



## **HISTORIC SITE PRESERVATION BOARD STAFF REPORT**

**DATE:** October 9, 2018 NEW BUSINESS

**SUBJECT:** THE CITY OF PALM SPRINGS FOR AMENDMENTS TO CHAPTER 8.05 OF THE PALM SPRINGS MUNICIPAL CODE RELATIVE TO PROCEDURES FOR ALTERATION AND DEMOLITION OF HISTORIC STRUCTURES, AND GENERAL REVISIONS TO HISTORIC PRESERVATION STANDARDS (CASE 5.1454 ZTA). (FF)

**FROM:** Department of Planning Services

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### SUMMARY:

This is a request for the Historic Site Preservation Board (HSPB) to consider changes to Chapter 8.05 of the Palm Springs Municipal Code (PSMC) relative to the procedures for alterations and demolition of historic buildings, and to make other general revisions to historic preservation standards. The draft ordinance has been developed and reviewed by the Ad Hoc HSPB Demolition Subcommittee, in conjunction with representatives from the Ad Hoc Planning Commission Demolition Subcommittee.

### RECOMMENDATION:

Recommend approval of the draft ordinance to the City Council.

### ANALYSIS:

#### Ad Hoc HSPB Demolition Subcommittee:

The HSPB appointed an Ad Hoc HSPB Demolition Subcommittee (Burkett, Hays, La Voie) earlier this year to work with staff in developing revisions to the City's procedures for issuing demolition permits. The subcommittee was tasked with working on two key issues:

- Establish a requirement that entitlements be in place prior to issuance of demolition permits; and
- Revise the current process for demolition and alterations to historic structures.

The subcommittee held five meetings between May 2018 and September 2018, and were joined by members of the Ad Hoc Planning Commission Demolition Subcommittee (Donenfeld, Moruzzi). The subcommittee members worked with staff in reviewing ordinances from other cities, developing procedures and standards, and drafting language for the proposed ordinance revisions. A copy of the draft ordinance is included as Attachment #2 to this report.

*Entitlement Required:*

The first task of the subcommittee was to establish a requirement that demolition should not occur until after an entitlement has been granted for a new building on the property. Section 8.05.140(3)(b) of the draft ordinance proposes the following process for any building over 35 years of age:

1. The applicant would be required to submit and receive approval of a demolition permit application from the HSPB;
2. Upon approval of the demolition permit application by the HSPB, the applicant would need to receive entitlement approval for any new building or development and have building permits in place before the City could issue the approved demolition permit.

Requiring both an entitlement and the issuance of a building permit helps to ensure that sites do not remain vacant for an extended period of time before new construction commences. Please note that the zoning code will also need to be amended to include this modification; it is anticipated that the zoning code amendment will be processed prior to the end of the calendar year.

*Modifications to the Demolition Process:*

The second task of the subcommittee was to modify the existing demolition procedures to ensure that significant alterations are subject to a review process. Based on the discussion and input of the subcommittee, it is proposed that a definition for the term demolition be adopted as follows:

*“Demolition” means, for all structures located within the city over 35 years of age, any of the following:*

- A. *The removal of (i) twenty-five (25) percent or more of the lineal footage of the elevation(s) of the building or structure (including site and garden walls) facing a public street or right-of-way (or a street-facing elevation if the parcel is a through lot or landlocked), or (ii) fifty (50) percent or more of the lineal footage of all exterior elevation(s) of the building or structure;*
- B. *The enclosure and/or alteration (i.e., new window and/or window relocation) of (i) twenty-five (25) percent or more of the lineal footage of the elevation(s) of the building or structure (including site or garden walls) facing a public street or right-of-way (or a street-facing elevation if the parcel is a through lot or landlocked), or (ii) more than*

*50 percent of the lineal footage of all exterior elevation(s) of the building or structure, so that they no longer function as exterior elevations(s) of the building or structure;*

- C. *The removal of fifty (50) percent or more of the cumulative area of the building or structure footprint.*
- D. *The Director shall have the authority to render determinations as to whether this definition applies to a particular project and a demolition permit is, therefore, required.*

Based on this new definition, any significant alterations (as defined above) to a Class 3 historic building would be required to be reviewed and approved by the HSPB. This will eliminate previous issues with major alterations that have resulted in the loss of historic resources that may have qualified for designation.

*General Changes to PSMC Chapter 8.05:*

The following section of this report details other general changes that are proposed to Chapter 8.05 of the code:

1. **Historic Site:** The term “historic site” has been modified to “historic resource,” so as to avoid confusion in the designation process. A historic resource may be any of the following:
  - **Site:** A parcel of property, including any natural features, landscape/hardscape features, and any buildings thereon.
  - **Structure:** A non-habitable construction, such as a bridge, wall or tower.
  - **Building:** A habitable construction, such as a house, commercial building, etc.
  - **Object:** A decorative construction, such as a statue, sign, or archway.
2. **Class 1 Historic Resource:** The criteria for designation of a Class 1 historic resource has been expanded to include an assessment for historical integrity, in accordance with the guidelines established in the Secretary of the Interior’s Standards. Class 1 historic resources will now become equivalent to “Landmark” status used by other California municipalities.
3. **Class 2 Historic Resource:** The Class 2 historic resource category has been expanded to include structures of significance that may not qualify for Class 1 designation due to a loss of integrity. Class 2 historic resources will become equivalent to “Structure of Merit” status used by other California municipalities.
4. **Class 3 Historic Resource:** The age of a Class 3 historic resource has been revised from “any building constructed prior to 1969” to “any building over 35 years of age.” This eliminates the need to revise Chapter 8.05 on a periodic basis to establish a new date for Class 3 buildings.
5. **Historic Preservation Officer:** Chapter 8.05 has been modified to include the

designation of a Historic Preservation Officer (HPO), a City staff person tasked with administering the historic preservation program for the City of Palm Springs. The City Council added an Associate Planner position to the Department of Planning Services for Fiscal Year 2018-19, with the intent that the position will be primarily dedicated to historic preservation functions.

6. **Historic District Designation Procedures:** The current ordinance does not specify procedures or criteria for the designation of historic districts. Using other ordinances as a model, it is proposed that Chapter 8.05 be modified to include a neighborhood meeting and outreach process, and to establish criteria for the designation of districts. In addition, it is proposed that definitions for “contributing resource” and “non-contributing resource” be adopted to further assist in administering alterations and new construction within a historic district.
7. **Certificate of Approval:** The term “certificate of approval” has been modified to “Certificate of Appropriateness,” consistent with the terminology used by other California cities.
8. **Review Criteria – Certificate of Appropriateness:** Chapter 8.05 does not currently have defined criteria for reviewing alterations to historic resources; criteria have been added to assist staff and HSPB members in making findings for approval of alterations.
9. **Maintenance Requirements for Historic Resources:** While the municipal code and zoning code have general standards for property maintenance, it is proposed that specific standards be added to address maintenance requirements for historic resources. The proposed standards are incorporated as Section 8.05.140 of the draft ordinance.
10. **Violations:** Based on input from the HSPB subcommittee, Chapter 8.05 has been modified to include penalties for violations of the preservation ordinance, including alteration/demolition work without permits, and failure to adequately maintain a historic resource.
11. **Historic Preservation on Tribal Lands:** With the recent adoption of the Tribal Historic Preservation Ordinance (Ordinance #37) by the Agua Caliente Band of Cahuilla Indians (“Tribe”), and the accompanying adoption of an amended and restated Land Use Contract between the Tribe and the City of Palm Springs, it is proposed that Chapter 8.05 be amended to identify jurisdiction and procedures for historic preservation within the boundaries of the reservation. In accordance with Ordinance #37, the Tribe will maintain jurisdiction over historic designation on Tribal Trust and Allotted Trust Lands, but would allow the City to designate properties on parcels that are On-Reservation Fee Lands after review and determination by Tribal staff.



