

ORDINANCE NO. 2124

AN ORDINANCE OF THE CITY OF DAVIS AMENDING CHAPTER 40
OF THE MUNICIPAL CODE BY REPLACING SECTION 40.23.0,
HISTORICAL RESOURCES MANAGEMENT

THE CITY COUNCIL OF THE CITY OF DAVIS DOES HEREBY ORDAIN AS
FOLLOWS:

SECTION 1: Section 40.23.0 of the Davis Municipal Code is amended as follows:

Section 40.23.010 Purpose.

The purpose of this article is to promote the general welfare by providing for the identification, designation, protection, enhancement, perpetuation, and use of historical resources including improvements, buildings, structures, objects, signs, features, sites, cultural landscapes, 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 complements the city's historical resources;
- (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 and natural environment.

Section 40.23.020 Applicability.

(a) The Historical Resources Management Ordinance shall be applied to the Davis Register of Historical Resources (Landmarks, Merit Resources, and Historic Districts), as defined and designated by this article.

(b) A property that has been designated a Historical Resource 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 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.

Section 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 designated historical resource which involves exterior changes to or modification of a structure, its surface texture, or its architectural details; new construction; relocation of structures onto, off of, or within a designated property or site; or other changes to the property or site affecting the significant historical or architectural features of the designated historical resource.

(b) "California Environmental Quality Act (CEQA)" means the California Public Resources Code Section 21000 et seq. and its related guidelines as it may be amended.

(c) "California Historical Building Code (CHBC)" means the most recent version of the California building code that regulates alterations to qualified historic structures. The code provides alternative building regulations for the rehabilitation, preservation, restoration or relocation of qualified resources.

(d) "Certificate of Appropriateness" means a certificate whose issuance is approved by the Historical Resource Management Commission or upon appeal by the City Council and which authorizes its recipient to make specified and approved exterior alterations to a Davis Register designated historical resource.

(e) "Certified Local Government" (CLG) means a local government that has been certified by the National Park Service to carry out the purposes of the National Historic Preservation Act of 1966 (16 U.S.C. Sec. 470 et seq.) as amended, pursuant to Section 101(c) of that Act and the regulations adopted under the Act, which are set forth in Part 61 of Title 36 of the Code of Federal Regulations (CFR).

(f) "Character defining-feature" means the architectural features of a building, structure, or object that help convey the significance of the Historical Resource and which were present during the period of significance.

(g) "Commission" means the Historical Resource Management Commission established pursuant to the provisions of this article.

(h) "Conservation Overlay Zoning District" Conservation overlay districts support planning policy stipulating that new development and renovation of existing buildings should respect the traditional scale and character found within a defined area. Conservation Overlay Zoning Districts are designated under the Davis Zoning Code and are not included in the Davis Register of Historical Resources. However, individual buildings within a Conservation Overlay District may be designated Landmarks or Merit Resources.

(i) "Cultural Landscape" means a geographic area (including both cultural and natural resources) associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values. There are four general types of cultural landscapes, not mutually exclusive: historic sites, historic designed landscapes, historic vernacular landscapes, and ethnographic landscapes.

(j) "Cultural Resources Inventory" means an inventory of properties surveyed using the State of California Department of Parks and Recreation Survey forms. An inventory is an organized compilation of information about Historical Resources.

(k) "Davis Register of Historical Resources" means the register of designated Landmarks, Merit Resources, Historic Districts and District Contributors within the City of Davis. These resources meet the definition of a historical resource under CEQA. Any alteration to these resources shall comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

(l) "Demolition" means for the purpose of this article, any act or failure to act that destroys, removes, or relocates, in whole or in part a historical resource such that its historic character and significance is materially altered.

(m) "Demolition / Relocation Certificate" means a certificate whose issuance is approved by the Historical Resource Management Commission or upon appeal by the City Council and which authorizes its recipient to demolish, remove, or relocate a designated historical resource.

(n) "Design Guidelines" for the purposes of this ordinance means a set of standards guiding appropriate treatments to Historical Resources and appropriate new construction within or in the vicinity of a historic or conservation district.

(o) "District Plan" means the documentation, planning, and guiding document for a designated Historic District and adopted by the Historical Resource Management Commission in accordance with the provisions of this article. District plans identify the district contributors and non-contributors to which these provisions apply.

(p) 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 architectural style, design, arrangement, massing, texture, painted and unpainted surfaces and materials.

(q) "Historical Resource" means improvements, buildings, structures, objects, signs, features, sites, cultural landscapes, 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 Landmarks, Merit Resources, or Historic Districts by the City Council pursuant to the provisions of this article. These designated resources comprise the Davis Register of Historical Resources.

