exempt from discretionary review. Staff shall make this
334 determination.

335

336 **F. Good repair and maintenance required:** Both the exterior and all
337 designated interior features of all Landmarks and contributors to a Historic
338 District shall be kept in good repair. This requirement is the responsibility
339 of the owner, lessee, or other person in actual charge of the Landmark or
340 contributor. For purpose of this section, "good repair" means the
341 prevention of structural decay or structural failure or the prevention of
342 irreparable damage to the major historic or architectural features of the
343 building.

344

345 **G. Good Faith Requirement:** As a condition of approval for projects
346 contemplating the complete demolition of a Landmark, a contributor to a Historic
347 District, a Historical-Cultural Resource or a pre 1942 main building reasonable
348 efforts shall be made to relocate the structure to an acceptable site, preferably in
349 Alameda. The applicant may be deemed to have fulfilled this condition, if the

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350 applicant can demonstrate to the HAB that reasonable efforts have been made,
351 and that these efforts have been fruitless. The applicant shall present a report to
352 the HAB demonstrating the extent of the good faith efforts. The HAB shall review
353 the report to determine if reasonable such efforts have been made.

354 Salvage of historical materials is required to aid in the reuse of materials from a
355 resource scheduled for demolition. A condition of approval by the Historic
356 Advisory Board shall stipulate which parts of the building, both interior and
357 exterior materials, features, and fixtures, shall be saved.

358

359 **H. Notice of decision:** Final action on an Alteration, Major Alteration or
360 Demolition Permit shall be made in writing, listing findings and conditions of
361 approval. A copy of the action shall be mailed to the applicant and to any person
362 who has requested notice. The date of the final action shall be the date the
363 Historic Advisory Board took final action on the project.

364

365 **I. Stabilization or removal of imminently hazardous buildings:** If any
366 Landmark, contributor to a Historic District, or building on the Historic-Cultural
367 Resources Inventory is found to be unsafe or dangerous and imminently
368 hazardous, the Chief Building Official shall make this declaration in writing. Once
369 this declaration is made, the Chief Building Official may participate in creating an
370 Interim Stabilization Plan and/or issue permits to prevent danger to public health
371 and safety. In addition to demolition or deconstruction, the official is encouraged
372 to consider barriers, signs, reinforcements, and other means that would cause

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373 the least damage to the resource. In addition, solely at the discretion of the Chief
374 Building Official, a demolition permit can be issued for any building that is proven
375 to be a threat to health and safety of the public.

376

377 **J. Damaged resources:** Should a Landmark or a contributor to a Historic
378 District, be damaged by work without a permit, neglect, fire, earthquake, flood or
379 other natural occurrences, an Interim Stabilization Plan shall be prepared by the
380 owner to prevent further deterioration of the Resource. This plan shall be
381 submitted to the Community Development Director in consultation with the
382 Building Official. The plan shall be submitted no more than thirty days after the
383 owner was notified of required action by the City. The plan shall include at a
384 minimum a condition assessment of the building, a weatherization plan, and any
385 other information deemed pertinent. The plan shall be implemented immediately
386 and to the satisfaction of the Community Development Director or his or her
387 designee.

388

389 **K. Advice and guidance:** The Historic Advisory Board may render advice and
390 guidance to public and private property owners with respect to any proposed
391 work not requiring a City permit, on a Landmark or a contributor to a Historic
392 District. Examples include painting and repainting of exterior surfaces; fencing;
393 landscaping; and installation of lighting fixtures. In offering such advice, the

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394 Historic Advisory Board shall be guided by the purposes and standards of this
395 chapter.