Impacts to Staffing/HSPB Review:

The proposed revisions to the alteration and demolition process may dramatically increase the number of applications that require review and approval by the HSPB, as well as staff time necessary to process the applications. While it is difficult to estimate the number of applications that would be routed to the Historic Preservation Officer (HPO) and HSPB for review, a review of the monthly construction statistics from the Building & Safety Department may help provide a guide. The following table lists the number of permits issued for additions and alterations to existing buildings (residential, commercial and industrial) for 2017 and 2018:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
2017	24	33	36	30	30	38	36	31	31	39	28	39	395
2018	47	38	23	34	41	31	28	35	34	--	--	--	311

Source: Building & Safety Department Monthly Report of Construction Activity

In reviewing the numbers above, it is important to note that:

- Some of the permits listed above are for alterations and additions to buildings that are less than 35 years old (the proposed limit for Class 3 historic buildings); and
- Some of the permits are for work that would not rise to the level of review by the HSPB.

Consequently, it is estimated that only a percentage of the permits issued above would require review by the HPO or HSPB. However, the numbers do suggest that an additional HSPB meeting may be required each month to handle the additional workload, and that certain review procedures and support duties would need to be streamlined so that the HPO would be able to process applications in a timely manner.

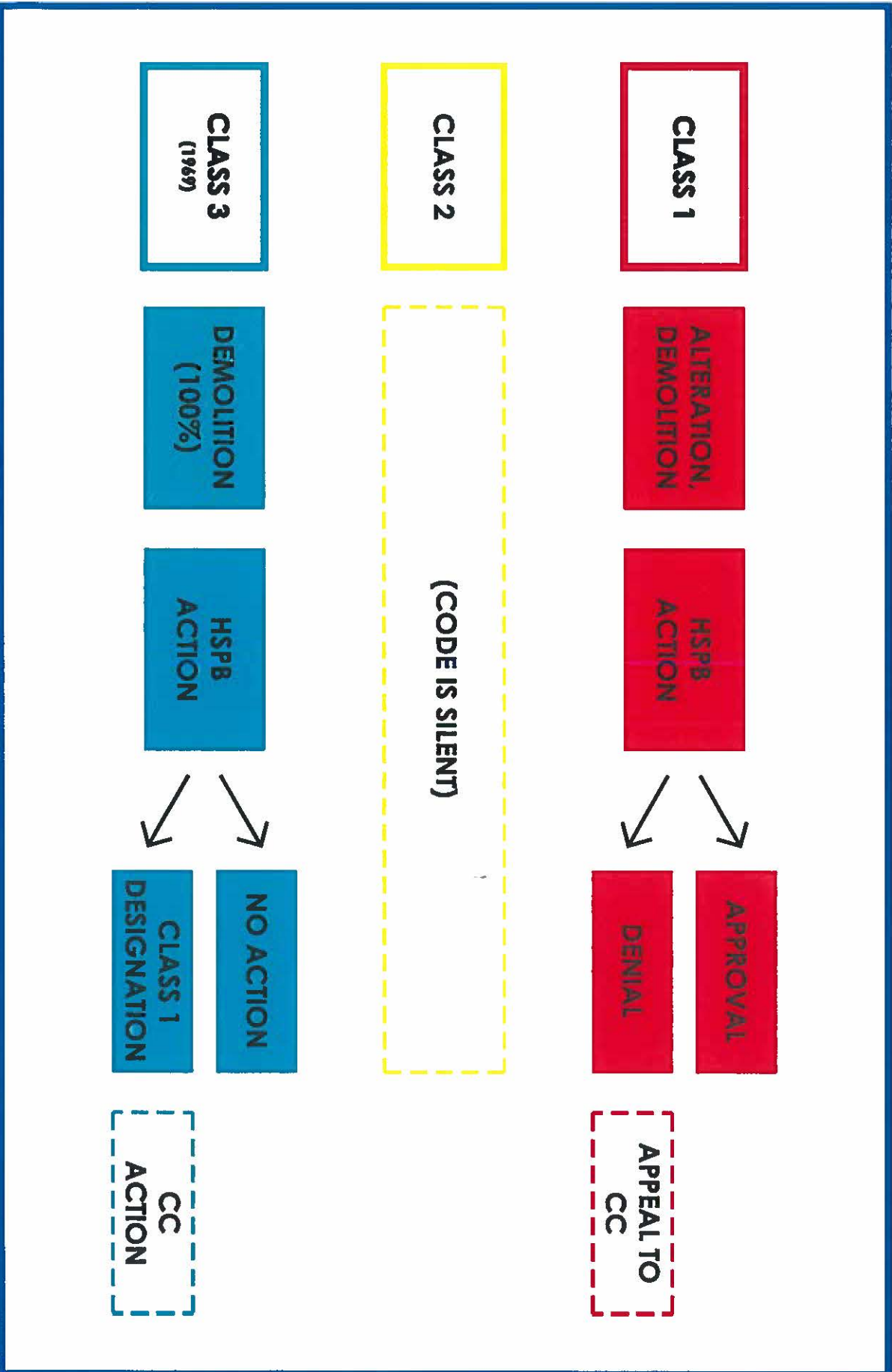
CONCLUSION:

The proposed modifications to Chapter 8.05 of the municipal code will assist in protecting potential historic resources, clarify procedures for designation, clarify procedures and criteria for alterations to historic resources, and assist in strengthening historic preservation practices. While the proposed ordinance will require additional staff resources and participation of HSPB members, it will assist in implementing the historic preservation goals of the City of Palm Springs.

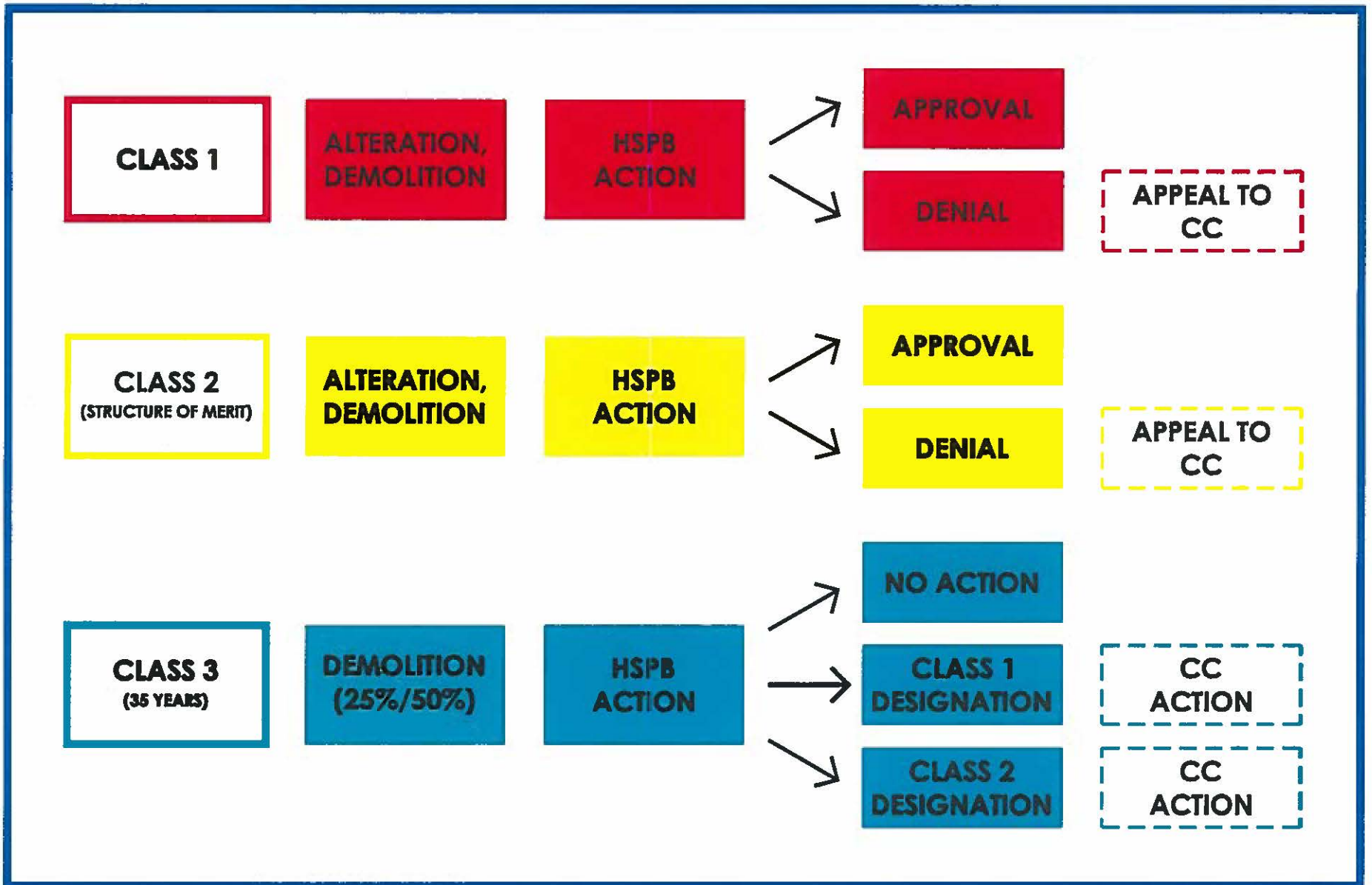
  
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Flinn Fagg, AICP  
Director of Planning Services

