
SEC. 12-1606. DUTIES AND POWERS OF THE COMMISSION.

- (a) The primary duties of the Commission shall be:
 - (1) The identification, designation and preservation of Historic Resources and Historic Districts owned by the city or located within the city limits; and
 - (2) The regulation of exterior alterations visible from a public right-of-way including demolition, relocation and new construction, and interior alterations which would affect the significance of Historic Resources or Historic Districts.
- (b) The Commission shall have the following additional duties and powers:
 - (1) Conduct studies and evaluations of applications requesting the designation of Historic Districts, make determinations and recommendations as appropriate for consideration of such applications in order to effectuate the purposes of this article.
 - (2) Adopt specific guidelines for the designation of Historic Resources, Historic Districts and Heritage Properties as it deems necessary to effectuate the purposes of this article.
 - (3) Maintain a current listing and description of designated Historic Resources, Historic Districts and Heritage Properties and transmit copies and update of such listings to all appropriate city agencies and departments as determined by the Secretary to the Commission.
 - (4) Develop and recommend the adoption of an Historic Preservation Element for the General Plan of the City of Fresno in accordance with the requirements of the Certified Local Government Program.
 - (5) Participate in environmental review procedures called for under this article or under the California Environmental Quality Act (CEQA) or under the National Environmental Protection Act (NEPA) by providing review and comments on permit actions affecting designated Historic Resources, Historic Districts and Heritage Properties as the Commission deems appropriate.
 - (5.1) Make environmental determinations under the California Environmental Quality Act on any discretionary project applications the Commission considers for approval, including, but not limited to demolition permits for subject properties brought before the Commission.
 - (6) Review and comment upon the conduct of land use, housing, redevelopment, municipal improvement and other types of planning and programs undertaken by any agency or department of the city, county or state as they relate to designated Historic Resources, Historic Districts and Heritage Properties as the Commission deems appropriate.
 - (7) Establish criteria and conduct or cause to be conducted historical resource surveys of properties within the city limits in accordance with state survey standards and procedures; submit completed surveys to the Council for official adoption; and submit adopted surveys to the Office of Historic Preservation for integration into the Historic Property Data File for Fresno County maintained by that office.
 - (8) Recommend internal procedures to facilitate the use of such adopted historical resource surveys in planning and development processes by all relevant city agencies and departments in accordance with Certified Local Government Program requirements.
 - (9) Publicize, maintain and periodically update such historical resource surveys in accordance with state survey standards and procedures, including those surveys adopted prior to the award of Certified Local Government status and surveys of new areas annexed or incorporated by the city.
 - (10) Adopt procedural rules for the systematic review of such historical resource surveys to determine if designation proceedings should be initiated on appropriate sites. Provide for the removal of sites not

found qualified for designation from the survey and from the Historic Property Data File for Fresno County maintained by the State Office of Historic Preservation if included therein.

- (11) Review and make recommendations on nominations for inclusion in the California Register of Historical Resources and the National Register of Historic Places for local historic resources or districts to the chief elected local official for transmission to the State Office of Historic Preservation in accordance with procedures established by the Certified Local Government Program.
- (12) Review and make recommendations on any proceedings under Section 106 of the National Historic Preservation Act pertaining to properties within the city limits and establish programmatic agreements with the State Office of Historic Preservation as the Commission deems appropriate.
- (13) Review and make recommendations on historic preservation certification applications for federal tax incentives.
- (14) Develop and recommend the adoption of historic preservation incentives including but not limited to conditional use permits allowing uses not otherwise permitted by the underlying zoning, Mills Act Contracts, and other programs utilized by other Certified Local Governments.
- (15) Review and make recommendations on any applications to participate in local historic preservation incentive programs established in order to effectuate the purposes of this article.
- (16) Prepare an annual report on the activities of the Commission to the State Office of Historic Preservation at the end of each calendar year in accordance with procedures established by the Certified Local Government Program.
- (17) Ensure that each commissioner attends at least two informational or educational meetings, seminars, workshops or conferences per year in accordance with the requirements of the Certified Local Government Program.
- (18) Perform any other functions consistent with the purposes herein or that may be directed by the Council from time to time.
- (19) Adopt, promulgate, amend and rescind, from time to time, such rules, guidelines and regulations as the Commission may deem necessary to effectuate the purposes of this article.
- (20) Provide for a suitable sign, plaque or other marker at public or private expense, on or near the Historic Resource or District (LHD or NRD), indicating that the Resource or District (LHD or NRD) has been so designated. The sign, plaque or other marker shall contain information and data deemed appropriate by the Commission and its placement shall be at the discretion of the owner.
- (21) Meet not less than once a month at meetings held pursuant to public notice and open to the public.
- (22) Keep minutes and records of all meetings and proceedings including voting records, attendance, resolutions, findings, determinations and decisions as a matter of public record.
- (23) Render advice and guidance, upon the request of a property owner or tenant on the financial and physical aspects of the restoration, alteration, rehabilitation, landscaping or maintenance of any Historic Resource, any Contributor to any Historic District (LHD or NRD) or any Heritage Property.
- (24) Investigate and report to the Council on the use of various federal, state, local or private funding sources and mechanisms available to promote historic resource preservation in the city.
- (25) Participate in, promote and conduct public information, educational and interpretive programs pertaining to Historic Resources and provide for public participation in all aspects of the city's historic preservation programs.

