

ORDINANCE NO. 2021-__

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PINOLE
ADDING CHAPTER 17.28, HISTORIC PRESERVATION OVERLAY, TO THE
MUNICIPAL CODE**

WHEREAS, historic buildings and structures are those which are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or are unique; and

WHEREAS, historic buildings and structures are irreplaceable assets to the City and its neighborhoods, and an important element of Pinole's identity; and

WHEREAS, the General Plan includes goals of maintaining Pinole's unique qualities and sense of place to preserve the established historic and small-town character of the city, as well as promoting a greater awareness of and sensitivity toward Pinole's historical heritage; and

WHEREAS, in order to implement these goals, the General Plan calls on the City to establish review procedures for development projects that recognize the history of the area in conjunction with state and federal laws and consider adoption of a historic preservation ordinance; and

WHEREAS, the purpose of design review is to promote the orderly and harmonious growth of the city, to encourage development in keeping with the desired character of the city, and to ensure physical and functional compatibility between uses; and

WHEREAS, every development project in the City is required to go through design review; and

WHEREAS, the proposed ordinance would create a Historic Preservation Overlay Zone (the "HPO Zone") within the City; and

WHEREAS, the proposed ordinance would require properties included in the HPO Zone to go through additional historic review before development projects could occur on the property, including alterations to existing structures; and

WHEREAS, if a proposed project within the HPO Zone would impact a cultural resource, the project would be required to comply with the Old Town Design Guidelines; and

WHEREAS, inclusion within the Historic Preservation Overlay would not change the types of uses allowed on the property; and

WHEREAS, properties within the area commonly known as Old Town Pinole would be included within the HPO Zone; and

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the proposed amendments to the Zoning Code on February 22, 2021, at which time all interested persons had the opportunity to be heard; and

WHEREAS, after close of the public hearing, the Planning Commission recommended that the City Council adopt the proposed amendments to the Zoning Code with specified changes; and

WHEREAS, the City Council held a duly noticed public hearing to consider the proposed amendments to the Zoning Code on May 4, 2021, at which time all interested persons had the opportunity to be heard; and

WHEREAS, after the close of the public hearing, the City Council considered all public comments received both before and during the public hearing, the presentation by city staff, the staff report, and all other pertinent documents regarding the proposed zoning code amendment; and

WHEREAS, the City Council finds that the proposed amendments to the Zoning Code are consistent with and support the Pinole General Plan by helping to preserve historic structures, enhance Pinole's unique qualities and sense of place, and promote a greater sensitivity toward Pinole's historical heritage.

WHEREAS, the City Council desires to adopt the proposed changes to the Zoning Code.

NOW, THEREFORE, the City Council of the City of Pinole does ordain as follows:

Section 1. Recitals.

The above recitals are true and correct and made a part of this Ordinance.

Section 2. Municipal Code Amendment – Chapter 17.28.

Chapter 17.28, Historic Preservation Overlay (HPO) District, is hereby added to the Municipal Code to read as set forth in Exhibit A, attached hereto and incorporated herein by reference.

Section 3. Historic Preservation Overlay.

The Historic Preservation Overlay (HPO) Zone authorized by Municipal Code Section 17.28.030 is hereby established as show in the map attached hereto as Exhibit B and incorporated herein by reference.

Section 4. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the remainder of this Ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force

and effect. To this end, provisions of this Ordinance are severable. The City Council of the City of Pinole hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

Section 6. California Environmental Quality Act (“CEQA”).

The proposed amendments are exempt from CEQA based on the rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. As a series of text amendments and additions, it can be seen with certainty that there is no possibility that the proposed amendments to the Zoning Code will have a significant effect on the environment.

Section 7. Effective Date.

In accordance with California Government Code Section 36937, this Ordinance shall take effect and be in force on the thirty-first day after adoption.

Section 8. Publication.

Within fifteen (15) days after the passage of this Ordinance the City Clerk shall cause this Ordinance or a summary thereof to be published or to be posted in at least three public places in the City of Pinole in accordance with the requirements of California Government Code Section 36933.

PASSED AND ADOPTED on this ____ day of _____ 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Norma Martinez-Rubin, Mayor

ATTEST:

Heather Iopu, City Clerk

APPROVED AS TO FORM:

Eric S. Casher, City Attorney

EXHIBIT A

Chapter 17.28 Historic Preservation Overlay (HPO) District

- 17.28.010 Purpose.**
- 17.28.020 Cultural Resources Definition**
- 17.28.030 Historic Preservation Overlay (HPO) Designation**
- 17.28.040 Designation Process**
- 17.28.050 Determination of Existence of a Cultural Resource**
- 17.28.060 Special Guidelines for Design Review**
- 17.28.070 Demolition**
- 17.28.080 Hardship Exemption**
- 17.28.080 Applicability**
- 17.28.100 Public Hearings**
- 17.28.110 Incentives**

17.28.010 Purpose.

The general purpose of the Historic Preservation Overlay (HPO) District is to promote the preservation and rehabilitation of historic buildings in Pinole. Historic buildings are those which are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or are unique and irreplaceable assets to the City and its neighborhoods.

