



MEMORANDUM

TO: CITY COUNCIL

FROM: TERESA MCCLISH, COMMUNITY DEVELOPMENT DIRECTOR

SUBJECT: CONSIDERATION OF ADOPTION OF AN ORDINANCE MAKING ADMINISTRATIVE UPDATES TO VARIOUS SECTIONS OF TITLE 2 (ADMINISTRATION AND PERSONNEL), TITLE 10 (VEHICLES & TRAFFIC), TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES), AND TITLE 16 (DEVELOPMENT CODE) OF THE ARROYO GRANDE MUNICIPAL CODE (DEVELOPMENT CODE AMENDMENT NO. 18-004); LOCATION CITYWIDE

DATE: OCTOBER 23, 2018

SUMMARY OF ACTION:

Adoption of an Ordinance to provide code consistency with actions recently taken by the City Council to disband certain City advisory bodies.

IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:

There is no impact on financial and personnel resources.

RECOMMENDATION:

It is recommended the City Council adopt an Ordinance making administrative updates to various sections of Titles 2, 10, 12, and 16 of the Arroyo Grande Municipal Code to reassign duties previously assigned by the Arroyo Grande Municipal Code to the Traffic Commission, Historical Resources Committee and Parks and Recreation Commission.

BACKGROUND:

On October 9, 2018, the City Council introduced an Ordinance, without modification, making administrative updates to various sections of Titles 2, 10, 12, and 16 of the Arroyo Grande Municipal Code to reassign duties previously assigned by the Arroyo Grande Municipal Code to the Traffic Commission, Historical Resources Committee and Parks and Recreation Commission.

ANALYSIS OF ISSUES:

The Ordinance is now ready for adoption. The Ordinance will become effective thirty days after final passage of the Ordinance.

**CONSIDERATION OF ADOPTION OF AN ORDINANCE MAKING ADMINISTRATIVE UPDATES TO VARIOUS SECTIONS OF TITLE 2 (ADMINISTRATION AND PERSONNEL), TITLE 10 (VEHICLES & TRAFFIC), TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES), AND TITLE 16 (DEVELOPMENT CODE) OF THE ARROYO GRANDE MUNICIPAL CODE (DEVELOPMENT CODE AMENDMENT NO. 18-004); LOCATION CITYWIDE
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ALTERNATIVES:

The following alternatives are provided for City Council's consideration:

1. Adopt the Ordinance;
2. Modify and re-introduce the Ordinance;
3. Do not adopt the Ordinance; or
4. Provide direction to Staff.

ADVANTAGES:

Adoption of the Ordinance ensures code consistency with prior City Council action.

DISADVANTAGES:

No disadvantages are identified.

ENVIRONMENTAL REVIEW:

The project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be exempt pursuant to Section 15061(b)(3) of the CEQA Guidelines which provides that CEQA does not apply to projects where it can be seen with certainty that the project will not have a significant effect on the environment.

PUBLIC NOTIFICATION AND COMMENTS:

The Agenda was posted at City Hall and on the City's website in accordance with Government Code Section 54954.2. At the time of report publication, no comments have been received.

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE MAKING ADMINISTRATIVE UPDATES TO VARIOUS SECTIONS OF TITLE 2 (ADMINISTRATION AND PERSONNEL), TITLE 10 (VEHICLES AND TRAFFIC), TITLE 12 (STREETS, SIDEWALKS AND PUBLIC PLACES) AND TITLE 16 (DEVELOPMENT CODE) OF THE ARROYO GRANDE MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF ARROYO GRANDE DOES ORDAIN AS FOLLOWS:

SECTION 1: Section 2.18.050 of Chapter 2.18 (Planning Commission) of the Arroyo Grande Municipal Code is hereby amended as follows:

2.18.050 – Officers.

