

ORDINANCE NO. _____ (N.C.S.)

AN ORDINANCE RELATED TO THE POWERS AND DUTIES OF COMMISSIONS,
COMMITTEES, AND BOARDS

City Attorney Analysis

This Ordinance reorganizes parts of existing Chapter 3 of the Salinas Municipal Code and re-establishes the City Commissions, Committees, and Boards and clarifies their powers and duties. The Ordinance also establishes the requirements for appointment to and service on a City Commission, Committees, or Board. Additional advisory boards, committees, and other bodies may be established by Resolution of the City Council. The Commissions, Committees, and Boards will operate pursuant to a uniform set of bylaws, unless specified otherwise in this Ordinance. The role and powers of the Historic Resources Board remain unchanged. The Board of Appeals for building and fire-related issues has been incorporated into Chapter 3 through this Ordinance and the powers, duties, and qualifications, as well as appointment criteria have been clarified.

BE IT ORDAINED BY THE COUNCIL OF SALINAS as follows:

SECTION 1. Chapter 3 of the Salinas City Code which is currently titled “Advertising and Signs” shall be re-chaptered as Chapter 21E and the sections therein consecutively numbered beginning with Section 21E-01.01. All references in the Salinas Municipal Code shall be hereby amended to reflect the re-chaptering of Chapter 3.

SECTION 2. Chapter 3 of the Salinas Municipal Code be re-titled “Commissions, Committees, and Boards” and shall read as follows:

Chapter 3. Commissions, Committees, and Boards.

Article 1. In General.

Sec. 3.01.01. Establishment of Commissions.

(a) Notwithstanding what may otherwise be provided in this Code, the following City Commissions are hereby established:

- (1) Airport Commission;
- (2) Library and Community Services Commission;
- (3) Planning Commission; and
- (4) Traffic and Transportation Commission.

(b) The City Council may establish by resolution such advisory boards, committees, and other bodies as it deems appropriate in the conduct of the City’s business.

Sec. 3.01.02. Composition; Terms.

- (a) Members. Except as may otherwise be provided in this Code or through a Resolution approved by the City Council with respect to a particular City Commission, committee, or board, each of the City Commissions, committees, and boards shall consist of seven members.
- (b) Residency. Except as may be otherwise specifically provided in this Code or by Resolution of the City Council, all members of a City Commission, committee, or board shall be residents of the City at the time of their appointment and continuously during their terms of office. A member who has moved residence from the City shall be considered to have resigned from the membership.
- (c) Qualified Elector. The Mayor and each Council member shall select a representative who is a qualified Salinas elector at the time of the appointment and continuously during the term of office.
- (d) Membership on Commissions and Boards. No person shall be a member of more than one City Commission, committee, or board. In the event that a member of a commission, committee, or board is appointed to a second commission, committee, or board, then that person's membership on the first body shall be automatically vacated.
- (e) Terms. Except as may otherwise be specifically provided in this Code or by Resolution of the City Council, each member of a City Commission, committee, or board shall serve until successors are appointed and qualified, unless removed sooner by action of the Council or as otherwise hereinafter provided. Each member of a City Commission, committee, or board serves at the pleasure of the appointing Council member or the Mayor and may be removed by that Council member or the Mayor at any time. At the time of the City Council's certification of the results of each general municipal election, the continued term of each City Commissioner and each member of a committee or board shall be subject to reconfirmation by the appointing Council member or the succeeding Council member.

Sec. 3.01.03. Powers and Duties.

- (a) General Powers and Duties. The City Commissions, committees, and boards established pursuant to this Chapter shall have the general power and duty, within each bodies sphere of interest, to render advice and to make recommendations to the City Council and the City Manager.

(b) Special Powers and Duties. In addition to the general powers and duties enumerated in subdivision (a) of this section and to the additional powers and duties ascribed to each by the City Council, each City Commission shall be empowered and obligated as follows:

(1) Airport Commission:

- a. To study and make recommendations to the council on all matters relating to the technical operation, sale, lease, rental, improvement, development and beautification of any and all airports including all airport facilities and buildings owned or operated by the city.
- b. To study and recommend ordinances and resolutions for the establishment of administrative rules and regulations governing the operation and use of airport facilities.
- c. To prepare and recommend adoption of a current airport master plan.
- d. To prepare annually, prior to the beginning of each fiscal year, a program of public improvements deemed necessary or desirable to be undertaken during the coming fiscal year and in line with the airport master plan.