(r) "Historic District" means a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development. A district derives its importance from being a unified entity, even though it is often composed of a wide variety of resources. The identity of a Historic District results from the interrelationship of its resources, which can convey a visual sense of the overall historic environment or be an arrangement of historically or functionally related properties. Designated Historic Districts are included in the Davis Register of Historic Resources. Historic Districts can include Historical Resources that may be individually designated as Landmarks or Merit Resources.

(s) "Historic District Boundary" means the definable geographic area that can be distinguished from surrounding properties by changes such as density, scale, type, age, style of sites, buildings, structures, and objects, or by documented differences in patterns of historic development or associations. Historic or Conservation Overlay District boundaries must be based upon a shared relationship among the properties constituting the district.

(t) "Historic District Contributor" means a building, site, structure, object, or cultural landscape identified in the Historic District Plan that possesses sufficient integrity to add to the historic architectural qualities, historic associations or patterns for which an Historic District is significant.

(u) "Historic District Non-Contributor" means a building, site, structure, object, or cultural landscape identified in the Historic District Plan that does not add to the historic architectural qualities, historic association or patterns for which an Historic District is significant.

(v) "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.

(w) "Integrity" means the ability of a historical resource to convey its significance. To be considered an historical resource, a property must not only be significant under the appropriate criteria, but it must also retain a majority of the following aspects of integrity including location, design, setting, materials, workmanship, feeling and association.

(x) "Landmark" means buildings, structures, objects, signs, features, sites, places, areas, cultural landscapes 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. A landmark is deemed to be so important to the historical and architectural fabric of the community that its loss would be deemed a major loss to the community. Once designated, Landmarks are included in the Davis Register of Historical Resources. Landmarks were formerly designated as "Outstanding Historical Resources." (Ord. 1784, 1995).

(y) "Merit Resource" means buildings, structures, objects, signs, features, sites, places, areas, cultural landscapes or other improvements with 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. Once designated, Merit Resources are included in the Davis Register. Merit Resources were formerly designated as "Historical Resources." (Ord. 1784, 1995).

(z) Minor Improvement Permit means an over-the-counter approval for Ordinary Maintenance and Repair of exterior features at or on Davis Register Resources.

(aa) "Object" means those constructions that are distinguished from buildings and structures that are primarily artistic in nature or are relatively small in scale and simply constructed. Although they may be, by nature or design, movable, objects are associated with a specific setting or environment.

(bb) "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.

(cc) "Period of Significance" means the length of time that a property was associated with important events, activities, or persons, or attained the characteristics that qualify it for designation.

(dd) "Relocation" means the removal of an Historical Resource from its original site to a new site.

(ee) "Secretary of the Interior's Standards for the Treatment of Historic Properties with guidelines for preserving, rehabilitating, restoring and reconstructing historic buildings, as they may be amended," means the standards set forward by the National Park Service and the Secretary of the Interior that guide treatment of historic properties (36 CFR Part 68 July 1995 Federal Register Vol. 60 No. 133).

(ff) "State of California Department of Parks and Recreation (DPR) survey forms" means the current official State of California forms completed by either the Historic Preservation Commission or other interested individuals that contains information about an Historical Resource.

Section 40.23.040 Historical Resources Management Commission.

(a) Established. A Historical Resource 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, museum 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 Resource 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 Resource 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. Standards for terms of office of all members shall be as provided for in Section 2.16.010 of the Davis Municipal Code. Each member shall serve at the pleasure of the City Council until his or her successor is appointed and qualified. No member, including alternate, shall serve more than eight successive years.

(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. Time served to fill an unexpired portion of a term shall not be included in the eight-year limitation set forth in Section 2.16.010 (d).

(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 expires sooner. 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) Professional Staff to the Historical Resources Management Commission. The Planning and Building Director shall appoint an officer or employee of the city who shall act as secretary and professional staff to the Commission.

Section 40.23.050 Powers and duties.

The Historical Resource 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 all types of designated historical resources;

(b) Maintain a local Cultural Resources Inventory of all types of historical resources within the city; publicize and update periodically the inventory;

(c) Work with city Historical Resources Management Commission staff and the State Historic Preservation Office to administer the Certified Local Government program;

(d) Recommend the designation of all types of historical resources, as hereinafter provided;

(e) Recommend standards to be adopted by the City Council, to be used by the Commission in the review of applications for certificate of appropriateness;

(f) Hear and render judgment on applications for certificate of appropriateness, as hereinafter provided; approve or deny issuance of certificate of appropriateness;

(g) Hear and render judgment on applications for demolition certificate, as hereinafter provided; approve or deny issuance of demolition certificate;

(h) Review new construction, significant exterior renovations, and demolitions within the boundaries of designated Historic Districts;

(i) Perform advisory review of new construction, significant renovation projects, and demolitions within 300 feet of designated individual landmarks and merit resources;

(j) Perform advisory review of new construction, significant renovation projects, and demolitions within adopted conservation overlay districts.

