

ORDINANCE NO. 1168

AN ORDINANCE OF THE CITY OF PALM DESERT, CALIFORNIA, RESCINDING ITS ORDINANCE NO. 401 AND PROVIDING FOR THE DESIGNATION AND PRESERVATION OF HISTORIC SITES AND DISTRICTS, CREATING A CULTURAL RESOURCES PRESERVATION COMMITTEE, REQUIRING CERTAIN CONSTRUCTION AND ALTERATIONS TO BE APPROVED BY THE CULTURAL RESOURCES PRESERVATION COMMITTEE, AND PROVIDING PENALTIES FOR VIOLATION

WHEREAS, The Department of Building and Safety recommends that the purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, designation, protection, enhancement, perpetuation and use of cultural resources that reflect themes important in the city's history.

NOW THEREFORE, The City Council of the City of Palm Desert, California, does hereby ordain as follows:

**Title 29
CULTURAL RESOURCES**

Chapters:

- 29.10 PURPOSE
- 29.20 DEFINITIONS
- 29.30 CULTURAL RESOURCES PRESERVATION COMMITTEE
- 29.40 LANDMARKS
- 29.50 HISTORIC DISTRICTS
- 29.60 CERTIFICATE OF APPROPRIATENESS PROCESS
- 29.70 PRESERVATION INCENTIVES
- 29.80 ENFORCEMENT AND PENALTIES
- 29.90 SEVERABILITY

**Chapter 29.10
PURPOSE**

29.10 Purpose.

The purpose of this chapter is to promote the public health, safety, and general welfare by providing for the identification, designation, protection, enhancement, perpetuation and use of cultural resources that reflect themes important in the city's history and to:

- A. Foster civic and neighborhood pride and a sense of identity;
- B. Safeguard and enhance the City's cultural, historic and architectural heritage;
- C. Encourage and promote public knowledge, understanding and appreciation of the City's past and its unique sense of place;
- D. Promote private and public stewardship and use of cultural resources for the education, enrichment and general welfare of the people;
- E. Protect and enhance the city's attractions to residents, tourists and others, thereby stimulating business and industry;
- F. Stabilize and enhance property values and increase the economic benefits of cultural resources preservation to the city and its residents;
- G. Promote public awareness of the value of rehabilitation, adaptive reuse, restoration, and maintenance of cultural resources as a means to conserve reusable material and energy resources;
- H. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses;
- I. Encourage new development that will be aesthetically compatible with existing cultural resources; and
- J. Implement the cultural resources goals and policies of the General Plan.

**Chapter 29.20
DEFINITIONS**

29.20 Definitions.

For the purposes of this title, the following words and phrases shall have the meanings respectively ascribed to them by this section:

"Administrator" means the Cultural Resources Administrator who is the person selected by the Palm Desert City Manager or his or her designee to administer Cultural Resources program, provide professional support to the Committee, and manage the Certificate of Appropriateness processes.

"Alteration" means any change or modification, through public or private action, to the character-defining or significant physical features of cultural resources affected by this title. In the case of cultural resources that are buildings or structures, "alteration" shall include changes to the exterior unless otherwise designated per the designating resolution or per the requirements of the Secretary of Interior's Standards for the Treatment of Historic Properties.

"Archaeology" means the study of humanity's past, primarily through the study of the material (physical) remains of past human activity.

"California Environmental Quality Act (CEQA)" means the statutory requirements contained in Division 13, commencing with Section 21000 of the California Public Resources Code and the state environmental guidelines adopted by the Secretary of Resources and incorporated into the California Code of Regulations, Title 14, Section 15000 et seq.

"California Register of Historical Resources" is a listing of archaeological and historic resources that meet the criteria for designation in the Register and have been so designated.

"Certificate of Appropriateness" means a certificate issued by the Administrator approving plans, specifications, and/or statements of work, involving any proposed alteration, restoration, rehabilitation, construction, removal, demolition, or relocation, in whole or in part, of or to:

- A. any cultural resource listed in the Register; or
- B. demolition or relocation of any cultural resource that:
 - 1. is 50 years of age or older and not listed in the Inventory; or
 - 2. is a visually prominent feature in the community; or
 - 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.

ORDINANCE NO. 1168

"Certified Local Government (CLG)" means a local government certified under federal law by the California State Office of Historic Preservation for the purpose of more direct participation in Federal and State historic preservation programs.

"Certified survey" means a survey that the Administrator or Committee has reviewed and concurred with and has thereby certified. Resources with certified survey findings shall be included in the Inventory. Certified surveys shall be submitted to the Eastern Information Center (EIC).

"Character defining features" means the following natural or manmade elements of a cultural resource or historic district: design and general arrangement or components of an improvement(s), including but not limited to, site placement, height, scale, and setback; the kind, color, and texture of the building materials; street design, including street lights, parkway landscaping, and sidewalks; and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such improvement(s).

"Committee" means the Cultural Resources Preservation Committee.

"Contributing cultural resource to a historic district" means a building, site, structure, place, improvement, street, streetlight, curb, sidewalk, street tree, parkway landscaping, street furniture, sign, work of art, natural feature, significant tree, or object that dates to the period of significance, retains integrity, and adds to the historic architectural qualities, historic associations, or archaeological values for which the district is significant.

"Cultural resource" means a building, site, structure, place, improvement, street, streetlight, curb, sidewalk, City-designated heritage tree, parkway landscaping, street furniture, sign, work of art, natural feature, or object, which may be of historic or archaeological significance.

"Design guidelines" means the principles contained in a document approved by the Administrator or Committee, which illustrate appropriate and inappropriate methods of preservation, rehabilitation, restoration, alteration, and new construction.

"Designated cultural resource" means any cultural resource that has been designated as a landmark or any collection of cultural resources that have been designated as a historic district pursuant to this Title or are listed in the National Register of Historic Places or the California Register of Historical Resources or is a California Historical Landmark, a California Point of Historical Interest, or a Riverside County Historical Landmark.