(2) Library and Community Services Commission:

- a. To study and recommend ordinances and resolutions for the establishment of administrative rules and regulations governing the operation and use of the Salinas public library facilities.
- b. To make recommendations to the library and community services director on the library collection development policy and other policies, including, but not limited to, those related to the acquisition of books and other library materials and also including, but not limited to, those related to the study and the recommendation of facility improvements and facility policies.
- c. To prepare annually, prior to the beginning of each fiscal year, a program of public improvements deemed necessary or desirable to be undertaken during the fiscal year and in line with the long range library development plan.
- d. To study and make recommendations to the council on all matters relating to the sale, lease, rental, operation, improvement, development and beautification of any and all parks and park buildings and facilities owned or controlled by the city.
- e. To advise the council and city manager on the promotion and planning of a comprehensive and adequate recreation-park program for the city.

(3) Planning Commission: The purpose of the Planning Commission is to promote and insure the comprehensive and adequate planning of the city. To fulfill that purpose, the Planning Commission shall have the power and it shall be its duty to consider and recommend to the City Council the following:

- a. The approval or disapproval of maps or plats of subdivisions or resubdivisions of lands, whether lying within the city or within three miles outside its corporate limits;
- b. Land use or zoning plans and any proposed changes therein and any ordinances effectuating such plans;
- c. Plans for sanitation and the proper service of all public utilities;
- d. Plans and procedure for the improvement of housing standards, adequate housing, and regulations relating to housing and building codes;
- e. The proper location of any proposed building, structure or works;
- f. The adoption of any plan or plans for the physical development of the city, including lands outside the city, as may bear relation to the planning thereof.

No ordinance or resolution shall be adopted, nor shall any final action be taken, by the City Council, relating to any of the foregoing matters contained in this section until the same shall first have been submitted to the Planning Commission and the Planning Commission shall have made its recommendations thereon.

The city planning commission shall review the general plan, or any portion, extension or amendment thereof, before the adoption of such plan, or any portion, extension or amendment thereof, by the City Council.

(4) Traffic and Transportation Commission:

- a. To study and recommend to the council and city manager ways and means of improving traffic flow and safety on existing streets and public property within the city. The studies and recommendations shall include such matters as channelization of traffic, location of traffic control devices, speed zones and traffic islands.
- b. To render advice on the safe use of all public streets, crosswalks, sidewalks, alleys, parking lots, curb parking and other parking areas within the city.
- c. Working in conjunction with other community interest groups to prepare and recommend adoption of municipal off-street public parking improvement programs.
- d. To study and recommend to the council and city manager ways and means of improving the city operated municipal transportation system. The studies and recommendations shall include such matters as fares, routing

and coordination of such fares and routes with those of other public transportation agencies.

Sec. 3.01.04. Quorum.

A majority of the appointed members of the City Commission, committee, or board shall constitute a quorum. No action shall be taken except by the affirmative vote of the majority of the members present. In the event any member or members abstain from the determination of an item, said member or members shall be counted as present for the purpose of determining a quorum.

Sec. 3.01.05. Appointment; Vacancies; Removal.

- (a) Appointments. The Mayor and each member of the City Council shall appoint one member to each City Commission, committee, or board. Except with respect to the Police Community Advisory Committee to which the Mayor and each member of the City Council shall appoint from residents of the City at-large; however, for the City Councilmembers first preference shall be given to qualified electors who reside within the respective district of the appointing Councilmember , members of each City commission, committee, or board may be selected from among residents of the City at-large. The Mayor shall make an appointment from an established eligibility list if the appointing council member does not fill a vacancy within two months following notification by the City Clerk.
- (b) Vacancies. Vacancies shall be filled in the same manner as appointments. In the event the office the Mayor or a Council member becomes vacant during the term thereof, and until the office is filled, the City Commission, committee, or board member appointed by such Mayor or Council member may be removed by a majority vote of the City Council.
- (c) Removal. Any member of any City Commission, committee, or board may be removed from membership upon the affirmative vote of a majority of the members of the City Council and any such action shall be final and not subject to review.

Sec. 3.01.05. Organization; Officers; Meetings; Conduct of Business.

Unless the City Council determines otherwise through separate action, the City Commissions, committees, and board shall organize and operate in accordance with uniform bylaws for City Commissions, committees, and boards approved by the City Council.

Article 2. Historic Resources Board.

Sec. 3.02.01. Intent and purpose.

- (a) The purpose of this article is to implement the conservation open space goals and policies of the Salinas General Plan.

