

ORDINANCE NO. 15-2017

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELK GROVE
FINDING THE REPEAL AND REPLACEMENT OF ELK GROVE MUNICIPAL CODE
CHAPTER 7.00 HISTORIC PRESERVATION EXEMPT FROM CEQA UNDER
SECTION 15308 AND REPEALING AND REPLACING ELK GROVE MUNICIPAL
CODE CHAPTER 7.00 HISTORIC PRESERVATION**

WHEREAS, Chapter 7.00 Historic Preservation of the Elk Grove Municipal Code (EGMC) was initially adopted by the City Council on January 24, 2007, with the purpose of providing for the identification, designation, protection, enhancement, perpetuation and use of historic resources ; and

WHEREAS, the proposed replaced document will ensure compliance with federal and state laws regarding historical resources; create Minor and Major Certificates of Appropriateness for qualifying historical resources; establish a list of exempt activities; reduce the number of Historic Preservation Committee (HPC) members and clarify membership provisions; simplify and streamline procedures and regulations; and ensure consistency with other sections of the EGMC and legal terminology relative to historic resources; and

WHEREAS, EGMC Chapter 7 applies to designated historical resources, tribal cultural resources, and resources potentially eligible for historic designation and shall include those resources affected by any project proposed by the City of Elk Grove; and

WHEREAS, the City determined that the repeal and replacement of EGMC Chapter 7 is subject to the California Environmental Quality Act; and

WHEREAS, the repeal and replacement of EGMC Chapter 7 is categorically exempt under Section 15308 (Class 8: Actions by Regulatory Agencies for Protection of the Environment); and

WHEREAS, the Planning Commission held a duly-noticed public hearing on May 18, 2017, as required by law to consider all of the information presented by staff and at the meeting recommended 5-0 that the City Council approve the repeal and replacement of EGMC Chapter 7; and

WHEREAS, the City Council held a duly noticed public hearing on June 28, 2017 as required by law to consider all of the information presented by staff and public testimony presented in writing and at the meeting.

NOW, THEREFORE, the City Council of the City of Elk Grove does hereby ordain as follows:

Section 1: Purpose

The purpose of this Ordinance is to repeal and replace Elk Grove Municipal Code Chapter 7.00 Historic Preservation, in order to ensure consistency with other sections and terminology of the Elk Grove Municipal Code relative to historic resources; to incorporate changes to state and federal law; and to streamline procedures and regulations for historic resources in the City of Elk Grove.

Section 2: Findings

This Ordinance is adopted based upon the following findings:

California Environmental Quality Act (CEQA)

Finding: The Project is exempt from CEQA and no further environmental review is required under the California Environmental Quality Act pursuant to CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment).

Evidence: The California Environmental Quality Act (Section 21000, et. seq. of the California Public Resources Code, hereafter CEQA) requires analysis of agency approvals of discretionary “projects.” A “project,” under CEQA, is defined as “the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment” (CEQA Guidelines Section 15378). The proposed code repeal and replacement is a project under CEQA.

The proposed project is categorically exempt from CEQA under CEQA Guidelines Section 15308 (Actions by Regulatory Agencies for Protection of the Environment). This exemption applies to actions taken by regulatory agencies to assure the protection of the environment and does not include construction activities or relaxation of standards allowing environmental degradation.

The proposed Project consists of a repeal and replacement of the City’s existing Historic Preservation Chapter 7. The proposed document would expand the Chapter to be more inclusive of all cultural resources by making it applicable to tribal cultural resources. The proposed updates would also add provisions to ensure compliance with the requirements of Assembly Bill (AB) 52 and make the Chapter more consistent with the requirements of CEQA as it relates to cultural resources. These updates would allow the City to better protect and manage historical and cultural resources in the City and would not result in any construction activities or relaxation of standards that could result in environmental degradation. Therefore, pursuant to State CEQA Guidelines Section 15308, the Project is exempt from CEQA and no further environmental review is required.

Section 3: Action

The City Council hereby approves the repeal of Elk Grove Municipal Code Chapter 7.00 Historic Preservation in its current form, and authorizes replacement of the Chapter as shown in Exhibit A attached hereto.

Section 4: No Mandatory Duty of Care.

This ordinance is not intended to and shall not be construed or given effect in a manner that imposes upon the City or any officer or employee thereof a mandatory duty of care towards persons and property within or without the City, so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 5: Severability

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable. This City Council hereby declares that it would have adopted this ordinance irrespective of the invalidity of any particular portion thereof and intends that the invalid portions should be severed and the balance of the ordinance be enforced.

Section 6: Savings Clause

The provisions of this ordinance shall not affect or impair an act done or right vested or approved or any proceeding, suit or prosecution had or commenced in any cause before such repeal shall take effect; but every such act done, or right vested or accrued, or proceeding, suit or prosecution shall remain in full force and effect to all intents and purposes as if such ordinance or part thereof so repealed had remained in force. No offense committed and no liability, penalty or forfeiture, either civilly or criminally incurred prior to the time when any such ordinance or part thereof shall be repealed or altered by said Code shall be discharged or affected by such repeal or alteration; but prosecutions and suits for such offenses, liabilities, penalties or forfeitures shall be instituted and proceeded with in all respects as if such prior ordinance or part thereof had not been repealed or altered.

Section 7: Effective Date and Publication

This ordinance shall take effect thirty (30) days after its adoption. In lieu of publication of the full text of the ordinance within fifteen (15) days after its passage, a summary of the ordinance may be published at least five (5) days prior to and fifteen (15) days after adoption by the City Council and a certified copy shall be posted in the office of the City Clerk, pursuant to GC 36933(c)(1).