ATTACHMENTS:

1. Graphics – Existing and Proposed Process
2. Draft Ordinance



**CURRENT PROCESS**



## PROPOSED PROCESS

## **Chapter 8.05 Historic Preservation**

### **Article I: General Provisions**

**8.05.010 Purpose and Authority.** This chapter is adopted pursuant to the authority of Government Code Section 37361 for the purpose of preserving areas and specific buildings of the city which reflect elements of its cultural, social, economic, political, architectural and archaeological history. This chapter is intended to stabilize and improve buildings, structures or areas which are considered to be of historical, architectural, archaeological or ecological value, to foster civic beauty, to strengthen the local economy and to promote the use of historic resources for the education and welfare of the citizens.

**8.05.020 Definitions.** For the purposes of this chapter, the following terms have the meanings ascribed to them:

“Alteration” means any exterior change or modification to a historic resource. For the purposes of this chapter, an alteration shall include, but not be limited to, exterior changes to or modification of a historic resource, including the architectural details or visual characteristics such as paint color and surface texture, grading, surface paving, new buildings or structures, a structural addition, cutting or removal of trees and other natural features, disturbance of archaeological sites or areas, and the placement or removal of any exterior objects such as signs, plaques, light fixtures, street furniture, walls, fences, steps, planting and landscape accessories affecting the exterior visual qualities of the historic resource. The term “alteration” shall not include the reconstruction or replacement of any feature of a historic resource with a suitable substitute on a “like for like” basis, as determined by the Director.

“Building” means a construction that is completely roofed and which is built and maintained to shelter any form of human activity, such as a house.

“Character-defining features” means the distinguishing architectural and aesthetic characteristics of a historic resource, or those generally found throughout a historic district, which fulfill the criteria for historic designation.

“Class 1 historic resource” means any site, structure, building or object designated by resolution of the City Council as having historic, architectural, archaeological, cultural or aesthetic significance that contributes to an understanding and awareness of the community’s history. A Class 1 historic resource may include a structure, building or object on the site, or may include all or a portion of the site itself.

“Class 2 historic resource” means a site, structure, building or object that does not qualify for Class 1 historic resource designation under this chapter, but is otherwise deserving of official recognition as having historic, architectural, archaeological,



cultural or aesthetic significance and is designated as a Class 2 historic resource by resolution of the City Council. A Class 2 historic resource may lack some aspects of historic integrity, or may include a site where the structure, building or object of historic significance has been lost, damaged or removed.

“Class 3 historic building” means any building over 35 years of age, or whose age cannot be determined.

“Contributing resource” means a site, structure, building or object within a historic district which individually meets the criteria for historic designation, or contributes generally to the overall distinctive character of a historic district and is united historically or visually by plan or physical development.

“Demolition” means, for all structures located within the city over 35 years of age, any of the following:

- A. The removal of (i) twenty-five (25) percent or more of the lineal footage of the elevation(s) of the building or structure (including site and garden walls) facing a public street or right-of-way (or a street-facing elevation if the parcel is a through lot or landlocked), or (ii) fifty (50) percent or more of the lineal footage of all exterior elevation(s) of the building or structure;
- B. The enclosure and/or alteration (i.e., new window and/or window relocation) of (i) twenty-five (25) percent or more of the lineal footage of the elevation(s) of the building or structure (including site or garden walls) facing a public street or right-of-way (or a street-facing elevation if the parcel is a through lot or landlocked), or (ii) more than 50 percent of the lineal footage of all exterior elevation(s) of the building or structure, so that they no longer function as exterior elevations(s) of the building or structure;
- C. The removal of fifty (50) percent or more of the cumulative area of the building or structure footprint.
- D. The Director shall have the authority to render determinations as to whether this definition applies to a particular project and a demolition permit is, therefore, required.

“Department” means the Department of Planning Services, unless otherwise specified herein.

“Director” means the Director of the Department of Planning Services, unless otherwise specified herein.

“Historic district” means any delineated geographic area of the city of Palm Springs containing a number of buildings, structures, natural features or sites having historic, architectural, archaeological, cultural or aesthetic significance and

designated by the City Council as a historic district under the provisions of this chapter.

"Historic resource" means any site, structure, building or object which has been designated Class 1 or Class 2 status, or any identified contributing resource within a designated historic district.

"Non-contributing resource" means a site, structure, building or object within a historic district which does not individually meet the criteria for historic designation, or does not contribute generally to the overall distinctive character of a historic district.

"Object" means a construction primarily artistic in nature or relatively small in scale, such as a sign or a statue.

"Site" means a location with a defined geographic boundary, and any natural or constructed features thereon.

"Structure" means a construction made for purposes other than sheltering human activity, such as a bridge, wall, or tower.

## **Article II: Historic Site Preservation Board and Staff**

**8.05.030 Historic Site Preservation Board – Established.** There is hereby established the Historic Site Preservation Board (HSPB). The principal roles of the HSPB are (i) to issue decisions regarding Certificates of Appropriateness to alter or demolish designated historic resources; (ii) to make recommendations to the City Council regarding the designation of historic resources; (iii) to advise the City Council and/or Planning Commission in all matters concerning historic preservation; and (iv) educate and inform the community on matters pertaining to historic preservation.

**8.05.040 Historic Site Preservation Board – Membership and Qualifications.** The HSPB shall consist of seven members, who shall be appointed by the City Council. Each member must have a demonstrated interest in or knowledge of the cultural, socioeconomic, architectural or archaeological history of the area, either through experience, training, education, or occupation.

**8.05.050 Historic Site Preservation Board – Organization and Meetings.**

A. Term of Members. The term of each board member shall be in accordance with the provisions of Chapter 2.06 ("Boards and Commissions – General Provisions") of the Palm Springs Municipal Code.

- B. Attendance and Vacancies. Board members are subject to the attendance requirements as outlined in Chapter 2.06 of the Palm Springs Municipal Code. The chair of the board shall notify the City Council of any vacancy.
- C. Quorum. Four (4) members of the HSPB shall constitute a quorum for the purpose of conducting business. A majority vote of those present shall be necessary to approve any item of business.
- D. Appointment of Officers. The HSPB shall select a chair and vice-chair from among its members. The chair and vice-chair shall serve for a term of one year and until a successor of each is selected and takes office. The secretary of the HSPB shall be the Historic Preservation Officer.
- E. Adoption of Rules. The HSPB shall adopt rules of procedure for the transaction of its business. The rules of procedure shall address the time and occurrence of regular meetings, procedures for scheduling special meetings, procedures for transaction of business items, duties of officers, and any other procedures as may be necessary.
- F. Records. The HSPB shall maintain a public record of its resolutions, transactions, findings, and determinations, and shall report its business to the City Council as may be requested.