396

397 **M. Findings:** A Certificate of Approval to demolish, relocate, or alter a Landmark
398 or a contributor to a Historic District or to demolish or relocate a Historical-
399 Cultural Resource or a pre-1942 may be granted only if the HAB makes one of
400 the following findings:

- 401 1. The proposal does not demolish, remove or materially alter in an adverse
402 manner those physical characteristics of the Landmark or contributor to a
403 Historic District that convey its significance and that justify its designation.
404 Generally, proposals that follow the Secretary of the Interior's Standards
405 for the Treatment of Historic Properties with Guidelines for Preserving,
406 Rehabilitating, Restoring, and Reconstructing Historic Buildings or the
407 Secretary of the Interior's Standards for Rehabilitation and Guidelines for
408 Rehabilitating Historic Properties shall be considered as meeting these
409 criteria, as they are interpreted by the HAB.
- 410 2. The Landmark, Contributor to a Historic District, Historical-Cultural
411 Resource or pre-1942 main building has become a detriment to the
412 community and the detrimental condition cannot be reasonably corrected.
- 413 3. The owner of the Landmark, Contributor to a Historic District, Historical-
414 Cultural Resource or pre-1942 main building has received a Certificate of
415 Economic Hardship pursuant to Section 6.

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416 4. The proposal is necessary to implement a project important to the City and
417 the benefits of the proposal outweigh any adverse affect on the Landmark,
418 Contributor to a Historic District, Historic-Cultural Resource or pre-1942
419 main building.

420

421 **Section 6: Consideration of Economic Effects**

422

423 **A. Preservation Incentives**

424 **1. State Historic Building Code:** Any Landmark, contributor to a Historic
425 District, or property on the Historical-Cultural Resources Inventory is
426 eligible for application of the State Historic Building Code.

427 **2. Mills Act:** Any Landmark, contributor to a Historic District or Historic
428 Cultural Resource is eligible for the Mills Act. A maximum of five contracts
429 per calendar year may be granted by the City.

430 **3. Conservation Easement:** Any Landmark or contributor to a Historic
431 District is eligible for a conservation easement.

432 **4. Conditional Uses:** Any Landmark, contributor a Historic District or a
433 property on the Historical-Cultural Resources inventory may be eligible for
434 a broader range of permitted or conditionally uses, including the return to
435 its original use, subject to Planning Board approval.

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437 **B. Severe economic hardship:** The Historic Advisory Board may approve a
438 Certificate of Economic Hardship, a permit to carry out alterations or construction
439 to a Landmark, a contributor to a Historic District, a Historic-Cultural Resource or
440 a pre 1942 main building if the applicant presents clear and convincing evidence
441 to the Historic Advisory Board that meeting the requirements of this ordinance
442 will cause an immediate and severe economic hardship because of specific
443 conditions particular to the building or feature involved. If hardship is found to
444 exist under this section, the Historic Advisory Board shall make a written finding
445 to that effect, and shall also specify in writing the facts relied upon in making
446 such finding.

447 **1. Submittal requirements**

448 **a. Plans and documents:** All elements of all proposed plans including
449 appropriate site plans, images, both graphic and written description of
450 the proposed project, including land use, landscaping, and parking.

451 **b. Professional Reports:** A report from a licensed engineer or architect
452 with experience in rehabilitation of historic properties as to the
453 structural soundness of any historic structures on the property and
454 their suitability for rehabilitation.

455 **c. Preservation Cost Estimate:** Estimate of the cost to maintain or
456 restore the Landmark, Contributor to a Historic District, a Historic-
457 Cultural Resource or a pre 1942 main building in accordance with the
458 recommendations of the HAB. In connection with any such estimate,
459 rehabilitation costs that are the result of the current property owner's

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460 intentional or negligent failure to maintain the historical-cultural
461 resource in good repair shall not be considered by the HAB in its
462 determination of whether the property may yield a reasonable
463 economic return to the owner.

464 **d. Proposal Cost Estimate:** Estimate of the cost of the proposed
465 alteration, demolition, removal, new construction or plans for the
466 vacant lot.

467 **e. Market valuation alternatives:** Estimated market value of the property
468 in its current condition; estimated market value of the property if
469 restored to comply with HAB recommendations and estimated market
470 value after completion of the proposed construction, alteration,
471 demolition or removal.

472 **2. Required findings:** To grant a Certificate of Economic Hardship, the
473 HAB must make a finding that without approval of the proposed
474 demolition, relocation or alteration all reasonable use of or return will
475 be denied a property owner. In the case of a proposed complete
476 demolition, the HAB must also make a finding that the Resource
477 cannot be remodeled or rehabilitated in a manner which would allow a
478 reasonable use of or return to the property owner.

