

## Chapter 17.54 - HISTORIC PRESERVATION

### 17.54.010 - Findings and purposes.

- A. It is hereby found that structures, sites and areas of special character or special historical, architectural, or aesthetic interest or value have been and continue to be unnecessarily destroyed, impaired or neglected despite the feasibility of preserving them.
- B. It is further found that the prevention of such needless destruction and impairment is essential to the health, safety and general welfare of the citizens of the City of Merced.
- C. The purpose of this chapter is to promote the health, safety and general welfare of the citizens of the City of Merced through:
  - 1. The protection, enhancement, perpetuation and use of structures, sites and areas that are reminders of past eras, events and persons important to local, state or national history, or which provide significant examples of architectural styles of the past or are elements in the history of architecture or which are unique and irreplaceable assets to the City of Merced and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived;
  - 2. The development and maintenance of appropriate setting and environments for such structures, in such sites and areas;
  - 3. The enhancement of property values, the stabilization of neighborhoods and areas of the city, and the increase of economic and financial benefits to the city and its inhabitants;
  - 4. The preservation and encouragement of a city of varied architectural styles, reflecting the distinct phases of its history—cultural, social, economic, political and architectural;
  - 5. The enrichment of human life in its educational and cultural dimensions in order to serve spiritual as well as material needs by fostering knowledge of the living heritage of the past.

(Ord. 1474 § (part), 1983).

### 17.54.020 - Definitions.

For the purpose of this chapter, the following words and phrases are defined as follows:

- A. "Alteration" is any change to or modification of a historic resource.
- B. "Architectural" is anything pertaining to the science, art or profession of designing and constructing buildings.
- C. "Certificate for alteration" is an approved certificate issued for the construction, demolition, alteration, removal or relocation of any publicly or privately owned historic resource.

- D. "Commission" is the historic preservation commission appointed pursuant to the provisions of this chapter.
- E. "Culture" or "cultural" is anything pertaining to the concept, skills, habits, arts, instruments, or institutions of a given people at a given point in time.
- F. "District" or "historic district" is a geographically definable area within the City of Merced possessing a significant concentration linkage, or continuity of historic resources and which has been so designated pursuant to this chapter.
- G. "Historic" or "historic resource" is a structure, natural feature, site or other artifacts of architectural, artistic, cultural, engineering, aesthetic, archeological, historical, political, or social significance to the citizens of the City of Merced, the state, or the nation.
- H. "Natural feature" is any tree, plant life, geographical or geological site or feature.
- I. "Owner" is any person, association, partnership, firm, corporation or public entity appearing as the holder of title on any property as shown on the records of the County Assessor or on the last assessment roll of the County of Merced, as applicable.
- J. "Site" is a place or plot of land where something was, is or will be.
- K. "Structure" is any building or any other man-made object affixed on or under the ground,

(Ord. 1474 § 1 (part), 1983).

#### 17.54.030 - Historic preservation commission.

The planning commission, in addition to its other powers and duties, shall serve as the historic preservation commission.

(Ord. 1474 § 1 (part), 1983).

(Ord. No. 2409, § 5, 6-17-2013)

#### 17.54.040 - Powers and duties.

The commission shall have the following powers and duties:

- A. With the consent of the property owner, designate historic resources;
- B. Review applications for, and issue certificates for alteration for construction, alteration, or demolition of designated historic resources;
- C. Consult with and consider the ideas and recommendations of civic groups, public agencies and citizens interested in historic preservation;
- D. View structures, sites and areas which it has reason to believe are worthy of preservation;
- E.

Disseminate information to the public concerning those structures, sites and areas deemed worthy of preservation, and encourage and advise property owners and members of the community generally in the protection, enhancement, perpetuation and use of property designated historic;

- F. Consider methods other than those provided for in this chapter for encouraging and achieving historical or architectural preservation.

(Ord. 1474 § 1 (part), 1983).