ORDINANCE NO. 1168

"Determined eligible" means any cultural resource which, in the past five years, has been surveyed and recorded on the approved State Department of Parks and Recreation (DPR) survey forms and has been determined eligible for designation at the Local, Regional, State, or Federal level and certified as such by the Administrator, Committee, or the California State Historic Preservation Officer.

"Good repair" means that level of maintenance and repair, which clearly furthers the continued availability of a cultural resource for lawful reasonable uses and prevents deterioration, dilapidation and decay of such resource.

"Historical Building Code" means that certain building code contained in the California Code of Regulations, Title 24, Part 8, adopted as part of the California Building Code.

"Historic Geographic District" A geographic district means any geographic area that possesses a concentration, linkage, or continuity of historic or cultural resources of which fifty percent or more of the total retain integrity and which have been designated as a historic district by the City Council or is listed in a County, State, or Federal register.

"Historic Thematic District" A thematic district means a group of cultural resources that are not geographically linked, but share a common association with a broad unifying theme, trend, or pattern or that share an architectural style or building type and have been designated as a historic district by the City Council or is listed in a county, state, or federal register.

"Improvement" means any building, structure, place, wall, fence, gate, landscaping, tree, work of art, or other object constituting a physical feature of real property or any part of such feature, which is not a natural feature.

"In kind" means the replacement of deteriorated features with new features that match the material, composition, design, color, texture, and other visual qualities of the original feature.

"Integrity" means the ability of a cultural resource to convey its significance. To retain integrity a cultural resource must retain most of the aspects that closely relate to the resource's significance, including location, design, setting, materials, workmanship, feeling, and association.

"Inventory" means the Palm Desert Inventory, which is a list established and maintained by the City that includes all of the cultural resources in the City that have been surveyed, including resources that are listed in the Palm Desert Register, National Register of Historic Places or the California Register of Historical Resources or are California Historical Landmarks, California Points of Historical Interest, or Riverside County Historical Landmarks.

ORDINANCE NO. 1168

"Landmark" means any cultural resource representative of the historical, archaeological, cultural, architectural, community, aesthetic or artistic heritage of the City that is designated pursuant to this Title or is a designated National Historic Landmark, California Historical Landmark or Riverside County Historical Landmark.

"Moratorium" means a suspension of an ongoing or planned development activity.

"National Register of Historic Places" means the Nation's official list of cultural resources that meet the criteria for designation in the National Register and have been so designated. The National Register is administered by the National Park Service, which is part of the U.S. Department of the Interior.

"Natural feature" means any tree, plant life, habitat, geographical or geological site or feature.

"Noncontributing feature to a historic district" means a feature, such as a building, structure, sign, site, tree, landscape, or other object that does not add to the historic architectural qualities, historic associations, or archaeological features for which a historic district is significant because the feature was not present during the district's period of historic significance or no longer possesses integrity.

"Object" means any material thing of functional, aesthetic, cultural, symbolic, or scientific value.

"Period of significance" means a chronological period of time that relates to the themes represented in the historic context.

"Preservation" means the identification, study, protection, restoration, rehabilitation, and/or acquisition of cultural resources.

"Register" means the Palm Desert Register, which is a list established and maintained by the City that includes all of the cultural resources in the City that have been registered eligible or designated as landmarks, designated as contributors or non-contributors to historic districts, or are registered in the National Register of Historic Places or the California Register of Historical Resources or are California Historical Landmarks, California Points of Historical Interest, or Riverside County Historical Landmarks.

"Registered eligible cultural resource" means a cultural resource that has been determined eligible for designation by a certified survey and for which the property owner has given written consent to be included in the Palm Desert Register.

"Substantial adverse change" means any demolition, destruction, relocation, or alteration activities that would impair the significance of a cultural resource.

ORDINANCE NO. 1168

"Survey" means a systematic and standardized process for identifying and gathering data on the community's cultural resources for the purpose of evaluating the resources per Local, State, and/or Federal criteria.

"The Secretary of Interior's Standards for the Treatment of Historic Properties" means the guidelines prepared by the National Park Service for Preserving, Rehabilitating, Restoring, and Reconstructing Historic Buildings and the standards for historic preservation projects prepared by the National Park Service with the most current Guidelines for Applying the Standards.

Chapter 29.30 CULTURAL RESOURCES PRESERVATION COMMITTEE

29.30.010 Created.

There is hereby created by the City of Palm Desert a Cultural Resources Preservation Committee, consisting of seven members who shall be appointed by the City Council.

29.30.020 Members.

No less than four members are encouraged to be appointed from individuals that have knowledge in the fields or disciplines of architecture, history, architectural history, planning, pre-historic or historic archaeology, folklore, cultural anthropology, curator, conservation, and landscape architecture, or related disciplines, such as urban planning, American studies, American civilization, or cultural geography to the extent that such professionals are available in the community. Residency within the city limits of Palm Desert shall be a requirement for appointment to the committee except in cases where the city council deems it appropriate to appoint a nonresident with specific expertise in preservation of cultural resources.

29.30.030 Term of Office.

The term of office for each member is four years and shall otherwise be subject to the terms of appointment pursuant to Section 2.34.010(A). The original appointment of the members, determined by lot, shall be as follows: two (2) for two years, two (2) for three years, and three (3) for four years.

29.30.040 Meetings.

The Administrator shall establish the time and place of its meetings and post it accordingly. Meetings will be held monthly or as needed, provided there is business to conduct.

ORDINANCE NO. 1168

29.30.050 Rules and Regulations.

The Committee shall make and adopt rules and regulations for the conduct of its business. The rules and regulations shall include a provision requiring the Committee to select a chairperson and vice-chairperson from its membership during the first quarter of the calendar year. The chairperson and vice-chairperson shall serve a term of one year or until a successor is selected. A quorum shall be required for the Committee to hear, discuss, or deliberate on any item within their subject matter jurisdiction. Four voting members shall constitute a quorum. The Committee shall act by a majority vote of the quorum. The Committee shall be subject to, and shall comply with, the requirements of the Brown Act.