The council delegates to the planning commission the authority to appoint its own chairperson and vice-chairperson from the commission membership. The community development director, or his/her designee, shall act as secretary to the planning commission. The terms of office of the chairperson and vice-chairperson shall be established by regularly adopted rules and regulations of the commission.

SECTION 2: Subsections 2.20.030.A. and 2.20.030.C. of Chapter 2.20 (Recreation Services Department) of the Arroyo Grande Municipal Code are hereby amended as follows:

2.20.030 – Recreation services director – Powers and duties.

A. Attend meetings of the city council and make such reports to the council as shall be required;

C. In cooperation with the director of public works, administer, operate and maintain existing park and recreation areas and facilities and plan for acquisition, development and operation of the proposed facilities in accordance with policies approved by the planning commission and city council;

SECTION 3: Subsection 2.30.030.8 of Chapter 2.30 (Public Works Department) of the Arroyo Grande Municipal Code is hereby amended as follows:

2.30.030 – Public works director- Position created- Appointment- Duties.

8. Advise the planning commission on issues related to maintenance of parks facilities and open space areas; and

SECTION 4: Section 10.12.030 of Chapter 10.12 (Traffic Visibility Obstructions) of the Arroyo Grande Municipal Code is hereby amended as follows:

10.12.030 – Notices to abate public nuisances.

Whenever the director of public works finds a public nuisance to exist, as set forth in Section 10.12.010 of this chapter, such public nuisance may be abated fifteen (15) days after he or she has caused a notice of a hazardous condition to be mailed to the concerned property owner, as required by Government Code Section 38773.

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SECTION 5: Subsection 12.16.010.E. of Chapter 12.16 (Community Tree Program) of the Arroyo Grande Municipal Code is hereby amended as follows:

12.16.010.E.

Improved communication between the architectural review committee and planning commission regarding tree related issues and concerns.

SECTION 6: The following definitions in Section 12.16.020 of Chapter 12.16 (Community Tree Program) are hereby amended as follows:

12.06.020- Definitions:

"Landmark tree" or "landmark grove" means existing tree(s) on public or private property that has been found to be a notable horticultural specimen, or is of significant aesthetic, cultural or historical value, and is designated as such by resolution of the city council, upon recommendation of the planning commission of the city. Landmark trees may include street trees.

SECTION 7: Subsections 12.16.060.B. and 12.16.060.G. of Chapter 12.16 (Community Tree Program) are hereby amended as follows:

12.16.060.B.

The city council, upon recommendation of the planning commission, shall, after making any revisions it deems appropriate, designate landmark trees or landmark groves by resolution. The director shall administer the landmark tree program for the city.

12.16.060.G.

The director shall cause the physical inspection and inventory of all landmark trees every three years to determine their condition and presence, and he/she shall report his or her findings publicly to the city council and the planning commission, via the city manager.

SECTION 8: Subsection 12.16.070.G of Chapter 12.16 (Community Tree Program) is hereby amended as follows:

12.16.070.G.

Appeals. Appeals regarding decisions on tree removal permits by the director are to be submitted in writing to the planning commission within fourteen (14) days of the director's decision. Actions of the planning commission are final unless appealed to the city council.

SECTION 9: Subsection 16.16.135 of Chapter 16.16 (Land Use Permits and Approvals) is hereby amended as follows:

16.16.135 – Minor use permit- Historic resource or district designation.