(Ord. No. 2409, § 6, 6-17-2013)

#### 17.54.050 - Criteria for historic designation.

In considering a proposal for designation as a historic resource or historic district, the commission shall apply any or all of the following criteria:

- A. Its character, interest or value as a significant part of the heritage of the city, the state or the nation;
- B. Its location as a site of a significant historic event;
- C. Its identification with a person or persons who significantly contribute to the culture and development of the city, the state or the nation;
- D. Its exemplification of a particular architectural style or way of life;
- E. Its exemplification of the best remaining architectural type in the city;
- F. Its identification as the creation, design or work of a person or persons whose efforts has significantly influenced the heritage of the city, the state or the nation;
- G. Its embodiment of elements demonstrating outstanding attention to artistic, architectural and/or engineering design, detail, materials, or craftsmanship;
- H. Its relationship to any other historic resource if its preservation is essential to the integrity of the other historic resource;
- I. Its unique location or singular physical characteristics representing an established and familiar visual feature of the city;
- J. Its potential of yielding significant information of archeological interests;
- K. Its integrity as a natural environment that strongly contributes to the well-being of the people of the city, the state, or the nation.

(Ord. 1474 § 1 (part), 1983).

#### 17.54.060 - Procedures for historic designation.

Upon an application filed with the commission, the commission shall recommend the designation of an historic resource to the city council.

The procedure for designation of historic resources is as follows:

- A. Any person or entity may file an application with the commission upon paying an application fee in an amount as designated from time to time by resolution of the city council; provided however, the application shall not be deemed complete unless the property owner consents to the proposed designation.
- B. The application shall include the following data:
  1. Assessor's parcel number of the site or legal description;
  2. Description detailing the proposed resource's special aesthetic, cultural, architectural, artistic, or engineering interest or value of an historic nature;
  3. Sketches, drawings, photographs, or other descriptive materials;
  4. Statement of condition of structures;
  5. The written consent of the property owner for the proposed designation;
  6. Other material and information requested by the commission.
- C. Each proposal shall be considered by the commission at a public hearing. Notice of the time, place and purpose of such hearing shall be given by the commission in the official newspaper of the city not less than thirty (30) calendar days prior to the date of the hearing. Notice of the hearing shall be sent by first class and by registered mail not less than ten (10) days prior to the date of the hearing to the owner(s) of the proposed historic resource and by first class mail to the owner(s) of property(ies) within three hundred (300) feet of the site as shown on the most recent assessor's roll. The commission may also give such additional notice as the commission may deem desirable.
- D. Within thirty (30) days following the public hearing, the commission shall submit to the city council a report of the findings, summary of the hearing, and a recommendation to approve, disapprove, or approve with modifications the application for historic designation.
- E. Upon receipt of the report from the commission, the city council shall set the matter for public hearing within thirty (30) days and shall render its decision within thirty (30) days following the close of said hearing. The recommendation of the commission, approved by at least four (4) affirmative votes, shall be approved unless reversed by the city council.
- F. Prior to approval or approval with modification, the city council shall find:
  1. That the proposed structure, natural feature, site or district has significance as a historic resources; and,
  2. That the proposed designation may be made without imposing an undue hardship upon the owner(s) of the property(ies); and,
  3. That the approval or approval with modification(s) of the application is consistent with the purpose and criteria of this chapter.

- G. Following approval of the designation, the city council shall send to the owner(s) of the property(ies) so designated a letter outlining the basis for such designation, and the regulations resulting from such designation. The city council may also forward a copy of the letter to any other department or agency requesting it or that the city council considers affected by the designation.
- H. Upon approval of a designation, the city clerk shall cause notice of such designation to be recorded in the office of the county recorder of the County of Merced against the parcel on which the historic resource is located.

(Ord. 1474 § 1 (part), 1983).

(Ord. No. 2409, § 7, 6-17-2013)

#### 17.54.100 - Certificate for alteration.

- A. No person shall carry out or cause to be carried out on an historic resource any material change through alteration, construction, relocation, or demotion without a certificate for alteration as approved by at least four affirmative votes of the commission.
- B. Any person who plans the demolition, construction, alteration, relocation or removal of an historic resource or part thereof shall first submit an application therefor along with a fee in an amount as determined from time to time by resolution of the city council to the commission. Copies of the plans for the proposed work shall accompany the application. As a minimum, the application and plans shall contain the following data:
  - 1. A clear statement of the proposed work;
  - 2. Plans describing the size, height and appearance of the proposed work and its relationship to adjacent structures;
  - 3. A site plan showing all existing buildings and structures and the proposed work;
  - 4. Reasons for demolition if demolition is proposed;
  - 5. Other information deemed necessary by the commission to properly evaluate the proposal.
- C. Upon receipt of an application for a certificate for alteration, the commission shall hold a public hearing. Notice of the time and place of the public hearing shall be given by at least one publication in the official newspaper of the city at least ten calendar days prior to said hearing.
- D. The commission in considering a certificate of alteration shall consider, among other things, the purpose of this chapter and the historic architectural value and significance of the historic resource, as well as present and prospective effects or hardships upon the owners and occupants of the affected properties. The commission shall take into consideration architectural features of the building or structure in question, other buildings within a historic district, and the position of

such building or structure in relation to the street or public way and to other buildings and structures. The United States Secretary of the Interior's "Guidelines for Rehabilitation" shall provide base criteria for evaluating proposed alterations to an historic resource.