29.30.060 Secretary.

The Administrator or designee shall serve as secretary. The secretary shall keep minutes of each meeting, record the official actions taken, and perform other duties as the Committee assigns.

29.30.070 Records.

The Administrator shall keep a record of its resolutions, proceedings, and transactions.

29.30.080 Powers and duties.

1. The powers and duties of the Administrator are in addition to those of the Committee and are subject to Section 29.30.080(3) as follows:
 - A. Conduct or cause to be conducted a comprehensive survey to identify cultural resources.
 - B. Compile, maintain and publish an up-to-date inventory of all cultural resources with certified survey findings;
 - C. Compile, maintain and publish a Register to include designated and register eligible cultural resources;
 - D. Approve, conditionally approve, or deny Certificate of Appropriateness applications that are pursuant to Chapter 29.60.
 - E. Make recommendations to the City Council regarding the adoption of cultural resources preservation incentives including, but not be limited to economic and tax incentives, conservation easements, preservation easements, acquisition or sale of property, development rights, fee adjustments and land use, zoning, development restrictions.
 - F. Make recommendations to the City Council for enforcement and penalties concerning matters covered in this title;
 - G. Ensure that cultural resources preservation is coordinated with other City departments and agencies;

ORDINANCE NO. 1168

2. The powers and duties of the Committee are subject to Section 29.30.080(3) as follows:

- A. Certify survey findings at an agendaized public meeting or authorize the Administrator to certify survey findings administratively through a specific findings process designated by the City Council.
- B. Adopt and make available designation applications and review procedures by which cultural resources may be designated as landmarks or historic districts.
- C. Recommend to the City Council the inclusion or deletion of landmarks and historic districts in the Register pursuant to the regulations of this title;
- D. Encourage and foster public participation in the cultural resources survey and designation processes;
- E. Seek means and resources to appropriately identify landmarks and historic districts with permanent City approved plaques and signs;
- F. Initiate and prepare nominations of eligible City-owned cultural resources to Local, State and National registers;
- G. Adopt standards including design guidelines to be used by the Committee and the Administrator in reviewing Certificate of Appropriateness applications.
- H. Encourage cooperation between public and private cultural resources preservation organizations and groups including the Historical Society of Palm Desert, the Eastern Information Center at the University of California, Riverside, and other organizations in Coachella Valley communities.
- I. Make recommendations to the City Council regarding the adoption of cultural resources preservation incentives including, but not be limited to economic and tax incentives, conservation easements, preservation easements, acquisition or sale of property, development rights, fee adjustments and land use, zoning, and development restrictions.
- J. Review and make recommendations to City Council on applications to participate in local cultural resources preservation incentives programs established to effectuate the purposes of this title.
- K. Seek out information and advise City Council on the use of various Local, State, Federal or private sources and mechanisms available to promote cultural resources preservation;
- L. As part of the City's CEQA review procedures if referred by City, identify and advise appropriate City departments and governmental entities of known cultural resources; assess and advise the City Council whether any proposed project would have an adverse effect on the significance of such cultural resources; and recommend to the City Council appropriate action in compliance with the city's adopted CEQA procedures;
- M. Evaluate and comment on proposals and environmental reviews that affect cultural resources in the City and are pending before public agencies other than the City of Palm Desert;

ORDINANCE NO. 1168

- N. Prepare and adopt plans including design guidelines for the preservation of cultural resources;
 - O. Review and make recommendations on zoning and general plan amendments for the purpose of preserving cultural resources;
 - P. Develop and conduct public information, educational and interpretive programs pertaining to cultural resources preservation and provide for public participation in all aspects of the City's cultural resources preservation program;
 - Q. Assume whatever responsibilities and duties may be assigned to the Committee by the City Council under the Certified Local Government provisions, of the National Historic Preservation Act of 1966 as amended;
 - R. Perform any other functions that may be designated by resolution or motion of the City Council.
3. Any designation or certified survey of property shall require written consent of the owner of the property.

Chapter 29.40 LANDMARKS

29.40.010 Landmark designation criteria.

A cultural resource may be designated as a landmark by the City Council if, with written consent of property owner, after completion of a certified survey and upon the recommendation of the Committee, it is determined that it retains integrity as defined in Chapter 29.20 and at a Local, State, Regional, or National level:

- A. Is associated with an event or events that have made a significant contribution to broad patterns of history; or
- B. Is associated with the lives of persons significant in the past; or
- C. Embodies distinctive characteristics, or is one of the few remaining examples of a style, type, period or method of construction or possesses high artistic value; or
- D. Represents the work of a master builder, designer or architect; or
- E. Is an archaeological, paleontological, botanical, geological, topographical, ecological, or geographical resource that has yielded or has the potential to yield important information in history or prehistory; or
- F. Reflects distinctive examples of community planning or significant development patterns, including those associated with different eras of settlement and growth, agriculture, or transportation.

29.40.020 Registered eligible cultural resources.

Based on a certified survey and using the criteria listed in Section 29.40.010, the Administrator or Committee, with the property owner's consent, may at any time request to place a cultural resource that has been determined eligible for designation as a landmark on the Register. Register eligible cultural resources shall be subject to all

ORDINANCE NO. 1168

applicable requirements of this title and the property owner shall be so notified by mail. A cultural resource determined eligible for designation as a landmark that does not receive written consent from the property owner to be placed on the Register, shall be placed on the Inventory only and shall not be subject to the requirements of this title. All cultural resources listed in the Register, as well as those determined eligible for designation and listed in the Inventory are subject to the requirements of CEQA.

29.40.030 Landmark designation initiation.

The designation of a landmark may be initiated by any person, organization or entity, but may only be acted upon with written consent of the property owner. If property owner consent is not obtained, the application shall be deemed incomplete and will not be processed. Application shall be made upon such forms and accompanied by such data and information as may be required for that purpose by the Committee to assure the fullest practical presentation of the facts for proper consideration of the request. The survey certification and landmark designation processes may be completed concurrently.