A. Purpose and Intent. The purpose of this section 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:
1. To encourage public knowledge, understanding, appreciation, and use of the city's past;
 2. To foster civic pride in the beauty and character of the city and in the accomplishments of its past;
 3. To enhance the visual character of the city by encouraging new design and construction that complements the city's historical buildings;
 4. To increase the economic benefits of historic preservation to the city and its inhabitants;
 5. To protect property values within the city;
 6. To identify as early as possible and resolve conflicts between the preservation of historic resources/districts and alternative land uses; 7. To conserve valuable material and energy resources by ongoing use and maintenance of the existing built environment.
- B. Historic Resource/District Designation Criteria. Minor use permit applications designating historic resource or historic district status shall be evaluated based on whether the resource/district meets any of the following criteria:
1. It is the site of a significant local, county, state or national historic event.
 2. It is strongly identified with a person who, or an organization, which significantly contributed to the culture, history or development of the community of Arroyo Grande, the county of San Luis Obispo, the state of California or the United States.
 3. It is a particularly good example of a period of history or architectural style and a structure of significant character, interest or value as part of the development, heritage or cultural characteristics of the city, county, state or nation.
 4. It is one of the best or few remaining examples in the area possessing distinguishable characteristics of an architectural type or specimen.
 5. It is a notable work of an architect or master builder whose individual works have significantly influenced the development of the city, county, state or nation.
 6. It embodies elements of architectural design, detail, materials or craftsmanship that represent a significant architectural innovation.
 7. It has a unique location or singular physical characteristic representing an established and familiar visual feature of a district, community, county, state or nation.
 8. The structure or location is located in a geographically definable area possessing a concentration of historic resources that visually contribute to each other and are unified aesthetically.
- C. Applicability.
1. A historical resource review shall be conducted according to subsection D of this section.
 2. Property that has been designated a historic resource or 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 historic 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.

- D. Designation Process. Historic resources and historic districts shall be designated by the community development director, planning commission or city council in the following manner:
1. Initiation of Designation. Designation of a historic resource or a historic district may be initiated by: (a) the owner of record of the property or resource, (b) the community development director, (c) the planning commission, (d) the city council, (e) by any resident of the city of Arroyo Grande, or (f) any organization with a recognized interest in historical preservation. Applications for designation must be accompanied by such historical and architectural information as is required by the community development director to make an informed recommendation concerning the application, together with the fee set by the city council.
 2. Notice. The community development director shall publish and transmit a notice informing property owners of historic resources proposed to be designated and all interested parties of the time and location of all meetings in which the designations will be discussed and considered.
 3. Community Development Director Decision. Except for concurrent applications as provided for in Section 16.12.070, the community development director is authorized to approve minor use permits for historic resource and historic district designations, subject to the appeal provisions of Section 16.12.150. The community development director shall prepare a written decision that shall contain the findings of fact upon which such decision is based. Copies of the decision shall be provided to the applicant and owners of the designated property or properties within the proposed historic district.
 4. Public Hearing. A public hearing by the planning commission, pursuant to Section 16.12.160 of this title, shall be scheduled in the event that the property owner does not consent to the application for a proposed designation.
 5. Findings. The community development director or the planning commission if the property owner does not consent, may designate the listing of a property as a historic resource only if all of the following findings of fact can be made in an affirmative manner:
 - a. The proposed project is consistent with the goals, objectives, policies and programs of the Arroyo Grande general plan;
 - b. Based upon consideration of information submitted in the record during the historic resource designation process the property meets any of the criteria listed in subsection B of this section;
 - c. The resource retains the integrity of the design, has not been inappropriately: (i) altered; (ii) relocated; (iii) added to; or (iv) remodeled.
 6. Suspension of Work. While the community development director, planning commission or city council, on appeal, is considering a historic designation, all development and building work on the site proposed for historic designation shall be suspended.
- E. Development and Building Permits.
1. No exterior alterations shall be made by any person to a historic resource, without a minor use permit and building permit, nor shall the building official or

planning commission grant any permit to carry out such work on a historic resource, located in a historic district without the prior issuance of a minor use permit—plot plan review pursuant to Section 16.16.080 of this chapter. Decisions by the city pursuant to this section are "discretionary" and relate to "discretionary projects" as these terms are used in the California Environmental Quality Act (CEQA). Any permit, including a building permit, or other city approval that would authorize any change in the exterior of any proposed or designated historical resource, or the exterior of any structure, building or significant feature within a designated or proposed historic district, is a discretionary permit or approval within the meaning of CEQA.