**8.05.060 Historic Preservation Officer.** The Director shall appoint a Historic Preservation Officer (HPO), who shall be a City employee or retained consultant, and not an appointed member of the HSPB. The HPO shall have a demonstrated interest in historic preservation and be a qualified professional in one or more pertinent fields such as historic preservation, architecture, urban design, archaeology, landscape architecture, or land use planning. The duties of the HPO shall include but not be limited to the following:

- A. Serving as the Secretary to the HSPB, facilitating its efforts, and, with other City staff as necessary, providing administrative support.
- B. Accepting and reviewing applications as identified in this chapter.
- C. Acting as an intermediary between the HSPB and City departments.
- D. Providing technical and background information to the HSPB and members of the public, as required.
- E. Acting as the approval authority concerning applications for new construction, alteration, demolition or removal of elements associated with a historic resource, when the proposed work is, in the HPO's judgment, minor in nature and there is a need to act immediately to protect life or

property. The review and decision-making process shall be in accordance with procedures and criteria outlined herein.

- F. Reporting to the HSPB any action taken pursuant to Paragraph (E) of this Section.
- G. Preparing annual reports of HSPB activities to be submitted to the State Office of Historic Preservation (OHP) and made available to the public.
- H. Maintaining a register of designated historic resources and historic districts.
- I. Processing, reviewing, administering and maintaining all Mills Act contracts entered into by the City.

### **Article III: Procedures for Designation of Historic Resources and Historic Districts**

**8.05.070 Procedures and Criteria for the Designation of Class 1 and Class 2 Historic Resources.** The City Council may designate Class 1 and Class 2 historic resources if they demonstrate exceptional historical significance pursuant to the criteria established in this Section.

- A. Application and Documentation.
  - 1. Owner Application. The designation of a historic resource may be made upon application by the owner or owner's authorized representative of the historic resource. A pre-application conference with the HPO is required prior to submitting an application. Application shall be made to the HPO on such forms as may be established by the Department, and the application shall be accompanied by such fees as may be established by the City Council. Applications shall be signed and notarized by the owner(s) of record of the site, structure, building or object for which the designation is sought.
  - 2. City Application. The designation of a historic resource may also be made upon application by an authorized representative of the City. Applications shall be signed by the authorized City representative.
  - 3. Documentation. An application for historic resource designation shall include the following items:
    - a. A report that describes how the proposed site, structure, building or object is eligible and appropriate for designation under this Section. The report shall include at a minimum:

- (i) Photographs of the exterior of the proposed site, structure, building or object;
  - (ii) Information about the architect(s), designer(s), planner(s), and/or developers of the proposed site, structure, building or object;
  - (iii) Date and method of construction of any structure, building or object upon the proposed site;
  - (iv) A detailed assessment of the character-defining features of the site, structure, building or object, such as materials, architectural or landscape elements, architectural style, and other relevant descriptors;
  - (v) Ownership and address history; and
  - (vi) List of historic resource records used to compile the report, including building permit information, publications, and other similar historic records.
- b. An assessment of the integrity of the site, structure, building or object, relevant to its design, materials, workmanship, location, setting, feeling, and association, as established in the Secretary of the Interior's Standards.
  - c. Letter of property owner consent, or in the case of a City application, a letter of authorization to file the application on behalf of the City.
  - d. Any other documentation or research as may be deemed necessary by the HPO to determine the qualifications of the site, structure, building or object for historic designation.

**B. Procedure.**

1. **HPO Analysis.** Upon receipt of a completed application package, the HPO shall compile a staff report concerning the site, structure, building or object proposed for historic designation. The report shall address the location, condition, significance and integrity of the historic features; identify the character-defining features; and provide a recommendation based on an evaluation of the application as to whether or not the site, structure, building or object should be historically designated.



2. **Public Hearing Notice Requirements.** Applications for historic designation shall be reviewed at public hearings of the HSPB and City Council. Public hearings shall be noticed in accordance with Section 94.09.00 ("Public Hearing Procedure") of this Code.
  3. **Failure to Receive Notice.** The failure of any person or entity to receive notice given pursuant to this Section shall not constitute grounds for any court to invalidate the actions of the City.
  4. **HSPB Public Hearing and Recommendation.** An application for historic designation shall be reviewed at a public hearing of the HSPB. The HSPB shall consider the HPO's report concerning an application, along with any evidence or testimony offered at the public hearing. The HSPB shall evaluate the application and make findings with reference to the applicable criteria set forth in subsection (C) below and make a recommendation to the City Council. The HSPB may recommend designation as proposed; designation with modifications to the proposal; or recommend denial of designation. A resolution shall be adopted reflecting the HSPB's action, its findings relative to the criteria for designation, a list of the historic character-defining features of the site, structure, building or object, and any applicable conditions imposed. Any recommendation by the HSPB for designation shall be void if the designation has not been approved by the City Council within one (1) year after the HSPB's recommendation.
  5. **City Council Public Hearing.** Upon receipt of a recommendation from the HSPB, the City Council shall hold a public hearing to consider the application. The public hearing shall be noticed in accordance with the requirements listed in Paragraph (2) above. The City Council shall consider the HPO's report, the recommendation of the HSPB, and any evidence or testimony offered at the public hearing, and shall evaluate the application and make findings with reference to the applicable criteria set forth in subsection (C) below. The City Council may approve designation as proposed; approve designation with modifications; deny designation; or remand the application to the HSPB for further study and proceedings. A resolution shall be adopted reflecting the City Council's action, its findings relative to the criteria for designation, a list of the historic character-defining features of the site, structure, building or object, and any applicable conditions imposed. The resolution shall be recorded with the office of the county recorder.
- C. **Criteria and Findings.** In considering applications for Class 1 or Class 2 historic designation, the HSPB and City Council shall evaluate the application and make findings for conformance with the following criteria:

1. **Criteria for the Designation of Class 1 Historic Resources.** A site, structure, building or object may be designated as a Class 1 historic resource, provided both of the following findings are met:
  - a. The site, structure, building or object exhibits exceptional historic significance and meets one or more of the criteria listed below:
    - (i) The resource is associated with events that have made a meaningful contribution to the nation, state or community; or
    - (ii) The resource is associated with the lives of persons who made a meaningful contribution to national, state or local history; or
    - (iii) The resource reflects or exemplifies a particular period of national, state or local history; or
    - (iv) The resource embodies the distinctive characteristics of a type, period or method of construction; or
    - (v) The resource presents the work of a master builder, designer, artist, or architect whose individual genius influenced his age, or that possesses high artistic value; or
    - (vi) The resource represents a significant and distinguishable entity whose components may lack individual distinction; or
    - (vii) The resource has yielded or may be likely to yield information important to national, state or local history or prehistory.
  - b. The site, structure, building or object retains its integrity of design, materials, workmanship, location, setting, feeling, and association, as established in the Secretary of the Interior's Standards.
2. **Criteria for the Designation of Class 2 Historic Resources.** A site, structure, building or object may be designated as a Class 2 historic resource, provided the site, structure, building or object exhibits significance and meets one or more of the criteria listed in subsection (C)(1)(a) above. A Class 2 historic resource shall not be required to

meet the findings for integrity as described in subsection (C)(1)(b) above.

**8.05.080 Class 3 Historic Buildings.** All buildings that are over thirty-five (35) years in age are hereby defined by this ordinance as a Class 3 historic building and no formal action by the HSPB or City Council is required. All Class 3 historic buildings are subject to the regulations contained in Article IV of this chapter. Any Class 3 historic building may be designated as a Class 1 or Class 2 historic resource, subject to the procedures set forth in Section 8.05.070.

**8.05.090 Procedures and Criteria for Designation of Historic Districts.** The City Council may designate historic districts if the district demonstrates exceptional historical significance pursuant to the criteria established in this Section.