479

480 **Section 7: Appeals and Calls for Review**

481 **A. Time Limits:** Any decision of the Historical Advisory Board shall be final on
482 the date of the decision, unless any interested party files a Notice of Appeal with

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483 the Community Development Department, no later than 10 calendar days
484 following the decision. In filing an appeal, the appellant shall state the reasons or
485 justification for the appeal.

486 In addition, any City Council member may call the decision up for a review no
487 later than 10 calendar days following the decision. The call shall specify the
488 reasons or justification for the review. No fee shall be required for a call for
489 review.

490 When the end of an appeal or call for review period falls on a non-work day,
491 weekend or a statutory holiday, the period shall continue until the first working
492 day thereafter.

493 The filing of a notice of appeal or call for review within the time and in the manner
494 specified in this section shall stay all proceedings by all parties in connection with
495 the matter upon which the appeal is taken until the final decision of the City
496 Council as provided herein.

497

498 **B. City Council Review:** Within forty-five (45) days following the filing of the
499 notice of appeal, the City Council shall review the action of the Historic Advisory
500 Board and may do any one of the following:

- 501 1. Refer the matter to the Historic Advisory Board for further consideration, in
502 which case the Historic Advisory Board shall conduct such further
503 investigation as it shall deem advisable and report its conclusion to the
504 City Council;

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505 2. If the facts stated in or ascertainable from the application, the notice of
506 appeal, the written statement of the Historic Advisory Board setting forth
507 the reasons for its decision, and the other papers, if any, constituting the
508 record do not, in the opinion of the City Council, warrant further hearing,
509 the City Council may uphold the decision of the Historic Advisory Board
510 and dismiss the appeal;

511 3. If, in the opinion of the City Council, said facts warrant further hearing, the
512 City Council shall set the matter for hearing and shall give notice of the
513 time and place of said hearing in the same manner as is provided for
514 giving notice of the time and place for hearing before the Historic Advisory
515 Board. The City Council may reverse or affirm wholly or partly, or modify
516 any decision, determination or requirement of the Historic Advisory Board,
517 and may make decisions or determinations or may impose such
518 conditions as the facts warrant and its decision or determination shall be
519 final.

520

521 **C. Time Limits and Notification of Appeals:** If a public hearing is set on the
522 appeal, the City Council shall decide the appeal within sixty (60) days from
523 the date that the public hearing on the appeal. If the City Council is unable to
524 act on such appeal within such time, the decision of the Historic Advisory
525 Board shall be automatically affirmed.

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526 The City Clerk shall promptly notify in writing the appellant, owners or
527 authorized agents of affected property, and residents of such property of
528 the action taken.

529 Payment of fees for an appeal from the decision of the Historic Advisory
530 Board shall be set by resolution of the City Council.

531

532 **Section 8: Enforcement and Penalties**

533 **A. Unlawful Actions is a violation of the Alameda Municipal Code**

534 It is unlawful for a person or entity to alter, relocate, or demolish or cause to be
535 altered, relocated, or demolished any Landmark or contributor to a Historic
536 District in violation of any of the provisions of this ordinance.

537 It is unlawful for a person or entity to perform work meeting or exceeding the
538 demolition threshold to any structure listed on the Historical-Cultural Resources
539 inventory in violation of any of the provisions of this ordinance.

540 It is unlawful for a person or entity to perform work meeting or exceeding the
541 demolition threshold to any main building constructed prior to 1942 in violation of
542 any of the provisions of this ordinance.

543 Any violation of this chapter or failure to obtain a Permit or comply with a
544 condition of approval of any Historic Advisory Board Permit, or other permit

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545 issued pursuant to this chapter constitutes a violation of the Alameda Municipal
546 Code.

547

548 **B. General Responsibilities**

549 It shall be the duty of the Community Development Director, to administer and
550 enforce the provisions of this chapter.

551 For the purposes of this section, the date of alteration, relocation, or demolition
552 shall be the date the City first was advised of the action, unless the property
553 owner can provide proof of an earlier date.