(k) Work with Commission staff and outside consultants as needed to develop policy documents for historic and conservation districts;

(l) Investigate and report to the City Council on the use of various federal, state, local, or private funding sources, incentives and other mechanisms available to promote historical preservation in the city;

(m) Review and comment on the decisions and documents including environmental assessments under the California Environmental Quality Act, the National Environmental Policy Act, Section 106 of the National Historic Preservation Act, environmental impact reports, and environmental impact statements of other public agencies and private projects when such decisions or documents may affect any type of designated historical resources or potential historical resources in the city;

(n) 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;

(o) Participate in, promote, and conduct public information, educational, and interpretive programs pertaining to all types of historical resources;

(p) Render advice and guidance upon the request of the property owner or occupant, on the restoration, alteration, decoration, landscaping, or maintenance of any designated historical resource;

(q) Provide for adequate public participation in local historic preservation programs, including the process of recommending properties for nomination to the National Register of Historic Places and the California Register of Historical Resources;

(r) The Historical Resources Management Commission is hereby given the authority to delegate certain minor projects to the Commission staff for any advisory review and for Certificate of Appropriateness review and approval or denial. The Historical Resource Management Commission shall establish guidelines for such projects to be reviewed by Commission staff. Appeals of Commission staff decisions shall follow the procedures established in Article 40.39.0 of this chapter; and

(s) Perform any other functions that may be designated by resolution or motion of the City Council.

Section 40.23.060 Davis Register of Historical Resources designation criteria.

(a) Landmarks. Upon the recommendation of the Historical Resource Management Commission and approval of the City Council a Historical Resource may be designated a Landmark if the resource meets any of the following four criteria at the local, state, or national level of significance and retains a high level of historic integrity as defined by this article.

(1) Associated with events that have made a significant contribution to the broad patterns in the history of Davis, California, or the Nation; or

(2) Associated with the lives of significant persons in the history of Davis, California, or the Nation; or

(3) Embodies the distinctive characteristics of a type, period, architectural style or method of construction; or that represent the work of a master designer; or that possess high artistic values; or that represents a significant and distinguishable entity whose components may lack individual distinction; or

(4) Has yielded or may likely yield archaeological or anthropological information important in the study of history, prehistory, or human culture.

(b) Landmark factors to be considered. In determining whether to designate a resource a Landmark, the following factors should be considered, if applicable:

(1) A resource moved from its original location may be designated a Landmark if it is significant primarily for its architectural value or it is one of the most important surviving structures associated with an important person or historic event.

(2) A birthplace or grave may be designated a Landmark if it is that of a historical figure of outstanding importance within the history of Davis, the state or the nation and there are no other appropriate sites or resources directly associated with his or her life or achievements.

(3) A reconstructed building may be designated a Landmark if the reconstruction is historically accurate and is based on sound historical documentation, is executed in a suitable environment, and if no other original structure survives that has the same historical association.

(4) A resource achieving significance within the past fifty (50) years may be designated a landmark if the resource is of exceptional importance within the history of Davis, the state or the nation.

(c) Merit Resources. Upon the recommendation of the Historical Resource Management Commission and approval of the City Council a Historical Resource may be designated a Merit Resource if the resource meets one of the following four criteria at the local level of significance and possesses historic integrity as defined under this article:

(1) Associated with events that have made a significant contribution to the broad patterns in the history of Davis; or

(2) Associated with the lives of significant persons in the history of Davis; or

(3) Embodies the distinctive characteristics of a type, period, architectural style or method of construction; or that represent the work of a master designer; or that possess high artistic values; or that represents a significant and distinguishable entity whose components may lack individual distinction; or

(4) Has yielded or may likely yield archaeological or anthropological information important in the study of history, prehistory, or human culture.

(d) Merit Resources factors to be considered. In determining whether to designate a resource a Merit Resource, the following factors should be considered, if applicable:

(1) A resource moved from its original location may be designated a Merit Resource if it is significant for its architectural value or if an understanding of the associated important person or historic event has not been impaired by the relocation.

(2) A birthplace or grave may be designated a Merit Resource if it is that of a historical figure of outstanding importance within the history of Davis and there are no other appropriate sites or resources directly associated with his or her life or achievements.