29.40.040 Landmark designation hearing date.

Upon the filing of a complete application, the matter shall be set for public hearing before the Committee. The date of such hearing shall be not more than sixty (60) days from the date of filing of the complete application. Time periods shall be extended when necessary to comply with the provisions of the California Environmental Quality Act (CEQA).

29.40.050 Landmark designation investigation.

To provide the necessary information to assure Committee action consistent with the intent and purpose of this title, an investigation of the facts bearing on a landmark application set for hearing shall be made by the Administrator.

ORDINANCE NO. 1168

29.40.060 Landmark designation hearing notice.

At least ten (10) days prior to the hearing before the Committee notice of the date, time, place and purpose of the hearing shall be given by:

- A. publishing at least one notice in a newspaper with general circulation in the City; and
- B. mailing the same or similar notice to:
 - 1. the applicant and owner(s) of the subject property; and
 - 2. property owners within a 300-foot radius of the subject property.

The last known name and address of each owner may be used for this notification. Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record or the non-receipt of any notice mailed pursuant to this section shall not invalidate any proceedings in connection with the proposed designation.

29.40.070 Landmark designation hearing.

A public hearing shall be conducted before the Committee at the time and place indicated in the required notices. The Committee may continue such hearing to a specific time and place when such action is deemed necessary or desirable but no longer than 60 days from the original hearing date or to such time that is approved by the applicant.

29.40.080 Landmark designation process.

The Committee may recommend to the City Council approval or denial of the designation of a landmark based on the criteria set forth in Section 29.40.010 of this title and the facts presented in connection with the application. The City Council shall review the matter at a public hearing. If the City Council approves the Committee's recommendation for designation, it shall find that the purpose of this title is maintained by such designation. The provisions of this title regulating landmarks shall be effective from the date of the initial recommendation by the Committee on the landmark application and shall become final only after City Council's action.

29.40.090 Landmark designation resolution.

A landmark shall be designated by a resolution passed by the City Council, which provides facts and findings based on the criteria for designation as set forth in this chapter.

ORDINANCE NO. 1168

29.40.100 Listing of Landmark designation.

The Inventory and the Register shall be updated by the Administrator to include the property as a designated landmark. Whenever any project to be carried out by the City may have an impact on a designated landmark, reasonable notice shall be given to the Committee by the City department(s) or division(s) responsible for the project, so that the Committee may review and make recommendations concerning the project early in the decision making process in accordance with the provisions of this title. Such review and recommendation shall be accomplished within 30 days of such notice.

29.40.110 Notice of Landmark designation.

The property owner(s) shall receive a copy of the resolution establishing the landmark designation and a letter explaining the designation and stating that the landmark is now subject to all applicable requirements of this title. The City Clerk shall record all designating resolutions in the office of the Riverside County Recorder. A Covenant and Agreement shall be recorded with the Riverside County Recorder that states that the property is a designated landmark and is subject to all applicable provisions of Title 29.

29.40.120 Landmark plaque

The City shall designate a plaque to the property owner(s) that describes the significance of the designated landmark. A Covenant and Agreement shall be signed by the City and the property owner to ensure that the plaque will be prominently displayed in perpetuity at the site of the landmark or returned to the Administrator if the landmark designation is repealed. This document shall be recorded in the office of the Riverside County Recorder.

29.40.130 Repeal.

The repeal of a determination of eligibility or designation may be initiated by any person, organization or entity. If the cultural resource no longer meets the designation criteria, or the property owner requests the designation be removed, the City Council shall consider a repeal of a previously approved determination of eligibility or landmark designation in the same manner provided by this chapter for the determination or designation. If the determination of eligibility or the landmark designation is repealed, the Inventory and the Register shall be updated accordingly and the landmark plaque shall be returned to the Administrator. As a condition of removal, the City Council may require repayment of any preservation benefits awarded the owner of the resource under section 29.70

**Chapter 29.50
HISTORIC DISTRICTS**

29.50.010 Historic District designation criteria.

A historic district, either geographic or thematic, as defined in Chapter 29.20 with the written consent of the property owner may be designated as such by the City Council upon the recommendation of the Committee if, after completion of a survey, it is determined that the district represents a significant and distinguishable entity that at the Local, State, Regional, or National level:

- A. Exemplifies or reflects special elements of cultural, social, economic, political, aesthetic, engineering, architectural, or natural history; or
- B. Is identified with persons or events significant in history; or
- C. Embodies distinctive characteristics of a style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
- D. Represents the work of master builders, designers, or architects; or
- E. Reflects distinctive examples of community planning or significant development patterns, including those associated with different eras of settlement and growth, agricultural, or transportation; or
- F. Conveys a sense of historic and architectural cohesiveness through its design, setting, materials, workmanship or associations; or
- G. Is an archaeological, paleontological, botanical, geological, topographical, ecological, or geographical resource that has yielded or has the potential to yield important information in history or pre-history.

29.50.020 Historic District designation initiation.

The request for designation of any historic district may be initiated by any person, organization or entity. Application shall be made upon such forms and accompanied by such data and information as may be required for that purpose by the Committee to assure the fullest practical presentation of the facts for proper consideration of the request. The process outlined in Section 29.50.030, shall be completed prior to formal initiation of the designation process. The written consent of the property owner must be obtained prior to any action by the Committee. If such consent is not obtained, the application will be deemed incomplete and will not be processed.

29.50.030 Public participation in the designation of Historic Districts.

Any person, organization, or entity may request that a geographic area or thematic grouping of cultural resources be evaluated for designation as a historic district. However, prior to initiation of the formal designation process, a survey as defined in Chapter 29.20 must be completed and certified and the following efforts to encourage public participation must be undertaken.