ORDINANCE: **15-2017**
INTRODUCED: June 28, 2017
ADOPTED:
EFFECTIVE:

STEVE LY, MAYOR of the
CITY OF ELK GROVE

ATTEST:

APPROVED AS TO FORM:

JASON LINDGREN, CITY CLERK

JONATHAN P. HOBBS,
CITY ATTORNEY

Date signed: _____

EXHIBIT A

Note to Reader: EGMC Chapter 7.00 is repealed and replaced in full with the following:

Chapter 7.00

HISTORIC PRESERVATION

Sections:

- 7.00.010 Purpose.
- 7.00.020 Applicability.
- 7.00.030 Definitions.
- 7.00.040 Historic Preservation Committee.
- 7.00.050 Designations.
- 7.00.060 Rescissions.
- 7.00.070 Approval Requirements for Alterations (Certificate of Appropriateness).
- 7.00.080 Demolitions/Relocations.
- 7.00.090 Historic Preservation Incentives.
- 7.00.100 Unsafe or Dangerous Conditions.
- 7.00.110 Duty to Keep in Good Repair.
- 7.00.120 Showing of Extreme Hardship.

7.00.010 Purpose.

The purpose of this chapter is to provide for the identification, designation, protection, enhancement, perpetuation and use of historical resources including buildings, structures, objects, sites, districts, cultural landscapes, tribal cultural resources, and the historical personal histories and family stories of individuals, businesses, and associations in the City that reflect special elements of the City's heritage and cultural diversity.

7.00.020 Applicability.

The Historic Preservation chapter shall be applied to designated historical resources, tribal cultural resources, and resources potentially eligible for historic designation, and shall include those resources affected by any project proposed by the City of Elk Grove or subject to review by the City of Elk Grove. A property that has been listed in the Elk Grove Register of Historic Resources , or possessing any other State or Federal historical designation shall continue to be subject to all applicable zoning requirements in Title 23 that would apply to such property if it were not so designated or located. By designating historical resources the City Council shall not be construed to be repealing or waiving any other portion of zoning Title 23 of the City as it applies to the designated property.

7.00.030 Definitions.

For the purpose of this chapter the following words shall have the meanings respectively ascribed to them by this section.

A. "Alteration" means any exterior change or modification, through public or private action, of any historical resource, to include any action that might impact the integrity of that resource. Alterations include but are not limited to the disturbance of archaeological resources, tribal cultural resources; construction of new buildings, structures, or objects; additions or modifications to existing buildings, structures, or objects; and site work.

B. "Archaeological resources" means any material remains of human life or activities which are at least 100 years of age, and which are capable of providing scientific or humanistic understandings of past human behavior, cultural adaptation, and related topics through the application of scientific or scholarly techniques such as controlled observation, contextual measurement, controlled collection, analysis, interpretation and explanation sites.

C. "California Environmental Quality Act (CEQA)" means Section 21000, et seq., of the California Public Resources Code and its related guidelines as it may be amended.

D. "Complete application" means enough documentation for the approving authority to make an informed decision concerning the application. All applications should include the most recent version of the appropriate California Department of Parks and Recreation (DPR) 523 series survey form completed according to the State Office of Historic Preservation's Instructions for Recording Historical Resources but in certain circumstances the Approving Authority may instead permit the use of a National Register of Historic Places nomination form.

E. "Certificate of Appropriateness" means an entitlement that is required to be reviewed and approved by the Director and in some instances shall require a recommendation by the Historic Preservation Committee to the Director depending on the level of potential impact to a designated historical resource. Refer to Section 7.00.070.

F. "Certified local government (CLG)" means a local government that has been certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1966 (Title 16, Section 470, et seq., of the United States Code) as amended, pursuant to Section 101(c) of that act and the regulations adopted under the act, which are set forth in 36 Code of Federal Regulations (CFR) 61 entitled, "Procedures for State, Tribal, and Local Government Historic Preservation Programs."

G. "Character-defining feature" means the distinguishing features of a building, structure, object, site or district, which help convey the significance of the historical resource and which were present during the period of significance.

H. "Contributing resource" means a building, site, structure, tribal cultural resource or object that adds to the significance of a historic district.

I. "Cultural landscape" means a geographic area that includes both cultural and natural resources, is associated with a historical event, activity, or person, or exhibits other cultural or aesthetic values. There are five (5) general types of cultural landscapes, not

mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes, tribal cultural resource and ethnographic landscapes.

J. "Demolition" means any action or set of actions that result in a historical resource being completely torn down.

K. "Demolition/relocation certificate" means a certificate whose issuance is recommended by the Historic Preservation Committee and which authorizes its recipient to demolish, remove, or relocate a historical resource.

L. "Designation" means the act of formally listing a historical resource in a register of historical resources such as the Elk Grove Register of Historic Resources, the California Register of Historical Resources, or the National Register of Historic Places.

M. "Director" means Development Services Director.

N. "District" means a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. Examples include college campuses; business districts; residential neighborhoods; industrial complexes; water conveyance systems; collections of habitation and limited activity sites; agricultural properties; and transportation networks.

O. "Elk Grove Register of Historic Resources" means the list of historical resources of value to the citizens of the City of Elk Grove and designated as such by the City Council pursuant to the provisions of this Chapter. Listed resources meet the definition of a historical resource under the California Environmental Quality Act (CEQA).

P. "Exceptional importance" means historical significance due to an association with an extraordinarily important aspect of the past or existence in a category of resources so fragile that survivors of any age are unusual. Exceptionally important resources may be significant at the local, state, or national level

Q. "Guidelines for Local Surveys: A Basis for Preservation Planning" means the standards set forward by the National Park Service and the Secretary of the Interior that guide comprehensive planning, surveys of historical resources, and registration in the National Register of Historic Places.