(Added Ord. 99-50, §§ 1, 2, 9-9-99; Am. Ord. 2015-14, § 1, 7-16-15; Am. Ord. 2021-044, § 2, eff. 11-22-21).

SEC. 12-1617. HISTORIC RESOURCE PERMIT REVIEW PROCESS.

- (a) It shall be unlawful for any person, corporation, association, partnership or other legal entity to directly or indirectly alter, remodel, demolish, grade, remove, construct, reconstruct or restore any Historic Resource without first obtaining a city permit and the written approval of the Historic Preservation Commission. An Historic Resource shall not be eligible for "at risk" development under Fresno Municipal Code Chapter 12, Article 22.
- (b) Upon receipt of an application or proposal for a demolition, grading, removal or building permit for any Historic Resource, the City department or agency receiving same shall, within five calendar days, notify the Secretary and forward said permit application or proposal and accompanying documentation to the Secretary and shall not process the application or proposal without the authorization of the Specialist. Also, written notice shall be provided to all property owners within a 2,000 foot radius of the subject property, measured from property line to property line, and to the Councilmember for the applicable District, of the application at least fourteen days prior to any scheduled hearing before the Commission. The Director of the Development Department may approve, in the name of the Commission, non-substantial alterations to the Historic Resource based on the application presented.
- (c) Any application or proposal which proposes the substantial alteration of an Historic Resource shall also be referred to the Director of the Development Department for environmental review. No hearing shall be held by the Commission for applications or proposals to demolish, grade, remove or substantially alter the Historic Resource until such application or proposal has undergone environmental review in accordance with the California Environmental Quality Act.
- (d) Nothing in this section shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any Historic Resource covered by this article that does not involve a change in design, materials or external appearance.
- (e) Nothing in this section shall be construed to prevent the Director of the Development Department from issuing a building permit if he or she determines that demolition, removal or substantial alteration of the Historic Resource is immediately necessary to protect the public health, safety or general welfare.
- (f) Upon completion of any required environmental review and thirty (30) calendar days prior to a scheduled hearing, the owner or applicant shall provide whatever detailed information (plans, drawings, agreements, etc.) is required or necessary to describe the intended work. The Specialist may require additional information determined to be necessary for the Commission to act on the matter. The Specialist shall refer the matter to the Commission with a report and recommendation which is accompanied by the final environmental document.
- (g) After consideration of the final environmental document, all evidence and testimony, the Commission shall have the authority to approve, deny or approve with modifications, any application or proposal.
- (h) No application or proposal shall be approved or approved with modifications unless the Commission makes the following findings:
 - (1) The proposed work is found to be consistent with the purposes of this article and the Secretary of the Interior's Standards, not detrimental to the special historical, architectural or aesthetic interest or value of the Historic Resource; or
 - (2) The action proposed is necessary to correct an unsafe or dangerous condition on the property; or
 - (3) Denial of the application will result in unreasonable economic hardship to the owner. In order to approve the application, the Commission must find facts and circumstances, not of the applicant's own making, which establish that there are no feasible measures that can be taken that will enable the

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- property owner to make a reasonable economic beneficial use of the property or derive a reasonable economic return from the property in its current form; or
- (4) The site is required for a public use which will directly benefit the public health, safety and welfare and will be of more benefit to the public than the Historic Resource.
 - (5) For applications for relocation of an Historic Resource, the Commission shall find that one or more of the above conditions exist, that relocation will not destroy the historical, architectural or aesthetic value of the Resource and that the relocation is part of a definitive series of actions which will assure the preservation of the Resource.
- (i) Any finding that denial of the application or proposal will result unreasonable economic hardship to the owner, pursuant to Section 12-1617(h)(3) above, may be based upon the application of the following factors:
 - (1) Any economic feasibility analysis conducted pursuant to this section shall include the determination of an "after-rehabilitation" value of the property calculated on an income approach utilizing the capitalization rate determined appropriate by the Director of the Development Department. This "after-rehabilitation" value shall be determined in the following manner:
 - (i) The potential residential or commercial rental rate(s) which could be generated by the property after an appropriate rehabilitation shall be determined by a review of current market rates for comparable properties within comparable neighborhoods.
 - (ii) The potential annual net income that could be generated by the property after an appropriate rehabilitation, taking into consideration standard vacancy and expense factors, shall be determined.
 - (iii) The appropriate capitalization rate shall be applied to the potential annual net income to determine the "after-rehabilitation" value of the property.
 - (2) The fair market value of the land, exclusive of improvements and without development restrictions pursuant to this ordinance, shall be determined by a standard appraisal.
 - (3) The monetary cost of an appropriate rehabilitation of the resource, in accordance with the standards of this ordinance, shall be determined by professionals qualified to make such a determination.
 - (4) If the fair market value of the land, combined with the costs of rehabilitation, exceed the "after-rehabilitation" value of the property by more than twenty percent, the Commission shall find that denial of the application will result in an unreasonable economic hardship to the owner.
 - (j) If the Commission determines a permit should not be issued for the demolition, alteration, relocation or new construction, or the Council on appeal concurs, a new application affecting the same property may be submitted during the twelve (12) month period after the disapproval only if a substantial change is made in the plans for the project.
 - (k) The Specialist shall give written notice of the decision regarding the regulated permit to the property owner/applicant, the Director of the Development Department, the Councilmember for the applicable Council District, and the Mayor. The notice shall contain the Commission's findings in support thereof.

(Added Ord. 99-50, §§ 1, 2, 9-9-99; Am. Ord. 2021-044, § 6, eff. 11-22-21).