ORDINANCE NO. 1168

- A. Upon completion of a survey:
 - 1. a subcommittee of the Committee shall be established to review the survey findings and work with staff and the public during the designation process; and
 - 2. a notice shall be mailed to all property owners and residents within the preliminary district boundaries:
 - a. advising that the City is considering designating a historic district;
 - b. briefly explaining the designation process and stating that properties within a designated district will be subject to all applicable regulations within this title; and
 - c. inviting the public to a workshop at a specific date, time, and location.
- B. The Committee's subcommittee along with the Administrator shall present at least one public workshop, which shall include the following:
 - 1. an explanation of the designation process;
 - 2. a description of the benefits to and obligations of residents and owners of property within the proposed district;
 - 3. an explanation of any regulations, especially maintenance and design guidelines, to be adopted in conjunction with the designation; and
 - 4. a request for volunteers to participate on a citizen's advisory committee that will assist with issues such as district boundaries, design guidelines, and district signage.
- C. The Committee's subcommittee and staff shall meet with the citizen's advisory committee at least once to receive their input regarding the aforementioned issues and any others that may be appropriate for discussion. Notice shall be given as set forth in Section 29.50.060.
- D. Prior to initiating the formal designation process, the Committee's subcommittee and staff may hold another public workshop. All residents and owners of property within the proposed district boundaries shall be notified by regular mail of each workshop at least ten (10) days prior to said workshop.
- E. When these procedures have been completed, the survey certification and historic district designation processes shall be initiated. These processes may be completed concurrently.

29.50.040 Historic District designation hearing date.

The matter shall be set for public hearing before the Committee at a date not more than sixty (60) days from the filing of a complete application and the completion of the process outlined in Section 29.50.030. Time periods shall be extended when necessary to comply with the provisions of the California Environmental Quality Act (CEQA).

ORDINANCE NO. 1168

29.50.050 Historic District designation investigation.

To provide the necessary information to assure Committee action consistent with the intent and purpose of this title, an investigation of the facts bearing on a historic district application set for hearing shall be made by the Administrator.

29.50.060 Historic District designation hearing notice.

At least ten (10) days prior to the hearing before the Committee, notice of the date, time, place and purpose of the hearing shall be given by:

- A. publishing at least one notice in a newspaper with general circulation in the City; and
- B. by mailing the same or similar notice to the applicant(s), owners, and residents of all the properties being considered for inclusion in a historic district and to all property owners within 300 ft. radius of the subject property.

The last known name and address of each owner may be used for this notification. Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record or the non-receipt of any notice mailed pursuant to this section shall not invalidate any proceedings in connection with the proposed designation.

29.50.070 Historic District designation hearing.

A public hearing shall be conducted before the Committee at the time and place indicated in the notices. The Committee may continue such hearing to a specific time and place when such action is deemed necessary or desirable but no longer than 60 days from the original hearing date.

29.50.080 Historic District designation process.

The City Council upon the recommendation of the Committee may recommend the approval or denial of the historic district designation in whole or in part based on the criteria set forth in Section 29.50.010 of this title and the facts presented in connection with the application. The City Council shall review the matter at a public hearing. The provisions of this title regulating historic districts shall be effective from the date of the initial recommendation on the historic district application and shall become final only after City Council action.

29.50.90 Historic District designation resolution.

A historic district shall be designated by a resolution passed and adopted by the City Council, which provides facts and findings based on the criteria for designation as set forth in this chapter.

ORDINANCE NO. 1168

29.50.100 Historic District overlay zone.

Concurrent with the application for district designation or upon adoption of the historic district resolution by the City Council, the Planning Department may initiate a rezoning case to apply the HD-Historic District overlay zone to the properties within the district. This process shall follow the requirements outlined in Title 25 of the City of Palm Desert Municipal Code.

29.50.110 Notice of Historic District designation.

The Administrator will update the Inventory and the Register to include the district and all contributing cultural resources and non-contributing features to the district. The City's zoning map may be updated to show the HD-Historic District overlay zone on all properties within the district. Whenever a project is to be carried out by the City in a designated historic district, a description of the proposed project shall be given to the Administrator by the City department or division responsible for the project so that the Administrator and/or Committee may review and make recommendations on the project early in the decision making process in accordance with the provisions of this title.

29.50.120 Repeal.

The repeal or modification of a historic district designation may be initiated by any person, organization or entity. The City Council with the recommendation of the Committee may consider amendments to or the repeal of a historic district that has been designated in the same manner provided by this chapter for the designation, with the exception of Section 29.50.030.

- A. The designation may be repealed if the majority of cultural resources no longer meets the designation criteria.
- B. The district may be amended to:
 - 1. Include additional cultural resources that meet the designation criteria and have been determined to contribute to the district and, when appropriate, the district boundaries may be amended to reflect this; or
 - 2. Eliminate individual cultural resources within the district that no longer meet the designation criteria due to alterations or other conditions resulting in a loss of integrity. Those resources may be determined not to contribute to the district and, when appropriate, the district boundaries may be amended to reflect this.

In the event that the designation is repealed or the district is amended, the Inventory, Register, and zoning map shall be updated accordingly. In addition, the Planning Department shall initiate a rezoning case to remove the HD-Historic District overlay zoning from any properties that are removed from a historic district.

**Chapter 29.60
CERTIFICATE OF APPROPRIATENESS PROCESS**

29.60.010 Certificate of appropriateness required.

- A. A Certificate of Appropriateness must be issued by the Administrator, or by the City Council on appeal, before any person, organization, or entity:
 - 1. restores, rehabilitates, remodels, alters, constructs, relocates, demolishes, or changes the appearance of any cultural resource listed in the Register; or
 - 2. demolishes or relocates any cultural resource that:
 - a. is 50 years of age or older and not listed in the Inventory; or
 - b. is a visually prominent feature in the community; or
 - c. was designed by a master architect.

- B. Nothing in this chapter shall prevent ordinary maintenance or repair of any exterior architectural feature of a cultural resource if the proposed work does not involve a change in style, design, materials or external appearance and a permit is not required under the existing building provisions of the California Building Code.