- (b) A further purpose of this article is to preserve, improve and enhance the historic resources and districts located within the City of Salinas by reviewing changes to those resources and districts and regulating those historic buildings, structures, objects, sites and their integrity which reflect elements of the city's historic, cultural, social, economic, political, and architectural history and which have a historic value to the city, the state, or the nation.
- (c) A further purpose of this article is to foster public knowledge, understanding, and appreciation of the city's historic heritage in order to promote heritage tourism and to enhance the city's civic pride, visual character, property values, touristic value, and further stimulate educational, cultural, economic and general welfare benefits to the public.
- (d) The City Council of Salinas finds that the distinctive and significant character of the city can be fostered by protecting, preserving, and enhancing its historic, architectural, aesthetic, and cultural heritage and by preventing unnecessary injury or destruction of its historic resources.
- (e) The City Council of Salinas finds that this article benefits all residents of the City of Salinas and all owners of property and declares as a matter of public policy that the preservation, protection, and use of historic resources are a public necessity because of their character and their value as visible reminders of the history and the heritage of the City of Salinas. The City Council of Salinas declares as a matter of public policy that this article is required in the interest of the health, prosperity, safety, welfare, and economic well-being of the people of the City of Salinas. The designation and preservation of historic resources and the regulation of alterations, additions, repairs, signs, removal, demolition, or new construction to ensure the perpetuation of their historic integrity is hereby designated to be a public purpose. No part of this article is intended to operate or to effectuate a taking of property.

Sec. 3-02.02. Definitions.

For purposes of this article, the following terms shall have the definitions ascribed to them in this section. In the event a term is not defined in this section, such term shall have the definition ascribed to it in the City Code or in the California Register of Historic Resources, as the case may be and as the same may be amended from time to time.

- (a) "Alteration" means any exterior change or modification of any historic resource, through public or private action, except for routine maintenance or repair, which involves exterior changes to or modification of a structure, its surface texture, or its architectural details; new construction; demolition; or relocation of structures or additions onto, off of, or

within a designated property; excepting herefrom, those structures of less than five hundred square feet in area that are lower in height than the historic resource and are in the rear half of the historic resource's building mass.

- (b) "Certified local government" means a local government that has been certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1996, as amended, and the regulations adopted under the Act, which are set forth in the Code of Federal Regulations.
- (c) "Demolition" means, for the purposes of this article, any act or failure to act, that destroys, removes, or relocates, in whole or in part, an historic resource such that its historic character and significance is materially altered.
- (d) "Historic resource" means any building, structure, sign, site, place, area, or district that is identified on:
 - (1) The National Register of Historic Places;
 - (2) The state historic landmark register;
 - (3) The California Register of Historic Resources; or
 - (4) One that has been voluntarily nominated as an historic resource by the property owner and which designation has been considered by the historic resources board and approved by the Salinas City Council.
- (e) "Historic district" means a finite group of resources related to one another in a clearly distinguishable way or any geographically defined area which possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.
- (f) "Integrity" means the ability of an historic resource to convey its significance including, but not limited to, location, design, setting, materials, workmanship, feeling, and association.
- (g) "Object" shall mean any construction that is distinguished from buildings and structures and that is primarily artistic in nature or is relatively small in scale and simply constructed. Although an object may be movable, by nature or design, it is associated with a specific site or environment, such as a fountain or a boundary marker.
- (h) "Preservation" shall mean the act or process of applying measures to retain, restore, construct, and maintain the significant form, and integrity, of an historic resource. It may

include stabilization work, where necessary, as well as ongoing maintenance of historic resources and construction required for reuse of an historic resource.

- (i) "Site" shall mean the parcel of land an historic resource sits on, the boundaries of the historic district, the location of a significant event, a prehistoric or historic occupation or activity where the location itself possesses historic, cultural, or archaeological value regardless of the historic significance of any existing structure including, but not limited to, a designated landscape or the ruins of a building or structure.
- (j) "Structure" shall mean any construction as defined in the zoning code or adopted building code of the City of Salinas.

Sec. 3-02.03. Composition; election of officers.

- (a) Composition. The historic resources board shall consist of seven persons having a demonstrated interest, competence, or knowledge in historic preservation, heritage preservation, or heritage tourism. The mayor and each councilmember shall select a representative to serve on the board. Such selections shall be made from among recommendations made to the city council by city staff. Board representatives may reside within or without the boundaries of the City of Salinas. Vacancies shall be filled in the same manner. At least two of the members of the Board shall be professionally qualified according to the criteria listed in 36 CFR Part 61 with qualifications in such fields as history, archaeology, architectural history, prehistoric and historic folklore, curation, conservation, or landscape architecture or related disciplines such as urban planning, law, real estate, or to the extent such professionals are available in the community. The remaining members of the board may be representative of the local business community for example, the chamber of commerce, a local business improvement district, or have such other qualifications as the city council may deem appropriate.
- (b) Term. Board members shall serve until successors are appointed, unless such board member either resigns or is removed sooner by action of the city council as hereinafter provided.
- (c) Board members may not serve concurrently on more than one City of Salinas board, committee, or commission.
- (d) Any board member may be removed from office upon the affirmative vote of a majority of the members of the city council and any such action shall be final and not subject to review.

