

HSMB HIST PRES ORD draft 11.10.20 – Ref – Working Master Draft

- I. **TITLE:** This Article shall be known as and may be cited as the "Morro Bay Historic Preservation Ordinance."

- II. **PURPOSE:** The purposes of this Title are:
 - A. To maintain, designate, preserve, protect, enhance and perpetuate those historic buildings, structures, engineering, architecture, landscaping, districts and neighborhoods which contribute to the unique character and the cultural and aesthetic heritage of **Morro Bay**. Thus, safeguarding the heritage of the City of **MORRO BAY** by providing for the protection of historical sites and areas representing significant elements of its history;
 - B. Encourage public knowledge, understanding and appreciation of the City's past and to serve as a reminder of the historical background of the City;
 - C. Foster civic and neighborhood pride and a sense of identity based on the recognition and use of historical areas and; Buildings, structures, features, sites and places;
 - D. Strengthen the economy of the city by protecting and enhancing the city's attractions to residents, tourists and visitors;
 - E. To allow changes to such significant sites and structures while ensuring that such changes are made with sensitivity to the significant features of the site or structure;
 - F. To give owners of designated properties the ability to take advantage of laws and or incentive programs pertaining to sites and structures having special historic, cultural, architectural and aesthetic value;
 - G. To assist in the prevention of the inadvertent loss or inappropriate alteration of sites or structures having special historic, architectural and aesthetic value resulting from the absence of this Title;
 - H. Mediate as early as possible and resolve issues occurring between the preservation of historical areas and sites, and alternative land uses;
 - I. Promote the private and public use of historical areas and sites for the education, prosperity and general welfare of the community; and
 - J. Promote and encourage continued private ownership, and private development, and utilization of such buildings and other structures now so owned and used, to the extent that the objectives listed above can be obtained under such policy.

III. DEFINITIONS: For the purposes of this ordinance, certain terms, words and their derivatives are used as follows:

1. **Aggrieved Person.** Any person who, in person or through a representative, appeared at a City public hearing in conjunction with a decision or action appealed or who, by other appropriate means prior to a hearing, informed the local government of the nature of his or her concerns or who, for good cause, was unable to do either.
2. **Alteration:** Any change, addition or modification that changes the exterior architectural appearance or materials of a structure or object. Alteration includes changes in exterior or interior surfaces, changes in materials, additions, remodels, demolitions, and relocation of buildings or structures, but excludes ordinary maintenance and repairs.
3. **Applicant.** The person, partnership, corporation, or state or local government agency applying for a permit, certificate, or designation.
4. **Architectural.** The design, appearance, feature, form or materials of a structural object.
5. **Building.** Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods, or materials.
 - a. **Building – Accessory:** A detached subordinate building used only as incidental to the main building on the same site or lot.
 - b. **Building – Main:** A building in which the primary use of the parcel on which it is located is conducted.
6. **Building Code.** Any ordinance or regulations of the City governing the type and method of construction of buildings and structures, including sign structures and any amendments thereto and any substitute therefor including, but not limited to, the California Building Code, other State-adopted uniform codes and the Minimum Building Security Standards Ordinance.
7. **California Environmental Quality Act (CEQA).** Public Resources Code §§21000, et seq. or any successor statute and regulations promulgated thereto (14 California Code of Regulations §§15000, et seq.) that require public agencies to document and consider the environmental effects of a proposed action before a decision.
8. **City.** The City of Morro Bay.
9. **City Council.** The City Council of the City of Morro Bay.
10. **Certificate of Appropriateness:** A City approved permit that allows for the demolition, removal, or other major alterations to any designated historic site, structure or historic resource.
11. **Certificate of Economic Hardship:** A provision to provide property owners a means of demonstrating that such a hardship exists, and that a modification, relocation or demolition of a designated historic resource because of the hardship is allowed and approved.