- C. Nothing in this chapter shall prevent the construction, alteration, repair, restoration, stabilization or demolition of a historic structure if the Building Official has determined the cultural resource creates an unsafe or dangerous condition that constitutes an imminent threat as defined in the California Building Code, and the proposed action is necessary to mitigate the unsafe or dangerous condition. In such event no Certificate of Appropriateness shall be required. However, the Building Official shall make all reasonable efforts to determine if there are feasible alternatives to the proposed action that will adequately protect the public health and safety.

- D. The following types of projects shall be reviewed for a Certificate of Appropriateness by the Administrator:
 - 1. In-kind replacement of historically correct architectural features or building elements, including windows, doors, exterior siding, porches, cornices, balustrades, stairs, and the like, that are deteriorated, damaged beyond restoration, or were previously removed.
 - 2. Replacement or repair of roof covering material provided that the re-roofing material has a similar appearance to the original roofing material and the existing roofing material is infeasible to repair.
 - 3. One-story, residential room additions, excluding attached garages, that are no more than 25% of the size of the existing main residence with limited or no visibility from public rights-of-way.
 - 4. Fences and walls.
 - 5. Awnings and signs.
 - 6. Removal or alteration of landscape features, such as walkways, planter walls, fountains, and in certain circumstances mature foliage, that contribute

ORDINANCE NO. 1168

- to the historic character of the property, but are not designated or listed as a contributing feature to a historic district.
7. Installation or removal of mechanical equipment, including but not limited to heating, air conditioning and ventilation, water heaters, satellite dishes and electrical and plumbing improvements which are not visible from the public right of way.
 8. Installation of fire protection systems that are not visible from the public right of way.
 9. Paving for driveways, walkways and/or patios, and the addition of or alterations to driveway approaches.
 10. Exterior painting. Surfaces allowed to be painted include only those that were originally intended to be painted unless it is unsafe to the health and welfare of humans.
 11. Exterior lighting.
 12. Demolition or removal of non-contributing or inappropriate features of a cultural resource, including additions, garages and accessory structures.
 13. Demolition of a one-story, detached single-car garage and construction of a new one-story, detached garage that is architecturally compatible with the existing residence and does not exceed the square-footage of the original garage by more than 200%.
 14. Any other project determined by the Administrator to be minor that does not materially alter significant features of cultural resources or have an adverse affect on the significance of cultural resources or historic districts.
- E. At the discretion of the Administrator, projects shall be subject to review and action by the Committee.
- F. The requirements of this Chapter are in addition to all other applicable City requirements.

29.60.020 Referral to the Committee

The Administrator may refer a Certificate of Appropriateness application to the Committee when he or she believes the importance of the cultural resource or the discrepancies between the proposal and the findings and standards of this Chapter justify public review. Any such referral shall be made within ten (10) days of the acceptance of a complete application by the Administrator and shall be placed on the next available Committee meeting agenda. Time periods shall be extended when necessary to comply with the provisions of the California Environmental Quality Act (CEQA).

- A. Notice and Hearing for Certificate of Appropriateness.
1. Hearing. Upon the filing of a complete application, the matter shall be set for public hearing before the Committee. The date of such hearing shall be not more than thirty (30) days from the date of filing the complete application.
 2. Hearing Notice. At least ten (10) days prior to the hearing before the Committee, notice of the date, time, place and purpose of the hearing

ORDINANCE NO. 1168

shall be given by:

- a. publishing at least one notice in a newspaper with general circulation in the City; and
- b. mailing the same or similar notice to:
 - i. the project applicant and owner(s) of the subject property; and
 - ii. property owners within a 300-foot radius of the subject property. The last known name and address of each owner may be used for this notification. Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record or the non-receipt of any notice mailed pursuant to this section shall not invalidate any proceedings in connection with the proposed designation.

3. Compliance with CEQA time periods shall be extended when necessary to comply with the provisions of the California Environmental Quality Act (CEQA).

29.60.030 Application.

The Certificate of Appropriateness application shall be made on such forms and accompanied by such data and information as may be required for that purpose by the Administrator or Committee to assure the fullest practical presentation of the facts for proper consideration of the request. Applications shall include:

- A. Plans and specifications showing the design, materials, colors, landscaping, and other details relating to the proposed project;
- B. The relationship of the proposed project to the surrounding environs, where applicable;
- C. The relationship of proposed new construction in a historic district to the existing scale, massing, architectural style, site and streetscape, landscaping, and/or signage;
- D. Current photographs of the property; and
- E. Any other information determined to be necessary for review of the proposed project.

29.60.040 Review of alterations.

Pursuant to this chapter, the Committee or Administrator may approve, conditionally approval, or deny an application for a Certificate of Appropriateness.

29.60.050 Procedures for designated cultural resources.

The Administrator or Committee shall review and act on projects affecting landmarks and contributing and non-contributing features within a historic district.

ORDINANCE NO. 1168

29.60.060 Procedures for registered eligible cultural resources.

Registered eligible cultural resources shall be subject to review by the Administrator or Committee pursuant to this chapter.

29.60.070 Procedures for demolition or relocation.

Applications for demolition or relocation of cultural resources meeting the criteria listed in:

- A. Section 29.60.010(A) (1) must complete the Certificate of Appropriateness process pursuant to Chapter 29.60. The Administrator or the Committee may approve, conditionally approve, or deny the application for demolition or relocation. The decision of the Administrator or the Committee may be appealed to the City Council pursuant to the procedures outlined in Section 29.60.130.
- B. Section 29.60.010(A)(2), shall be referred to the Administrator for a period not to exceed thirty (30) days, during which the necessary research will be completed to determine whether or not the cultural resource is eligible for designation. This research may be completed by either the Administrator. If the cultural resource is determined eligible for designation, the time limit shall be extended to allow for completion of the Certificate of Appropriateness process. The Committee may approve, conditionally approve, or delay the application for demolition or relocation for up to sixty (60) calendar days. The decision of the Committee may be appealed to the City Council pursuant to the procedures outlined in Section 29.60.130.

