



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: PAR 23-026

September 12, 2023

Introduced: 9/1/2023

Current Status: Agenda Ready

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Matter Type: Preliminary Analysis
Report

Safeguard and Maintain Historic Buildings

Receive a report responding to referral number 2023.17 (Adams) regarding preparation of an ordinance making it unlawful for any person to cause, or cause others to damage a structure that has been listed as an historic resource, and provide direction to staff.

Location: County-wide

Proposed CEQA action: Find this response is not a project as defined in Section 15378 of the CEQA Guidelines.

RECOMMENDATION:

Staff recommends that the Board of Supervisors:

- a. Find that the preliminary response to the Board referral is not a project as defined in section 15378 of the CEQA Guidelines;
- b. Receive a report on safeguards for historic resources;
- c. Provide direction to staff.

SUMMARY:

On July 25, 2023, Supervisor Adams submitted a referral requesting a report to the Board of Supervisors regarding preparation of an ordinance that would protect historic resources in Monterey County unincorporated areas. The referral recognizes that the County does not have effective regulations safeguarding historic resources and requests that the Housing & Community Development (HCD) prepare an ordinance that would allow the County to withhold building and demolition permits until the property is restored to historic status. Additionally, any person, including the owner, who is found guilty of damaging a historic building or who fails to secure a historic building would incur fines and/or criminal charges. This report is intended to provide a preliminary response to the referral and to solicit direction from the Board on this matter.

Currently, Historic Preservation Regulations are contained in Chapter 18.25 of the County Code (**Attachment A**). Updates to these regulations are directed by Policy PS-12.1 of the 2010 General Plan. The General Plan policy states “*The historic preservation plan and a historic preservation ordinance shall be updated and implemented to maintain the necessary tools to protect the County's cultural resources.*” As a General Plan implementation item, updates to the Historic Preservation regulations are on HCDs Long-range work program (**Attachment B**). This effort has been given a lower priority indicating that this item will be considered in future years, after priority projects are first completed. Despite the lower priority, HCD staff has made progress on updating Historic Preservation regulations working with the Historic Resources Review Board (HRRB). The

HRRB working with staff have identified the need to strengthen policies to avoid neglect and unpermitted demolition of historic resources which aligns with the intent of referral 2023.17.

The current County Code contains several regulations that apply to demolition, alteration, and/or a duty to maintain a historic resource. Chapter 18.25, Preservation of Historic Resources, is where most of them are. That Chapter defines “Alteration” to historic resources as “any exterior change or exterior modification of any historic resource.” (Monterey County Code (MCC) section 18.25.030.) Also, relevant here is the definition of “regulated permit,” which expressly excludes building permits to demolish historic resources.

MCC section 18.25.150 states: “*Except as provided in [Section 18.25.190](https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT18BUCO_CH18.25PRHIRE_18.25.190DEHIREINSTHIDI) <https://library.municode.com/ca/monterey_county/codes/code_of_ordinances?nodeId=TIT18BUCO_CH18.25PRHIRE_18.25.190DEHIREINSTHIDI>, relating to demolition of historic structures, no regulated permit or entitlement shall be issued for any construction work on an historic resource, its site, or within any historic district, unless and until the issuance thereof occurs pursuant to the procedures set forth in this Chapter.*”

Permits or entitlements for alterations to historic resources (regulated permits) are referred to the Historic Resources Review Board for a determination (18.25.17.B). Regulations for the demolition of historic resources are contained in Section 18.25.190 of the County Code. Section 18.25.190.A prohibits demolition, wholly or partially of designated historic resources unless: “the property owner of such structure gives the HRRB 180 days prior written notice that such act is planned for such structure.” This notice allows the HRRB to take steps it determines are necessary to preserve the structure concerned. No specific penalties or enforcement provisions are provided in this Chapter of the Code. Penalties and enforcement for violations of any County Code are generally governed by Chapter 1.20 of the County Code (Enforcement of Code).

Section 18.25.240 of the County Code states: “*The owner or the occupant of an historic resource or a structure within an historic district should keep in good repair all of the exterior portions of such structure and all interior portions thereof whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature.*” As is the case with the demolition provisions mentioned above, there are not specific enforcement mechanisms in the code for the “duty to keep in good repair” a historic resource. In addition, using “should” instead of “shall” undermines the County’s ability to enforce this provision.

Staff has reviewed the referral and ordinances from other jurisdictions. Some jurisdictions have regulations similar to the current County Code while others have significant penalties specific to historic preservation. Attached as **Exhibit C** are examples of two local jurisdictions regulations, Carmel-by-the-Sea and Pacific Grove, that have specific enforcement policies. Enforcement policies used by other jurisdictions in the state include:

1. Civil actions brought by the City/County;
2. Requirement to restore or reconstruct the resource;
3. Fines and penalties for demolition that are up to as much as \$250,000 or equivalent to the amount it would cost to reconstruct the resource;

4. Refusal to issue planning entitlements or building permits for up to 10 years; and
5. A combination of the items listed above.

In addition to establishing penalties, most jurisdictions provide for incentives for owners of historic preservation. Most incentives include:

1. Mills Act property tax benefits;
2. Zoning exceptions;
3. Historic Building Codes; and
4. Reduced permitting fees.

The County does offer these incentives although these incentives are not integrated in the County's historic preservation regulations. For instance, in 2014, the Board of Supervisors adopted Ordinance 5238 adding Chapter 18.28 of the County Code establishing a Mills Act Program within the County after consideration of a Pilot Program. The Mills Act Program provides an incentive for property owners to voluntarily enter into a 10-year contract with the County, that renews annually, committing to preserve and maintain their historic property in exchange for preferential property tax assessments (similar to the Williamson Act program). The Mills Act program has resulted in more than 13 property owners voluntarily listing their property on the County's register of Historic Resources and contracting to preserve the historic resources.

Additionally, the County's Historic Resources Zoning district does allow for exceptions to zoning requirements for the preservation of historic resources. No fee is attributed to review of permits by the HRRB.

Staff will update the historic preservation ordinance taking into consideration the possible penalties and incentives discussed herein and including any direction provided by the Board has on this matter.

CEQA:

This review of the historic preservation safeguards is not a commitment to a project as defined in Section 15378 of the CEQA Guidelines. If an ordinance amending the historic preservation regulations is considered in the future, the ordinance will be subject to its own CEQA determination as part of the consideration of that ordinance.

OTHER AGENCY INVOLVEMENT:

The following Departments or Agencies have been involved:

- Housing & Community Development
- County Counsel's Office

FINANCING:

Funding for staff time to prepare this report is included in the FY23-24 Adopted Budget for each of the involved Departments/Agencies. Funding for staff time to prepare amendments to the historic preservation regulations, if directed, will also be included in the adopted budget.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

These temporary emergency regulations promote public safety and protect the agricultural economy.

Check the related Board of Supervisors Strategic Initiatives:

- Economic Development
- Administration
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Craig W. Spencer, Interim Director, Housing & Community Development

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cc: Front Counter Copy; County Counsel; District Attorney's, CAO's office; AIA Monterey Bay (Libby Barnes), Alliance of Monterey Bay Area Preservationists (Nancy Runyon), Raymond Neutra, Historic Resource Review Board members

The following attachments are on file with Clerk of the Board:

- Exhibit A - Preservation of Historic Resources (Chapter 18.25 of the County Code)
- Exhibit B - Long Range Work Plan
- Exhibit C - Other Jurisdictions Regulations
- Exhibit D - Board Referral 2023.17