- (e) Election of Officers; Organization; Conduct of Meetings. By the affirmative vote of a majority of its entire membership, the board shall, at its first meeting following July first, select from its membership a chair. In the same manner the board shall select a vice chair to preside in the absence of the chair. The city manager shall appoint a city staff member to act as executive secretary to the board. The time and place of meetings, and the procedure for the conduct of business, shall be determined by the board. The board shall meet at least once each month or less frequently when there is no business to address. Special meetings may be called by the chair or upon the affirmative vote of a majority of the Board's membership when circumstances require.

Sec. 3-02.04. Duties and powers of the historic resources board.

The duties of the historic resources board shall be to:

- (a) Study and make recommendations to city staff, the city council, and the planning commission, as appropriate, on the designation, preservation, alteration, or demolition of an historic resource. Except as otherwise specifically set forth in this article, the historic resources board shall act solely in an advisory capacity with respect to all matters pertaining to all types of historic resources.
- (b) Implement the goals, objectives, and policies of the city council, including the general plan, as they pertain to historic resources located within the City of Salinas.
- (c) Meet, confer, and make recommendations upon any matter referred to it, regarding promotion, preservation, restoration, and protection of historic resources that are located within the City of Salinas.
- (d) Consider the adoption and use of economic incentives that encourage investment in and that promote historic resource preservation, that promote heritage tourism, and that aid property owners with potential financial burdens. Such incentives may include the California Mills Act, the California Historic Building Code, the Federal Historic Preservation Tax Certification, conservation easements, and other incentives deemed appropriate, including those listed in the Salinas General Plan.
- (e) Maintain a local historic resources inventory of all types of historic resources and historic districts within the city and publicize and update the inventory periodically.
- (f) Hear and make recommendations on applications for new construction, alteration, and demolition of historic resources or within the boundaries of designated historic districts.
- (g) Participate in, promote, and conduct public information and educational programs pertaining to all types of historic resources.

- (h) Render advice and guidance upon the request of the property owner or occupant, on the restoration, alteration, demolition, decoration, landscaping, or maintenance of any historic resource.
- (i) Work with city staff to obtain certified local government program status so as to carry out the purposes of the National Historic Preservation Act of 1996 as amended.
- (j) Perform such other duties pertaining to historic resources as the city council may from time-to-time require. The board shall have no independent authority to designate historical resources which have not been voluntarily nominated as an historic resource by the property owner.

Sec. 3-02.05. Designation process.

Historic Resources and historic districts may be considered for designation under this article as set forth in this section.

- (a) Requests for Designation: Historic Resources. Designation of a proposed historic resource may be initiated by the property owner or an authorized representative of the property owner. The application for designation consideration shall be filed with the planning manager, or his designee, using the most recent version of the appropriate State of California Department of Parks and Recreation survey form completed as to the state's instructions for recording historical resources. The application shall at a minimum include the following information:
 - (1) The assessor's parcel number for the property containing the building, structure, object, or site proposed for designation, along with the name and address of the current owner(s) or record;
 - (2) Whether the proposed historic resource takes the form of a building, structure, object, or site as the same are defined in this article;
 - (3) A detailed description of the specific building, structure, object, or site proposed for designation including, but not limited to, its dates of construction, significant alterations, and architectural style;
 - (4) The manner in which the proposed building, structure, object, or site meets the purposes of this article;
 - (5) Current photographs of all aspects of the proposed historic resource, supplemented by sketches, drawings, or other descriptive materials;
 - (6) A description of the physical condition and appearance of the proposed historic resource;

- (7) If the designation proposal is not being submitted by the property owner, a statement by the property owner consenting to the submission of the proposal; and
- (8) Any other information determined necessary by the planning manager to be required for a complete and adequate application.

(b) Requests For Designation: Local Historic Districts.

