

**CITY OF MERCED**  
**Development Services**

TO: Design Review Commission/Historic Preservation Commission  
FROM: Kim Espinosa, Planning Manager  
DATE: March 14, 2012  
SUBJECT: Future of the Design Review Commission/Historic Preservation Commission

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RECOMMENDATION:

Discussion/Questions

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BACKGROUND AND OPTIONS:

History & Purpose of the Design Review Commission/Historic Preservation Commission

The Design Review Commission (DRC) was formed in 1979 with 7 members and the Historic Preservation Commission (HPC) function was added to the DRC in 1983. From 1979 to 2009, the DRC/HPC held meetings twice per month, although the Municipal Code only required one monthly meeting. During that time, the Commission reviewed façade improvements and new construction along with new sign proposals, paint permits, and other minor additions. When Planning staff took over the duties for the DRC from Redevelopment staff in 1994, the approvals for signs, paint permits, and minor façade improvements were shifted to staff. The workload for the Commission was, thus, substantially reduced. Due to the large number of cancelled meetings and reductions in City staff, in January 2010, the DRC/HPC meetings were reduced to once per month.

According to Merced Municipal Code Section 20.86.020, the purpose of the Design Review Commission is:

*“The purpose of the design review commission is comprehensive site plan and architectural review within redevelopment project areas and within three hundred (300) feet of the boundaries thereof so as to determine compliance with this chapter and to promote the orderly and harmonious growth of the city and the stability of land values and investments and the general welfare; and to help prevent the impairment or depreciation of land values and development by the erection of structures, additions, or alterations thereto without proper attention to siting, or of unsightly, undesirable, or obnoxious appearance; and to prepare for and help to prevent problems arising affecting the community due to the nature of existing and planned uses of land and structures, such as traffic, public safety, public facilities, utilities and services, among others; and to carry out the beneficial objectives contained in redevelopment plans adopted for areas within the city. “*

According to Merced Municipal Code Section 20.86.040, the functions of the Design Review Commission are:

*“The functions of the design review commission shall be to review the following with respect to all structures, except (1) single-family detached dwellings (and buildings accessory thereto) and (2) projects located in I-R, I-L, and I-H zones which lie within redevelopment project areas or within 300 feet of the exterior boundary of a redevelopment project area...” (Note: The ordinance goes on to describe the review criteria in detail, which can be seen in its entirety at Attachment A.)*

According to Merced Municipal Code Section 17.54.040 (the entire Historic Preservation Ordinance can be seen at Attachment B), the powers and duties of the Historic Preservation Commission are to:

- A. *“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.”*

### 2012 Abolishment of Redevelopment Agencies in the State of California

In June 2011, the California Legislature approved and the Governor signed two bills (ABX1 26 and ABX1 27), the first dissolved Redevelopment Agencies throughout the State as of October 1, 2011 and the second allowed RDA's to continue to exist if they agreed to annual payments to school districts. Petitions were subsequently filed with the California Supreme Court to overturn those bills on constitutional grounds. On December 29, 2011, the Court upheld ABX1 26 and extended the deadlines, but overturned ABX1 27. This resulted in all Redevelopment Agencies being abolished as of February 1, 2012.

In January 2012, the Merced City Council took a number of official actions to shut down the City's Redevelopment Agency, but declined to become the Successor Agency, which was to oversee any existing RDA projects, make payments, and dispose of RDA assets. (However, housing properties were transferred to the City's Housing Division and RDA-owned parking lots were transferred to the City's Parking Authority.) A 3-member governing board made up of County residents was then appointed by the Governor to serve as the successor agency since no other local agency elected to serve in that capacity as allowed under ABX1 26.

March 14, 2012

Status of Current Commissioners

The 7-member Commission currently has 2 vacancies (Alan Arnold termed out in July 2010 and Catherine Kniazawycz resigned in June 2011), which have not been filled. Two additional members (Walter Lopes and Carol Luhring) termed out in July 2011, but have agreed to stay on the Commission until they are replaced. Chairperson Lemen's term expires in July 2012 (and he is not eligible for reappointment) and Commissioners Dake's and Hofmann's terms expire in July 2013 (and would not be eligible for reappointment).