12. **Coastal Commission:** California Coastal Commission
13. **Construction.** Construction, erection, enlargement, alteration, conversion, or movement of any building, structures, or land, together with any scientific evaluation associated therewith.
14. **Demolition.** The intentional destruction and removal of any structure, including a residential dwelling, including a mobile home, as defined in Section 18008 of the Health and Safety Code, or a mobile home lot in a mobile home park, as defined in paragraph (1) of subdivision (b) of Section 50519 of the Health and Safety Code, which has not been declared to be a public nuisance under Division 13 (commencing with Section 17000) of the Health and Safety Code or any local ordinance enacted pursuant to those provisions.
15. **Historic Resource Inventory:** Those resources which have been designated as historically significant through the process defined by this Title.
16. **Deterioration:** The significant worsening of a structure's condition, architectural or historic integrity, due to lack of maintenance, organisms, neglect, weathering ~~and~~ or other natural forces.
17. **Director.** The Community Development Director of the City of Morro Bay or his/her designee.
18. **Effective Date.** The date on which a permit, certificate or other approval becomes enforceable or otherwise takes effect, rather than the date it was signed or circulated.
19. **Environmental Review.** An evaluation process pursuant to CEQA to determine whether a proposed project may have a significant impact on the environment.
20. **Façade.** The exterior wall of a building exposed to public view or that wall viewed by persons not within the building. The portion of any exterior elevation of a building extending vertically from the grade to the top of a parapet wall or eave, and horizontally across the entire width of the building elevation.
21. **Historic Design Feature:** The interior and/or exterior design components or materials that contribute to the historic resource.
22. **Historic Preservation Ordinance and Guidelines:** The most recent version of the Historic Preservation Ordinance and guidelines, as adopted and amended from time to time.
23. **Historic Preservation:** A process that seeks to preserve, conserve, maintain and protect buildings, objects, landscapes and other artifacts of historical significance.
24. **Historic Property:** A property, including land and buildings, which possesses aesthetic, architectural, cultural, historic or scientific significance, and which is included in, or potentially eligible for local, State or National historic designation.
25. **Historic Resource:** Any building, site, improvement, area or object of aesthetic, architectural, cultural, historic or scientific significance, and which is included in, or potentially eligible for local, State or National historic designation.

26. **Historic Resource Record:** A file containing the basis of the significance of a proposed or designated historic resource and pertinent information about the designation application and process for that resource.
27. **HPAB:** The Morro Bay Historic Preservation Advisory Board as appointed by the City Council.
28. **Improvement:** An object affixed to the ground other than a structure.
29. **Inappropriate Alteration:** Alterations to historic resources which are inconsistent with these provisions and/or the Historic Preservation Ordinance and Guidelines.
30. **Incentive Program:** Any program, benefit, or policy that the City may establish by resolution or ordinance or any other local, state or federal opportunity.
31. **Integrity, Architectural or Historical:** The ability of a property, structure, site, building, improvement or natural feature to convey its identity and authenticity, including but not limited to its original location, period(s) of construction, setting, scale, design, materials, detailing, features of a period style, workmanship, uses and association.
32. **Inventory of Historic Resources:** The list of designated historic resources, potentially historic resources, and other resources that may be identified through survey or other means.
33. **Maintenance and Repair.** The repair or replacement of nonbearing walls, fixtures, wiring, roof, or plumbing that restores the character, scope, size, or design of a structure to its previously existing, authorized, and undamaged condition.
34. **Massing:** the spatial relationships, arrangement and organization of a building's physical bulk or volume.
35. **Neglect:** The lack of maintenance, repair or protection of a listed property, resource, site or structure, which results in significant deterioration, as determined by the Director or City Council based on visual and physical evidence.
36. **Owner.** A person or persons holding single or unified beneficial title to the property, including without limitation, the settlor of a grantor trust, a general partner, firm, or corporation.
37. **Person.** Any individual, firm, association, organization, partnership, business trust, company, or corporation.
38. **Planning Commission.** The Planning Commission of the City of Morro Bay.
39. **Planning Division.** The Planning Division of the Community Development Department of the City of Morro Bay.
40. **Private property:** Property that is owned by a person, group of persons, or a non-governmental legal entity.
41. **Project.** Any proposal for a new or changed use or for new construction, alteration, demolition, or enlargement of any structure that is subject to the provisions of this Title. This term includes, but is not limited to, any action that qualifies as a "project" as defined by the California Environmental Quality Act.

