

Additions are underlined.
Deletions are ~~struck through~~.
Revision markers are noted in left or
right margins as vertical lines.

ORDINANCE NO. _____

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF THE
COUNTY OF NAPA, STATE OF CALIFORNIA, AMENDING CHAPTER
15.52 (LANDMARK PRESERVATION) AS IT RELATES TO THE
DESIGNATION AND DISPOSITION OF COMMERCIAL AND RESORT
HISTORIC RESOURCES IN NAPA COUNTY AND MAKING RELATED
AMENDMENTS TO CHAPTER 18.124 (USE PERMITS) AND CHAPTER
18.132 (LEGAL NONCONFORMITIES) AND ADDING A NEW SECTION
18.104.430 ENTITLED NAPA COUNTY LANDMARKS ADAPTIVE
REUSE - FINDINGS**

WHEREAS, periodically the Conservation, Development and Planning Department recommends amendments to Title 18 (Zoning) and related sections of the Napa County Code; and

WHEREAS, Napa County Code provisions related to the designation and disposition of historic resources have not been updated since 1990, although professional historic preservation practices have evolved substantially; and

WHEREAS, Community Character Action Item CC-19.2 in the Napa County General Plan (adopted June 2008) (the “General Plan”) calls on the County to improve the procedures and standards to provide for the preservation and appropriate rehabilitation of significant resources, and to incorporate incentives for historic preservation; and

WHEREAS, Community Character Policy CC-27 of the General Plan states that the County shall offer a variety of incentives for the appropriate rehabilitation and reuse of historic buildings; and

WHEREAS, Community Character Action Item CC-28.1 in the General Plan calls on the County to establish a discretionary process whereby owners of qualified historic buildings within agricultural areas of the County may apply for permission to reuse their buildings for their historic use or a compatible new use as long as the use is compatible with agriculture and the historic building is rehabilitated and maintained in conformance with the U.S. Secretary of the Interior's Standards; and

WHEREAS, the Board of Supervisors recognizes that the incentives needed to encourage rehabilitation and reuse of historic resources vary depending on the nature of the resources involved; and

WHEREAS, there are a limited number of other historic resources that may need additional incentives before they can be feasibly reused for their historic use or a compatible new use; and

WHEREAS, the California Historical Building Code states that historical buildings "shall be permitted to continue in use regardless of any period of time in which it may have remained unoccupied or in other uses," which some local agencies have interpreted to allow historic buildings to be reused for their historic uses regardless of local zoning.

The Board of Supervisors of the County of Napa, State of California, ordains as follows:

SECTION 1. Chapter 15.52 (Landmark Preservation) of the Napa County Code is amended to read in full as follows:

15.52.010 Purpose of provisions—Citizen participation.

- A. It is the intent and purpose of the board, by this chapter, to:
 - 1. Preserve the county's historic and cultural heritage, as embodied and reflected in its historic resources;
 - 2. Stabilize and improve property values and the local economy through the appropriate rehabilitation and reuse of historic structures;
 - 3. Foster civic pride and increase the collective understanding of Napa's agricultural heritage and accomplishments of the past;

4. Protect and enhance the county's attractions to residents and visitors, and serve as a support and stimulus to business;
 5. Protect the county's important assets and strengthen its overall economy; and
 6. Promote the use of historic resources for the education, pleasure and welfare of the people of the county.
- B. Toward the preceding goals, the county will promote citizen participation by:
1. Providing specific criteria for property owners who wish to designate their historic resources as Napa County Landmarks, thus making them eligible to apply for local, state and federal preservation incentives;
 2. Seeking funding, in kind donations, and volunteer efforts necessary to develop and maintain a comprehensive inventory of potentially eligible resources so that the State Historic Building Code may be utilized when applicable during rehabilitation, reconstruction or restoration activities.

15.52.015 Definitions.

Unless the context clearly requires otherwise, the definitions in this section shall govern the provisions of this Chapter 15.52.

"California Register" shall mean the California Register of Historic Resources established by California Public Resources Code Section 5024.1 as such may be amended from time to time.

"Historical Resource" shall mean a building, structure, site, or landscape that is potentially eligible for designation as a Napa County Landmark, or that has been determined eligible for listing on the California Register or the National Register.

"Mills Act contract" shall mean an agreement executed pursuant to Government Code Section 50280, et seq. as such may be amended from time to time and Board of Supervisors Resolution providing a property tax reduction in exchange for the property owner's agreement to rehabilitate and maintain a designated landmark.