Application Activity

Applications requiring DRC approval have also been down substantially since 2005 resulting in a significant number of cancelled meetings (see below), which also led to the number of meetings being reduced to one per month in January 2010. As it turns out, few meetings were cancelled in 2010, but many 2010 applications (9 of 12) related to the residential façade improvement program administered by the RDA, which no longer exists. Half of the meetings in 2011 were cancelled.

<b>Year</b>	<b># of Calendared Mtgs</b>	<b># of Mtgs Held</b>	<b>% of Mtgs Cancelled</b>	<b># of DRC Applications</b>	<b># of Staff Approvals</b>
2005	23	17	26%	16	25
2006	23	13	43%	11	32
2007	24	8	67%	6	25
2008	24	9	62%	4	19
2009	24	6	75%	4	21
2010	12	11	8%	12	27
2011	12	6	50%	3	6
2012	3 (partial year)	2	33%	2	2

Options

With the demise of the City's Redevelopment Agency (RDA) and its associated Redevelopment Project Areas, the original intention and function of the Design Review Commission (to preserve the RDA's investment in the Downtown through site plan and architectural review) has also been eliminated. The Historic Preservation functions of the Commission remain, however.

The current number of vacancies (2) and pending vacancies of "termed-out" members (2) on the DRC/HPC also pose a dilemma, which will require the recruitment of 4 new members. For the last few years, it has been difficult to recruit members to serve on the Commission.

Given the above, there appears to be a few options regarding the future of the DRC/HPC:

- A. Abolish the DRC and give design review functions to City staff and Historic Preservation functions to the Planning Commission
- B. Abolish the DRC but retain the Commission as the Historic Preservation Commission (only holding meetings when historic preservation applications are received, which are rare)
- C. Combine both the DRC and HPC functions with the Planning Commission

Option A is consistent with the City's 2010-11 Organizational Sustainability study, which ultimately recommended that the Design Review Commission be abolished with design review functions reverting to City staff and historic preservation functions being transferred to the City Planning Commission. Option B would retain a separate Historic Preservation Commission, but would not require regular meetings as meetings would only be scheduled when needed, but at least one annual meeting of all City boards and Commissions are required. Option C would significantly add to the workload of the Planning Commission by transferring both DRC and HPC functions to them. City staff believes that since there is very little new development in Downtown that the design review functions (mostly remodels and signs) could just as well be administered by City staff.

It is important to note that none of these options reflect any dissatisfaction with the Design Review Commission or its current members and the functions and community service they have provided for many years. It is simply a matter of reductions in City staff making it necessary to reduce the number of City Commissions, the desire to streamline the permitting process for new businesses, and the demise of the Redevelopment Agency, which also resulted in the demise of the Redevelopment Advisory Committee (RDAC) and the loss of RDA funds that currently support DRC functions.

Although the final decision on the future of the DRC/HPC ultimately lies with the City Council, City staff wanted to get the Commission's input on this matter. This is a difficult discussion to have, but we hope that you will give us the benefit of your opinions on the best ways to proceed. Perhaps there are other options to consider that staff has not thought of?

Please note that the Design Review Commission will continue to have meetings and review applications until a final decision is made. There are a number of procedural matters which will need to take place, including amending the Merced Municipal Code, before the final resolution. The City Council is expected to consider this matter in April or May 2012 prior to the adoption of the Fiscal Year 2012-13 Budget.

ATTACHMENTS:

- A. Merced Municipal Code Section 20.86 ("Site Plan and Architectural Review")
- B. Merced Municipal Code Section 17.54 ("Historic Preservation")

**Chapter 20.86 - SITE PLAN AND ARCHITECTURAL APPROVAL**

**Sections:**

- 20.86.010 - Creation of design review commission
- 20.86.020 - Purpose of commission.
- 20.86.030 - Findings.
- 20.86.040 - Functions of the design review commission.
- 20.86.050 - Principles to be followed.
- 20.86.060 - Architectural and landscape architectural standards.
- 20.86.070 - Composition—Terms of office.
- 20.86.080 - Meetings of the commission.
- 20.86.090 - Organization and procedures.
- 20.86.100 - Fees and drawings required.
- 20.86.110 - Action by design review commission.
- 20.86.120 - Review procedures.
- 20.86.130 - Appeals.
- 20.86.140 - City staff functions.
- 20.86.150 - Required before zoning or building permit.
- 20.86.160 - Coordination with planning commission.