42. **Public Resources Code.** The Public Resources Code of the State of California.
43. **Public property:** property that is owned by the City of Morro Bay.
44. **Rehabilitation:** The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its architectural, cultural, or historic values.
45. **Relocation:** Removal of a resource from its original site and its re-establishment in essentially the same form, appearance and architectural detailing at another location.
46. **Restoration:** The act or process of accurately reestablish the form, features, and character of a property as it appeared at a particular period of time.
47. **Scale:** The proportions of architectural design that relate to human size or other relative size measure.
48. **Secretary of the Interior's Standards:** The Secretary of the Interior's Standards for the Treatment of Historic Properties as published by the U.S. Department of the Interior and as amended from time to time.
49. **Setting:** the physical area, environment or neighborhood in which a resource is located.
50. **Site:** A lot, or group of contiguous lots, that is proposed for development in accordance with the provisions of the City Municipal Code and is in a single ownership or under unified control.
51. **Siting:** The placement of structures and improvements on a property or site.
52. **Statement of Historic Significance:** A Statement of Historic Significance is a detailed description of the development of a building and its life. ... These can be physical features, or aspects of social or historical significance, such as famous people associated with the building, memorials or events that happened nearby.
53. **Structure:** Anything constructed or erected which requires a location on the ground or attachment to something having location on the ground.
 - a. Structure – Accessory: A detached subordinate structure, used only as incidental to the main structure on the same site or lot.
 - b. Structure – Main: A structure housing the primary use of a site or functioning as the primary use.
 - c. Structure - Temporary. A structure without any foundation or footings, and which is intended to be removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.
54. **Survey:** A systematic process for identifying and evaluating a community's potential historic resources using established criteria. "Survey" may also refer to the documentation resulting from a survey project.
55. **Zoning Ordinance:** Title 17 of the City's Municipal Code, as amended from time to time.

IV. **MORRO BAY HISTORIC PRESERVATION ADVISORY BOARD:** The City of Morro Bay Historic Preservation Advisory Board (HPAB) is established to review,

advise, and recommend to the City of Morro Bay City Council and/or Planning Commission on items pertaining to historic preservation in the City of Morro Bay within the meaning of the stated purpose in this Title. Members of the HPAB are appointed by the City Council and serve at the pleasure of the City Council. These items include but are not limited to:

- A. The HPAB shall be made up of five (5) members 18 years or older, at least three of which shall have demonstrated experience, qualifications or knowledge in architecture, history, preservation, restoration of real property, or related disciplines. At least three members of the board shall be residents of Morro Bay.
 - B. HPAB members shall serve for a term of three (3) years; however, the initial terms of members shall be for one (1) year, two (2) years, and three (3) years in order for the terms to be staggered. A vacancy shall be filled within ninety (90) days for the duration of the term. Administratively, the HPAB will function in conformance with the City of Morro Bay Advisory Boards Handbook and By-Laws and HPAB guidelines.
 - C. The HPAB shall elect from among its members a Chairperson and a Vice-Chairperson for one (1) year terms and who may be reelected.
 - D. HPAB advises the Planning Commission and the City Council on matters within the HPAB's area of responsibility and interest; helps focus attention on specific issues and problems within the HPAB's scope of responsibilities; and recommends actions and alternatives for Planning Commission and or City Council consideration.
 - E. The HPAB shall adopt rules consistent with this Title for the transaction of its business in accordance with California's Brown Act. The rules must include the time and place of regular meetings and a procedure for calling of special meetings.
- V. **DUTIES OF THE HPAB:** The HPAB shall have the duty to perform the following acts:
- A. To adopt a standard method for a survey of potential historic resources;
 - B. To identify through survey a potential inventory of historic resources;
 - C. To consider and recommend to the Planning Commission and/or City Council additions to the historic resources list (once established) through the designation of historic resources;
 - D. To keep current and make available a local register of historic resources; .
 - E. To develop criteria and preservation guidelines for evaluation of potential historic resources;