"Napa County Landmark" shall mean a historical resource that has been designated pursuant to this Chapter 15.52 or that has been formally listed on the California Register or the National Register.

"National Register" shall mean the National Register of Historic Places authorized by the National Historic Preservation Act of 1966 and maintained by the National Park Service, U.S. Department of the Interior.

"Qualified Preservation Professional" shall mean a professional with demonstrated experience in conformance with the Code of Federal Regulations, Appendix A to Part 61, Professional Qualifications Standards of the Secretary of the Interior's Standards as such may be amended from time to time.

"Secretary of the Interior's Standards" shall mean the *Secretary of the Interior's Standards for Rehabilitation* as set forth in 36 CFR Part 67 as such may be amended from time to time.

15.52.020 Administrative authority—Powers and duties.

The conservation, development and planning commission (hereinafter identified as "commission") shall administer the Landmark Preservation Ordinance, and for that purpose shall have the following powers and duties:

- A. Review applications for landmark designations for consistency the with criteria established by subsection (B) of Section 15.52.030;
- B. Maintain an up to date inventory of designated Napa County Landmarks and other historical resources within the county;
- C. Conduct public hearings on environmental documents prepared for demolition of designated landmarks and adopt environmental documents or recommend adoption to the board, as appropriate;
- D. Review applications for adaptive reuse pursuant to subsection (E) of Section 15.52.040; and
- ~~E~~D. Perform other functions related to the cultural resources of the county as may be delegated to it by the board.

15.52.030 Landmark designation criteria and procedures.

- A. The commission may, at the request of the property owner or another party acting with the property owner's consent, designate existing historical resources as Napa County Landmarks if they meet one or more of the criteria established in subsection (B) of this section, are more than fifty years old, and retain their historic integrity as defined in subsection (C) of this section. Designations shall be made only after the commission has conducted a public hearing, duly noticed, pursuant to Section 18.136.040.
- B. Applications for landmark designation shall be made to the commission in writing on a form prescribed by the department and shall describe the historic uses of the property and demonstrate compliance with criteria and requirements of this section.
- C. As provided in subsection (A) of this section, a historical resource may be designated as a Napa County Landmark if it:
 - 1. Is associated with events that have made a significant contribution to the broad patterns of Napa County's or California's history and cultural heritage; or
 - 2. Is associated with the lives of persons important in our past; or
 - 3. Embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of an important creative individual, or possesses high artistic values; or
 - 4. Has yielded, or may be likely to yield, information important in prehistory or history.
- D. Resources with historic integrity are those that retain the essential physical features which enable them to convey their historic identity or their importance to Napa County's or California's history and cultural heritage. According to the California Office of Historic Preservation, essential physical features are those characteristics that define why a property is significant and can include its location, design, setting, materials, workmanship, feeling, and association.
- E. Whether or not they have been designated as such by the commission, existing buildings or structures that have been formally listed on the National Register or the California Register by action of the California Historic Resources Commission are considered Napa County Landmarks due to their acknowledged historical, cultural or architectural significance.

15.52.035 Ghost wineries and farm centers.

In addition to landmarks designated pursuant to Section 15.52.030, the county recognizes ghost wineries and farm centers as noted below:

A. Ghost wineries are substantially intact buildings (i.e., four walls and a roof) that were used as wineries prior to Prohibition on January 16, 1920, but that were not being used as wineries as of May 14, 2002.

B. Farm centers include but are not limited to the following historic buildings that were used as grange halls or agricultural community centers:

1. Pope Valley Farm Center
2. Rutherford Grange
3. Tucker Farm Center
4. Welcome Grange
5. Carneros Community Center

15.52.037 Preservation incentives.

A. Residential buildings and school houses and religious buildings that have been designated as Napa County Landmarks shall be eligible for property tax reductions following execution of a Mills Act contract. Residential buildings and school houses and religious buildings shall include but are not limited to buildings that were constructed and originally used as houses, carriage houses, dormitories, classrooms, churches or other religious institutions.

B. Barns and agricultural buildings other than wineries that have been designated as Napa County Landmarks shall be eligible for property tax reductions following execution of a Mills Act contract or a Williamson Act contract. Barns and agricultural buildings shall include but are not limited to buildings that were constructed and originally used as barns, water towers, blacksmith shops, stables, dairies, or outbuildings.