(3) A reconstructed building may be designated a Merit Resource if the reconstruction is historically accurate and is based on sound historical documentation, is executed in a suitable environment, and if no other original structure survives that has the same historical association.

(4) A resource achieving significance within the past fifty (50) years may be designated a Merit Resource if it is of exceptional importance within the history of Davis.

(e) Historic Districts. Upon the recommendation of the Historical Resource Management Commission and approval of the City Council a group of historical resources may be designated a Historic District if the district meets any of the following significance criteria:

(1) Associated with events that have made a significant contribution to the broad patterns in the history of Davis, California or the Nation; or

(2) Associated with the lives of significant persons in the history of Davis, California or the Nation; or

(3) Embodies the distinctive characteristics of a type, period, architectural style or method of construction; or that represent the work of a master designer; or that possess high artistic values; or that represents a significant and distinguishable entity whose components may lack individual distinction; or

(4) Has yielded or may likely yield archaeological or anthropological information important in the study of history, prehistory, or human culture.

(f) Historic District factors to be considered. In determining whether to designate a group of resources as a Historic District, the following factors should be considered, if applicable:

(1) To be designated a Historic District a grouping of historical resources must meet one of the above four criteria at the local, state, or national level of significance and the majority of the Historic District contributors must retain historic integrity. The collective value of the district contributors may be greater than the individual resources within the Historic District;

(2) A Historic District Plan shall be developed and reviewed by the Historical Resources Management Commission simultaneously with designation. The Historic District Plan shall provide standards for review within that particular district to ensure that new development, renovation, and rehabilitation are compatible and complementary to the prevalent character-defining features, architectural style, historic context, and design elements within the Historic District;

(3) The Historic District contributors are identified in the designation materials and the District Plan including buildings, sites, structures, objects, or cultural landscapes that add to the historic architectural qualities, historic associations or patterns for which a Historic District is significant and that are located within the district boundaries;

(4) The Historic District non-contributors are identified in the designation materials and the District Plan including buildings, sites, structures, objects and landscapes within the district boundaries that do not add to the historic architectural qualities, historic association or patterns for which the Historic District is significant;

(5) The Historic District boundaries and period of significance are identified in the designation materials and the District Plan;

Section 40.23.070 Designation Process.

Historical resources shall be designated by the City Council upon the recommendation of the Historical Resource Management Commission in the following manner:

(a) **Initiation of Designation Landmarks and Merit Resources.** Designation of Landmarks and Merit Resources may be initiated by the Historical Resource Management Commission, by any resident of Davis, or by the owner of the property that is proposed for designation. All applications must be accompanied by adequate historical and architectural information such that the Commission can render an informed recommendation concerning the application. All applications for Landmarks and Merit Resources should include the most recent version of the appropriate State of California Department of Parks and Recreation (DPR) 523 A-L series survey form completed according to the State's instructions for recording historical resources; current and historical photographs, if available, of the resource(s); and current owner and parcel number.

(b) **Initiation of Designation of Historic Districts.** Designation of Historic Districts may be initiated by the Historical Resource Management Commission, by any resident of Davis, or by any property owner proposed for designation. All applications must be accompanied by adequate historical and architectural information such that the Commission can render an informed recommendation concerning the application. All applications should include the most recent version of the appropriate State of California Department of Parks and Recreation (DPR) survey forms completed according to the State's instructions for recording historical resources; current and historical photographs, if available, of the resource(s); current owner and parcel number for all property within the district; a list of proposed contributors and non-contributors as well as a map identifying these resources and the ascribed boundary; and a district management plan developed in conjunction with Commission staff with public input.

(c) **Public Hearing.** The Commission shall schedule a public hearing on all proposed designations, whether originating with the Commission or with another party. The public hearing shall be held within forty-five days of the Planning and Building Director's receipt of a complete application, except in the case of designations being considered for potential historical resources as provided for in Section 40.23.120 B of this article, in which case the hearing shall be held within thirty days of receipt of a complete application. Notice of such hearing shall be given as required by state law and city ordinance. Failure of owners to receive notice of such hearing shall in no way affect the validity of any action taken.

(d) **Designation 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 potential historical resources contained therein.

(e) **Stay of Work.** While the Commission's public hearing on designation or the City Council's decision on an appeal of a designation is pending a stay of work shall be automatically in place. During the stay of work moratorium, any work that would require a Certificate of Appropriateness or a Demolition Certificate if the improvement were already designated a historical resource or if it were already located in a historic or conservation overlay district shall not be carried out. The stay of work will end upon the earlier of the Commission's decision to deny the proposed designation if no appeal is

filed, the City Council's decision to introduce an ordinance to approve in whole, in part or deny in its entirety the proposed designation, or 90 calendar days from the date of commencement of the stay of work.