2. Ordinary Maintenance and Repair. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior feature of any structure or property covered by this section, so long as such maintenance and repair does not involve a change in exterior design, material or appearance.
3. Unsafe or Dangerous Conditions. None of the provisions of this section 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 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 historic resource, so permits, the official in charge of overseeing correction of such a condition shall consult with the ARC and community development director before carrying out corrective measures.
4. Duty to Keep in Good Repair. The owner, lessees and any other person in actual charge or possession of a historical resource shall take all steps necessary to prevent:
 - a. The substantial deterioration or decay of any exterior portion of such a resource;
 - b. The substantial deterioration or decay of any interior portions thereof the maintenance of which 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.
5. Showing of Extreme Hardship. If the applicant presents evidence clearly demonstrating to the satisfaction of the community development director that failure to approve the application for a minor use permit or building permit will cause an immediate extreme hardship because of conditions peculiar to the particular structure or other feature involved, the planning commission may approve or conditionally approve such application even though it does not meet the standards set forth in subsection (E)(1) of this section. In determining

whether extreme hardship exists, the community development director 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.

F. Additional Findings for the Alteration or Demolition of a Designated Historic Resource.

In evaluating applications for the alteration of a designated historical resource, with a recommendation by the ARC, or the community development director, planning commission or city council, upon appeal, shall consider the architectural style, design, arrangement, texture, materials, color and other factors and shall utilize the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings. Proposed alterations found consistent with the Secretary of Interior's Guidelines shall be considered less than significant under the CEQA review process. The community development director, planning commission or city council, upon appeal, shall approve the issuance of a minor use permit for any proposed alteration work if and only if it finds:

1. With regard to a 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 based upon consistency with the Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.
2. With regard to any property located within a historic district, the proposed work conforms to the standards for the district, and does not adversely affect the character of the district.
3. The work is consistent with the provisions in subsection E of this section.
4. Demolitions. When application is made for a minor use permit or demolition permit to demolish a historical resource the ARC, community development director or planning commission disapproval of the application shall mean that no development minor use permit or demolition permit shall be issued or demolition allowed until review and approval by the city is complete.

G. Historic Resource Protection Tax Incentives. In addition to any other incentive of federal or state law, property owners of duly designated historic resources may apply for Mills Act Historical Property Contracts ("Mills Act Contracts") with the city. A Mills Act historic resource protection tax incentive program may be established by city council resolution. This subsection will implement state law (Government Code Sections 50280 et seq.), allowing the approval of Mills Act Contracts by the city with owners of qualified historic properties within the city.

SECTION 10: Footnote 5 of Table 16.36.030(A) of Section 16.36.030 of Chapter 16.36 (Commercial and Mixed Use Districts) is hereby amended as follows:

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⁵ The planning commission shall review applications for small cell telecommunication facilities that are proposed in the Village Core Downtown district and are publicly visible.

SECTION 11: The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

SECTION 12: A summary of this Ordinance shall be published in a newspaper published and circulated in the City of Arroyo Grande at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. A certified copy of the full text of the proposed Ordinance shall be posted in the office of the City Clerk. Within fifteen (15) days after adoption of the Ordinance, the summary with the names of those City Council members voting for and against the Ordinance shall be published again, and the City Clerk shall post a certified copy of the full text of such adopted Ordinance.

SECTION 13: This Ordinance shall take effect and be in full force and effect thirty (30) days after its passage.

On motion of Council Member _____, seconded by Council Member _____, and on the following roll call vote to wit:

AYES:

NOES:

ABSENT:

the foregoing Ordinance was adopted this 23rd day of October, 2018.

**ORDINANCE NO.
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JIM HILL, MAYOR

ATTEST:

KELLY WETMORE, CITY CLERK

APPROVED AS TO CONTENT:

JAMES A. BERGMAN, CITY MANAGER

APPROVED AS TO FORM:

HEATHER K. WHITHAM, CITY ATTORNEY