A. Application and Documentation.

1. Application. The designation of a historic district may be made upon application by a member of a recognized Neighborhood Organization, or by an authorized representative of the district under consideration. A pre-application conference with the HPO is required prior to submitting an application. Application shall be made to the HPO on such forms as may be established by the Department for that purpose, and the application shall be accompanied by such fees as may be established by the City Council. Applications shall be signed and notarized by the board member of the Neighborhood Organization or by an authorized representative as described above. If the proposed district has multiple owners, the applicant shall provide the City with a list of all persons and entities with an ownership interest in the proposed district if not all owners have signed the application.
2. City Application. The designation of a historic district may also be made upon application by an authorized representative of the City. The application shall be signed by the authorized City representative.
3. Documentation. An application for designation of a historic district shall also be accompanied by the following items:
  - a. A report that describes the manner in which the district is eligible and appropriate for designation under this Section. The report shall include at a minimum:
    - (i) A map of the proposed district boundaries, identifying all potentially contributing resources, and including a list of all parcel numbers, addresses, and ownership within the proposed district boundaries;

- (ii) Photographs of all potentially contributing resources within the proposed district boundaries;
  - (iii) Information about the architect(s), designer(s), planner(s), and/or developers of potentially contributing resources within the district;
  - (iv) Dates and methods of construction as may be applicable;
  - (v) Identification of the period of significance of the proposed district which the contributing resources collectively represent;
  - (vi) Distinctive characteristics such as historic materials, architectural or landscape elements, and architectural style(s) of structures, buildings or objects; and
  - (vii) List of historic resource records used to compile the report, including building permit information, publications, and other similar historic records.
- b. Proposed historic district design guidelines.
  - c. Letters or forms demonstrating written approval of the historic district designation from no less than fifty-one percent (51%) of all property owners within the boundaries of the proposed district, or in the case of a City application, a letter of authorization to file the application on behalf of the City.

**B. Procedure.**

- 1. **Neighborhood Outreach and Meetings.** A minimum of three public meetings shall be held prior to consideration of the proposed historic district designation by the HSPB and City Council. The meetings shall be attended by City staff, in addition to the board members of the recognized Neighborhood Organization or authorized district representatives, and shall be held in a location convenient to residents within the proposed district. The meetings shall discuss:
  - a. The historic district designation process;
  - b. The proposed plan for historic district designation, including proposed district boundaries, and the requirements that would

- apply to contributing and non-contributing resources within the district;
- c. Findings of any historic surveys and studies; and
  - d. Proposed historic district design guidelines.
2. **HPO Analysis.** Upon receipt of a completed application package, the HPO shall compile a staff report concerning the district proposed for historic designation. The report shall address the district boundaries; the location, condition, significance and integrity of the potentially historic resources within the district; and provide an evaluation of the application as to whether or not the district should be historically designated.
  3. **Public Hearing Notice Requirements.** Consideration of applications for designation of a historic district shall be reviewed at public hearings of the HSPB and City Council. Public hearings shall be noticed in accordance with Section 94.09.00 ("Public Hearing Procedure") of this Code.
  4. **Failure to Receive Notice.** The failure of any person or entity to receive notice given pursuant to this Section shall not constitute grounds for any court to invalidate the actions of the City.
  5. **HSPB Public Hearing and Recommendation.** An application for historic district designation shall be reviewed at a public hearing of the HSPB. The HSPB shall consider the HPO's report concerning the application, along with any evidence or testimony offered at the public hearing, and shall evaluate the application and make findings with reference to the applicable criteria set forth in subsection (C) below and make a recommendation to the City Council. The HSPB may recommend designation as proposed; designation with modifications to the proposal; or recommend denial of designation. A resolution shall be adopted reflecting the HSPB's action, its findings relative to the criteria for designation, a list of contributing and non-contributing resources within the proposed district, and any applicable conditions imposed. Any recommendation by the HSPB for designation shall be void if the designation has not been approved by the City Council within one (1) year after the HSPB's recommendation.
  6. **City Council Public Hearing.** Upon receipt of a recommendation from the HSPB, the City Council shall hold a public hearing to consider the application. The public hearing shall be noticed in accordance with the requirements listed in Paragraph (3) of this Section. The



City Council shall consider the HPO's report, the recommendation of the HSPB, and any evidence or testimony offered at the public hearing, and shall evaluate the application and make findings with reference to the applicable criteria set forth in subsection (C) below. The City Council may approve designation as proposed; approve designation with modifications; deny designation; or remand the application to the HSPB for further study and proceedings. A resolution shall be adopted reflecting the City Council's action, its findings relative to the criteria for designation, a list of the contributing and non-contributing resources within the proposed district, the inclusion of any design guidelines for the district as an attachment to the resolution, and any applicable conditions imposed. The resolution shall be recorded with the office of the county recorder.

If owners of twenty percent (20%) or more of the area of the parcels to be included in the proposed district protest the proposed historic district designation in writing, the City Council may only designate the district by vote of four-fifths (4/5) of the entire membership of the City Council. If any member of the City Council is unable to vote on an application because of a conflict of interest, the required number of favorable votes shall be no less than a majority of the entire membership of the City Council. A written protest is effective only if it is filed with the City Clerk prior to the close of the public hearing before the City Council.

- C. **Criteria and Findings.** In considering an application for designation of a historic district, the HSPB and City Council shall evaluate the application and make findings for conformance with the following criteria and a district may be designated provided the following findings are met:
1. The proposed district exhibits exceptional historic significance and meets one or more of the criteria listed below:
    - a. Is associated with events that have made a meaningful contribution to the nation, state or community; or
    - b. Is associated with the lives of persons who made a meaningful contribution to national, state or local history; or
    - c. Reflects or exemplifies a particular period of national, state or local history; or
    - d. Embodies the distinctive characteristics of a type, period or method of construction; or

- e. Presents the work of a master builder, designer, artist, or architect whose individual genius influenced his age, or that possesses high artistic value; or
  - f. Represents a significant and distinguishable entity whose components may lack individual distinction; or
  - g. Has yielded or may be likely to yield information important to national, state or local history or prehistory.
2. The proposed district:
- a. Includes a majority of contributing resources which individually meet the criteria in Paragraph (1) of this Section, as well as other structures, buildings, or archaeological sites which contribute generally to the overall distinctive character of the area and are related historically or visually by plan or physical development;
  - b. Includes non-contributing properties or vacant parcels only to the extent necessary to establish appropriate, logical or convenient boundaries.

**8.05.100 Effect of Designation.** The designation of Class 1 historic resources, Class 2 historic resources, and historic districts shall be indicated on the City's official zoning map. Alteration of contributing resources within a designated historic district shall be subject to the same regulations as Class 1 or Class 2 historic resources under this chapter. The use and development of property affected by a designation shall be governed by Article IV of this Section and any applicable design guidelines adopted hereunder, as well as by the regulations pertaining to the underlying zoning classification for the property, any other provisions of the Municipal Code, the General Plan and any applicable specific plan.

#### **Article IV: Rules and Regulations for Development of Historic Resources and within Historic Districts**

##### **8.05.110 Alteration of Class 1 and Class 2 Historic Resources – Certificate of Appropriateness.**

- A. Certificate of Appropriateness Required. Prior to the alteration of any Class 1 or Class 2 historic resource, or of a contributing resource within a designated historic district (collectively "historic resource"), the applicant shall obtain a Certificate of Appropriateness for such alteration. A Certificate of Appropriateness shall be required prior to the issuance of any building, zoning or other development permit which is required for such

alteration. Approval of a Certificate of Appropriateness indicates conformance with the historic preservation provisions of this chapter only, and does not constitute or imply project approval by any City department or other approval authority having jurisdiction with respect to other development permits.

B. Exceptions. No Certificate of Appropriateness shall be required for the following activities, as determined by the HPO:

1. Standard maintenance or repair work to a historic resource;
2. The replacement or reconstruction of any exterior feature of a historic resource with a suitable substitute on a "like for like" basis;
3. Modifications to the interior of a historic resource, except as otherwise required under this section for public buildings;
4. The repainting of a historic resource, where such repainting work will not impact the character-defining features of the historic resource and is generally the same color as presently exists or as existed historically;
5. Alterations to non-character defining features of the historic resource;
6. Minor alterations to signage, where the proposed alteration is consistent with a sign program for the site which has been previously approved under a Certificate of Appropriateness;
7. The alteration of a historic resource's features which have been previously approved under a Certificate of Appropriateness.