**20.86.010 - Creation of design review commission**

Pursuant to Section 700 of the Charter of the City, a design review commission is established. Such commission shall consist of seven (7) members.

*(Ord. 1431 § 1 (part), 1982).*

**20.86.020 - Purpose of commission.**

The purpose of the design review commission is comprehensive site plan and architectural review within redevelopment project areas and within three hundred (300) feet of the boundaries thereof so as to determine compliance with this chapter and to promote the orderly and harmonious growth of the city and the stability of land values and investments and the general welfare; and to help prevent the impairment or depreciation of land values and development by the erection of structures, additions, or alterations thereto without proper attention to siting, or of unsightly, undesirable, or obnoxious appearance; and to prepare for and help to prevent problems arising affecting the community due to the nature of existing and planned uses of land and structures, such as traffic, public safety, public facilities, utilities and services, among others; and to carry out the beneficial objectives contained in redevelopment plans adopted for areas within the city.

*(Ord. 1512 § 1, 1983; Ord. 1431 § 1 (part), 1982).*

**20.86.030 - Findings.**

The city council finds that poor or inappropriate exterior design of improvements to real property within redevelopment projects and within three hundred (300) feet of the exterior boundaries thereof adversely affects the health, safety, and welfare of the residents of the city by creating one (1) or more of the following conditions:

- A. The desirability of other properties within the vicinity for the uses for which they are zoned is adversely affected;
- B. The benefits of occupancy of other property in the vicinity are impaired;

- C. Property values within the vicinity do not retain their stability;
- D. The most appropriate development of other properties within the vicinity is impaired;
- E. The maintenance or improvement, or both, of surrounding properties is discouraged with the result that these properties degenerate and there is an accompanying deterioration of conditions which affect the health, safety, comfort and general welfare of the inhabitants of the area and the inhabitants of the city at large;
- F. The property relationship between the taxable value of real property in the vicinity and the cost of municipal services to these properties are destroyed; and
- G. The unsightliness which exists causes a decrease in the value of surrounding properties.

*(Ord. 1512 § 2, 1983: Ord. 1431 (part), 1982).*

**20.86.040 - Functions of the design review commission.**

The functions of the design review commission shall be to review the following with respect to all structures, except (1) single-family detached dwellings (and buildings accessory thereto) and (2) projects located in I-R, I-L, and I-H zones which lie within redevelopment project areas or within 300 feet of the exterior boundary of a redevelopment project area:

- A. Siting of all structures as designated upon a site plan;
- B. Landscaping, fencing, and other screening as designated on a landscape and/or sprinkler plan featuring all existing trees and shrubs and proposed plantings;
- C. Design of all circulation, parking and loading facilities for automobiles and bicycles;
- D. Screening of refuse facilities;
- E. Details of fencing, and location of public works items such as curb cuts, curbs, gutters, sidewalks, sidewalk design, drainage, and fire hydrants;
- F. Location, design and intensity of all onsite exterior lighting;
- G. Location and design of addressing system and/or graphics and mail delivery system;
- H. Design of all open space areas;
- I. Exterior elevations and/or perspective drawings of structures featuring building height, description of all building materials, building colors, screening of utility meters and mechanical equipment;
- J. Design, placement, dimension, colors of all proposed signs and exterior graphics. This shall include building materials, lighting systems and intensity of signs and temporary signs and shall apply to all temporary as well as permanent signing;
- K. Review of single-family attached buildings shall also include future major additions to patio area, etc.;
- L. Review of sign variance applications (including variation from the requirements of Title 17) (in lieu of review by the board of zoning adjustment) upon proper public hearing and review procedures as identified in this Title 20
- H. M.Review of design and placement of facilities for physically handicapped.