29.60.080 Standards of design review.

The Administrator or Committee shall apply and consider the following when reviewing a project pursuant to this chapter:

- A. The Secretary of the Interior's Standards for the Treatment of Historic Properties summarized as follows:
 - 1. The anticipated use for the property remains that for which it was originally intended or requires minimal alteration for the proposed reuse.
 - 2. The distinguishing original qualities or character of a cultural resource or historic district and its environment shall not be compromised. The removal or alteration of any historic material or distinctive features should be avoided when possible.
 - 3. All cultural resources shall be recognized as products of their own time. Alterations that have no historical basis and which seek to recreate an earlier appearance shall be discouraged.
 - 4. Certain alterations which may have taken place in the course of time are potentially significant to understanding the history and development of a cultural resource and its environment. These historic alterations may have acquired significance in their own right and this significance shall be recognized and respected.
 - 5. Distinctive stylistic features or examples of skilled craftsmanship, which

ORDINANCE NO. 1168

- characterize a cultural resource, shall be retained.
6. Deteriorated features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new feature should match the feature being replaced in material, composition, design, color, texture and other visual qualities. Repair and replacement of missing features should be based on accurate duplications of features, substantiated by historic, physical or pictorial evidence rather than on conjectural designs or the availability of different elements from other sources.
 7. Surface cleaning shall be undertaken with proven methods as designated by the Secretary of the Interior Standards that shall avoid damage to the historic materials.
 8. Contemporary design for alterations and additions shall not be discouraged when such alterations and additions do not compromise significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material and character of the cultural resource and its environs.
 9. Whenever possible, new additions or alterations to the cultural resource shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the resource would be unimpaired.
 10. Archaeological resources will be protected and preserved in place. If such resources will be disturbed, mitigation measures shall be undertaken.
 11. Any other Secretary of the Interior's Standards for the Treatment of Historic Properties may also be applied as appropriate.
- B. Applicable design guidelines.
 - C. The goals and policies of this chapter; and
 - D. The goals and policies of the General Plan and any applicable specific or community plan, rules and regulations in the City of Palm Desert.

29.60.090 Decision and findings.

In determining whether to grant or deny a Certificate of Appropriateness the Administrator or Committee shall apply the following standards as applicable:

- A. The proposed project is compatible with the Secretary of the Interior's Standards for the Treatment of Historic Properties;
- B. The proposed project is consistent or compatible with the architectural style and the character-defining elements of the cultural resource;
- C. The proposed project does not destroy or adversely affect an important architectural, historical, cultural or archaeological feature or features;
- D. The colors, textures, materials, fenestration, decorative features, details, height, scale, massing and methods of construction proposed are consistent with the period and style of the cultural resource;
- E. The proposed project is compatible with adjacent or nearby cultural resources and their character-defining elements and will not adversely affect the character of a historic district;
- F. The proposed project is not fully consistent with the Secretary of the Interior's Standards, but is consistent with and supportive of identified goals and policies of

ORDINANCE NO. 1168

the General Plan or applicable community or specific plan(s) and the project is generally consistent with and supportive of the goals and policies of this chapter; and

- G. Other standards as adopted by the Committee or City Council.

29.60.100 Decision time limit.

The application shall be considered by the Administrator or Committee within thirty (30) calendar days for Certificates of Appropriateness. Such time period shall be calculated from the date on which a complete application is accepted by the Administrator. However, such time periods shall be extended when required to comply with the provisions of the California Environmental Quality Act (CEQA). When required, a public hearing shall be scheduled and notice provided per this Chapter and CEQA, when applicable.

29.60.110 Compliance with California Environmental Quality Act.

In conjunction with any public hearing or discretionary action required pursuant to this chapter, the Administrator, Committee, and/or City Council shall require an environmental review of the requested action in accordance with the California Environmental Quality Act (CEQA). Depending on the nature and scope of the requested action, a negative declaration, mitigated negative declaration, or environmental impact report may need to be prepared. Such environmental documents shall be prepared based on CEQA, the state CEQA guidelines, and the City of Palm Desert local CEQA guidelines.

29.60.120 City projects.

The provisions of this chapter shall also apply to projects affecting City-owned cultural resources listed in the Register. When acting on City projects the City Council or other City-decision making body, entity or person shall apply the same standards, and make the same findings required by this chapter for private projects.

29.60.130 Appeals.

- A. Finality of Administrator or Committee decision.
Any decision or order of the Administrator or Committee under this chapter shall become final if no appeal is submitted within the applicable time limits in this chapter.
- B. Appeal of Administrator actions.
Any person aggrieved or affected by a decision of the Administrator may appeal to the Committee at any time within fifteen (15) calendar days after the date on which the Administrator announces his or her decision. An appeal shall be taken by filing a letter of appeal with the Committee secretary and paying an appeal fee as established by the City Council. Such letter of appeal shall set forth the grounds upon which the appeal is based.
Notice of the hearing before the Committee shall be given in the same manner

ORDINANCE NO. 1168

and time as is required in Section 29.60.020 and written notice shall be given to the appellant(s).

C. **Appeal of Committee actions.**

Any person aggrieved or affected by a decision of the Committee including any decision on appeal of a decision of the Administrator, may appeal to the City Council at any time within fifteen (15) calendar days after the date the Committee announces its decision. An appeal shall be taken by filing a letter of appeal with the Committee secretary and paying an appeal fee as established by the City Council. Such letter of appeal shall set forth the grounds upon which the appeal is based. Within ten (10) days after the receipt of the letter of appeal, the Committee secretary shall transmit to the City Clerk the letter of appeal, copies of the application and all other papers constituting the record upon which the action of the City Council was taken. Notice of the hearing before the City Council shall be given in the manner specified in Section 29.60.020 and written notice shall be given to the appellant(s).

D. **Actions by the City Council.**

The City Council may affirm, reverse or modify the decision of the Administrator or Committee. Such action by the City Council shall be final.

29.60.140 Permit required.

A. No City permit shall be issued for any purpose regulated by this Chapter unless and until the proposed work has been approved or granted conditional approval by the Administrator, Committee or by the City Council on appeal, and then shall be issued only in conformity with such approval or conditional approval.

