

City of Davis

Chapter 40 Zoning, Article 40.23 Historical Resources Management

40.23.010 Purpose. The purpose of this article is to promote the general welfare by providing for the identification, protection, enhancement, perpetuation, and use of improvements, buildings, structures, signs, features, sites, places, and areas within the city that reflect special elements of the city's historical, architectural, archaeological, cultural, or aesthetic heritage for the following reasons:

- a. To encourage public knowledge, understanding, appreciation, and use of the city's past;
- b. To foster civic pride in the beauty and character of the city and in the accomplishments of its past;
- c. To enhance the visual character of the city by encouraging new design and construction that complement the city's historical buildings;
- d. To increase the economic benefits of historic preservation to the city and its inhabitants;
- e. To protect property values within the city;
- f. To identify as early as possible and resolve conflicts between the preservation of historical resources/districts and alternative land uses; and
- g. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.020 Applicability.

- a. The historical resources management ordinance shall be applied to historical resources/districts, as defined and designated by this article.
- b. Property that has been designated a historical resource, an outstanding historical resource or an improvement that is located within a historic district shall continue to be subject to all zoning ordinances that would apply to such property if it were not so designated or located. By designating historical resources, outstanding historical resources, and historic districts, the city council shall not be construed to be repealing or waiving any other portion of the zoning ordinance of the city as it applies to the designated property. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.030 Definitions. For the purpose of this article the following words shall have the meanings respectively ascribed to them by this section.

- a. "Alteration" means any exterior change or modification, through public or private action, of any historical resource, outstanding historical resource, or of any property located within an historic district which involves exterior changes to or modification of a structure, its surface texture, or its architectural details; new construction; demolition; relocation of structures onto, off of, or within a designated property; or other changes to the site affecting the significant historical or architectural features of the property.
- b. "Alteration permit" means a permit whose issuance is approved by the historical resources management commission or upon appeal by the city council and which authorizes its recipient to make specified exterior alterations to a historical resource, outstanding historical resource, or to an improvement located within a historic district.
- c. "Commission" means the historical resources management commission established pursuant to the provisions of this article.
- d. "Exterior architectural feature" means the architectural elements embodying style, design, general arrangement, and components of all the outer surfaces of an improvement, including, but not limited to, the kind, color, and texture of the building materials and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such improvement.
- e. "Historical resource" means buildings, structures, signs, features, sites, places, areas, or other improvements of scientific, aesthetic, educational, cultural, archaeological, architectural, or historical value to citizens of the city of Davis and designated as such by the city council pursuant to the provisions of this article.
- f. "Historical resource/district" collectively means a designated historical resource, an outstanding historical resource, and a historic district.
- g. "Historic district" means any area which has a special character, historical interest, aesthetic value, or archaeological significance or which represents one or more architectural periods or styles typical of the history of the city, and which constitutes a distinct section of the city that has been designated a historic district pursuant to this article.
- h. "Improvement" means any building, structure, place, fence, gate, landscaping, tree, wall, parking facility, work of art, or other object constituting a physical feature of real property or any part of such feature.