C. Approval Authority. The HPO or HSPB may issue a Certificate of Appropriateness as follows:

1. Minor Alterations. A Certificate of Appropriateness may be issued by the HPO for the following minor alterations, where such alterations do not materially impair the historic resource:
  - a. The alteration of less than twenty-five (25) percent of the lineal footage of the elevation of a historic resource, where such elevation does not face a public street (or street-facing elevation if the parcel is a through lot or landlocked);
  - b. The alteration of non-habitable spaces, such as a garage or a covered porch, where such alteration is less than twenty-five

(25) percent of the lineal footage of the elevation, and where such elevation does not face a public street (or a street-facing elevation if the parcel is a through lot or landlocked);

- c. Minor alterations to landscape, hardscape, perimeter walls, or other similar site features which have been identified as character-defining features of the historic resource;
- d. The addition of accessory structures and buildings, where they are not visible from a public street, and where such structures or buildings will not impact the character-defining features of the historic resource;
- e. Any similar minor alterations which, in the judgment of the HPO, will have no impact to the character-defining features of the historic resource.

Any minor alteration which, in the judgment of the HPO, may (i) significantly impact the character-defining features of a historic resource; or (ii) impact the integrity of a historic resources; or (iii) materially impair the historic resource may be referred to the HSPB for review and action.

- 2. Major Alterations. A Certificate of Appropriateness must be issued by the HSPB as the approval authority for any other alteration to a historic resource not identified in paragraph (1) above.

D. Application and Procedure.

- 1. Application. The application for a Certificate of Appropriateness may be made upon application by the owner of the historic resource or the owner's authorized representative upon such forms as may be established by the Department for that purpose, and shall be accompanied by such fees as may be established by the City Council. Applications shall be signed by the owner(s) of record of the historic resource for which the Certificate of Appropriateness is sought.
- 2. Documentation. An application for a Certificate of Appropriateness shall be accompanied by the following items, which detail the proposed alteration:
  - a. Photographs of each exterior side of the historic resource to be altered;
  - b. Drawings for conceptual review of any alteration;

- c. Material samples and/or manufacturer's brochures which show and describe the materials to be used in the alteration;
- d. A site plan showing the location of the proposed alteration;
- e. If signage is part of the proposed work, drawings showing the specifications for the signage and demonstrating conformance to the City's sign ordinance or approved sign program ; and
- f. Any other information which the HPO deems necessary to accurately describe the scope of the alteration proposed.

3. Procedure.

- a. HPO Analysis. Upon receipt of a completed application, the HPO shall review the proposed alteration for conformance to the criteria established in Paragraph (E) of this Section.
- b. HPO Approval. For minor alteration applications, the HPO shall act as the approval authority. The HPO shall issue a determination on the Certificate of Appropriateness upon completion of a review of the application, and shall provide the applicant with notice of such determination.
- c. HSPB Meeting and Approval. An application for a major alteration shall be reviewed at a public meeting of the HSPB. The HPO shall prepare a report and recommendation for review by the HSPB, providing an analysis as to whether or not the proposed alteration meets the criteria established in subsection (E) below. The HSPB shall consider the HPO's report, along with any evidence or testimony offered at the public hearing and shall evaluate the application and make findings with reference to the criteria set forth in subsection (E) below. The HSPB may approve the application as proposed; approve the application with modifications; or deny the application. A resolution shall be adopted reflecting the HSPB's action, its findings relative to the criteria in subsection (E) below, and any applicable conditions imposed. The HPO shall provide the applicant with notice of the action taken, along with the findings made and any conditions or modification imposed by the HSPB.



- E. **Criteria and Findings.** In considering a Certificate of Appropriateness application, the approval authority shall evaluate the application and make findings for conformance to the following criteria:
1. That the proposed alteration does not significantly impact or materially impair the character-defining features of the historic resource as listed in the resolution for historic designation, or, where a character-defining feature may be impacted, the proposed alteration minimizes that impact as much as possible;
  2. That the proposed alteration will assist in restoring the historic resource to its original appearance where applicable, or will substantially aid its preservation or enhancement as a historic resource;
  3. That any additions to the historic resource are consistent with the massing, proportions, materials, and finishes of the existing historic resource, and: (i) can be distinguished from the existing historic resource as may be appropriate; or (ii) are indistinguishable from the historic resource as may be appropriate, and where such alterations are clearly documented in the City's archival file for the historic resource as being non-original to the historic resource;
  4. That, in cases where Federal funds are to be utilized in financing the proposed alterations, the alterations are consistent with the Standards for the Treatment of Historic Properties, as put forth by the U.S. Secretary of the Interior.
- F. **Appeal.** An applicant may appeal the decision of the HPO or the HSPB on a Certificate of Appropriateness pursuant to the procedures listed in Section 8.05.190.

**8.05.120 Alteration or New Construction within a Historic District – Certificate of Appropriateness.**

- A. **Certificate of Appropriateness Required.** A Certificate of Appropriateness shall be required for the following activities within a historic district:
1. Alteration of a contributing resource within the historic district;
  2. New construction on an undeveloped site within a historic district;
  3. New construction proposed for a non-contributing resource within the historic district which increases the gross area of the building by at least twenty-five percent (25%) over the gross area of the structure or building at the time it was identified as a non-contributing resource;

4. Any alteration that may materially impair historic resources within district, as determined by the HPO.

A Certificate of Appropriateness shall be required prior to the issuance of any building, zoning or other development permit which is required for such work. Approval of a Certificate of Appropriateness indicates conformance with the historic preservation provisions of this chapter only, and does not constitute or imply project approval by any City department or other approval authority having jurisdiction with respect to other development permits.

- B. Exceptions. No Certificate of Appropriateness shall be required for the following activities, as determined by the HPO:

1. Alteration or new construction proposed for a non-contributing resource, where such alteration does not increase the gross area of the building by at least twenty-five percent (25%) over the gross area of the building at the time it was identified as a non-contributing resource;
2. Demolition of a non-contributing resource, except as otherwise required for a Class 3 historic resource (see section 8.05.140 below);
3. Standard maintenance or repair work to a contributing or non-contributing resource;
4. The replacement or reconstruction of any exterior feature of a contributing resource with a suitable substitute on a "like for like" basis, as determined by the Director;
5. Modifications to the interior of a contributing resource, except as otherwise required under this Section for public buildings;
6. The repainting of a contributing resource, where such repainting work will not impact the character-defining features of the historic district, and is consistent with any design guidelines that have been adopted for the historic district or is consistent with the color as existed historically;
7. Any alteration or replacement of features which have been previously approved under a Certificate of Appropriateness.

- C. Approval Authority. The HPO or the HSPB may issue a Certificate of Appropriateness as follows:

1. **Minor Alterations.** A Certificate of Appropriateness may be issued by the HPO for the following minor alterations, where such alterations do not materially impair historic resources within the district:
  - a. The alteration of less twenty-five (25) percent of the lineal footage of the elevation of a structure or building, where such elevation does not face a public street (or street-facing elevation if the parcel is a through lot or landlocked);
  - b. The alteration of non-habitable spaces, such as a garage or a covered porch, where such alteration is less than twenty-five percent (25%) of the lineal footage of the elevation, and where such elevation does not face a public street (or a street-facing elevation if the parcel is a through lot or landlocked);
  - c. Alterations to landscape, hardscape, perimeter walls, or other similar site features which have been identified as character-defining features of the historic district;
  - d. The addition of accessory buildings and structures, where they are not visible from a public street, and where such buildings and structures will not impact the character-defining features of the historic district or of a contributing resource within the district;
  - e. Any similar minor alterations which, in the judgment of the HPO, will have no impact to the character-defining features of the historic district or of a contributing resource within the district, and will not materially impair the historic resources therein.

Any minor alteration which, in the judgment of the HPO, may significantly impact or materially impair the character-defining features of the historic district or of a contributing resource within the district, may be referred to the HSPB for review and action.

2. **Major Alterations.** A Certificate of Appropriateness must be issued by the HSPB as the approval authority for any other alteration subject to this section.

**D. Application and Procedure.**

1. **Application.** The application for a Certificate of Appropriateness may be made upon application by the owner of the contributing or non-contributing resource or the owner's representative upon such forms as may be established by the Department, and shall be accompanied

by such fees as may be established by the City Council. Applications shall be signed by the owner(s) of record of the contributing or non-contributing resource for which the Certificate of Appropriateness is sought.