- F. To conduct evaluations of applications requesting the designation of a historic landmark and/or historic resource and make recommendations and provide a statement of historical significance;
- G. To make recommendations as to the appropriateness for consideration of such applications;
- H. To make recommendations to the City Council on ordinance amendments regarding historic preservation and associated long-range planning goals;
- I. To encourage the cooperation between public and private historic preservation organizations; and
- J. To advise the City Council and other City of Morro Bay boards and commissions as necessary on historic preservation issues that may be pending.

VI. EVALUATING INTEGRITY

- A. In addition to having significance, a resource must have integrity for the time period in which it is significant to be considered a historic resource.
- B. Integrity refers to the retention by the resource of the factors that make it significant, and during the time in which it was significant.
Only after significance has been established should the issue of integrity be addressed. The following factors should be considered when evaluating properties for integrity:
 1. Design: any alterations to the property should not have adversely affected the features of the property that make it significant. Historic resources must retain enough of their historic design features to be recognizable as historic resources and to convey the reasons for their significance.
 2. Setting: changes in the immediate surroundings and context of the property such as buildings or land use topography must not have adversely affected the character of the property.
 3. Materials and Workmanship: any original materials should have been retained where relevant to original designation application or, if they have been removed or altered, replacements have been made that are in keeping with the original materials.
 4. Location: the relationship between the property and its location is an important part of integrity. The place where a property was built and where historic events occurred is often important to understanding why the property was created or why something happened. The location of an historic property, complemented by its setting, is particularly important in recapturing the sense of structure and its historic associations is destroyed if the structure is moved.

5. Association: association is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event occurred and is sufficiently intact to convey that relationship to an observer.

VII. HISTORIC RESOURCE DESIGNATION CRITERIA

A. Initiation of designation:

1. All Private Properties: Only owner-initiated applications for designation will be considered.
2. Public Properties: Any fulltime resident of the City may apply for designation of a public property.

B. Designation: Prior to recommending approval or modified approval, the HPAB shall find that said proposed historic resource has special significance; meaning the resource has aesthetic, architectural, cultural, engineering, or historical interest or value. In making its findings, the HPAB may consider the following factors, and additional other factors the applicant may suggest, with respect to the proposed historic landmark or historic resource:

1. The proposed historic landmark or resource is located within the city limits of Morro Bay;
2. Its location is a site of a significant historic event;
3. It is identified with a person, persons or group who significantly contributed to the culture, history and/or development of the city;
4. It exemplifies of the culture, character, interest, economic, social or historic heritage of Morro Bay;
5. It portrays a group of people in an era of history characterized by a distinctive architectural style;
6. It embodies distinguishing characteristics of an architectural type or specimen and/or of an engineering type or specimen important to the city, which retain sufficient architectural integrity to continue to evoke the sense of place and time with which it is historically associated.
7. It is identified with the work of an architect, master architect, engineer or builder whose individual work has influenced the development of Morro Bay;
8. It embodies elements of architectural or engineering design, detail, materials or craftsmanship which represent a significant innovation, or which is unique.
9. It is one of the few remaining examples in the city possessing distinguishing characteristics of an architectural or historical type or specimen.