- E. The commission may approve, approve with modifications, or disapprove the application.
- F. Prior to approval, or approval with modifications, the commission shall find that:
  - 1. The action proposed is consistent with the purposes of this chapter; and
  - 2. The action proposed will not be detrimental to a structure or feature of significance as a historic resource; and
  - 3. The applicant has demonstrated that the action is necessary to correct an unsafe or dangerous condition on the property; or
  - 4. The applicant has demonstrated that denial of the application will result in immediate, undue, or substantial hardship; and
  - 5. If the finding in subdivision 1 of this section, and either finding 2, 3, or 4 cannot be made, then the certificate for alteration shall be denied.
- G. A final determination, along with the written findings, shall be rendered by the commission within forty-five days of receipt of the application unless extended by mutual consent of the owner and the commission.
- H. Action of the commission shall be deemed final, unless appealed. No certificate of alteration shall be issued until the time period for appeal has expired. Such appeal by the applicant, owner, or any person or entity dissatisfied with the action of the commission shall be filed with the city clerk within five days of the date of approval, conditional approval, or disapproval by the commission. The appeal shall set forth specifically where the petitioner believes the commission's findings to be in error, and shall be accompanied by such fees as established from time to time by resolution of the city council. On appeal, the city council may grant or deny the appeal, conditionally grant the appeal, or refer the matter to the commission for further consideration.
- I. The provisions of this section shall not apply to the following:
  - 1. Where a historic resource has been damaged by fire, earthquake or other act of God to the extent that it cannot be repaired or restored with reasonable diligence, and where demolition of such structure, natural feature or site is being undertaken with prior approval of the city's chief building official;
  - 2. Where hazardous conditions exist as determined by the chief building official and said hazardous conditions must be corrected immediately in the interest of the public health, safety and welfare.

(Ord. 1474 § 1 (part), 1983).

Any certificate of alteration which has been issued under the provisions of this chapter shall expire six months from the date of issuance if the work authorized is not commenced within said time period.

(Ord. 1474 § 1 (part), 1983).

#### 17.54.120 - Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on an historic resource that does not involve a change in design, material or appearance thereof, nor does this chapter prevent the construction, reconstruction, alteration, restoration, demolition, or removal of any such feature when the chief building official certifies to the commission that such action is required for the public safety due to an unsafe condition which cannot be rectified through the uses of the State Historical Building Code, as set forth in Sections 18950 and following of the California Health and Safety Code as the same exists or may hereafter be amended.

(Ord. 1474 § 1 (part), 1983).

#### 17.54.130 - Duty to keep in good repair.

The owner, occupant, or other person in actual charge of an historic resource or district, or part thereof, shall keep in good repair all of the exterior portions of such building(s) or structure(s), all of the interior portions thereof when subject to control by reason of designation or certificate for alteration, and all interior portions whose maintenance is necessary to prevent deterioration and decay of any exterior architectural feature. It shall be the duty of the chief building official to enforce this section.

(Ord. 1474 § 1 (part), 1983).

#### 17.54.200 - Enforcement.

In addition to the regulations of this chapter, other parts of the municipal code and other provisions of law which govern the approval or disapproval of applications for permits or licenses covered by this chapter, the chief building official shall have the authority to implement enforcement of the chapter by any of the following means:

- A. Serve notice requiring the removal of any violation of this chapter upon the owner, agent, occupant or tenant of the historic resource;
- B. Call upon the city attorney to institute any necessary legal proceedings to enforcement of this chapter, and the city attorney is hereby authorized to institute any legal actions toward that end;
- C.

Call upon the police chief and authorized agents to assist in the enforcement of this chapter. In addition to any of the foregoing remedies, the city attorney may maintain an action for injunctive relief to restrain or enjoin or to cause the correction or removal of any violation of this chapter.

(Ord. 1474 § 1 (part), 1983).

#### 1 7.54.300 - Penalties.

Any person violating or failing to comply with the provisions of this chapter shall be guilty of a misdemeanor.

(Ord. 1474 § 1 (part), 1983).