C. Wineries and distilleries that have been designated as Napa County Landmarks or that meet the definition of ghost wineries as provided in subsection (A) of 15.52.035 shall be eligible for the minimum parcel size and setback exemption contained within Section 18.104.245 provided they are rehabilitated and reused as wineries.

D. Farm centers shall be eligible for reuse consistent with subsection (C) of Section 15.52.040.

E. Commercial and resort buildings that have been designated as Napa County Landmarks shall be eligible for reuse consistent with subsection (E) of Section 15.52.040. Commercial and resort buildings shall be limited to buildings that were constructed and originally used as stores, train stations, garages, restaurants, spas, or overnight accommodations.

~~F.~~ All historical resources shall be eligible for use of the State Historical Building Code as provided in Chapter 15.30 whether or not they are designated as Landmarks.

15.52.040 Designated landmarks and farm centers —Use conditions.

Designated landmarks and farm centers may be used in a manner and pursuant to the procedures as established by the principal zoning district in which they are located subject to the conditions and exceptions listed below.

A. Alterations to designated landmarks and farm centers shall be designed by a Qualified Preservation Professional to be consistent with the Secretary of the Interior's Standards.

B. Proposed alterations that are not certified by a Qualified Preservation Professional as consistent with the Secretary of the Interior's Standards shall be subject to review by the commission to ensure that all feasible measures are taken to protect the structure from changes that would adversely affect its historical integrity as defined in subsection (C) of Section

15.52.030 or qualify the structure for removal of status pursuant to Section 15.52.050.

C. Proposed demolitions shall be subject to review by the commission concurrent with a request for removal of status pursuant to Section 15.52.050 and shall be authorized if no feasible alternative exists.

D. Farm centers listed in subsection (B) of Section 15.52.035 may be used as meeting halls and special event venues, including food preparation and non-commercial food service.

E. Napa County Landmarks constituting one or more historic commercial or resort building may be adaptively reused for their historic use or for uses permitted in the Commercial Limited or Commercial Neighborhood zoning districts upon grant of a use permit pursuant to Section 18.124.010, provided that the approving agency makes all of the findings contained in Section 18.104.430 in addition to the findings required by Section 18.124.070.

15.52.050 Designated landmarks—Removal of status.

A. Once designated as a landmark, removal of landmark status from structures or buildings by the commission may be initiated by the commission upon written request by the property owner.

B. Prior to approving a request for the removal of landmark status, the commission shall conduct a public hearing pursuant to Section 18.124.040 and find that:

1. The applicant has demonstrated that the deletion is necessary to correct an unsafe or dangerous condition within the designated building that cannot be corrected without removal;
2. The applicant has demonstrated that denial of the request will result in immediate and substantial economic hardship; or
3. There are no reasonable alternatives to the removal as of the time of the hearing.

C. When removal of landmark status affects a landmark that has a use permit for adaptive reuse pursuant to subsection (E) of Section 15.52.040, removal of landmark status and use permit revocation shall be noticed and considered by the commission concurrently.

15.52.060 Appeals procedure.

Appeals to a decision by the commission on the designation or deletion of structure(s) or building(s) as landmarks or on the adaptive reuse of landmarks shall be processed in the manner prescribed by Chapter 2.88 of the Napa County Code.

SECTION 2. A new Section 18.104.430 entitled Napa County Landmarks adaptive reuse - Findings is hereby added to Chapter 18.104 (Additional Zoning District Regulations) of the Napa County Code to read in full as follows:

18.104.430 Napa County Landmarks adaptive reuse - Findings.

In addition to the findings required in Section 18.124.070, the approving agency must make all of the following findings prior to issuance of a use permit for adaptive reuse of Napa County Landmarks:

A. The adaptive reuse will support the long-term preservation of the landmark and the applicant has agreed to rehabilitate and maintain the building in conformance with the Secretary of the Interior's Standards for Preservation Projects.

B. The adaptive reuse will enhance public understanding and appreciation for the county's cultural heritage.

C. The adaptive reuse is compatible with agriculture because it does not displace an agricultural use, conflict with a Williamson Act contract, or increase the likelihood of conflicts between users of the site and nearby agricultural activities.

D. The adaptive reuse does not constitute urbanization because it (1) either re-establishes an historic use of the property, or establishes an alternative use that does not require inappropriate alterations or extensive additions to the historic building, and (2) the resulting use will not be more intense than either the historic use or the applicable uses permitted in the Commercial Limited or Commercial Neighborhood zoning districts, whichever is less. For purposes of this section, inappropriate alterations are those that do not conform with the Secretary of the Interior's Standards, extensive additions are those that exceed five hundred gross square feet, and intensity of use shall be determined by the number of rooms in the case of overnight accommodations, the number of seats in the case of restaurants, and the square footage of other commercial uses.