*(Ord. 1853 § 25, 1993: Ord. 1512 § 3, 1983: Ord. 1431 § 1 (part), 1982).*

**20.86.050 - Principles to be followed.**

In carrying out the purposes of this chapter with respect to the external design of buildings and site plans of all proposed new or rehabilitated buildings, structures or uses, the following principles shall be applicable:

- A. Review of architectural character shall not be so restrictive that individual initiative is stifled in the design of any particular building or site or that substantial additional expense is required. Rather, it is the intent of this chapter that the review exercised shall be the amount necessary to achieve the overall objectives of this chapter and the redevelopment plans;
- B. Good architectural character is based upon the suitability of a building and/or site for its purposes; upon the appropriate use of sound materials, good relationship with other structures, and the

character of the city; and upon the principles of harmony, preparation and design in the elements of the building and/or site;

- C. Good architectural character and site planning design are not, in themselves, more expensive than poor architectural character and poor site planning design, and are not dependent upon the particular styles of architecture of site plan design selected;
- D. Review of sign graphics shall be based upon suitability of the sign colors, placement, design to overall building design, and adjacent sign themes. The design review commission shall consider the extent, design and location of all temporary signs as well as permanent signs in the review of sign graphics.

*(Ord. 1431 § 1 (part), 1982).*

#### **20.86.060 - Architectural and landscape architectural standards.**

The design review commission shall refer and utilize the design guidelines booklet for Merced Downtown Revitalization dated July, 1977, and the Downtown Sign Guides dated April, 1983, compiled from the design review board, project area committee and the project area sign task force.

These booklets shall serve as a guide to the city staff, citizen, and project proponent before the design review commission.

*(Ord. 1512 § 4, 1983: Ord. 1431 § 1 (part), 1982).*

#### **20.86.070 - Composition—Terms of office.**

The design review commission shall consist of seven regular members whose appointment and terms of office shall be as prescribed in Article VII of the City Charter.

*(Ord. 1431 § 1 (part), 1982).*

#### **20.86.080 - Meetings of the commission.**

The design review commission shall establish a regular time and place of meeting and shall hold at least one regular meeting each month.

*(Ord. 1431 § 1 (part), 1982).*

#### **20.86.090 - Organization and procedures.**

The commission may make and alter all rules and regulations governing its organization and procedure not inconsistent with this chapter or any other ordinance of the city.

*(Ord. 1431 § 1 (part), 1982).*

#### **20.86.100 - Fees and drawings required.**

An applicant for a building permit for property within redevelopment project areas or within three hundred feet of the boundary of a redevelopment project area within the city shall submit ten copies of accurately scaled drawings with one copy of the application form supplied by the city. The commission may require submission of amendments to an application before, during or after its meeting to reflect more detailed information reasonably necessary for the commission to make its determination.

When applicable, colored renderings, building material palette or samples and color photographs should be submitted along with scale drawings. The fee for a design review application shall be that set by resolution of the city council for that purpose, plus the cost of special reports that may be required to process it, as set out in this chapter.

*(Ord. 1512 § 5, 1983: Ord. 1431 § 1 (part), 1982).*

**20.86.110 - Action by design review commission.**

The design review commission shall act upon any application within thirty days of acceptance of filing and payments of fees, and may approve the application, disapprove the application, or approve the same subject to conditions, specified changes, or additions. Failure of the design review commission to act upon any application within thirty days shall be deemed to be approval of the application. The applicant requesting approval of his site plan and design shall be notified in writing in advance of the hearing, and notified of the action taken.

*(Ord. 1431 § 1 (part), 1982).*

**20.86.120 - Review procedures.**

The review procedures for all applications may consist of a preliminary plan and a final plan or just the latter. The design review commission encourages a preliminary and final plan in instances of large or complicated development projects.

Preliminary review by the design review commission has the following purposes:

- A. Indicate to the applicant major areas of deficiency and good design;
- B. Instruct the applicant to sections of the project which are unacceptable or need minor revision; and
- C. Inform the design review commission on the scope of the project for the final review stage.