VIII. HISTORIC DESIGNATION PROCESS

- A. Submission: The applicant shall submit to the City of Morro Bay a designation application package that meets the criteria.
- B. Historically significant landmarks and historic resources shall be identified by the HPAB; and recommended to the City of Morro Bay Council in the following manner:
 - 1. Review: the HPAB shall review a designation application, prepared by the applicant and submitted to the City of Morro Bay, which shall establish how the proposed landmark or historic property meets the applicable criteria for designation.
 - 2. Public Meeting: the HPAB shall schedule a public meeting within 90 days to consider the application.
 - 3. HPAB Recommendations: after the public meeting, but in no event more than thirty (30) days from the date of the public meeting, the HPAB shall recommend to the City Council approval of the designation application in whole or in part, or disapproval, in writing, setting forth the reasons for the recommendation.
 - 4. Notice: in the case of a proposed application for designation of an individual historic landmark or historic resource, notice shall be made as required by all applicable state and local laws.
 - 5. Failure to Send Notice: failure to send any notice by mail to any property owners where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.
 - 6. Work Moratorium: while the HPAB application and designation process is underway, and a City Council decision regarding such designation is pending, a work moratorium for the property described in the application is in place.
 - 7. The HPAB shall publish and transmit to all interested parties information about proposed designations and shall disseminate any relevant public information concerning any site, structure, or area contained therein including the statement of historical significance.
 - 8. Upon approval by the City Council of the designated historic resource the designated resource will be placed on the City's inventory of Historic Resources List
 - 9. For each designated resource the City shall maintain a Historic Resource Record which shall contain the following:
 - a. Date of designation;
 - b. Location of designated Historic Resource;
 - c. The application submitted to request designation;

- d. A copy of the findings of why a designation occurred as summarized in the statement of historical significance;
- e. Participation in any incentive and/or benefit programs
- f. if the applicant seeks to de-list, a resource then the terms and conditions of the incentive programs apply.
- g. Any Certificates issued by the City
- h. Permits issued by the City

IX. PERMIT PROCESS FOR WORK ON A DESIGNATED HISTORIC RESOURCE

- A. No person shall demolish, remove, or make major alterations to any designated historic site, structure or resource or without first obtaining a permit, known as a Certificate of Appropriateness. An application for such permit shall be filed with the Community Development Director, who may require that the application for permit be supplemented by such additional information or materials as may be necessary for a complete review.
- B. The provisions for the issuance of a Certificate of Appropriateness shall not be construed to prevent ordinary maintenance or repair that does not change the design, materials or, architectural elements or site features of a designated property. Selected activities intended to repair or maintain the designated portion of a resource are exempt from the review procedures.
 - 1. Certificate of Appropriateness: The Planning Commission shall make the necessary findings to approve a Certificate of Appropriateness. The Community Development Director shall first review the application and, if determined to be complete, schedule the item for a hearing on the next available meeting of the Planning Commission. Notice of the public hearing shall be in compliance with City and State codes.
 - 2. Application Forms: The Community Development Director shall prepare and issue application forms and lists that specify the information that will be required from applicants for projects subject to the provisions of this Title.
 - 3. Review of Applications: The Community Development Director will review the application materials and analyze how the proposed work conforms to the appropriate guidelines and standards and any other relevant codes, such as the City Zoning Ordinance and California State Building Code, and make a recommendation for approval, denial or approval with conditions.

4. Environmental Review: All projects shall be reviewed for compliance with or exemption from the California Environmental Quality Act (CEQA). Environmental review will be conducted pursuant to Title 14 of the California Code of Regulations (CEQA Guidelines). If Title 14 of the California Code is amended, such amendments will govern City procedures.
5. Public Hearing: The Planning Commission will review the application, any staff report, and evidence presented at the public hearing to make a decision to issue a Certificate of Appropriateness. The Commission shall approve, deny, approve with conditions, or continue the application with specific direction as to what additional information is needed to make a decision to approve or deny the application.
6. Standards for Consideration of a Certificate of Appropriateness:
 - a) For a designated historic resource, whether or not the subject resource meets the criteria established in this Title.
 - b) The proposed work will neither adversely affect the historic design features of the designated resource(s) nor the historic, architectural, or aesthetic interest or value of such designated resource(s).
 - c) The proposed work will be reviewed relative to the elements of placement, orientation, size, scale, massing, proportion, materials, textures, finishes, patterns, details, embellishments and the relationship of these elements to one another which contribute to the historic, architectural, cultural, technological and/or educational significance of the property;
 - d) Conformance with the Secretary of the Interior's Standards and any City adopted guidelines; and
 - e) For the relocation of historic buildings and structures, the extent to which the new location and its siting re-create the setting and environment associated with the original period of significance for the historic property.
7. Findings: Findings, when required by State law or this Title, shall be based upon consideration of the application, plans, testimony, reports and other materials that constitute the administrative record and shall be stated in writing in the resolution or record of the action on the certificate.