B. No permit to demolish a cultural resource shall be issued without the issuance of a building permit for a replacement structure or project for the subject property, unless the Administrator or Committee determines otherwise or the demolition permit is issued pursuant to Section 29.60.010(C).

29.60.150 Expiration of approval.

A Certificate of Appropriateness shall lapse and become void twelve (12) months (or other period if specified as a condition of approval) from the date of final approval, unless a building permit (if required) has been issued and the work authorized by the Certificate has commenced prior to such expiration date and is diligently pursued to completion. Upon request by the property owner, a Certificate of Appropriateness may be extended by the Administrator for an additional period of up to twenty-four (24) months as long as the approved plans have not been modified. The Administrator may approve, conditionally approve, or deny any request for a time extension or may refer the request to the Committee, which may approve, conditionally approve, or deny any request for a time extension.

ORDINANCE NO. 1168

29.60.160 Duty to keep in good repair

Every person in possession or control and every owner of a cultural resource and any appurtenant premises shall maintain and keep in good repair, as defined in Chapter 29.20, the exterior of such designated resources, and all of the interior portions thereof when subject to control as specified in the designating resolution, and all interior portions thereof whose maintenance is necessary to prevent deterioration or decay of any exterior architectural feature. This section shall be enforced by the Administrator or his designee to the full extent permissible by law.

29.60.170 Application of the State Historical Building Code.

Pursuant to the State of California Health and Safety Code the Building Official shall apply the State Historical Building Code in permitting repairs, alterations and additions necessary for the preservation, restoration, rehabilitation, moving, or continued use of a designated cultural resource.

Chapter 29.70 PRESERVATION INCENTIVES

29.70.010 Preservation incentives.

The City Council may by resolution establish preservation incentives to encourage owners to designate, maintain, preserve, rehabilitate, and improve cultural resources. Preservation incentives shall be made available to owners of designated cultural resources as defined in Chapter 29.20 of this Title.

29.70.020 California State Historical Building Code.

The Building Official is authorized to use and shall use the State Historical Building Code for projects involving designated cultural resources.

29.70.030 Mills Act Contracts.

Pursuant to California Government Code, Title 5, Chapter 1, Article 12, Section 50280 (known as the Mills Act), the City Council may establish a Mills Act Program providing for contractual agreement with an owner of a cultural resource designated by the City Council or listed in the National Register. The terms of the Mills Act Agreement allow for the owner to receive a reduction in property taxes in exchange for the property owner's commitment to specific repair, restoration and/or rehabilitation improvements and satisfactory maintenance of the property. The Agreement shall include, but not be limited to, the contract provisions as required under law and shall extend a minimum period of ten (10) years, renewed annually, until and unless a notice of non-renewal or cancellation is filed. The application process, review procedures, and required contract provisions for Mills Act Agreements shall be established by separate resolution of the City Council and shall be implemented by the Administrator or his or her designee.

**Chapter 29.80
ENFORCEMENT AND PENALTIES**

29.80.010 Enforcement and penalties.

- A. Any person who violates a requirement of this title or fails to obey an order issued by the Administrator or Committee or comply with a condition of approval of any certificate or permit issued under this title shall be guilty of a misdemeanor.
- B. Any alteration or demolition of a cultural resource in violation of this Article is expressly declared to be a nuisance and shall be abated by restoring or reconstructing the resource to its original condition prior to the violation. Any person or entity who demolishes or substantially alters or causes substantial alteration or demolition of a cultural resource, in violation of the provisions of this Article, shall be liable for a civil penalty.
- C. Alteration or demolition of a cultural resource in violation of this Article shall authorize the City to issue a temporary moratorium for the development of the subject property for a period not to exceed sixty (60) months (5 years) from the date the City becomes aware of the alteration or demolition in violation of this Article. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration or removal of the cultural resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures as determined by the Administrator or Committee shall be imposed as a condition of any subsequent permit for development of the subject property.
- D. In the case of demolition, the civil penalty shall be equal to one-half the fair market value of the property prior to the demolition. In the case of alteration, the civil penalty shall be equal to one-half the cost of restoration of the altered portion of the cultural resource based on an estimate obtained by the City at the cost of the offender. Once the civil penalty has been paid, building and construction permits and/or a Certificate of Occupancy may be issued. This penalty is in addition to and not in lieu of the moratorium set forth in Subsection C above.
- E. The City Attorney may maintain an action for injunctive relief to restrain a violation or cause, where possible, the complete or partial restoration, reconstruction or replacement of any cultural resource demolished, partially demolished, altered or partially altered in violation of this Article. The City Attorney may also pursue any other action or remedy authorized under the Palm Desert Municipal Code, state statutes and/or in equity for violation of this title. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty or other remedy provided by law.

ORDINANCE NO. 1168

**Chapter 29.90
SEVERABILITY**

29.90.010 Severability.

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

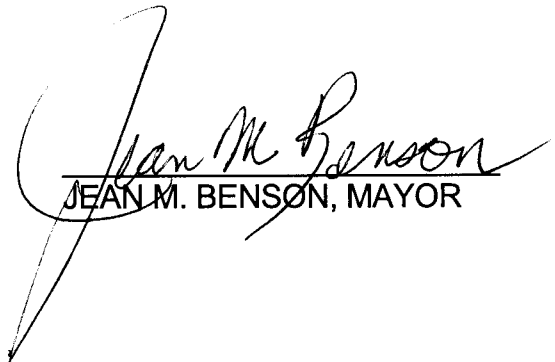
PASSED, APPROVED, AND ADOPTED by the City Council of the City of Palm Desert, California at its regular meeting held this 9th day of October, 2008, by the following vote, to wit:

AYES: FINERTY, KELLY, SPIEGEL, and BENSON


NOES: NONE

ABSENT: FERGUSON

ABSTAIN: NONE


JEAN M. BENSON, MAYOR

ATTEST:


RACHELLE D. KLASSEN, CITY CLERK
CITY OF PALM DESERT, CALIFORNIA
10-13-08