*(Ord. 1431 § 1 (part), 1982).*

**20.86.130 - Appeals.**

Any determination of the design review commission may be appealed to the city council upon written request for a hearing before the city council. Such appeal shall specify with reasonable certainty the portion or portions of the commission's determinations which the applicant feels to be in error. Such appeal shall be accompanied by a fee set by resolution by city council for such purposes. In the absence of such request being filed within five days after the determination of the design review commission, such determination is final.

*(Ord. 1431 § 1 (part), 1982).*

**20.86.140 - City staff functions.**

- A. The site approval committee is given authority to review projects within redevelopment project areas, or within 300 feet of a redevelopment project area exterior boundary, which are located in I-R, I-L, and I-H zones as to those items set forth in Section 20.86.040
- B. The design review commission is given the authority to delegate certain minor projects to the city staff for review and approval or denial. The following tasks may be delegated to the city staff:
  - 1. Review and approval of painting permits for buildings;
  - 2. Review and approval of all sign applications;
  - 3. Items referred to staff following design review commission review;
  - 4. Approval of sign maintenance applications. For the purposes of this section, maintenance shall be defined as the painting, repair and/or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign;
  - 5. Approval of minor design changes, construction material changes, sign letter copy changes, and landscaping changes which are proposed after the design review commission has approved the project and which do not alter the basic design or structure of the project.

The design review commission may establish guidelines for the city staff to handle such delegated tasks.

The city staff may, in their discretion, require an applicant to present a project at a design review commission meeting, notwithstanding staff's authority to approve or deny the project.

Any minor project reviewed by the city staff shall be reviewed by the design review commission upon written notice of appeal to the commission filed within five (5) calendar days following the staff determination.

*(Ord. 1853 § 26, 1993: Ord. 1834 § 1, 1992: Ord. 1551 § 1, 1984: Ord. 1431 § 1 (part), 1982).*

**20.86.150 - Required before zoning or building permit.**

No building or zoning permit shall be issued in any case where review by the design review commission is required by the terms of this chapter until five days after the approval of the design review commission is obtained, and then only in accordance with the terms and conditions imposed by the design review commission, as consistent with all applicable zoning, building, and all other codes and ordinances of the city. In the event that approval is obtained on appeal to the city council, then the building or zoning permit may be issued immediately thereafter.

*(Ord. 1431 § 1 (part), 1982).*

**20.86.160 - Coordination with planning commission.**

Nothing in this chapter is intended to abrogate the authority of the planning commission to make land use decisions for the redevelopment project areas within the city. However, all use permits granted by the planning commission shall contain a condition that the applicant comply with the requirements of this chapter.

*(Ord. 1431 § 1 (part), 1982).*

**Chapter 17.54 - HISTORIC PRESERVATION**

**Sections:**

17.54.010 - Findings and purposes.

17.54.020 - Definitions.

17.54.030 - Historic preservation commission.

17.54.040 - Powers and duties.

17.54.050 - Criteria for historic designation.

17.54.060 - Procedures for historic designation.

17.54.100 - Certificate for alteration.

17.54.110 - Termination of certificate of alteration.

17.54.120 - Ordinary maintenance and repair.

17.54.130 - Duty to keep in good repair.

17.54.200 - Enforcement.

17.54.300 - Penalties.

**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.**

- A. There is hereby created an historic preservation commission which shall consist of seven members. The commission shall be selected and appointed by the city council in accordance with the City Charter.
- B. If it is deemed to be in the best interests of the city, the city council may appoint the members of the design review commission to serve concurrently as the members of the historic preservation commission.  
(Ord. 1474 § 1 (part), 1983).

#### **17.54.040 - Powers and duties.**

The commission shall have the following powers and duties:

- A. 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).

#### **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 its own application or 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.
- 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. Other material or 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 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 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 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 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 days and shall render its decision within thirty days following the close of said hearing. The recommendation of the commission, approved by at least four 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 resource; 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 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).

**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).*

#### **17.54.110 - Termination of certificate of alteration.**

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).*

#### **17.54.300 - 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).*