2. Documentation. An application for a Certificate of Appropriateness shall be accompanied by the following items, which detail the proposed alteration or construction work:

- a. Photographs of each exterior side of the structure or building to be altered;
- b. Drawings for conceptual review of any alteration or new construction work;
- c. Material samples and/or manufacturer's brochures which show and describe the materials to be used in the alteration or new construction;
- d. A site plan showing the location of the proposed alteration or new construction work;
- e. If signage is part of the proposed work, drawings showing the specifications for the signage and demonstrating conformance to the City's sign ordinance or approved sign program ; and
- f. Any other information which the HPO deems necessary to accurately describe the scope of alteration or new construction work proposed.

3. Procedure.

- a. HPO Analysis. Upon receipt of a completed application, the HPO shall review the proposed work for conformance to the criteria established in subsection (E) of this Section.
- b. HPO Approval. For minor alteration or new construction applications, the HPO shall act as the approval authority. The HPO shall issue a determination on the Certificate of Appropriateness upon completion of a review of the application, and shall provide the applicant with notice of such determination.
- c. HSPB Meeting and Approval. An application for major alteration shall be reviewed at a public meeting of the HSPB.

The HPO shall prepare a report and recommendation for review by the HSPB, providing an analysis as to whether or not the proposed alteration meets the criteria established in subsection (E) below. The HSPB shall consider the HPO's report, along with any evidence or testimony offered at the public meeting and shall evaluate the application and make findings with reference to the criteria set forth in subsection (E) below. The HSPB may approve the application as proposed; approve the application with modifications; or deny the application. A resolution shall be adopted reflecting the HSPB's action, its findings relative to the criteria in subsection (E) below, and any applicable conditions imposed. The HPO shall provide the applicant with notice of the action taken, along with the findings made and any conditions or modifications imposed by the HSPB.

- E. Criteria and Findings. In considering a Certificate of Appropriateness application, the approval authority shall evaluate the application and make findings for conformance to the following criteria:
1. That the proposed alteration does not significantly impact the character-defining features of the contributing resource or the historic district, as listed in the resolution for historic designation, or where a character-defining feature may be impacted, the proposed alteration minimizes that impact as much as possible;
  2. That the proposed alteration to a contributing resource will assist in restoring it to its original appearance where applicable, or will substantially aid its preservation or enhancement as a historic resource;
  3. That the proposed alteration to a non-contributing resource is consistent with the design guidelines for the historic district and will not materially impair the preservation or enhancement of character-defining features of the historic district;
  4. That any additions to a contributing resource are consistent with the massing, proportions, materials, and finishes of the existing historic resource, and: (i) can be distinguished from the existing historic resource as may be appropriate; or (ii) are indistinguishable from the historic resource as may be appropriate, and where such alterations are clearly documented in the City's archival file for the historic resource as being non-original to the historic resource;
  5. That the proposed alteration or new construction is consistent with any design guidelines adopted for the historic district;

6. That, in cases where Federal funds are to be utilized in financing the proposed alteration or new construction, the alteration or new construction is consistent with the Standards for the Treatment of Historic Properties, as put forth by the U.S. Secretary of the Interior.

#### **8.05.130 Demolition of Class 3 Historic Buildings.**

- A. Demolition Permit Required. Prior to any demolition of any Class 3 historic building, the applicant shall file a demolition permit application with the City, which shall be reviewed by the HSPB prior to issuance.
- B. Exceptions. HSPB review of a demolition permit application shall not be required where the demolition has been ordered by final court ruling, administrative order, or similar decision to abate a public nuisance or otherwise correct a violation of Federal, State or local law occurring in or on the structure or building.
- C. Application and Procedure.
  1. Application. A request for demolition of a Class 3 historic building may be made upon application by the owner or the owner's authorized representative upon such forms as may be established by the Department, and shall be accompanied by such fees as may be established by the City Council. Applications shall be signed by the owner(s) of record of the building for which the demolition permit is sought.
  2. Documentation. An application for demolition of a Class 3 historic building shall be accompanied by the following items, which detail the proposed demolition work:
    - a. Photographs of each exterior side of the building to be demolished;
    - b. Drawings that detail the floor plan and elevations of the building to be demolished, and showing the extent of the demolition work;
    - c. Historical data for the building to be demolished, including building permit history, identification of the architect or designer, identification of the builder/contractor, and former owners of the property;
    - d. An analysis of the historical integrity of the building, identifying any additions, previous demolition work, modifications to the



exterior materials or architectural details, or any other modifications to the original building;

- e. A written description of any items, materials or objects to be salvaged, reused, or recycled;
- f. Schematic plans and elevations of any new construction that is proposed to replace the demolished building, or portion thereof to be demolished; and
- g. Justification for demolition of all or a portion of the building.

### 3. Procedure.

- a. **No Issuance of Demolition Permit Pending Review.** The City may not issue a demolition permit for a Class 3 historic building which is subject to this section unless and until the application has been reviewed and approved by the HSPB. Any demolition permit issued prior to HSPB review and approval shall be void and of no effect.
- b. **Demolition Permit Issuance Contingent upon Entitlement and Permits.** The City shall not issue a demolition permit for a Class 3 historic building which is subject to this section unless and until an entitlement for a replacement building or development has been granted by the City, and building permits for such entitlement have been issued.
- b. **HPO Analysis.** Upon receipt of a completed application, the HPO shall review the proposed demolition as provided in paragraph (c) below. The HPO shall prepare a report and recommendation for review by the HSPB, providing an analysis as to whether or not the proposed demolition permit should be issued. Upon completion of the report, the HPO shall schedule the application for review by HSPB on the next available agenda.
- b. **HSPB Review.** The HSPB shall review the demolition permit application and any supporting documentation, the HPO's report concerning the application, and any evidence or testimony offered at the HSPB meeting. The HSPB meeting need not be a public hearing. The HSPB shall evaluate the application and make findings with reference to the applicable criteria set forth in subsection (D) below. At the conclusion of the item, the HSPB shall take one of the following actions:

- i. Allow the demolition permit to issue and take no further action; or
  - ii. Direct and authorize the HPO to process an application to consider whether the building qualifies for designation as a Class 1 or Class 2 historic resource. Redesignation to a Class 1 or Class 2 historic resource shall be in accordance with the requirements and criteria listed in Article III of this chapter. If the HSPB takes this action, the demolition permit shall be automatically stayed for a period of one-hundred twenty (120) days to allow time for processing the application. The HSPB may, in its discretion, extend the stay of the demolition permit for one additional sixty (60) day period pending a decision. If the City Council does not take action by the end of the stay, as it may be extended, the demolition permit shall be issued without further action.
- D. **Criteria and Findings.** If any of the following findings apply to the application, the HSPB shall allow the demolition permit to issue and take no further action:
  1. That the Class 3 building does not retain sufficient historical integrity relative to its original configuration, architectural features, or character; or
  2. That the Class 3 building does not possess exceptional historic, architectural, archaeological, cultural or aesthetic significance to warrant redesignation as a Class 1 or Class 2 historic resource.

#### **8.05.140 Maintenance and Repair of Historic Resources.**

- A. **General Maintenance Requirements.** The property owner is responsible for ordinary maintenance and repair of a designated historic resource. Such maintenance and repair may be performed without specific approval from the HPO or the HSPB if such maintenance and repair does not materially impair the character-defining features of the historic resource.
- B. **Deterioration of a Historic Resource.** The property owner of a designated historic resource shall not permit it to fall into a state of disrepair so as to result in the deterioration of any significant exterior character-defining feature of the historic resource or that of a historic district in which the site, structure, building or object is located. Examples of deterioration for which the property owner is responsible under this Section include, but are not limited to, the following:

1. Excessive erosion, reverse drainage, and other preventable site conditions which may adversely affect significant historic resources or districts;
2. Loss of structural integrity due to deterioration of footings, foundations, load-bearing walls or columns, beams, trusses, or other support members;
3. Weathering or damage to exterior elements such as wall and roof surfaces, chimneys, balustrades, doors, windows, and other architectural features;
4. Loss of weather-tightness or security due to any of the above;
5. Deterioration resulting in public nuisances or other hazardous conditions which would warrant demolition of the building, or a portion thereof, in the interest of public safety.