8. Effective Dates: A final decision on an application for a Certificate of Appropriateness approval subject to appeal shall become effective after the expiration of the 10-day appeal period following the date of action, unless an appeal is filed. No building permit or business license shall be issued until the 11th day following the date of the action.
9. Appeals of Planning Commission Decisions: Decisions of the Planning Commission may be appealed to the City Council by filing a written appeal with the City Clerk and paying any applicable fees.
 - a) Time Limits: Unless otherwise specified in State or federal law, all appeals shall be filed in writing within 10 days of the date of the action, decision, motion, or resolution from which the action is taken. In the event an appeal period ends on a Saturday, Sunday, or any other day the City is closed, the appeal period shall end at the close of business on the next consecutive business day.
 - b) Rights of Appeal: Appeals may be filed by the applicant, by the owner of property, or by any other person aggrieved by a decision that is subject to appeal under the provisions of this Title.
 - c) Procedures:
 - i. Filing: The appeal shall identify the decision being appealed and shall clearly and concisely state the reasons for the appeal. The appeal shall be accompanied by the required fee.
 - ii. Proceedings Stayed by Appeal: The timely filing of an appeal shall stay all proceedings in the matter appealed including, but not limited to, the issuance of City building permits and business licenses
 - iii. Public Notice and Hearing: The Director, or in the case of appeals to the City Council, the City Clerk, shall schedule the appeal for consideration by the applicable appeal body within 60 days of the date the appeal is filed. Notice of the appeal hearing must be provided in the same manner required for the action that was the subject of the appeal.
10. Expiration: Certificate of Appropriateness and approvals granted under this Title shall automatically expire and become null and void if not inaugurated or extended within two years of approval.
 - a) Extensions: The Director may approve up to two one-year extensions of any permit or approval granted under this Title

upon receipt of a written application with the required fee prior to expiration date of the permit.

X. ECONOMIC HARDSHIP

The City of Morro Bay recognizes that there may be some circumstances in which the operation of this Title could create an undue economic hardship for designated properties. This provision is created to provide property owners with a means of demonstrating that such a hardship exists, and that they should be allowed to modify, relocate or demolish a designated historic resource because of the hardship. Such plans and recommendations may include, but are not limited to, provisions for relocating the structure, a relaxation of the provisions of the ordinance, a reduction in real property taxes, financial assistance, building code modifications and/or changes in zoning regulations.

A. Certificate of Economic Hardship

1. A resource may be eligible for a Certificate of Economic Hardship if a reasonable rate of return through operations or sale cannot be obtained from the resource in its present condition or rehabilitated state and/or improved state.
2. The owner of a resource may file an application for a Certificate of Economic Hardship with the HPAB at any time. The application must contain information pertinent to criteria in this section and be maintained in the permanent file on that resource.
3. The criteria to establish economic hardship for an income producing property shall be that a reasonable rate of return cannot be obtained from the property in its present condition or if rehabilitated.
4. In considering an application for a Certificate of Economic Hardship, the HPAB shall first review and then provide a recommendation to the Planning Commission. The Planning Commission shall consider the HPAB recommendation and all relevant factors.
5. In order to grant a Certificate of Economic Hardship, the Planning Commission must make a finding that without approval of the proposed project, all reasonable use of or return from a designated historic resource will be denied the owner.