- i. "Ordinary maintenance and repair" means any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of or damage to the exterior feature of any structure or property or any part thereof and to restore the same, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration or damage.
 - j. "Outstanding historical resource" means buildings, structures, signs, features, sites, places, areas, or other improvements of the highest scientific, aesthetic, educational, cultural, archaeological, architectural, or historical value to the citizens of the city of Davis and designated as such by the city council pursuant to the provisions of this article. An outstanding historical resource is deemed to be so important to the historical and architectural fabric of the city that its loss would be a major loss to the city. (Ord. No. 1270, § 2 (part); Ord. No. 1314, § 1; Ord. No. 1784, § 1 (part).)
- 40.23.040 Historical resources management commission.
- a. Established. A historical resources management commission of the city is hereby established.
 - b. Membership of Commission. The members of the commission shall include persons who have demonstrated special interest, competence, experience or knowledge in historic preservation, American studies, cultural anthropology, cultural geography, or other historic preservation-related discipline. Members may also include persons with professional qualifications in such fields as architecture, history, architectural history, prehistoric and historic archaeology, urban planning, law, real estate, folklore, curation, conservation and landscape architecture or related disciplines, to the extent such professionals are available in the community. All members must have demonstrated interest in and knowledge of the cultural heritage of the city and shall be residents of the city.
 - c. Appointments of Members. The membership of the historical resources management commission shall consist of seven regular members and one alternate member appointed by the city council. All such appointments shall be by vote of not less than three council members. The alternate members of the historical resources management commission shall vote only upon one or more of the following conditions:
 - 1. Absence of one or more of the regular members of the commission; or
 - 2. Disqualification of a regular member of the commission because of an expressed conflict of interest.
 - d. Term of Office of Members. The term of office of all regular members and the alternate of the commission shall be three years; provided, that such members first appointed shall so classify themselves by lot that three members shall terminate their office on the first day of January, 1985, and four members shall terminate their office on the first day of January, 1986. Each member shall serve at the pleasure of the city council until his or her successor is appointed and qualified.
 - e. Vacancy. Vacancies on the commission, from whatever cause, shall be filled by the city council by vote of not less than three council members.
 - f. Automatic Termination of Appointment. The appointment of any member of the commission who has been absent from three consecutive regular or special meetings, without the prior approval of the commission chairperson, shall automatically terminate.
 - g. Chairperson of the Commission. The commission shall elect a chairperson from its members, who shall hold office for one year, or until his or her successor is elected, unless his or her term as a member of the commission sooner expires. The chairperson shall be elected at the first meeting of the commission after July 1st of each year.
 - h. Meetings of the Commission. The commission shall establish a regular time and place of meeting and shall hold at least one regular meeting each three months. Special meetings of the commission may be called at any time by the chairperson, or by not more than or less than three members of the commission, upon personal notice being given to all members of the commission. If personal notice cannot be given, written notice must be mailed to all members at least twenty-four hours prior to said meeting, unless said notice requirement is waived in writing by said member prior to the meeting or by being present at the meeting. Meetings of the commission shall be held, and notice given, in conformance with California Government Code sections 54951.1--54961 (the Ralph M. Brown Act).
 - i. Organization and Procedure. The commission may make and alter all rules and regulations governing its organization and procedure not inconsistent with this article, the laws of the state of California, or any other ordinance of the city. Four of the seven members shall constitute a quorum. The affirmative vote of a majority of the members present and voting is required to take any action. The commission shall keep an accurate record of its proceedings and transactions and shall submit an annual report to the city council.

- j. Secretary to the Historical Resources Management Commission. The city manager shall appoint an officer or employee of the city who shall act as secretary to the commission. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.050 Powers and duties. The historical resources management commission shall have the following powers and duties under this article:

- a. Act in an advisory capacity to the city council in all matters pertaining to historical resources/districts;
- b. Maintain a local inventory of historical resources/districts within the city; publicize and update periodically the inventory;
- c. Recommend the designation of historical resources/districts, as hereinafter provided;
- d. Recommend standards to be adopted by the city council, to be used by the commission in the review of applications for alteration permits;
- e. Hear and render judgment on applications for alteration permits, as hereinafter provided; approve or deny issuance of alteration permits;
- f. Investigate and report to the city council on the use of various federal, state, local, or private funding sources and mechanisms available to promote historical preservation in the city;
- g. Review and comment on the decisions and documents (including environmental assessments, environmental impact reports, and environmental impact statements) of other public agencies when such decisions or documents may affect historical resources/districts or potential historical resources/districts in the city;
- h. Cooperate with local, county, state, and federal governments in the pursuit of the objectives of historic preservation and request and receive any appropriate information from any city departments or commissions;
- i. Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to historical resources/districts;
- j. Render advice and guidance upon the request of the property owner or occupant, on the restoration, alteration, decoration, landscaping, or maintenance of any historical resource, outstanding historical resource, or improvement located in a historic district;
- k. Provide for adequate public participation in local historic preservation programs, including the process of recommending properties for nomination to the National Register;
- l. Perform any other functions that may be designated by resolution or motion of the city council. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.060 Historical resource/district designation criteria. Upon the recommendation of the historical resources management commission and approval of the city council a structure, site, or other improvement may be designated a historical resource or an outstanding historical resource and an area within the city may be designated a historic district if it meets any of the following criteria:

- a. It exemplifies or reflects valued elements of the city's cultural, social, economic, political, aesthetic, engineering, archaeological, or architectural history; or
- b. It is identified with persons or events important in local, state, or national history; or
- c. It reflects significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes, or distinctive examples of park or community planning; or
- d. It embodies distinguishing characteristics of an architectural style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
- e. It is representative of the notable work of a builder, designer, or architect whose style influenced the city's architectural development.