554 The alteration, removal, or demolition of a Landmark or a contributor to a Historic
555 District shall result in the requirement to restore the resource to its original
556 appearance to the extent such restoration is physically possible to the
557 satisfaction of the Historic Advisory Board. If the violator is a contractor, the City
558 Attorney may notify the State Contractor Licensing Board of the violation.

559

560 **C. Interim Stabilization Plan**

561 The Community Development Director may require the owner to prepare an
562 interim stabilization plan that may include additional measures designed to
563 establish a weather resistant enclosure or secure the structural stability of an
564 unsafe or deteriorated Landmark or contributor to a Historic District. The owner
565 shall submit a site maintenance plan to the satisfaction of the Community
566 Development Director, and shall implement the maintenance plan to prevent the
567 accumulation of debris and waste on the property during this period.

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568

569 **D. Penalties for Violations of this Chapter**

570 The Historic Advisory Board shall recommend appropriate penalties to the City

571 Council from the following list:

572 1. When the illegal demolition is to a Landmark or to a contributor to a
573 Historic District then the payment shall be a fine equal to the in-kind
574 replacement value of the structure. The estimate of replacement value
575 shall be determined by a real estate appraiser with a certified general
576 license. That appraiser shall be selected by the City and any fees shall be
577 paid by the applicant.

578 Or

579 2. Payment of a fine of between \$1,000 and \$100,000 per violation for illegal
580 demolition or illegal alteration of a Landmark or contributor to a Historic
581 District or illegal work exceeding the demolition threshold of a Historic-
582 Cultural Resource.

583 And

584 3. A parcel that is the site of illegal alteration, relocation, or demolition of a
585 Landmark, a contributor to a Historic District, a Historical-Cultural
586 Resource or a pre 1942 main building in violation of this chapter shall not
587 be developed in excess of the pre-existing floor area ratio, or the
588 preexisting dwelling unit density for a period of five years from the action.

589 The parcel that is the site of an illegal demolition shall not be used as a

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590 private or commercial parking lot and new curb cuts shall not be permitted
591 for a period of 20 years.

592 The Community Development Director shall pursue means to collect
593 assessed penalties. The City Attorney may attach a lien to the property if the
594 fine is not paid within one year of the assessment of the fine or take other
595 means necessary to secure the funds. All fines shall be deposited in the
596 Historic Advisory Board Fund.

597

598 **E. Alternative Reparation:** A person or entity may be relieved of the penalties
599 provided in this ordinance if, as to an unlawful demolition or alteration, the person
600 or entity provides evidence to the satisfaction of the Historic Advisory Board that
601 the original distinguishing qualities and character of the resource will be restored.
602 Such restoration must be undertaken pursuant to a valid building permit issued
603 after the issuance of a Historic Advisory Board permit. A complete application for
604 such Historic Advisory Board permit shall be submitted to the Community
605 Development Department within 90 days of the date of the Notice of Violation. A
606 complete application for a building permit shall be submitted within 60 days after
607 approval of the Historic Advisory Board permit. Construction shall begin within
608 30 days of the issue of the building permit. The owner shall submit a site
609 maintenance plan to the satisfaction of the Community Development Director and
610 shall implement the maintenance plan to prevent the accumulation of debris and
611 waste on the property during this period.

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612 The City Attorney may maintain an action for injunctive relief to restrain or correct
613 a violation, or cause, where possible, the complete or partial restoration,
614 reconstruction or replacement in kind of any Landmark or contributing building to
615 a Historic District altered, relocated, or demolished, or allowed to fall below
616 minimum maintenance standards in violation of this chapter.

617 The remedies provided above are not exclusive.

618

619

620 **Section 10: Definitions**

621 *Accessory Building:* Any building located on a lot other than a main building.

622

623 *Addition:* The creation of any new portion of a building which results in a vertical
624 or horizontal extension of the building visible from the outside of the building.

625

626 *Alteration:* Physical changes or modifications to the structural elements of a
627 Landmark or contributor to a Historic District or any main building listed on the
628 Historical-Cultural Resources inventory. Alterations include, but are not limited

629 to:

630 1. Any exterior addition; removal and/or modification of windows, doors,
631 roofing, siding or visible part of foundation of any main or accessory
632 building that requires a building permit.