For purposes of evaluating deterioration under this Section, the condition of the historic resource at the time of its designation shall be the standard of reference.

- C. **Abatement of Violations/Public Nuisances.** In order to avoid demolition necessitated by deterioration described in subsection (B) above, the City may repair a historic resource and assess the cost of such repairs to the property owner in the same as the abatement of public nuisances provided in Section 11.72.270 of this Code.
- D. **Enforcement.** Enforcement of this Section shall be the responsibility of the City Manager, City Attorney or designee.

#### **8.05.150 Placement of Alternative Energy Systems on Historic Resources.**

- A. **HPO Review of Alternative Energy Systems.** Applications to install alternative energy systems on a historic resource, such as solar and wind conversion technologies, shall be reviewed by the HPO to determine their impact on the historic resource, as well as the impact to adjacent contributing resources within a historic district, if applicable. The HPO shall review these applications in accordance with any timelines established by State law or local ordinance.
- B. **Location of Alternative Energy Systems.** Alternative energy systems shall be located on a historic resource in a manner that is discrete and fully reversible in order to avoid materially impairing the character-defining features of the historic resource, as well as materially impairing the

character-defining features of adjacent contributing resources within a historic district, if applicable.

1. **Solar Technologies.** In the use of solar technologies, such as solar panels and solar water heaters, ground systems that can be placed at the rear of the property, at an appropriate height to minimize visibility, are encouraged. If equipment is to be roof mounted, low-reflective or non-reflective materials are encouraged, and all mechanical equipment shall be painted to match the existing surrounding material color. Visible roof-mounted installations shall be designed and positioned to be appropriately scaled with a structure's roofline, while maintaining a balance, scale, and proportion with other features of that elevation. Where possible, roof-mounted installations shall be located behind a parapet wall or at the rear of the roof, so as to be screened from view of adjacent streets.
2. **Wind Technologies.** In the use of wind technologies, such as wind turbines, free-standing tower-mounted systems are preferred over building-mounted installations. Free-standing towers and ancillary structures are to be placed to have the least visual impact to the historic resource or district. All structures are to be muted in color, have no graphics, and be appropriately screened where possible.

#### **8.05.160 Violations and Enforcement – Withholding of Future Permits.**

- A. It shall be unlawful for an owner to alter or demolish a site, structure, building or object within the City in violation of this chapter.
- B. **Criminal Penalties.** Any owner who alters or demolishes a site, structure, building or object within the City in violation of this chapter shall be guilty of a misdemeanor. Any person convicted of a misdemeanor hereunder shall be punished by a fine of not more than \$1,000 or by imprisonment in the County Jail for a period of not more than six months, or by both.
- C. **Civil Action.**
  1. The City may also institute civil proceedings in a court of competent jurisdiction for injunctive and monetary relief, including civil penalties, against an owner for violations of this chapter.
  2. If the City is the prevailing party in any civil action under this subsection (C), an owner in violation of this chapter may be liable to the City for civil penalties of not more than \$10,000 for each proven violation of this chapter.

3. If the City is the prevailing part in any civil action under this subsection (C), the City shall be entitled to the costs of enforcing this chapter, including reasonable attorneys' fees, investigative costs and court costs, pursuant to an order of the Court.
  4. Any monetary award obtained by the City in such a civil action shall be deposited in the Department to be used for enforcement of this chapter. The Department, through the use of these funds, shall reimburse other City departments and agencies, including the City Attorney's Office, for all costs and fees incurred in the enforcement of this chapter.
- D. The Director shall have the authority to enforce this chapter against violations thereof by any or all of the means provided in this chapter.
- E. In addition to the above, upon a proven violation of this chapter in either criminal or civil proceedings, the City shall not issue building, demolition or any other development permits for the site upon which the proven violation occurred for a period of three (3) years from the date of the Court's final order. This restriction shall not apply to permits that must be issued by the City to the owner in order to comply with applicable Federal, State or local law. The Director shall be authorized to record a notice to this effect with the Riverside County Recorder's Office.

**8.05.170 Appeals and Review.** An applicant may appeal or a City Councilmember may request Council review of any decision under Article IV of this chapter upon written request as follows:

- A. Actions of the HPO as the Approval Authority. Where the HPO is acting as the approving authority for an application, the applicant may appeal the decision to the HSPB by written request. The appeal must be filed with the Office of the City Clerk within ten (10) days following the date the HPO issues notification to the applicant of the decision. The City Council may establish a fee to be paid in connection with the filing of an appeal under this Section. Upon receipt of the appeal request, the HPO shall schedule the appeal for consideration by the HSPB on the next available agenda as a public hearing.
- B. Actions of the HSPB as the Approval Authority. Where the HSPB is acting as the approving authority for an application, the applicant may appeal the decision to the City Council by written request. The appeal must be filed with the Office of the City Clerk within ten (10) days following the date of the HSPB's decision. The City Council may establish a fee to be paid in connection with the filing of an appeal under this Section. Upon receipt of the appeal request, the City Clerk shall schedule the appeal for

consideration by the City Council on the next available agenda as a public hearing.

- C. Review by Councilmember. With respect to any action of the HSPB as the approving authority, any member of the City Council may initiate a review of the action by giving notice thereof to the Office of the City Clerk in the time and manner for filing of a notice of review as prescribed by Section 2.06.030 of the Palm Springs Municipal Code. City Council review of an action by the HSPB shall follow the procedure provided by Section 2.06.030 of the Palm Springs Municipal Code.

## **Article V: Historic Preservation on Tribal Lands**

**8.05.200 Authority.** Pursuant to the amended and restated Land Use Contract ("Contract") between the Agua Caliente Band of Cahuilla Indians ("Tribe") and the City of Palm Springs, adopted by the City of Palm Springs on September 20, 2018, and pursuant to the inherent sovereign authority of the Tribe, a federally-recognized Indian tribe with the sole authority to regulate land use within the exterior boundaries of the Agua Caliente Indian Reservation ("Reservation"), the following sections shall describe the process for the coordination of historic preservation activities between the Tribe and the City.

### **8.05.210 Procedures for Designation of Historic Resources on Tribal Lands.**

- A. Procedures for the Designation of Historic Resources for Tribal Trust and Allotted Trust Lands. The designation of historic resources for Tribal Trust Lands and Allotted Trust Lands, as those terms are defined in the Contract, shall be the sole authority of the Tribe. Requests for designation on Tribal Trust and Allotted Trust Lands received by the City shall be forwarded directly to the Tribal Historic Preservation Officer for review and determination. No action may be taken by the City on requests for designation of historic resources on Tribal Trust or Allotted Trust Lands.
- B. Procedures for the Designation of Historic Resources for On-Reservation Fee Lands. The designation of historic resources by the City for On-Reservation Fee Lands, as that term is defined in the Contract, may be permissible subject to the following procedures:
  - 1. An application for designation of historic resources for On-Reservation Fee Lands shall be submitted to the City in accordance with the procedures listed in Article III of this chapter.
  - 2. The City shall provide a copy of the application to the Tribal Historic Preservation Officer. The Tribal Historic Preservation Officer shall review and process the application in accordance with the Tribe's



adopted historic preservation ordinance, and issue a determination on the proposed designation.

3. Upon a positive determination by the Tribe, the City may process the application in accordance with the procedures listed in Article III of this chapter.

**8.05.220 Tribal Review of Applications for Historic Designation – General.** In accordance with the Contract, and as a means of promoting coordination of historic preservation activities between the City and the Tribe, all applications for the designation of historic resources outside the boundaries of the Reservation shall be forwarded to the Tribal Historic Preservation Officer for review and recommendation. The HSPB and City Council shall consider the recommendation of the Tribal Historic Preservation Officer, where a recommendation is provided, prior to taking action on the application for historic designation.

**8.05.230 Demolition of Class 3 Historic Buildings on Tribal Lands.** Any application for demolition of a Class 3 historic building within the boundaries of the Reservation shall be forwarded to the Tribal Historic Preservation Officer for review and determination. Upon a positive determination by the Tribe, the City may process the application in accordance with the procedures listed in subsection 8.05.130.