(f) Landmark and Merit Resource Designation Notice of Public Hearing. Notice of such hearing shall be given as required by state law and city ordinance. Failure of owners to receive notice of such hearing shall in no way affect the validity of any action taken. The Commission and City Council may also give other notice as they may deem desirable and practicable.

(g) Historic District Notice. Notice of such hearing shall be given as required by state law and city ordinance. Failure of owners to receive notice of such hearing shall in no way affect the validity of any action taken. Notices of the public hearing shall be posted in at least five highly visible locations within the Historic District boundaries.

(h) Commission Recommendations. 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. The recommendation will be submitted to City Council after the public hearing, but in no event more than forty-five days of the Planning and Building Director's receipt of a complete application, except in the case of designations being considered for potential historical resources as provided for in Section 40.23.120 B of this article, in which case the recommendation shall be submitted within thirty days of receipt of a complete application..

(i) Approval of Commission Recommendations. The City Council, within forty-five days of receipt of the Commission's recommendations concerning proposed designations, shall by introduce an ordinance to approve the recommendations in whole or in part, or shall by motion disapprove them in their entirety, except in the case of designations being considered for potential historical resources as provided for in Section 40.23.120 B of this article, in which case the City Council shall have thirty days to introduce an ordinance to approve in whole or in part or by motion disapprove in its 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 Commission staff.

(j) Appeals process. Any failure by the Historical Resources Management Commission to recommend a designation, either by action or absence of action, may be appealed to the City Council following the procedures established in Chapter 40, article 40.35.0.

(k) Amendment or Rescission. The Commission and the City Council may amend or rescind the designation of Landmarks, Merit Resources, Historic Districts, list of Historic District Contributors and other elements Historic District Plans as deemed necessary by the Commission and in the same manner and procedure as are followed for designation.

Section 40.23.080 Certificate of Appropriateness.

(a). No exterior alterations shall be made by any person to any type of designated historical resource, including Landmarks, Merit Resources, and Historic District Contributors without a Certificate of Appropriateness approved by the Historical Resource 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 any

type of designated historical resource without the prior issuance of a Certificate of Appropriateness.

(b) The Historical Resource Management Commission is hereby given the authority to delegate certain minor projects involving Davis Register resources to the Commission staff for review and approval or denial. The Historical Resource Management Commission shall establish guidelines for such projects to be reviewed by Commission staff. Appeals of Commission staff decisions shall follow the procedures established in chapter 40, article 40.37.

Section 40.23.090 Certificate of Appropriateness Standards of Review.

(a) The Historical Resource 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 Certificates of Appropriateness are to be judged. Any such standards shall be approved by the City Council. In evaluating applications for Certificates of Appropriateness, the Commission or the City Council upon appeal shall consider the architectural style, design, arrangement, massing, texture, painted and unpainted surfaces, materials, and any other factors. The proposed work shall not adversely impact character-defining features that date to the resource's period of significance.

(1) Landmarks. The Commission or the City Council upon appeal shall approve the issuance of a Certificate of Appropriateness for any proposed work to a Landmark if it finds:

(A) the proposed work does not result in substantial adverse change in the significance of the resource or its exterior character-defining features, and

(B) the proposed project complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties, and

(C) the proposed work, if proposed for an individual Landmark located within the boundaries of a designated Historic or Conservation Overlay District, shall be consistent with, and supportive of the goals and policies of the adopted District Plan.

(2) Merit Resources. The Commission or the City Council upon appeal shall approve the issuance of a Certificate of Appropriateness for any proposed work to a Merit Resource if it finds:

(A) The proposed work does not result in substantial adverse change in the significance of the resource or its major exterior character defining features; and

(B) The proposed project generally complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties, and

(C) The proposed work, if proposed for an individual Merit Resource located within the boundaries of a designated Historic or Conservation Overlay District, shall be consistent with, and supportive of the goals and policies of the adopted District Plan.

(3) Historic Districts. The Commission or the City Council upon appeal shall approve the issuance of a Certificate of Appropriateness for any proposed work to a Historic District Contributor if it finds:

(A) The proposed work does not result in a substantial adverse change on the significance of the resource or its major exterior character defining features, nor a

substantial adverse change on the character or historical, architectural, or aesthetic interest or value of the Historic District as a whole; and

(B) The proposed project generally complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties, and

(C) the proposed project is consistent with, and supportive of the goals and policies of the adopted District Plan.