R. "Guidelines for Evaluating and Documenting Traditional Cultural Properties" means the standards set forward by the National Park Service and the Secretary of the Interior that guide the identification of traditional cultural properties.

S. "Historic context" means an organizing structure for interpreting history which groups information about historical resources that share a common theme, common geographical location, and common time period. The development of historic contexts is a foundation for decisions about the planning, identification, evaluation, registration, and treatment of historical resources, based upon comparative significance.

T. "Historic district" means a district listed in or eligible for listing in the Elk Grove Register of Historic Resources, the California Register of Historical Resources, or the National Register of Historic Places. Historic districts can include historical resources individually listed in or eligible for listing in the Elk Grove Register of Historic Resources, the California Register of Historical Resources, or the National Register of Historic Places. Historic districts meet the definition of a historical resource under the California Environmental Quality Act (CEQA).

U. "Historic district plan" means the documentation, planning, and guiding document for a historic district. The Old Town Elk Grove Special Planning Area (Ordinance No.29-2005) is the only historic district plan.

V. "Historic preservation" means the management, the process of applying procedures necessary to sustain the existing form, integrity and materials of a historical resource.

W. "Historical resource" means buildings, structures, objects, sites, districts, cultural landscapes, or tribal cultural resources listed in or eligible for listing in the Elk Grove Register of Historic Resources, the California Register of Historical Resources, or the National Register of Historic Places.

X. "Historical resources survey" means the systematic studying of an area by a trained professional to identify historical resources eligible for listing in the Elk Grove Register of Historic Resources, the California Register of Historical Resources, and/or the National Register of Historic Places. The survey is conducted according to published Federal and State standards in affect at the time.

Y. "Integrity" means the authenticity of a property's historic identity, evidenced by the survival of physical characteristics that existed during the property's period of significance. Historical resources must possess integrity to convey their significance. The seven (7) aspects of integrity are location, design, setting, materials, workmanship, feeling and association. To retain integrity a property will always possess several, and usually most, of the aspects.

Z. "Mills Act Contract." means a property contract entered into between the City of Elk Grove and a property owner that provides for lower property taxes in return for the rehabilitation, restoration, and preservation of a qualified historical property pursuant to California Government Code Section§ 50280 et seq.

AA. "Noncontributing resource" means a building, site, structure, or object that does not add to the significance of a historic district as determined by the City of Elk Grove historical resource survey, but is nevertheless a component of that historic district.

BB. "Object" means those constructions that are distinguished from buildings and structures that are primarily artistic in nature or are relatively small in scale and simply constructed. Although they may be, by nature or design, movable, objects are

associated with a specific setting or environment. Examples include but are not limited to sculptures, monuments, boundary markers, statuary, and fountains.

CC. "Old Town Special Planning Area" means the planning document that applies to the designated area that includes the Elk Grove Boulevard corridor from Elk Grove-Florin Road and Waterman Road. The purpose of the Old Town Elk Grove Special Planning Area Design Standards and Guidelines is to provide development regulations that are tailored to preserve the historical character of this designated area.

DD. "Period of significance" means the span of time in which a property attained the significance for which qualifies it for listing in the Elk Grove Register of Historic Resources, California Register of Historical Resources, or National Register of Historic Places.

EE. "Professional Qualification" means an individual with a degree in history, architecture, or archaeology. It shall also mean an individual who maintains a job/position paid or unpaid in history (including but not limited to history teacher, museum worker, curator, librarian or library worker, documentarian, or board member of a nonprofit that has a historical mission), architecture (including but not limited to architect, designer, surveyor, building inspector, planner, or engineer) or archeology (including but not limited to archaeologist, anthropologist, conservatist, cultural resource manager, national parks curator, geographer or GIS specialist).

FF. "Relocation" means the movement of a historical resource from its original site to a new site, beyond minor movement of the resource on its original lot.

GG. "Replacement project" means any proposal for the use of land following the demolition of a historical resource or element of a historical resource. Vacancy is not considered a replacement project.

HH. "Resources potentially eligible for historic designation" means resources at least fifty (50) years old whose eligibility for listing in the Elk Grove Register of Historic Resources, the California Register of Historical Resources, or the National Register of Historic Places has not been formally determined.

II. "Significance" means the importance of a historical resource as defined by the Elk Grove Register of Historic Resources criteria adopted by this chapter, the California Register of Historical Resources, or the National Register of Historic Places.

JJ. "Tribal Cultural Resource" as defined in California Public Resource Code (PRC) Section 21074 (a)(1-2) can be 1) sites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are either on or eligible for inclusion in the California Register of Historical Resources or a local historic register as defined in Public Resource Code Section 5020.1 and as amended, or 2) when a lead agency, at its discretion and supported by substantial

evidence pursuant to State listed criteria under PRC 5024.1 and as amended, chooses to treat a resource as a tribal cultural resource.

KK. "Site" means the location of a significant event, a historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic or archaeological value regardless of the value of any existing structure. Examples include habitation sites, funerary sites, rock shelters, village sites, hunting and fishing sites, ceremonial sites, petroglyphs, rock carvings, gardens, grounds, battlefields, ruins of historic buildings and structures, campsites, sites of treaty signings, trails, areas of land, shipwrecks, cemeteries, designed landscapes, and natural features, such as springs and rock formations, and land areas having historic significance.

LL. "State of California Department of Parks and Recreation (DPR) survey forms" means the official State of California forms, completed by qualified individuals that contain information about a historical resource.