- (1) Designation of a local historic district may be initiated by the city council or by the property owners within a proposed district.
- (2) In addition to meeting the procedural requirements set forth in this section, requests for designation of local historic districts shall include:
 - (A) Clearly defined and explained boundaries for the proposed district shown on an assessor's map or maps;
 - (B) A concise description of the general physical or historical elements (buildings, structures, objects, and sites,) and qualities which make this area a local historic district with a description of building types, architectural styles, and periods represented in the proposed district;
 - (C) A concise statement that clearly documents why the proposed district has significance, the period of time for which it is significant, and, if applicable, why it substantially meets the purposes of this article;
 - (D) A definition of what types of buildings contribute and do not contribute to the significance of the proposed district as well as an estimate of the number of buildings within the proposed district that do not contribute to its significance;
 - (E) A map illustrating all buildings in the proposed district with an identification of contributing and non-contributing resources; and
 - (F) The signed consent of at least fifty-one percent of the property owners within the proposed district.
- (c) Criteria for Review by the Board. The board shall review an application for designation of an historic resource or an historic district following the criteria advanced in the current regulations of the California Registry of Historic Resources and criteria as may be recommended by the board and approved by the city council. If the board finds the proposed historic resource or historic district meets the criteria, it shall recommend such designation to the city council. If the board finds that the application does not meet the criteria, it shall recommend denial of the application and state the reasons for such denial.
- (d) Public Hearing. The application and supporting information shall be reviewed by the planning manager, or his designee, for adequacy and completeness under the

requirements of this section. The planning manager, or his designee, shall schedule a hearing on the matter before the board within forty-five days of the date the application was determined to be complete. Notice of the time, place, and purpose of such hearing will be mailed to the owner of the proposed historic resource, or to the owners of those properties proposed for inclusion within an historic district, and to all property owners within a three hundred-foot radius of the property or district proposed for designation, at the address shown on the latest assessment roll. Failure of owners to receive notice of such hearing shall in no way affect the validity of any action taken. Prior to the public hearing, the board shall publish and transmit to all interested parties a list of proposed designations, and shall disseminate any relevant public information concerning the application to be considered.

The property owner and/or any authorized representative shall be prohibited from undertaking any alteration, construction, demolition, grading, or removal of such property, and no permit to undertake such work shall be issued, until the proposed designation has been considered and a determination on the matter made by the city council. Nothing in this provision shall be construed as prohibiting or infringing on the legal use of a property pending consideration by the board and by the city council. The provisions of this section shall not apply to the construction, grading, alteration, demolition, or removal of any structure or other feature, where a permit for the performance of such work was issued prior to the date of notice of hearing to consider the designation of the historic resource, and where such permit has not expired or been canceled or revoked. Prior to the board and the city council's hearing on the designation of the proposed historic resource, upon application of the property owner and/or authorized representative, the planning manager or his designee may approve a permit for alterations, construction, or reconstruction consistent with ordinary maintenance and repair and reuse of the property and proposed historic resource, to the extent that such work does not adversely affect the exterior architectural features of the property or proposed historic resource.

- (e) The designation of a buildings, structure, object, or site as an historic resource shall not alter conformance requirements with the other standards and requirements of the City Code or of state law including, but not limited to, the California Historic Building Code.
- (f) Board Recommendations. After the public hearing, but in no event more than thirty days from the date set for public hearing, the board shall recommend approval in whole or in part or disapproval of the application in writing to the city council, setting forth the reasons for the recommendation.
- (g) Approval of Board Recommendations. The city council shall approve the recommendation in whole or in part, or shall disapprove the recommendation in its entirety. Notice of the city council's decision shall be sent to applicants and owners of the

proposed historic resource. Failure to send notice by mail to any property owner shall not invalidate any proceedings in connection therewith.

Sec. 3-02.06. Alteration or demolition of an historic resource.

- (a) No person may alter or demolish an historic resource without first obtaining a certificate of appropriateness as provided for in this section.
- (b) Applications for a certificate of approval shall include historical information regarding the property, a detailed statement of the proposed alteration, including architectural plans and any other information deemed appropriate by the community development director or his designee. If deemed appropriate by the community development director or his designee, all proposed design and construction plans shall be subject to review by the board or by a third party recognized preservation specialist, with the cost to be borne by the applicant.
- (c) All requests for a certificate of approval shall be processed as follows:
 - (1) Minor Alterations. If in the judgment of the community development director or his designee the proposed minor alteration is consistent with the applicable design standards prescribed in this section, the community development director or his designee may approve or conditionally approve the application. If the community development director or his designee finds that the proposed is not consistent with the applicable design standards, the application shall be forwarded to the board for their review and determination, with all costs of such review to be borne by the applicant. For purposes of this section, the term minor alteration shall mean a modification to one or more of the following items: building color; signs; light fixtures; plant materials, landscape, tree removals; street furniture; awnings; doors, windows, chimneys; interior building modifications that do not affect the exterior appearance of a structure; or any other similar alteration deemed appropriate by the community development director or his designee.
 - (2) Major Alterations. All proposed major alterations shall be forwarded to the board which will review the project design and conditions of approval and may deny, approve, or conditionally approve the application. For purposes of this section, the term major alteration shall mean a modification to one or more of the following items: additions to a structure which exceed five hundred square feet in total area; construction of a new structure; exterior building materials other than those defined as minor alterations; grading; natural features designated as an historical resource; or renovation, rehabilitation, or restoration of an existing structure. The

board is given the authority to delegate certain major alterations to the community development director or his designee for review and approval or denial.