A structure, site, or other improvement which meets any of the above criteria at the highest level, and whose loss would be a major loss to the city, may be designated an outstanding historical resource. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.070 Designation Process. Historical resources, outstanding historical resources, and historic districts shall be designated by the city council upon the recommendation of the historical resources management commission in the following manner:

- a. Initiation of Designation. Designation of a historical resource, an outstanding historical resource, or an historic district may be initiated by the historical resources management commission, by any resident of Davis, or by the owner of the property that is proposed for designation. Applications for designation originating from outside the commission must be accompanied by such historical and architectural

information as is required by the commission to make an informed recommendation concerning the application, together with the fee set by the city council.

- b. List. The commission shall publish and transmit to all interested parties a list of proposed designations, and shall disseminate any relevant public information concerning the list or any site, structure, or area contained therein.
- c. Public Hearing. The commission shall schedule a public hearing on all proposed designations, whether originating with the commission or with another party. If an application for designation originates from outside the commission, the public hearing shall be held within ninety days of the secretary to the commission's receipt of a complete application.
- d. Work Moratorium. While the commission's public hearing or the city council's decision on the commission's recommendation is pending, the city council upon the commission's recommendation may declare a work moratorium. During the moratorium, any work that would require an alteration permit if the improvement were already designated a historical resource or outstanding historical resource or if it were already located in a historic district shall not be carried out. The work moratorium will end upon the earlier of the city council's decision on the proposed designation, the moratorium termination date designated by the city council, or one hundred eighty calendar days event from the date of commencement of the moratorium.
- e. Notice. In the case of a proposed designation of a historical resource or outstanding historical resource, notice of date, place, time, and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of the property, and to property owners within three hundred feet of the property, at least ten days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once in a daily newspaper of general circulation at least ten days in advance of the public hearing. The commission and city council may also give other notice as they may deem desirable and practicable. In the case of a proposed historic district, notice of the date, place, time, and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of all properties within the proposed district, and to all property owners within three hundred feet of the proposed boundary, at least ten days prior to the date of the public hearing, using the name and address of the owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised five consecutive days in a daily newspaper of general circulation at least ten days in advance of the public hearing.
- f. Commission Recommendations. After the public hearing, but in no event more than thirty days from the date set for the public hearing, the commission shall recommend approval in whole or in part or disapproval of the application for designation in writing to the city council, setting forth the reasons for the decision.
- g. Approval of Commission Recommendations. The city council, within sixty days of receipt of the commission's recommendations concerning proposed designations, shall by ordinance approve the recommendations in whole or in part, or shall by motion disapprove them in their entirety. If the city council approves a proposed designation, notice of the city council's decision shall be sent to applicants and owners of a designated property. Notice shall also be sent to the building official and to the secretary to the commission.
- h. Failure to Send Notice. Failure to send any notice by mail to any property owners where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.
- i. Amendment or Rescission. The commission and the city council may amend or rescind any designation of an historical resource, an outstanding historical resource, or historic district in the same manner and procedure as are followed for designation. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.080 Alteration permits.

- a. No exterior alterations shall be made by any person to a historical resource, an outstanding historical resource, or improvement located in a historic district without an alteration permit approved by the historical resources management commission or on appeal by the city council, nor shall the building official or planning commission grant any permit to carry out such work on a historical resource, an outstanding historical resource, or improvement located in a historic district without the prior issuance of an alteration permit.

- b. The historical resources management commission is hereby given the authority to delegate certain minor projects to the city staff for review and approval or denial. The historical resources management commission shall establish guidelines for such projects to be reviewed by city staff. Appeals of city staff decisions shall follow the procedures established in chapter 40, article 40.37. (Ord. No. 1270, § 2 (part); Ord. No. 1375, § 1; Ord. No. 1784, § 1 (part).)