633 2. Any removal and/or modification of designated interior features of a
634 Landmark.

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635

636 *Alteration Permit:* A discretionary permit that may be granted by the Historic
637 Advisory Board for physical changes or modifications to the historic fabric of a
638 Landmark or contributor to a Historic District. This permit will be require the
639 proposed project to be found to be consistent with the Secretary of the Interior's
640 Standards for Treatment of Historic Properties.

641

642 *Building:* Any structure having a roof supported by columns or walls.

643

644 *California Historical Building Code:* Title 24, Part 8 of the California Code of
645 Regulations (California Building Standards Historic Advisory Board); applies to all
646 qualified historic buildings, districts, and sites, designated under federal, state,
647 and local authority.

648

649 *California Environmental Quality Act (CEQA):* Sections 21000-21177 of the State
650 of California Public Resources Code. These Sections contain environmental
651 regulations governing the review of projects in California.

652

653 *California Register California Historical Landmarks, California Points of Historical*
654 *Interest:* Buildings, sites, and places with statewide historical significance
655 officially designated by the Director of California State Parks.

656

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657 *Certificate of Economic Hardship*: A discretionary permit issued by the Historical
658 Advisory Board to relieve *economic hardship* an owner of a Landmark, a
659 contributor to a Historic District, a Historic-Cultural Resource or of a pre 1942
660 main building.

661

662 *Character-defining*: Visual aspects and physical elements that comprise the
663 appearance of a Landmark, a contributor to a Historic District or a Historic-
664 Cultural Resource that are significant to its historical, architectural, or cultural
665 value. These aspects include, but are not limited to: architectural style, form,
666 mass, materials, craftsmanship, construction techniques, decorative details, and
667 other visible features.

668

669 *Contributor*: Designated main and accessory buildings, and other designated
670 appurtenances within the boundaries of a Historic District that represent the
671 qualities that give significance to the site. Examples include: a resource
672 constructed during the period of significance of the Historic District that has not
673 lost its integrity due to alteration or demolition.

674

675 *Demolition threshold*: Any one of the following:

676 a. Removal of more than (twenty-five?) (fifty?) percent of the surface of any
677 (two?)(one?) exterior walls, except for replacement in kind.

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- 678 b. Enclosure or visual obstruction of more than (twenty-five) (fifty?) percent of
679 the exterior wall(s) of any building so that the wall(s) no longer function as
680 exterior wall(s).
- 681 c. Removal of more than fifty percent of the roof surface area as measured in
682 plan view, except for the replacement of roof surfaces in kind or replacement
683 to match original roof surfaces.
- 684 d. Any alteration that, in combination with other alterations within the preceding
685 five years, will represent a change as defined in one or more subsections
686 above.
- 687 e. Relocation of any building or other resource to another site.

688

689 *Demolition- Complete: The tearing down, razing or total removal of a structure*
690 *from its subject property.*

691 *Demolition Permit: A discretionary permit that may be granted by the Historic*
692 *Advisory Board for work proposed to demolish a Landmark or a contributor to a*
693 *Historic District or work that meets or exceeds the *demolition threshold* of any*
694 *resource listed on the Historical-Cultural Resources Inventory or any main*
695 *building constructed before 1942.*

696

697 *Economic Hardship: Significant potential financial loss caused by incurring the*
698 *costs necessary to retain the beneficial use of a Landmark, a Contributor to a*
699 *Historic District, a Historic-Cultural Resource or of a pre 1942 main building.*

700

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701 *Hardscape:* Rigid portions of the urban landscape, including the surfaces of
702 streets and sidewalks, buildings, light standards, and other appurtenances.

703

704 *Heritage Area:* .Honorary recognition by the Historical Advisory Board of a
705 section of the city that is architecturally or historically unified, a program
706 authorized by the City Council June,1986. Four Heritage Areas have been
707 identified: Bay Station, Burbank-Portola, Leonardville, and Park Avenue.

708

709 *Historical Advisory Board (HAB):* A five member board established by the City
710 Charter whose members are appointed by the Mayor, approved by City Council,
711 and charged with carrying out the duties set forth in the Municipal Code.