E. The adaptive reuse is supported by adequate off-street parking, adequate water supplies, and an adequate waste disposal system.

F. The property owner has agreed to maintain the building in accordance with the Secretary of the Interior's Standards, has provided a written maintenance plan prepared by a qualified preservation professional, and shall reimburse the county for the cost of an annual inspection for the duration of the use permit.

SECTION 3. Section 18.124.120 (Revocation - Conditions - Procedure) of Chapter

18.124 (Use Permits) of the Napa County Code is amended to read in full as follows:

18.124.120 Revocation—Conditions—Procedure.

A. The commission, if it deems it appropriate or upon the request of the board, shall hold a public hearing for the purpose of considering the revocation, suspension, or modification of any previously approved use permit. Notice of a revocation, suspension or modification hearing shall be given in accordance with Section 18.136.040 except that the permittee shall be served in the manner provided by Sections 415.10 through 415.30, inclusive, of the Code of Civil Procedure if the permittee is in the state or, if the permittee is outside this state, in the manner provided in Section 415.40 of the Code of Civil Procedure. The notice shall identify the time, date and place of the hearing, the reasons for the hearing, and generally describe the factual basis upon which it has been determined that the use permit was obtained by fraud or misrepresentation or one or more conditions of the use permit alleged to have been violated.

B. The public hearing shall be conducted in the manner set forth in Section 18.124.040.

C. After closing the public hearing, the commission may revoke or suspend a use permit or modify the conditions thereof, if it makes one or more of the following findings:

1. Approval of the use permit was obtained by fraud or misrepresentations; or
2. A person making use of the use permit is violating or has violated any conditions thereof;

3. The use for which the use permit was granted is being, or has been, exercised contrary to the terms or conditions of such approval;
 4. The use for which the approval was granted is so exercised as to be detrimental to the public health, safety, or general welfare;
 5. The use for which the approval was granted is being exercised in such a manner as to constitute a nuisance; or
 6. The use for which approval was granted has ceased for a period of five years or more; ~~or~~;
 7. The removal of landmark status affects a landmark that has a use permit for adaptive reuse pursuant to subsection (E) of Section 15.52.040.
- D. Copies of the decision adopted by the commission shall be mailed to the permittee by certified mail within three working days of the date the decision is announced.
- E. The decision of the commission action shall be final and conclusive unless an appeal is filed in the manner set forth in Chapter 2.88. Filing such an appeal shall be the sole means of reviewing the decision of the commission.
- F. Following the revocation or denial of a use permit, no application for a use permit for the same or substantially the same use and design or use of the same or substantially the same site shall be filed within one year from the date of denial or revocation.

SECTION 4. A new Section 18.132.065 entitled Designated Napa County Landmarks - Use and Continuance is hereby added to Chapter 18.132 (Legal Nonconformities) of the Napa County Code is amended to read in full as follows:

18.132.065 Designated Napa County Landmarks – Use and Continuance.
Notwithstanding any provision in this chapter to the contrary, Napa County Landmarks consisting of one or more historic commercial or resort buildings may be adaptively reused for uses permitted in the Commercial Limited and Commercial Neighborhood zoning districts as set forth in subsection (E) of Section 15.52.040 subject to procedures in Chapter 18.124 and findings in Chapter 18.124.

SECTION 5. In accordance with CEQA and the State CEQA Guidelines (Sections 15168), the County is relying on the program level Environmental Impact Report (EIR) for the General Plan Update (SCH# 2005102088, certified June 2008) as the EIR for this ordinance. As discussed in a separate memorandum and checklist (initial study) dated August 24, 2011, this approach is consistent with CEQA and the State CEQA Guidelines because (1) the proposed ordinance is within the scope of the General Plan approved in 2008, and (2) the program EIR prepared for the General Plan Update adequately describes the activity for purposes of CEQA.

In addition, (3) the County has not identified any changes in the General Plan, changes in circumstances under which the General Plan Update was adopted, or new information of substantial importance that would necessitate subsequent environmental review pursuant to CEQA Guidelines Section 15162.

A copy of the General Plan Update EIR may be reviewed during business hours at the offices of the Department of Conservation, Development and Planning, 1195 Third Street in Napa, or on the County's website.