MM. "State Historical Building Code (SHBC)" means the standards adopted by the State of California to provide regulations and standards for the rehabilitation, preservation, restoration (including related reconstruction) or relocation as applicable to all historical buildings, structures and properties deemed of importance to the history, architecture, or culture of an area by an appropriate local or State governmental jurisdiction.

NN. "Substantial adverse change" means any demolition, relocation, or alteration such that the significance of a historical resource would be impaired.

OO. "Survey" means systematically studying historical resources in accordance with published Federal and State standards. Minimally, it includes a physical description and a photograph of a historical resource, legal information from title or assessor's office records, statements of significance according to criteria in this chapter, and a statement identifying any potential threat to the integrity or existence of the historical resource.

PP. "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings" means the standards set forward by the National Park Service and the Secretary of the Interior that guide treatment of historical resources (36 Code of Federal Regulations 68).

QQ. "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes" means the standards set forward by the National Park Service and the Secretary of the Interior that guide treatment of cultural landscapes.

7.00.040 Historic Preservation Committee.

A Historic Preservation Committee of the City is hereby established.

- A. Membership of the Historic Preservation Committee. The Historic Preservation Committee (HPC) shall consist of five (5) members and up to two (2) alternates. Each member of the HPC must be at least eighteen (18) years of age, reside in the City of Elk Grove, and be registered to vote. The members of the Historic Preservation Committee shall include persons who have demonstrated special interest, competence, experience, or knowledge in historic preservation. In order to meet the professional qualification standards of a Certified Local Government (CLG), membership of the HPC should include at least two (2) individuals who possess a Professional Qualification, as defined in Section 7.00.030 Definitions, in any of the following areas: history, architectural history, archaeology, and/or architecture, to the extent that such professionals are available in the community. Membership of the Historic Preservation Committee shall not preclude the appointment of a City staff person, provided that the job duties do not conflict with the goals and responsibilities of the Committee.
- B. Appointments of Members. Members of the Historic Preservation Committee shall be appointed by the Mayor, with the approval of the City Council, pursuant to Elk Grove Municipal Code Chapter 1.03.
- C. Term of Office of Members. Members shall serve at the pleasure of the City Council with no maximum term that may be served by any individual member.
- D. Automatic Termination of Appointment. The appointment of any member of the Historic Preservation Committee who has been absent from three (3) consecutive regular or special meetings, without the prior approval of the Historic Preservation Committee chairperson, shall automatically terminate.
- E. Chairperson of the Historic Preservation Committee. The Historic Preservation Committee shall elect a chairperson from its members, who shall hold office for one (1) year or until a successor is elected; the chairperson shall be elected at the first (1st) meeting of the Historic Preservation Committee after January 1 of each year.
- F. Meetings of the Historic Preservation Committee. The Historic Preservation Committee shall establish a regular time and place of meeting. In order to maintain the City's Certified Local Government designation, the Historic Preservation Committee must meet a minimum of four (4) times in a calendar year. The Historic Preservation Committee shall hold public meetings as required to hear applications in a timely manner. Special meetings of the Historic Preservation Committee may be called at any time by the chairperson of the Historic Preservation Committee, upon personal notice being given to all members of the Historic Preservation Committee.
- G. Organization and Procedure. A quorum shall consist of any three (3) members of the HPC, whether standing members or alternates. The affirmative vote of a majority of the members present and voting is required to take any action. The Historic Preservation Committee shall keep an accurate record of its proceedings and transactions and shall submit an annual report to the City Council.

H. Powers and Duties. The Historic Preservation Committee shall have the following powers and duties under this chapter:

1. Recommend the designation and rescission of historical resources to the Elk Grove Register of Historic Resources to the City Council;
2. Recommend the approval or disapproval, with or without conditions, of applications for Major Certificates of Appropriateness (COA):
3. Recommend the approval or disapproval, with or without conditions, of applications for demolition/relocation certificates;
4. Perform advisory review of new buildings, structures, objects, and demolitions on lots within a historic area and immediately adjacent to designated historical resources in cases where the City has discretionary review over these projects (as defined by the California Environmental Quality Act) such as Old Town SPA or any future districts;
5. Review historic district plans;
6. Review any comprehensive local historic preservation plan presented;
7. Review and comment on decisions and documents developed using the California Environmental Quality Act, the National Historic Preservation Act of 1966 (Title 16, Section 470, et seq., of the United States Code), and other laws that require consideration of the effects of projects on historical resources when such decisions or documents may affect historical resources or resources potentially eligible for historic designation in the City;
8. Cooperate with local, County, State, and Federal governments in the pursuit of the objectives of historic preservation;
9. Participate in, promote, and conduct public information, educational and interpretive programs, newsletters, and appropriate literature pertaining to all types of historical resources to owners of historical resources, building contractors, the Chamber of Commerce, area real estate agents, and any member of the public requesting such information;
10. Render advice and guidance, upon the request of the property owner or occupant, on the restoration, alteration, decoration, landscaping, or maintenance of any historical resource;
11. Provide for adequate public participation in local historic preservation programs, including the process of recommending properties for nomination to the Elk Grove

Register of Historic Resources, the California Register of Historical Resources, and the National Register of Historic Places;

12. In the case of historical resources that may be demolished or relocated, take steps to aid in the preservation of historical resources, to include consultation with civic groups, public agencies, and interested citizens; recommendations for acquisition of the property by public or private bodies or agencies; and exploration of the possibility of moving such resources; and
13. Perform any other functions designated by the City Council or required by the State of California Certified Local Government Program.