40.23.090 Alteration permit standards of review. The historical resources management commission shall promulgate and publish such standards as are necessary to supplement the provisions of this article to inform property owners, tenants and the general public of those standards of review by which applications for alteration permits are to be judged. Any such standards shall be approved by the city council. In evaluating applications for alteration permits, the commission or the city council upon appeal shall consider the architectural style, design, arrangement, texture, materials, color, and any other factors. The commission or the city council upon appeal shall approve the issuance of an alteration permit for any proposed work if and only if it finds:

- a. With regard to a historical resource or outstanding historical resource, the proposed work will neither adversely affect the exterior architectural features of the resource nor adversely affect the character or historical, architectural, or aesthetic interest or value of such resource and its site.
- b. With regard to any property located within a historic district, the proposed work conforms to the prescriptive standards for the district adopted by the commission, and does not adversely affect the character of the district. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.100 Alteration permit procedures.

- a. Filing of Application. Applications for alteration permits shall be filed with the secretary to the commission development department for processing. Applications shall include plans and specifications showing the proposed exterior appearance, color and texture of materials, and the proposed architectural design of the exterior of the structure. Where required by the commission, applications shall also show the relationship of the proposed work to the environs. The application shall be accompanied by any other information that the commission determines is required for them to make an informed judgment of the proposed work according to the standards of review in section 40.23.090.
- b. Public Hearing. The secretary to the commission or the historical resources management commission may set a public hearing if, in the opinion of the secretary to the commission, a hearing would be in the public interest. The commission shall establish guidelines for determining which types of applications should be set for public hearing. If a public hearing is scheduled before the commission, it shall be held not more than ninety days from the date a complete application has been received by the secretary to the commission. Notice of the date, place, time, and purpose of the hearing shall be given by first class mail to the applicants, owners, and occupants of all properties within three hundred feet of the property for which application has been made, at least ten days prior to the date of the public hearing, using the name and address of the owners as shown on the latest equalized assessment rolls or in other ownership records, and shall be advertised once in a daily newspaper of general circulation at least ten days in advance of the public hearing. The commission and city council may also give other notice as they may deem desirable and practicable. Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record shall not invalidate any proceedings in connection with an alteration permit.
- c. Action by Commission. Within ninety days of the filing of a complete application for an alteration permit, or thirty days after a public hearing, whichever is later, the historical resources management commission shall complete its review and make a decision. In reaching its decision, the commission may hold joint meetings or joint public hearings with other city commissions and may seek technical advice from outside its own members. The decision of the commission shall be based upon the standards of review in section 40.23.090 and any additional standards recommended by the commission and approved by the city council. The commission shall approve an application, disapprove it, or approve it subject to conditions, specified changes, or additions. Failure of the commission to act upon any complete application within ninety days of its filing, or thirty days after a public hearing, whichever applies, shall be deemed to be approval of the application. The applicant requesting approval of proposed work shall be notified in writing in advance of the hearing, and notified of the action taken. The decision shall be in writing and shall state the reasons for the decision. If the decision is to approve the application, with or without conditions, changes, or additions, the alteration permit shall be issued by the secretary to the commission to the applicant,

and a copy shall be sent to the building official. The alteration permit shall not become effective until fifteen days after the decision of the commission, in order to prohibit work beginning during the period in which an appeal may be filed.

- d. Demolitions. When application is made for an alteration permit to demolish an outstanding historical resource, the commission's disapproval of the application shall mean that no alteration permit shall be issued. When application is made for an alteration permit to demolish any other historical resource, the commission's disapproval of the application shall mean that the issuance of the alteration permit shall be suspended according to the following procedure: The commission's disapproval shall suspend the issuance of an alteration permit for a period of not less than thirty and not more than one hundred eighty days, during which time the commission shall take steps within the scope of its powers and duties as it determines are necessary for the preservation of the site. Such steps may include, but shall not be limited to, consultation with civic groups, public agencies, and interested citizens; recommendations for acquisition of the property by public or private bodies or agencies; and exploration of the possibility of moving one or more structures or features. At the end of the first thirty days, the commission may withdraw its objection to the proposed demolition. If the commission determines to withdraw its objection and approve the demolition, the alteration permit may be issued. If at the end of the first one hundred days of the aforesaid one hundred eighty-day period it is found that the preservation of the site or structure cannot be fully accomplished within the one hundred eighty-day period, and the commission determines that such preservation can be satisfactorily completed within an additional period not to exceed one hundred eighty days, the commission may recommend to the city council that an additional one hundred eighty-day postponement of the issuance of the alteration permit be allowed. The city council may authorize such postponement when it appears that the historical resource may be protected or preserved by reason of such postponement. In no event shall issuance of an alteration permit for a demolition be postponed for more than a total of three hundred sixty days after said permit is applied for. (Ord. No. 1270, § 2 (part); Ord. No. 1314, § 2; Ord. No. 1784, § 1 (part).)