- (3) Alterations Accompanied by Planning Entitlement. All proposed alterations that are accompanied by a request for planning entitlement shall be, in the discretion of the city planner, routed to the board for their recommendation to the planning commission.
- (4) Demolition or Alteration; Demonstration of Economic Hardship. All proposed demolitions shall be forwarded to the board which will review the application and may deny or approve the proposed demolition. An historic resource may be demolished if the board, or the city council upon appeal, finds after review that maintenance, use, and/or alteration of the historic resource in accordance with the requirements of this article would cause immediate and substantial hardship on the property owner because rehabilitation in a manner which preserves the historical integrity of the historic resource is (1) infeasible from a technical, mechanical, or structural standpoint, and/or (2) would leave the property with no reasonable economic value because it would require an unreasonable expenditure taking into account such factors as current market value, permitted uses of the property, the value of transferable development rights and the cost of compliance with applicable local, state, and federal laws and regulations.

(d) Alteration of a Resource. In evaluating applications for alteration of an historic resource, or contributing resources located within an historic district, the board or the city council upon appeal, shall consider the architectural style, design, arrangement, texture, materials, color, and any other factors identified in the application. The board, or the city council upon appeal, shall approve the alteration for any proposed work only if it finds (1) with regard to an historical resource, the proposed work will neither adversely affect the exterior architectural features of the resource nor adversely affect the integrity or historical, architectural, or aesthetic interest or value of such resource and its site, and (2) with regard to any property located within an historic district, the proposed work conforms to the criteria set forth in this article and does not adversely affect the integrity of the historic resource or the historic district.

Sec. 3-02.07. Duties and powers of the city council.

The sole authority to declare and to endorse historic resources shall be vested in the city council and shall be exercised only after completion of the board's responsibilities under the designation process set forth in this article. No recommendation for designation once considered and disapproved by the city council shall be reconsidered except upon the affirmative vote of four councilmembers. Any decision to reconsider shall be treated as a new proposal for designation. Any decision of the city council under this article shall be final.

Sec. 3-02.08. Appeals.

The board's decision to approve, disapprove, or approve subject to conditions any application may be appealed, in writing, by the applicant within ten calendar days of such decision. If no appeal is filed with the city clerk within ten days after the decision of the board, such decision is final.

Sec. 3-20.09. Amendment or rescission of designation.

Any designation of an historic resource may be amended or rescinded in the same manner and procedure as was followed in the original designation. The action shall result from new information, the discovery of earlier misinformation or change of original circumstances, conditions or factors which justified the designation of the historic resource or district.

Sec. 3-02.10. Ordinary maintenance and repair.

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior feature of any structure or property covered by this article, so long as such maintenance and repair does not involve a change in exterior design, material, or appearance. City staff is authorized to develop and to implement a procedure to issue over-the-counter permits for all ordinary maintenance and repair meeting the above description.

Sec. 3-02.11. Unsafe or dangerous conditions.

None of the provisions of this article shall prevent any measures of construction, alteration, or demolition necessary to correct the unsafe or dangerous conditions of any structure, other feature, or part thereof, where such condition has been declared unsafe or dangerous by the building official of the city or the fire chief of the city, and where the proposed measures have been declared necessary by such official, to correct the said condition; provided, however, that only such work as is absolutely necessary to correct the unsafe or dangerous condition and as is done with due regard for preservation of the appearance of the structure involved may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire, earthquake or other natural disaster, to such an extent that in the opinion of the building official of the city or the fire chief of the city it cannot be reasonably repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws. If the condition of an unsafe or dangerous historic resource so permits, the official in charge of correcting such a condition shall consult with the board before carrying out corrective measures.

Sec. 3-02.12. Duty to keep in good repair.

The owner, lessee, and any other person in actual charge or possession of an historical resource shall take steps necessary to prevent the substantial deterioration or decay of any exterior portion of such a resource or improvement and to prevent the substantial deterioration or decay of any interior portions thereof whose maintenance is necessary to preserve any exterior portion. As used in this section, the term "substantial deterioration or decay" shall refer to those conditions

of the structure or improvement that threaten the structural or historical integrity of the resource or improvement.