7.00.050 Designations.

Historical resources in the City may be listed in the Elk Grove Register of Historic Resources (as defined in this chapter) based upon the criteria in this Section. Unless otherwise specified, the designation of a historical resource to the Elk Grove Register of Historic Resources shall be made by the City Council after a recommendation by the Historic Preservation Committee.

- A. Elk Grove Register of Historic Resources Designation by Federal and/or State Designation. Historical resources that are listed in the National Register of Historic Places and/or the California Register of Historical Resources shall automatically be included in the Elk Grove Register of Historic Resources. No specific City Council action shall be required.
- B. Elk Grove Register of Historic Resources Significance Criteria. A historical resource may be listed in the Elk Grove Register of Historic Resources if it retains four (4) or more aspects of integrity as defined in this chapter and if the resource meets any of the following four (4) levels of significance within a given historic context:
 1. Associated with events that have made a significant contribution to the broad patterns of Elk Grove's history;
 2. Associated with the lives of persons significant in Elk Grove's past;
 3. Embodies the distinctive characteristics of a type, period, or method of construction; or that represents the work of a master; or that possesses high artistic values; or that represents a significant and distinguishable entity whose components may lack individual distinction; and/or
 4. Has yielded, or may be likely to yield, information noteworthy in prehistory or history.
- C. Integrity. To be listed in the Elk Grove Register of Historic Resources, resources must maintain four (4) or more aspects of integrity outlined below:
 1. Location - the place where a resource was constructed or the place where the historic event occurred.
 2. Design - the combination of elements that create the form, plan, space, structure, and style of a resource.

3. Setting - the physical environment of a resource.
4. Materials - the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a resource.
5. Workmanship - the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
6. Feeling - is a property's expression of the aesthetic or historic sense of a particular period of time.
7. Association - the direct link between an important historic event or person and a historic property

D. Criteria Considerations. Ordinarily birthplaces, graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty (50) years shall not be considered eligible for listing in the Elk Register of Historic Resources. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within any of the following categories:

1. A religious property deriving primary significance from architectural or artistic distinction or historical importance;
2. A building or structure removed from its original location but which is primarily significant for architectural value or which is the surviving structure most importantly associated with a historic person or event;
3. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building associated with his or her productive life;
4. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived;
5. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; and/or
6. A property achieving significance within the past fifty (50) years if it is of exceptional importance.

E. Historic District Plan. Upon the recommendation of the Historic Preservation Committee and approval of the City Council, a historic district plan shall be adopted simultaneously with designation. The historic district plan shall provide standards for review within that particular district to ensure that new development, renovation, and rehabilitation are compatible and complementary to the prevalent character-defining

features, architectural styles, historic context, and design elements within the historic district.

- F. Designation Process. Historical resources shall be designated by the City Council upon the recommendation of the Historic Preservation Committee.
1. Initiation of Designation. Designation of historical resources to the Elk Grove Register of Historic Resources may be initiated by the Historic Preservation Committee, by any resident of Elk Grove, or by the owner of the property that is proposed for designation.
 2. Public Hearing. The Historic Preservation Committee shall hold a public hearing to review and act upon by providing a recommendation to the designation application.
 3. Stay of Work. While the Historic Preservation Committee's public hearing on a recommendation or the City Council's decision on a designation is pending, no work that would require a Minor or Major Certificate of Appropriateness or a demolition/relocation certificate shall be granted.
 4. Notice of Public Hearing. Notice of date, place, time, and purpose of the hearing shall be given by first-class mail to the applicants, owners, and occupants of the property, and to property owners within five hundred (500' 0") feet of the property, at least ten (10) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once (1) in a daily newspaper of general circulation at least ten (10) days in advance of the public hearing. Failure to receive notice of such hearing shall in no way affect the validity of any action taken.
 5. Owner Objection. The owner of a historical resource can object to designation of his or her resource to the Elk Grove Register of Historic Resources by formally expressing this objection to the Historic Preservation Committee prior to or during the designation hearing for the resource in question. Such objection shall be noted.
 6. Owner Objection –Historic Districts. Owner objections to the designation of a proposed historic district must be expressed in writing prior to or may be done during that proposed historic district's designation recommendation hearing. If a majority of owners in a proposed historic district object to the designation of that proposed historic district, then the Historic Preservation Commission will note such in their recommendation to City Council. Regardless of how much property each owner or partial owner owns in a proposed historic district, each owner or partial owner of property within a proposed historic district may make only one (1) objection regarding designation.
 7. Historic Preservation Committee Recommendations. The Historic Preservation Committee shall recommend approval in whole or in part or disapproval of the

application for designation in writing to the City Council, setting forth the reasons for the decision.

8. Approval of Historic Preservation Committee Recommendations. After receiving the Historic Preservation Committee's recommendations, the City Council may pass a resolution to approve the recommendations in whole or in part, or may by motion disapprove them in their entirety. If the City Council approves a proposed designation, notice of the City Council's decision shall be sent to the applicant, owners of the property, Code Enforcement Division, and the Building Department.

7.00.060 Rescissions.

A. Grounds for Rescission. Upon the recommendation of the Historic Preservation Committee and approval of the City Council, historical resources may be removed from the Elk Grove Register of Historic Resources if any of the following criteria are met:

1. The property has ceased to meet the criteria for listing in the Elk Grove Register of Historic Resources because the qualities for which it was originally listed have been lost or destroyed, or such qualities were lost subsequent to nomination and prior to listing;
2. Additional information shows that the property does not meet the Elk Grove Register of Historic Resources criteria for evaluation; and/or
3. Prevailing current historical professional judgment no longer concurs that the property meets the criteria for evaluation.