40.23.110 Appeals. The historical resources management commission's decision to approve, disapprove, or approve subject to conditions any application for an alteration permit may be appealed, in writing, by the applicant or any resident of the city to the city council within ten calendar days. Standards for appeals and the content of notices shall be as set out for appeals in this chapter. If no appeal is filed with the city clerk within ten calendar days after the decision of the historical resources management commission, such decision is final. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part); Ord. No. 1890, § 1.)

40.23.120 Ordinary maintenance and repair. Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior feature of any structure or property covered by this article, so long as such maintenance and repair does not involve a change in exterior design, material, or appearance. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.130 Unsafe or dangerous conditions. None of the provisions of this article shall prevent any measures of construction, alteration, or demolition necessary to correct the unsafe or dangerous conditions of any structure, other feature, or part thereof, where such condition has been declared unsafe or dangerous by the building official or the fire chief, and where the proposed measures have been declared necessary by such official, to correct the said condition; provided, however, that only such work as is absolutely necessary to correct the unsafe or dangerous condition and as is done with due regard for preservation of the appearance of the structure involved may be performed pursuant to this section. In the event any structure or other feature shall be damaged by fire, or other calamity, or by act of God, to such an extent that in the opinion of the aforesaid officials it cannot be reasonably repaired and restored, it may be removed in conformity with normal permit procedures and applicable laws. If the condition of an unsafe or dangerous historical resource, outstanding historical resource, or improvement located in a historic district so permits, the official in charge of correcting such a condition shall consult with the historical resources management commission before carrying out corrective measures. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.140 Duty to keep in good repair. The owner, lessees and any other person in actual charge or possession of a historical resource, an outstanding historical resource, or of any improvement located within a historic district shall take steps necessary to prevent:

- a. The substantial deterioration or decay of any exterior portion of such a resource or improvement;
- b. The substantial deterioration or decay of any interior portions thereof whose maintenance is necessary to preserve any exterior portion.

As used in this section, the term "substantial deterioration or decay" shall refer to those conditions of the structure or improvement which threaten the structural or historical integrity of the resource or improvement. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.150 Showing of extreme hardship. If the applicant presents evidence clearly demonstrating to the satisfaction of the historical resources management commission that failure to approve the application for an alteration permit will cause an immediate extreme hardship because of conditions peculiar to the particular structure or other feature involved, the commission may approve or conditionally approve such application even though it does not meet the standards set forth in section 40.23.090. In determining whether extreme hardship exists, the commission shall consider evidence which demonstrates:

- a. Denial of the application will diminish the value of the subject property so as to leave substantially no value;
- b. Sale or rental of the property is impractical, when compared to the cost of holding such property for uses permitted in the zoning district;
- c. Utilization of the property for lawful purposes is prohibited or impractical;
- d. Rental at a reasonable rate of return is not feasible. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)

40.23.160 Time Extensions. If any action under this article is subject to the provisions of the California Environmental Quality Act (Pub. Res. Code sections 21000 et seq.), the time in which such action must be taken shall be extended in order to allow time to comply with said Act; provided, however, that such action is taken within the time limits imposed by the Permit Streamlining Act (Government Code sections 65950 et seq.). (Ord. No. 1784, § 1 (part).)

40.23.170 Enforcement. Any person who violates a requirement of this article or fails to comply with a condition of approval of any permit issued pursuant to this article shall be subject to the enforcement provisions set forth in article 40.38 of this Code. (Ord. No. 1784, § 1 (part).)

40.23.180 Severability. If any section, subsection, sentence, clause or phrase of this article is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this article. The city council hereby declares that it would have passed this article and adopted this article and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. No. 1270, § 2 (part); Ord. No. 1784, § 1 (part).)