6. In the case of a proposed demolition, the Planning Commission must make a finding that the historic resource cannot be remodeled, rehabilitated or relocated in a manner which would allow a reasonable use of or return from such resource to its owner.
- B. If the Planning Commission finds that without approval of the proposed project, the property owner will be denied reasonable use of or return from a historic resource, then the application shall be delayed for a period not to exceed one hundred eighty (180) days.
1. If, by the end of this one hundred eighty (180) day period, the Planning Commission has found that without approval of the proposed work, the resource cannot be put to a reasonable use or the owner cannot obtain a reasonable economic return there from, then the Planning Commission shall issue a Certificate of Economic Hardship approving the proposed work.
 2. If the Commission finds otherwise, it shall deny the application for a Certificate of Economic Hardship and notify the applicant by mail of the final denial.
 3. Planning Commissions decision may be appealed in writing to the **City of Morro Bay** per the regulations.
- C. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:
1. Willful or negligent acts by the owners;
 2. Purchase of the property for substantially more than market value;
 3. Failure to perform normal maintenance and repairs
 4. Failure to diligently solicit and retain tenants;
 5. Failure to provide normal tenant improvements;
 6. Failure to accept an offer of purchase of the property at fair market value.
- D. The Commission may consider expert testimony, evidence and information concerning the application for a Certificate of Economic Hardship. The information for the Planning Commission's consideration may include:
1. An Estimate of the cost of the proposed construction, alteration relocation or demolition, for changes necessary for the issuance of a Certificate of Economic Hardship.
 - a) In connection with such estimate, rehabilitation costs which are the result of the resource owner's intentional or negligent failure to maintain the designated historic resource in good repair shall not be

considered by the Commission in its determination of whether the property may yield a reasonable return to the owner.

2. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures that are part of the resource and their suitability for rehabilitation.
3. Market value of the resource in its current condition;
4. Estimated market value after completion of the proposed construction, alteration, demolition or removal;
5. Estimated market value after any changes recommended by the Commission;
6. In the case of a proposed demolition, estimated market value after rehabilitation of the existing property for continued use.

XI. MAINTENANCE

Nothing in this Article shall be construed so as to prevent the ordinary repairs and maintenance of any designated historic resource provided that such repairs or maintenance do not result in reduction of the historic significance of a historic resource as it was first designated.

XII. INCENTIVES

The City of Morro Bay may by resolution or ordinance establish preservation incentives to encourage owners of historic resources to designate, maintain, preserve, rehabilitate, and improve those historic resources through local, regional, state and federal opportunities. Additionally, incentive programs which the City may consider for its designated historic resources may, from time to time, be available from sources other than the City. Incentive programs may include, but not be limited to, the following:

- Zoning variances:
- Building Code modifications: This Title incorporates the CA State Building Code historic properties exemptions by reference. The City building code shall be reviewed to determine how requirements can be made appropriate for historic resources.
- Transfer of Development Rights:
- Loans or grants:
- Federal tax credits:
- Property tax incentives:
- Mills Act contracts: Establishing a Mills Act program requires having an ordinance in place.
- Parking Requirements:
- Technical Assistance:
- Permit fee reductions or waivers:

All initial and subsequently granted benefits and or incentives shall be logged within the designated properties' historic resource records at the City.

XIII. ENFORCEMENT

Regulations and penalties for alteration including demolition of a designated historic resource without a required permit, Certificate of Appropriateness, and other required permits, is expressly declared to be a nuisance under the City of Morro Bay's Municipal code. Abatement may include restoring the designated historical resource to its appearance and function prior to the performance of the work without the required approval and other remedies as may be defined in the City of Morro Bay Municipal code.

XIV. REMOVAL FROM THE INVENTORY of Historic Resources Due to Circumstance:

Properties may be deleted from the City's Inventory of Historic Resources by submittal of an application by the property owner. The HPAB shall conduct a public hearing within 90 days of receipt of the application and based on that hearing forward a recommendation to the Planning Commission and/or City Council for presentation at further public hearings to make a final decision on removing the designated historic resource from the City's Inventory of Historic Resources list.

Any terms and/or conditions that are applied to a designated property being delisted shall be included in the removal application. If the applicant seeks to remove a designated resource from the Inventory of Historic Resources, then the terms and conditions of the incentive programs in which he or she participates apply. Any property entitlements, special benefits and programs may be revoked. Any applicable fees are the responsibility of the applicant.

XV. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this ordinance subsection. The Morro Bay City Council hereby declares that it would have adopted the ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions be declared invalid or unconstitutional.