Sec. 3-02.13. Enforcement.

It shall be unlawful for any person to permit or to maintain violations of any provisions of this article by undertaking the alteration, grading, removal, demolition, or partial demolition of an historic resource or a building, structure, object, or site within an historic district without first obtaining the written approval of the city council and the city's community development director or his designee. Any violations of this article may be enforced through civil action brought by the city or through prosecution pursuant to the city's administrative remedies ordinance or through the use of any other remedy available under the law. As part of any enforcement proceeding, violators may be required to reasonably restore the historic resource, or building, structure, object or site within an historic district, to its appearance or condition prior to the violation, under the guidance of the community development director.

Section 3-02.14. Historic preservation incentive—City of Salinas Mills Act Tax Savings Program for Historic Properties.

Pursuant to California Government Code, 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 an historic property as designated by the city council or on any official federal, state or county register, for the purpose of preservation, rehabilitation, and maintenance of a designated historic resource. The terms of the Mills Act agreement allow the owner to receive a reduction in property taxes in exchange for the property owner's commitment to specific repair, rehabilitation improvements and satisfactory maintenance of the historic property. The agreement shall include, but not be limited to, the contract provisions as required under state law, and shall extend for a minimum period of ten years, with automatic renewal on an annual basis, 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 community development director or his/her designee.

SECTION 3. Article VIII of Chapter 9 of the Salinas Municipal Code is hereby repealed in its entirety.

SECTION 4. Article 3 is hereby added to Chapter 3 of the Salinas Municipal Code and shall read as follows:

Article 3. Board of Appeals.

Sec. 3-03.01. In General.

In order to hear and decide appeals of orders, decisions, or determinations made by the building official and the fire code official ("Code Official") relative to the application and interpretation of

Chapter 9 of the Municipal Code, there shall be and is hereby created a building standards appeals board.

At the request of the fire chief, the appeals board may also hear appeals of the orders, decisions or determinations made by the fire chief relative to the application and interpretation of the California Fire Code or the International Fire Code as adopted and amended by the City of Salinas in the Salinas Municipal Code.

Sec. 3.03.02. Intent; Interpretation.

An application for appeal shall be based on a claim that the true intent of Chapter 9 of the Municipal Code have been incorrectly interpreted, the provisions of Chapter 9 do not fully apply, or an equivalent form of construction is proposed.

Sec. 3.03.03. No authority or jurisdiction over appeals.

The appeals board shall have no authority to waive or reduce requirements of Chapter 9. The appeals board shall have no authority or jurisdiction over any matter that is appealable under the Salinas Municipal Code to the City Council or any other board, commission or City of Salinas hearing officer. The appeals board shall not consider the subject matter of any appeal until the appellant provides sufficient evidence to establish that the appeal is filed and applicable fees are paid within the applicable time limits for filing of appeals pursuant to Chapter 9.

Sec. 3.03.04. Appeals by Owner.

Any owner whose interests are adversely affected by an order, decision, or determination made by the Code Official pursuant to the provisions of Chapter 9 and within the limits of authority specified herein, may file an appeal to the appeals board. For purposes of this section, owner means any individual, corporation, partnership, firm or any other group acting as a unit having a legal or equitable interest in the property as recorded in the official records of the Assessor, County Clerk-Recorder for the County of Monterey, including the guardian or trustee of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

Sec. 3.03.05. Membership.

The appeals board shall consist of five standing members selected from the City at-large who are residents of Salinas or who own and operate a business located within Salinas at the time of appointment and continuously during the term of office. The members must be qualified by experience and training and specifically knowledgeable in the California Building Standards Codes and applicable local ordinances to pass on matters pertaining to building standards other than those related to accessibility and who are not employees of the City of Salinas.

Sec. 3.03.06. Alternate Members.

The appeals board shall also consist of two alternate members, subject to the same selection criteria for appointment as a standing member, who shall be called by the appeals board chairperson to hear appeals during the absence or disqualification of a member.

Sec. 3.03.07. Appointment; Terms.

Standing members of the appeals board shall be appointed by the City Council to serve a term of five years unless removed by the City Council. Each standing member shall serve for five years or until a successor has been appointed. Initial appointment of alternate members shall be for five years. Initial appointment of adjunct members shall be for five years.

Sec. 3.30.08. Interpretation of building standards for accessibility.