SECTION 6. Pursuant Chapter 4, Title 7, commencing with Section 65800, of the California Government Code, this Ordinance is consistent with the following policies and goals of the Napa County General Plan:

Goal CC-4: Identify and preserve Napa County's irreplaceable cultural and historic resources for present and future generations to appreciate and enjoy.

Goal CC-5: Encourage the reuse of historic buildings by providing incentives for their rehabilitation and reuse.

Policy CC-19: The County supports the identification and preservation of resources from the County's historic and prehistoric periods.

Action Item CC-19.2: Consider amendments to the County zoning and building codes to improve the procedures and standards for property owner-initiated designation of County Landmarks, to provide for the preservation and appropriate rehabilitation of significant resources, and to incorporate incentives for historic preservation.

Policy CC-27: Offer incentives for the appropriate rehabilitation and reuse of historic buildings and disseminate information regarding incentives available at the state and federal level.

Such incentives shall include but are not limited to the following:

- a) Apply the State Historical Building Code when building modifications are proposed.
- b) Reduce County building permit fees when qualified preservation professionals are retained by applicants to verify conformance with the SHBC and the Secretary of the Interior's Standards.

- c) Use of the federal historic preservation tax credit for qualified rehabilitation projects.
- d) Income tax deductions for qualified donations of historic preservation easements.

Policy CC-28: As an additional incentive for historic preservation, owners of existing buildings within agricultural areas of the County that are either designated as Napa County Landmarks or listed in the California Register of Historic Resources or the National Register of Historic Places may apply for permission to reuse these buildings for their historic use or a compatible new use regardless of the land uses that would otherwise be permitted in the area so long as the use is compatible with agriculture, provided that the historic building is rehabilitated and maintained in conformance with the U.S. Secretary of the Interior's Standards for Preservation Projects.

This policy recognizes that, due to the small number of existing historic buildings in the County and the requirement that their historic reuse be compatible with agriculture, such limited development will not be detrimental to the Agriculture, Watershed or Open Space policies of the General Plan. Therefore such development is consistent with all of the goals and policies of the General Plan.

Action Item CC-28.1: Amend the Zoning Ordinance to provide a discretionary process such as a use permit by which property owners may seek approval consistent with Policy CC-28, for an additional incentive for historic preservation. The process shall preclude reuse of buildings which have lost their historic integrity and prohibit new uses that are incompatible with the historic building or that require inappropriate new construction.

SECTION 7. If any section, subsection, sentence, clause, phrase or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Supervisors of the County of Napa hereby declares it would have passed and adopted this Ordinance and each and all provisions hereof irrespective of the fact that any one or more of said provisions be declared invalid.

SECTION 8. This Ordinance shall be effective thirty (30) days from and after the date of its passage.

SECTION 9. A summary of this Ordinance shall be published at least once 5 days before adoption and at least once before the expiration of 15 days after its passage in the Napa

Valley Register, a newspaper of general circulation published in the County of Napa, together with the names of members voting for and against the same.

The foregoing Ordinance was introduced and public hearing held thereon before the Napa County Conservation, Development and Planning Commission at a regular meeting of the Commission on the 7th day of September, 2011, and was passed at a regular meeting of the Board of Supervisors of the County of Napa, State of California, held on the _____ day of _____, 2011, by the following vote:

AYES: SUPERVISORS _____

NOES: SUPERVISORS _____

ABSTAIN: SUPERVISORS _____

ABSENT: SUPERVISORS _____

BILL DODD, Chairman
Napa County Board of Supervisors

ATTEST: GLADYS I. COIL
Clerk of the Board of Supervisors

By: _____

<p>APPROVED AS TO FORM Office of County Counsel</p> <p>By: _____ (by e-signature) Deputy County Counsel</p> <p>By: _____ (by e-signature) County Code Services</p> <p>Date: _____</p>	<p>Approved by the Napa County Board of Supervisors</p> <p>Date: _____</p> <p>Processed by: _____ Deputy Clerk of the Board</p>
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I HEREBY CERTIFY THAT THE ORDINANCE ABOVE WAS POSTED IN THE OFFICE OF THE CLERK OF THE BOARD IN THE ADMINISTRATIVE BUILDING, 1195 THIRD STREET ROOM 310, NAPA, CALIFORNIA ON _____.

_____, DEPUTY
GLADYS I. COIL, CLERK OF THE BOARD