Section 40.23.100 Certificate of Appropriateness procedures.

(a) Filing of Application. Applications for a Certificate of Appropriateness for work to be performed on Landmarks, Merit Resources, and Historic District Contributors shall be filed with the Commission staff to the Commission for processing. Applications shall include, but not be limited to, photographs, plans, elevations, sections, renderings, materials information, and specifications, as necessary to illustrate both the current or existing conditions and the proposed exterior alterations. Where required by the Commission, applications shall also show the relationship of the proposed work to the environs. In the case of new construction in Historic Districts or on parcels containing designated Historic Resources, the new structure's relationship to the surrounding established context shall be conveyed in the application including, but not limited to, height, scale, massing, set back, and materials. 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) Administrative Approvals. The purpose of the administrative approval process is to allow efficient processing of routine or non-contentious applications while providing sufficient opportunities for public review.

(1) Applicability. The administrative approval process shall be applied when the Commission staff is authorized to approve an application, such as for minor modifications or site plan and architectural approval. The Commission staff shall determine, based on the merits of the proposal, whether an application shall be approved administratively or scheduled for a public hearing before the Historical Resources Management Commission.

(2) Public notice. Prior to taking action on an Administrative Approval, the Commission staff shall provide notice through a mailing to all owners of real property as shown on current property tax roles within a minimum of 300 feet of the subject property. At the discretion of the Commission staff, based on public interest in the project, the scope of notice, including property owner radius, may be expanded.

(3) Comment period. The Commission staff shall provide a comment period of no less than ten calendar days prior to taking action on an Administrative Approval, beginning on the date the public notices are mailed. The purpose of the comment period is to enable the public to bring comments or questions to the attention of the Commission staff. If the Commission staff receives substantive comments or information that establishes that the application should not be approved administratively, the Commission staff shall either deny the application or, if requested by the applicant and upon submittal of the applicable fee, schedule a public hearing before the Historical Resources Management Commission to consider the application.

(4) Appeals to Historical Resources Management Commission. Any determination of the Commission staff with respect to an Administrative Approval application may be appealed to the Historical Resources Management Commission upon submittal to the city of an appeal application, accompanied by the fee established by resolution of the City Council. In the absence of an appeal application being filed within ten days after the determination of the Commission staff, such determination is final.

(c) Public Hearing. The staff to the Commission or the Historical Resource Management Commission shall set a public hearing to review the Certificate of Appropriateness application for all applications not eligible for Administrative Review, or referred by Commission staff or appealed in accordance with Administrative Review procedures as described above. If a public hearing is scheduled before the Commission, it shall be held not more than sixty days from the date a complete application has been received by the staff to the Commission. Notice of such hearing shall be given as required by state law and city ordinance. Failure of owners to receive notice of such hearing shall in no way affect the validity of any action taken. . The Commission and City Council may also give other notice as they may deem desirable and practicable.

(d) Action by Commission. Within sixty days of the filing of a complete application for a Certificate of Appropriateness, or thirty days after a public hearing, whichever is later, the Historical Resource 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 sixty 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 Certificate of Appropriateness shall be issued to the applicant by the Commission staff, and a copy shall be sent to the building official. The Certificate of Appropriateness shall not become effective until ten days after the decision of the Commission, in order to prohibit work beginning during the period in which an appeal may be filed.

Section 40.23.110 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. Commission staff is authorized to develop and implement a procedure to issue over-the-counter Minor Improvement Permits for all exterior ordinary maintenance and repair meeting the above description.

Section 40.23.120 Demolition Certificate

(a) A Demolition Certificate is required for the demolition, removal, or relocation of Davis Register resources and cultural landscapes designated as Landmarks, Merit Resources, and Historic District contributors under this article. If the city determines further environmental review under the California Environmental Quality Act is necessary this shall be conducted independently of the designation review under this ordinance.

(1) No demolition, removal, or relocation of a historical resource shall be made by any person to any type of designated Davis Register resources, without a Demolition Certificate approved by the Historical Resource Management Commission or on appeal by the City Council, nor shall the City Building Official or City Planning Commission grant any permit to carry out such action on any type of designated historical resource without the prior issuance of a Demolition Certificate.

(2) Relocation as alternative to demolition. Relocating a Merit Resource or Historic District Contributor can be an acceptable alternative to demolition if the Commission can find that the relocation is compatible with the original character and use of the Historical Resource. The resource should retain its historic character-defining features, the project should be in compliance with the Secretary of the Interior's Standards, and that the new location is compatible in orientation, setting, and general environment, and that the receiving parcel is appropriately zoned and sized for the resource.