When the appeals board considers appeals of orders, decisions, or determinations made by the building official relative to the application and interpretation of building standards for accessibility, the appeals board shall consist of two standing or alternate members and three adjunct members. Two adjunct members shall be physically disabled persons and one will be a public member, who will be appointed by the City Council and shall serve in the same manner as standing members. The adjunct members shall only participate on the appeals board on matters relative to the application and interpretation of building standards for accessibility and the appeals board may not consider matters relative to the application and interpretation of building standards for accessibility unless the two adjunct members participate. Standing or alternate members shall be chosen by the chairperson prior to commencement of the appeal hearing.

Sec. 3.03.09. Conflicting interests.

Any standing, alternate, or adjunct member shall not hear an appeal in which that member has a personal, professional or financial interest.

Sec. 3.03.10. Filing of appeals; fee.

All appeals shall be in writing and shall be specific and in sufficient detail to provide a clear basis for issuing the requested decision. Only those matters or issues specifically raised by the appellant shall be considered in the hearing of the appeal. All appeals shall be filed with the city clerk and with the City of Salinas Code Official within thirty days after written notice of the decision from which the appeal is being taken has been mailed to the applicant or within ninety days of the actual order, decision or determination made by the code official, whichever is earlier. A fee for such appeals shall be established by resolution of the city council and payable at the time of filing. No appeal shall be accepted without the payment of such fee. No part of such fee shall be refundable unless the appeal is timely withdrawn as determined by the code official. Refunds shall be made pursuant to the provisions of this chapter.

Sec. 3.03.11. Decisions of board.

The decisions of the appeals board shall be conclusive and final and an exhaustion of administrative remedies for the City of Salinas.

Sec. 3.03.12. Duties; policies and procedures.

The appeals board is authorized to establish policies and procedures necessary to carry out its duties, which shall at a minimum include the following:

- (a) Chairperson. The appeals board shall annually select one of its members to serve as chairperson.
- (b) Disqualification of Member. A member shall not hear an appeal in which that member has a personal, professional or financial interest.
- (c) Secretary. The building official shall designate a qualified clerk to serve as secretary to the appeals board. The secretary shall file a detailed record of all proceedings in the office of the city clerk.
- (d) Compensation of Members. Members shall serve without compensation.
- (e) Quorum. Attendance by three or more members shall constitute a quorum for all business and decisions.
- (f) Regular and Special Meetings. The appeals board shall meet upon notice from the chairperson of the filing of an appeal at regular meetings unless the chairperson elects to call a special meeting due to the urgency of the appeal. Regular meetings shall be scheduled monthly.
- (g) Open Hearing. All hearings before the appeals board shall be open to the public. The appellant, the appellant's representative, the code official and any person whose interests are affected shall be given an opportunity to be heard.
- (h) Conduct of Hearings. The appeals board shall adopt and make available to the public through the secretary procedures under which a hearing will be conducted. The procedures shall not require compliance with strict rules of evidence, but shall mandate that only relevant information be received.
- (i) Requests for Continued and Delayed Hearings. The appeals board shall adopt rules on the justifying nature and time limits for requests for continued and delayed hearings by the code official or appellant.
- (j) Decision. The decision of the appeals board shall be by resolution. Copies shall be furnished to the appellant and to the code official.

Sec. 3.03.13. Liability.

Members of the appeals board while acting for the City of Salinas in good faith and without malice in the discharge of the duties required by Chapter 9 or other pertinent law or regulation, shall not thereby be rendered liable personally and are hereby relieved from personal liability for any damage accruing to persons or property as a result of any act or by reason of an act or omission in the discharge of official duties. Any suit instituted against a member of the appeals board because of an act performed by that member in the lawful discharge of duties and under

the provisions of an act performed by that member in the lawful discharge of duties and under the provisions of Chapter 9 shall be defended by legal representatives of the City of Salinas until the final termination of the proceedings. The member shall not be liable for cost in any action, suit, or proceeding that is instituted in pursuance of the provisions of Chapter 9.

SECTION 5. CEQA CONSIDERATIONS. The adoption of this Ordinance is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. It can be seen with certainty that the adoption of this Ordinance there is no possibility that the activity in question may have a significant effect on the environment. [CEQA Guidelines Section 15061(b)(3).]

SECTION 6. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held invalid by a court of competent jurisdiction, such a decision shall not affect the validity of the remaining portions of this Ordinance. The City Council declares that it would have passed this Ordinance and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that one or more sections, subsections, sentences, clauses, or phrases, be declared invalid.

SECTION 7. EFFECTIVE DATE. This Ordinance shall become effective on the thirty-first day following its adoption.

PASSED AND ADOPTED on this _____ day of _____, 2016, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Joe Gunter, Mayor

ATTEST:

Patricia M. Barajas, City Clerk

APPROVED AS TO FORM:

Christopher A. Callihan, City Attorney