17.28.020 Cultural Resources Definition

As used in this chapter, “Cultural Resource” means any site, place, building, structure, sign, work of art, natural feature or other object with historical, archaeological, cultural, architectural, community, aesthetic or artistic heritage significance to the citizens of the City, the State of California, or the nation for one of the following reasons:

- A. It embodies distinctive characteristics of style, type, period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship, or
- B. It contributes to the significance of a historic area being a geographically definable area possessing a concentration of historic or scenic properties or thematically related grouping of properties or properties which contribute to each other and are unified aesthetically by plan or physical development, or
- C. It embodies elements of architectural design, detail materials or craftsmanship that represents a significant structural or architectural achievement or innovation; or
- D. It is identified with persons or events significant in local, state, or national history.

17.28.030 Historic Preservation Overlay (HPO) Designation

- A. There is hereby created a Historic Preservation Overlay, which shall be used to designate on the City's Zoning Map properties that are possibly worthy of preservation because of the cultural resource(s) located on the property.
- B. Permitted and conditional uses, allowable density and development standards for properties designated with the Historic Preservation overlay shall be the same as is required for the underlying zone district, except as otherwise provided for in this Chapter.

17.28.040 Designation Process

- A. The Zoning Administrator, Planning Commission, or City Council may initiate proceedings to add the HPO zone designation to a property. After the process is initiated, the Zoning Administrator shall prepare information regarding the cultural resource(s) located on the property, as appropriate, and present such information to the Planning Commission for consideration.
- B. The Planning Commission may recommend to the City Council, after public hearing, the inclusion of properties within the HPO zone.
- C. The City Council shall consider the recommendation of the Planning Commission and may, after a public hearing, designate by ordinance properties to be included within the HPO Zone.
- D. A property shall only be included within the HPO zone if the approval findings required by Section 17.12.190 for Zoning Code Amendments are made.

17.28.050 Determination of Existence of a Cultural Resource

- A. For any project proposed on a property located within the HPO Zone, prior to the occurrence of any design review, the Zoning Administrator shall determine whether the project would result in changes to a cultural resource on the property.
- B. The Zoning Administrator shall notify the applicant of the determination in writing. The Zoning Administrator's decision may be appealed pursuant to Section 17.10.070.

17.28.060 Special Guidelines for Design Review

- A. Any proposed project within the HPO Zone that would result in changes to a cultural resource on the property shall comply with the Old Town Design Guidelines, as adopted and amended by the City Council from time to time.
- B. Administrative Design Review or Comprehensive Design Review shall not be approved for any project that does not comply with the Old Town Design Guidelines, if the project is subject to such guidelines. The reviewing authority may determine that a project complies with the Old Town Design Guidelines if it satisfies most of the applicable guidelines.

17.28.070 Demolition

No structure on a property located within the HPO Zone shall be demolished unless the Zoning Administrator first determines in writing that either:

- A. The structures is not a Cultural Resource pursuant to Section 17.28.50; or
- B. The structure cannot be feasibly remodeled or rehabilitated in a manner which would allow a reasonable use of or return from the property to the property owner.

The Zoning Administrator's decision may be appealed pursuant to Section 17.10.070.

17.28.080 Hardship Exemption

If the applicant presents facts clearly demonstrating to the satisfaction of the reviewing authority that compliance with the Old Town Design Guidelines will work immediate and substantial hardship because of conditions peculiar to the particular structure or other feature involved, the reviewing authority may approve the application even though it does not meet the standards set forth in this Chapter. Nothing herein shall excuse compliance with any other applicable requirement of this Code.

17.28.090 Applicability

None of the provisions of this chapter shall prevent any measures of construction, alteration or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or part thereof, where such condition has been declared unsafe or dangerous by the Building Official or the Fire Marshal, and where the proposed measures have been declared necessary, by such official to correct the condition; provided, however, that only such work as is necessary to correct the unsafe or dangerous condition may be performed pursuant to this section.

17.28.100 Public Hearings

Notice of the public hearings required by this chapter shall be given in the same manner as required by 17.10.050.

17.28.110 Incentives

The City Council may authorize the following incentives to the owners of properties located within the HPO Zone in order to encourage and facilitate preservation of historic structures:

- A. Enact the Mills Act to provide a reduction in property taxes;
- B. Provide rehabilitation grants and low interest loans for facade improvements in the Old Alvarado commercial district; and

C. Provide rehabilitation loans for low and moderate income homeowners.