(3) A Site Management Plan as defined under Chapter 8 of the City of Davis Municipal Code) and Planning Commission approval of the replacement project at the site of the demolished, relocated, or removed resource, must be issued prior to issuance of the Demolition Certificate by the Historical Resource Management Commission.

(4) The Commission shall take steps within the scope of its powers and duties as it determines are necessary for the preservation of both designated and non-designated resources. 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 potential historical resources. (b) The demolition of potential historical resources, those not previously designated as historical resources but identified in accordance with Section 8.18 of Chapter 8 (Building), shall not occur without review by Commission staff. Before a proposal to demolish such a structure is approved, Commission staff, utilizing expert resources as necessary, shall evaluate the resource for its potential to meet criteria for historic significance as defined in this article and by the California Environmental Quality Act. If Commission staff determines that further review by the Historical Resource Management Commission is warranted, then the Commission staff shall provide the appropriate State of California Department of Parks and Recreation (DPR) survey forms completed according to the State's instructions for recording historical resources; current and historical photographs of the resource(s) (if available); and the current owner and parcel number. The Commission will then consider the historical significance of the structure using the criteria for designation of historical resources as defined by this article.

Section 40.23.130 Demolition Certificate Findings

(a) The Historical Resource Management Commission shall review and make findings regarding the appropriateness of the demolition, relocation, or removal of all Davis Register historical resources. In all cases, demolition, relocation or removal of historical resources shall be tied to a proposed project or site development as defined under Chapter 8 of the City of Davis Municipal Code. Wherever applicable, the Commission can require the documentation of the structure proposed for demolition, relocation, or removal with such measures as archival quality photographs or measured drawings prior to these actions.

(1) Landmarks. The Commission or the City Council upon appeal shall approve the issuance of a Demolition Certificate for a designated Landmark if it finds that any of the following conditions exist:

(A) Unsafe or dangerous conditions in accordance with Section 40.23.170 of this article; or

(B) Issues relating to hardship in accordance with Section 40.23.190 of this article; and

(C) In the case where either condition (a) or (b) above has been found to exist, that the replacement project is consistent with and supportive of identified goals and policies of the General Plan or applicable or specific area plans and that the proposed action will not have a significant effect on the goals and purposes of this article or the potential effect is outweighed by significant benefits of the proposed replacement project;

(2) Merit Resources. The Commission or the City Council upon appeal shall approve the issuance of a Demolition Certificate for a designated Merit Resource if it finds that any of the following conditions exist:

(A) Unsafe or dangerous conditions in accordance with Section 40.23.170 of this article;

(B) Issues relating to hardship in accordance with Section 40.23.190 of this article;

(C) That in the case of relocating a designated Merit Resource the historic and architectural integrity and significance of the resource would not be significantly impaired or its significance altered once relocated; or

(D) That the replacement project is consistent with and supportive of identified goals and policies of the General Plan or applicable or specific area plans and that the proposed action will not have a significant effect on the goals and purposes of this article or the potential effect is outweighed by significant benefits of the proposed replacement project;

(3) Historic District Contributors. The Commission or the City Council upon appeal shall approve the issuance of a Demolition Certificate for a designated District Contributors if it finds any of the following conditions exist:

(A) Unsafe or dangerous conditions in accordance with Section 40.23.170 of this article;

(B) Issues relating to hardship in accordance with Section 40.23.190 of this article;

(C) That in the case of relocating a designated District Contributor the historic and architectural integrity and significance of both the contributor and the entire district would not be significantly impaired; or

(D) That the replacement project is consistent with and supportive of identified goals and policies of the General Plan or applicable or specific area plans including the adopted District Plan and that the proposed action will not have a significant effect on the goals and purposes of this article or the potential effect is outweighed by significant benefits of the proposed project;

(4) Historic District Non-Contributors. The Commission or the City Council upon appeal shall approve the issuance of a Demolition Certificate for non-contributors if it finds:

(A) That the replacement project is consistent with and supportive of identified goals and policies of the General Plan or applicable or specific area plans including the adopted District Plan.

Section 40.23.140 Demolition Certificate Procedures

(a) Filing of Application. Applications for a Demolition Certificate shall be filed with the Commission staff to the Commission for processing. Applications shall include, but not be limited to existing photographs; existing plans and elevations; proposed plans, elevations, sections and renderings; materials information, photos showing the surrounding environs; and specifications; as necessary to illustrate both the current or existing conditions on the parcel(s) and the proposed new construction on the parcel(s), and information as required for environmental review. 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 40.23.120.