B. Rescission Process. Historical resources shall be considered for removal from the Elk Grove Register of Historic Resources by the City Council upon the recommendation of the Historic Preservation Committee and in accordance with the below process.

1. Initiation of Rescission. Rescission of resources listed in the Elk Grove Register of Historic Resources may be initiated by the Historic Preservation Committee, by any resident of Elk Grove, or by the owner of the historical resource that is proposed for rescission. The applicant must communicate in writing the reasons the property should be removed.
2. Public Hearing. The Historic Preservation Committee shall hold a public hearing to review and provide a recommendation on the rescission application.
3. Notice of Public Hearing. Notice of date, place, time, and purpose of the hearing shall be given by first-class mail to the applicant(s), owners, and occupants of the property, and to property owners within five hundred (500' 0") feet of the property, at least ten (10) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once (1) in a daily newspaper of general circulation at least ten (10) days in advance of the public hearing. Failure

to receive notice of such hearing shall in no way affect the validity of any action taken.

4. Historic Preservation Committee Recommendations. The Historic Preservation Committee shall recommend approval in whole or in part or disapproval of the application for rescission in writing to the City Council, setting forth the reasons for the decision.
5. Approval of Historic Preservation Committee Recommendations. After receiving the Historic Preservation Committee's recommendations, the City Council may pass a resolution to approve the recommendations in whole or in part, or may by motion disapprove them in their entirety. If the City Council approves a proposed rescission, notice of the City Council's decision shall be sent to the applicant, owners of the property, Code Enforcement Division, and the Building Official.

7.00.070 Approval Requirements for Alterations (Certificate of Appropriateness),

A. Alterations to Historical Resources

Except as otherwise exempt in this section, no Alterations shall be made to any designated historical resource without prior approval of a Minor or Major Certificate of Appropriateness.

B. Exemptions.

The following list of items have been determined to be exempt from the requirement for a Certificate of Appropriateness, as such activities are not expected to adversely impact designated historical resource. Said items may require other permits and approvals, such as building permits.

1. Repainting of surfaces that were originally painted and the color scheme is not a significant character-defining feature of the historical resource as determined by the Director. Repainting is exempt only if:
 - i. It complies with relevant design guidelines relative to color; and
 - ii. Is substantially similar to the existing color scheme.
2. Routine nonabrasive cleaning and maintenance;
3. Landscape and Surface Improvements (such as, but not limited to pools, concrete slabs or site work that is not taller than twelve (12) inches in height) that are not significant character-defining features of the historical resource;
4. Interior alterations that have no impact to any historical elements of the structure;
5. Alteration, demolition and relocation of non-contributing resources of historic districts listed in or eligible for listing in the Elk Grove Register of Historic

Resources, California Register of Historical Resources, or National Register of Historic Places;

6. Other items not listed that would not have impact on a designated historical resource, as determined by the Director.

C. Applicability.

1. Minor Certificate of Appropriateness. Applies to any minor alteration(s) that has the potential for minimal impact to a designated historical resource. Minor alterations include, but are not limited to the following:
 - i. Installation of wall signs, and/or
 - ii. Installation of for-like elements (for example: windows, doors, exterior cladding); and/or
 - iii. Re-roofing that is similar material and style
2. Major Certificate of Appropriateness. Applies to major alteration(s) that has the potential for significant impact to a designated historical resource. Major alterations include, but not limited to the following:
 - i. Additions, and/or
 - ii. New construction of a primary structure; and/or
 - iii. Demolition of contributing resources of historic districts listed in or eligible for listing in the Elk Grove Register of Historic Resources, California Register of Historical Resources, or National Register of Historic Places.

D. Process.

1. Application.

All applications for Certificate of Appropriateness permits and actions pertaining to this title shall be submitted to the Development Services Department on a City application form, together with all fees, plans, maps, and any other information required by the Development Services Department.

2. Review.

Within thirty (30) days of application submittal, the Director shall determine whether or not the application is complete. The applicant shall be notified in writing of the determination either that:

- i. All the submittal requirements have been satisfied and that the application has been accepted as complete; or

- ii. Specific information is still necessary to complete the application. The letter may also identify preliminary information regarding the areas in which the submitted plans are not in compliance with City standards and requirements.
3. Determination/Decision.
- i. Minor Alterations (Certificate of Appropriateness).
 - 1. Approving Authority. The Director shall be the approving authority for all Minor Certificates of Appropriateness.
 - 2. Action by Approving Authority. The Director shall approve, conditionally approve, or deny the application with specific findings. The Director may request review by the Historic Preservation Committee for a recommendation but as a general rule such recommendation is not necessary. Notice of the decision shall be sent to the Historic Preservation Committee as an informational item and specifically listed on the public meeting agenda.
 - 3. Findings. Minor Alterations (Certificate of Appropriateness) applications shall be approved if all of the findings are made:
 - a. The proposed project complies with “The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings” or “The Secretary of the Interior’s Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes”; and
 - b. The proposed work does not result in substantial adverse change to the historical resource; and
 - c. The proposed project is consistent with and supportive of the goals and policies of the historic district plan (if the resource is located within a historic district).
 - ii. Major Certificate of Appropriateness.
 - 1. Approving Authority. The Historic Preservation Committee shall be the recommending authority for Major Certificates of Appropriateness; the Director shall be the approving authority upon receipt of a recommendation by the Historic Preservation Committee. When a proposed project requires more than one (1) land use or development entitlement from more than one (1) approving authority, all project entitlements shall be processed concurrently and final action shall be taken on any application for a certificate of appropriateness by the highest level designated approving authority for all such requested entitlements.