712

713 *Historical Advisory Board Fund:* All fines, fees, or other monies arising out of the
714 administration of this ordinance, or gifts or trusts given to the city expressly for
715 the Historic Advisory Board.

716

717 *Historical-Cultural Resources Inventory:* The officially adopted City of Alameda
718 list of buildings, structures, signs, sites, lamp standards, hardscape, landscapes,
719 and other appurtenances. A portion of this inventory was formerly called the
720 Historic Buildings Study List.

721

722 *Historic District:* A geographically defined area designated by the Historic
723 Advisory Board and approved by City Council that has a significant concentration

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724 or continuity of sites, hardscapes, signs, landscapes, or buildings unified

725 historically, culturally, or architecturally.

726

727 *Historic Fabric:* Historically significant construction materials, architectural

728 finishes, or elements in a particular pattern or configuration dating from the time

729 of the historic resource's period of significance.

730

731 *Historic Preservation Element:* Part of the General Plan of the City of Alameda

732 adopted by the City Council.

733

734 *Interim Stabilization Plan:* A plan provided by an owner to preserve a neglected

735 or damaged building until a final building permit is approved by the city.

736

737 *Imminently Hazardous Building:* A building or portion thereof that is in a condition

738 of structural weakness or that is an immediate danger to life, health, or safety of

739 the public or property. Such hazard is so imminent that the risks there from

740 require summary or immediate action to avoid serious harm.

741

742 *Integrity:* The authenticity of a property's historic identity, evidenced by the

743 survival of physical characteristics that existed during the property's historic or

744 prehistoric period.

745

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746 *Landmark:* A building, building, site, sign, landscape or hardscape designated by
747 the Historic Advisory Board and approved by the City Council.

748

749 *Landscape:* An expanse of scenery, lawns, trees, plants, and other materials,
750 such as rock and decorative features, including sculpture, patterned walks,
751 fountains, arbors, trellises, patio covers, fences, gates, and pools.

752

753 *Main Building:* The primary building on a site.

754

755 *Maintenance and Repair:* Conserving or repairing a building without modifying its
756 form, detail, or materials. Maintenance and repair include the replacement of a
757 concrete or brick foundation, painting of exterior elevations and replacement in
758 kind of original architectural details utilizing the same materials found in the
759 original element, consistent with the Department of Interior Standards.

760

761 *National Register of Historic Places:* The Nation's official list of historical and
762 cultural resources. Properties on the Register include districts, sites, buildings,
763 buildings, and objects that are significant in American architecture, archeology,
764 culture, engineering, and history. The National Register is administered by the
765 National Park Service, part of the United States Department of the Interior.

766

767 *Noncontributing:* A part of a Landmark or Historic District that is not

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768 representative of the qualities that give significance to the site. Examples include:
769 resources constructed before or after the period of significance of the Historic
770 District or a Landmark, or parts of a Landmark or Historic District that have lost
771 integrity due to alterations and demolitions.

772

773 *Replacement-in-kind*: shall mean the replacement of any building or architectural
774 element which is identical to the existing building or architectural element in
775 terms of location, size, and shape; and is made of materials that outwardly have
776 the same dimensions, proportions, details and textures of the original and that
777 outwardly appear unchanged from the original. See the Department of Interior
778 Standards for the Treatment of Historic Properties.

779

780 *Restoration*: shall mean to restore or replace any building or architectural
781 element back to its original dimensions, proportions, details and textures of the
782 original element and that outwardly appear unchanged from the original element
783 in place at the time of construction. If the original element has been removed or
784 altered, the replacement element shall be consistent with the building's original
785 architectural style as set forth in the Department of Interior Standards for the
786 Treatment of Historic Properties.

787

788 *Secretary of the Interior's Standards for the Treatment of Historic Properties*:
789 Standards provided by federal agencies in the preservation of historic properties.

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790 The Secretary of the Interior Standards for Treatment of Historic Properties are

791 published by the U.S. Department of the Interior.

792

793 *State Historical Building Code*: See California Historical Building Code.