(b) Public Hearing. The Commission staff or the Historical Resource Management Commission shall set a public hearing to review the Demolition Certificate application. The hearing shall be held not more than sixty days from the date a complete application has been received by the Commission staff. Notice of such hearing shall be given as required by state law and city ordinance. Failure of owners to receive notice of such hearing shall in no way affect the validity of any action taken. The Commission and City Council may also give other notice as they may deem desirable and practicable. Applicant shall post notice of the public hearing at the project site for a minimum of 10 days prior to the Public Hearing date.

(c) Action by Commission. Within sixty days of the filing of a complete application for a Demolition Certificate, or thirty days after a public hearing, whichever is later, the Historical Resource 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 40.23.120 and 130 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 sixty

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 demolition 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, then the Demolition Certificate shall be issued by the Commission staff to the applicant, and a copy shall be sent to the building official. The Demolition Certificate shall not become effective until ten days after the decision of the Commission, in order to prohibit work beginning during the period in which an appeal may be filed. If Commission staff, in consultation with the Planning Director, determine that environmental review is required under the California Environmental Quality Act, then approval of demolition can be considered only after all environmental documents are certified. Upon completion of the environmental review the city should file a Notice of Determination with County Clerk.

Section 40.23.150 Appeals. The Historical Resource Management Commission's decision to approve, disapprove, or approve subject to conditions any application for a Certificate of Appropriateness or a Demolition Certificate 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 Resource Management Commission, such decision is final. If the City Council approves demolition, then the Demolition Certificate shall not become effective until ten days after the decision of the council, in order to prohibit work beginning during the period in which a judicial appeal may be filed.

Section 40.23.160 Historic Preservation Incentives.

The Historical Resource Management Commission shall develop and maintain an incentive program to encourage historic preservation to occur, to encourage investment in historic properties, and to aid property owners with potential financial burdens. The program elements shall be made available to owners who preserve designated historical resources and, in the case of direct city expenditures, the program shall ensure that the cost of incentives is a reasonable use of public funds. Incentives such as the California Historical Building Code, the Federal Historic Preservation Tax Certification, Conservation Easements, the California Mills Act and others as deemed appropriate shall be adopted for use by the city.

Section 40.23.170 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, earthquake or other natural disaster, 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 designated historical resource so permits, the official in charge of correcting such a condition shall consult with the Historical Resource Management Commission before carrying out corrective measures.

Section 40.23.180 Duty to keep in good repair.

The owner, lessees and any other person in actual charge or possession of a designated historical resource 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 that threaten the structural or historical integrity of the resource or improvement.

Section 40.23.190 Showing of extreme hardship. If the applicant presents evidence clearly demonstrating to the satisfaction of the Historical Resource Management Commission that failure to approve the application for a Certificate of Appropriateness or a Demolition Permit will cause an 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. The applicant shall bear the burden of proving the extreme hardship and shall provide substantiation of the claim as the Commission may require. The Commission is authorized to request that the applicant furnish additional information, documentation and expert testimony, the cost of which shall be paid by the applicant, to be considered by the Commission in its related findings. All additional required information shall be provided by a qualified individual or firm selected by the City. In determining whether extreme hardship exists, the Commission shall consider evidence that 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.

Section 40.23.200 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.).

Section 40.23.210 Enforcement.

Any person who violates a requirement of this article or fails to comply with a condition of approval of any certificate or permit issued pursuant to this article shall be subject to the enforcement provisions set forth in article 40.38 of this Code.

Section 40.23.220 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.

SECTION 2. Effective Date. This ordinance shall become effective on or after the thirtieth day following its adoption.

SECTION 3. Findings. The City Council finds the following:

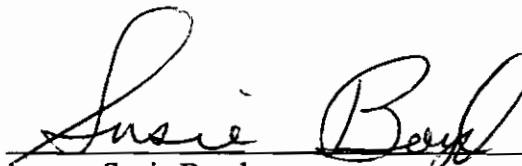
- (a) That the proposed amendment is in general conformance with the City General Plan.
- (b) That the public necessity, convenience, and general welfare require the adoption of the proposed amendment.
- (c) That Negative Declaration #2-02 has been prepared and the City Council finds that the proposed ordinance amendments will not have a significant negative impact upon the environment.

INTRODUCED ON 5/14/03, and PASSED AND ADOPTED by the City Council of the City of Davis on 5/21/03, by the following vote:


AYES: ASMUNDSON, GREENWALD, HARRINGTON, PUNTILLO, BOYD.

NOES: NONE.

ABSENT: NONE.



Susie Boyd
Mayor



ATTEST:

Bette E. Racki

City Clerk

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