2. Action by Approving Authority. The Approving Authority shall approve, conditionally approve, or deny an application with specific findings which may include consideration of a recommendation by the Historic Preservation Committee. Notice of the decision shall be sent to the applicant, owners of the property, and the Building Department.
3. Public Hearing. The Historic Preservation Committee shall hold a public hearing to review and provide recommendation to the Director for the Major Certificate of Appropriateness application.
4. Notice of Public Hearing. Notice of date, place, time, and purpose of the Historic Preservation Committee hearing shall be given by first-class mail to the applicants, owners, and occupants of the property, and to property owners within five hundred (500' 0") feet of the property, at least ten (10) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once (1) in a daily newspaper of general circulation at least ten (10) days in advance of the public hearing. Failure to receive notice of such hearing shall in no way affect the validity of any action taken.
5. Findings. Major Certificate of Appropriateness applications shall be approved if all of the following findings are met:
 - a. The proposed work does not result in substantial adverse change to the historical resource;
 - b. The proposed work is consistent with and supportive of the goals and policies of the historic district plan (if the resource is located within a historic district);
 - c. The proposed work complies with "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings" or "The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for the Treatment of Cultural Landscapes";
 - d. If located within a historic district, the proposed work does not result in a substantial adverse change to the historic district as a whole; and
 - e. If located within a historic district, the proposed project is consistent with and supportive of the goals and policies of the historic district plan.

4. Appeals

- i. Minor Certificate of Appropriateness. Any decision of the Director on a Minor Certificate of Appropriateness may be appealed to the Planning Commission. Any decision on appeal by the Planning Commission on a minor certificate of

appropriateness may be appealed to the City Council. Any action or decision of the City Council shall be final and there shall be no further administrative appeal from the City Council decision. All appeals shall be in writing, shall state the basis of the appeal, shall be accompanied by any applicable filing fee, and shall be filed with the City Clerk within ten (10) days of the determination or action for which an appeal is made. Failure to file an appeal within the time frame and in the manner provided herein shall constitute a failure of a party to exhaust administrative remedies, and shall render the decision of the approving authority final and immune from further challenge.

- ii. Major Certificate of Appropriateness. Any decision of the Director with recommendation of the Historic Preservation Committee on a Major Certificate of Appropriateness may be appealed to the Planning Commission. Any decision of the Planning Commission on a major certificate of appropriateness may be appealed to the City Council. Any other decision by an approving authority not otherwise addressed herein may be appealed to the City Council. Any action or decision of the City Council shall be final and there shall be no further administrative appeal from the City Council decision. All appeals shall be in writing, shall state the basis of the appeal, shall be accompanied by any applicable filing fee, and shall be filed with the City Clerk within ten (10) days of the determination or action for which an appeal is made. Failure to file an appeal within the time frame and in the manner provided herein shall constitute a failure of a party to exhaust administrative remedies, and shall render the decision of the Approving Authority final and immune from further challenge.

7.00.080 Demolitions/Relocations.

- A. Demolition or Relocation of Resources Potentially Eligible for Historic Designation. The demolition or relocation of resources potentially eligible for historic designation shall not occur without review to determine the resource's eligibility for listing in the Elk Grove Register of Historic Resources.
 1. Before demolitions or relocations of resources potentially eligible for historic designation are approved, the Director shall determine if the resource is eligible for listing in the Elk Grove Register Historical Resources, as well as, provide the opportunity to exempt resources from evaluation. Exempt resources can be the resource types outlined in 7.00.050.D.
 2. Approving Authority. The Director with assistance from a professional fitting the Secretary of Interior's Professional Qualification Standards for historian, architectural historian, archaeologist, or historic architect shall evaluate the resource for listing in the Elk Grove Register of Historic Resources.
 3. Action by Approving Authority. If the Director determines that the City can rule out the possibility of the resource being listed in the Elk Grove Register of Historic Resources, he or she shall recommend approval of the demolition or relocation of the resource in question to the Building Official. If the Director determines the City

cannot rule out the possibility of the resource being designated in the Elk Grove Register of Historic Resources, the City staff shall initiate an application for designation of the resource in question. Notice of the determination shall be sent to the applicant, owners of the property, and the Building Official.

- B. Demolition/Relocation Certificates. No demolition or relocation of a historical resource shall be made by any person without a demolition/relocation certificate.
1. Demolition or relocation of historical resources shall be tied to a replacement project under concurrent review by the City of Elk Grove unless projects meet the provisions of EGMC Section 7.00.100 or 7.00.110.
 2. Public Hearing. The Historic Preservation Committee shall hold a public hearing to review and consider the demolition/relocation certificate application.
 3. Notice of Public Hearing. Notice of date, place, time, and purpose of the hearing shall be given by first-class mail to the applicants, owners, and occupants of the property, and to property owners within five hundred (500' 0") feet of the property, at least ten (10) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once (1) in a daily newspaper of general circulation at least ten (10) days in advance of the public hearing. Failure to receive notice of such hearing shall in no way affect the validity of any action taken.
 4. Approving Authority. The Historic Preservation Committee shall recommend approval or denial, with or without conditions, of all applications for certificates of demolition/relocation. If an entitlement other than or in addition to a certificate of demolition/relocation is necessary or sought for a proposed project, the approving authority shall be that body with jurisdiction over the other entitlement as set forth in the Elk Grove Municipal Code, including, but not limited to, the Zoning Code, as it now exists or is hereafter amended. When a proposed project requires more than one (1) land use or development entitlement from more than one (1) approving authority, all project entitlements shall be processed concurrently and final action shall be taken on any application for a certificate of demolition/relocation by the highest level designated approving authority for all such requested entitlements. The Director shall be the approving authority of all applications for certificates of demolition/relocation for which there is no other approving authority with jurisdiction over the project. Any decision of the Director on a certificate of demolition/relocation may be appealed to the Planning Commission. Any decision of the Planning Commission on a certificate of demolition/relocation may be appealed to the City Council, including matters heard on appeal from a decision by the Director. Any other decision by an approving authority not otherwise addressed herein may be appealed to the City Council. Any action or decision of the City Council shall be final and there shall be no further administrative appeal from the City Council decision. All appeals shall be in writing, shall state the basis of the appeal, shall be accompanied by any

applicable filing fee, and shall be filed with the City Clerk within ten (10) days of the determination or action for which an appeal is made. Failure to file an appeal within the time frame and in the manner provided herein shall constitute a failure of a party to exhaust administrative remedies, and shall render the decision of the approving authority final and immune from further challenge.

5. Action by Approving Authority. The approving authority shall approve an application, disapprove it, or approve it subject to conditions. Wherever applicable, the approving authority can require the documentation of the historical resource proposed for demolition or relocation with such measures as archival-quality photographs and/or measured drawings prior to these actions. Notice of the decision shall be sent to the applicant, owners of the property, Code Enforcement, and the Building Department.

6. Findings.

a. Demolition/relocation certificate applications for historical resources shall be approved if the project meets any of the following:

i. The provisions of EGMC Section 7.00.100 or 7.00.110 apply; or

ii. The replacement project is consistent with and supportive of identified goals and policies of the General Plan or applicable specific area plans including the adopted historic district plan (if the historical resource is located within a historic district); or

iii. The proposed action will not have a significant effect on the goals and purposes of this chapter or the potential effect is outweighed by significant benefits of the replacement project; or

iv. In the case of relocating a contributing resource to a historic district, the integrity and significance of both the contributing resource and the entire historic district will not be significantly impaired.

7.00.090 Duty to keep in good repair.

The owner and any other person in actual charge or possession of a historical resource shall take steps necessary to prevent:

A. The substantial deterioration or decay of any exterior portion of such a resource or improvement; and

B. The substantial deterioration or decay of any interior portions thereof whose maintenance is necessary to preserve any exterior portion.

7.00.100 Unsafe or Dangerous Conditions.

None of the provisions of this chapter shall prevent any measures of construction, alteration, or demolition necessary to correct the unsafe or dangerous conditions of any historical resource where such condition has been declared unsafe or dangerous by the

Building Official, the Fire Chief or other appropriate public official or body, and where the proposed measures have been declared necessary by such official or body to correct the condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition and as is done with due regard for preservation of the appearance of the structure involved may be performed pursuant to this Section. In the event any structure or other feature is damaged by fire, earthquake, or other natural disaster, to such an extent that in the opinion of the aforesaid officials or body it cannot be reasonably repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws.

7.00.110 Showing of Extreme Hardship.

If the applicant presents evidence clearly demonstrating to the satisfaction of the approving authority that failure to approve the application for a Minor or Major Certificate of Appropriateness, or a demolition/relocation certificate will cause an extreme hardship because of conditions peculiar to the particular structure or other feature involved, the approving authority may approve or conditionally approve such application even though it does not meet the stipulated standards of review for the particular application type. The applicant shall bear the burden of proving the extreme hardship and shall provide substantiation of the claim as the approving authority may require. The Historic Preservation Committee and/or approving authority is authorized to request that the applicant furnish additional information, documentation and expert testimony, the cost of which shall be paid by the applicant, to be considered by the approving authority in its related findings. All additional required information shall be provided by a qualified individual or firm selected by the City. In determining whether extreme hardship exists, the approving authority shall consider evidence that demonstrates one (1) of the following:

- A. Denial of the application will deprive the applicant of all reasonable economic value in his or her property; or
- B. Utilization of the property for lawful purposes is prohibited or impractical.

7.00.120 Historic Preservation Incentives.

A. Designated Historical Resources. In addition to numerous historic preservation incentives offered by the State and Federal governments and private organizations, the following preservation incentives will be made available by or in partnership with the City of Elk Grove to local historical resources listed in the National Register of Historic Places, California Register of Historical Resources, or Elk Grove Register of Historic Resources.

- 1. Mills Act Contracts (California Government Code Section 50280, et seq.). A formal agreement, generally known as a Mills Act or Historical Property Contract, is executed between the local government and the property owner to implement property tax reductions in exchange for preservation and/or improvements to qualified historical resources for a minimum ten (10) year term. Contracts are automatically renewed each year and are transferred to new owners when the

property is sold. Property owners agree to restore, maintain, and protect the property in accordance with specific historic preservation standards and conditions identified in the contract. Periodic inspections by City or County officials may occur to ensure proper maintenance of the property. Local authorities may impose penalties for breach of contract or failure to protect the historical resource. The contract is binding on all owners during the contract period

- a. The City shall process Mills Act contract applications pursuant to the Mills Act.
 - b. The Historic Preservation Committee shall be the recommending body for all Mills Act contract applications and final approval by the City Council.
2. Preservation Easements. Preservation easements on the facades of qualifying properties may be acquired by the City or nonprofit group through purchase, donation, or documentation pursuant to California Civil Code Section 815 et seq.
 3. Alteration Fees. Waiver of fees for minor or major alterations as approved by the City Council.
 4. Parking Reduction. A fifty (50) percent reduction in parking requirements for commercial uses in historical resources with limited off-street parking as approved by Council and consistent with EGMC Section 23.58.060.
 5. Additional Incentives. The Historic Preservation Committee may recommend additional historic preservation incentives to the City Council, to be adopted and incorporated into this chapter by the City Council.