

RULES AND REGULATIONS  
Of  
LANDMARK PRESERVATION COMMISSION OF CITY OF MODESTO

ARTICLE I.  
ORGANIZATION

Section 1.1 Establishment. The Landmark Preservation Commission of the City of Modesto, hereafter called "The Commission", is established pursuant to the provisions of Chapter 10 of Title IX of the Modesto Municipal Code.

ARTICLE II.  
POWERS AND DUTIES

Section 2.1 Enumerated. The Commission shall have the powers and duties as noted in Chapter 10 of Title IX and as contained in its enabling Ordinance No. 2619-CS and all subsequent ordinances amending Chapter 10 of Title IX.

ARTICLE III.  
MEETINGS

Section 3.1 Regular Meetings. The regular meetings of the Commission shall be held at 1:00 p.m. on the third Monday of each calendar month. If a regular meeting day falls on a holiday as defined by the Government Code of the State of California, the meeting shall be held on the following Monday. If the following Monday falls on a holiday, the meeting shall be held on the next business day after the following Monday.

If all members are absent from any regular or adjourned meeting, the Secretary may declare the meeting adjourned to a stated time and place. If the Secretary does so, the Secretary shall cause written notice of the adjournment to be given in the same manner provided for special meetings.

Whenever a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting shall be held, it shall be held at the hour specified for the regular meeting which was adjourned.

Section 3.2 Special Meetings. A special meeting may be called at any time by the Chairperson of the Commission whenever, in the Chairperson's opinion, the public business may require it, or upon the written request of two (2) members of the Commission. Whenever a special meeting shall be called, written notice of such meeting shall be delivered personally or by mail by the office of the Secretary of the Commission to each member of the Commission

and to each local newspaper of general circulation, radio or television station requesting notice in writing.

Such notice must be delivered at least twenty-four (24) hours before the time of such meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the Commission. The written notice may be dispensed with as to any member of the Commission who, at or prior to the time the meeting convenes, files with the Secretary a written notice of waiver. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it is convened.

Section 3.3 Place of Meetings. All meetings shall be held in the official Council Chamber of the City of Modesto or in such other location of the City as may be designated by the Landmark Preservation Commission.

Section 3.4 Quorum. A majority of the members of the Commission (four members of seven) shall constitute a quorum for the transaction of business, but fewer members than a quorum may adjourn from time to time.

Section 3.5 Meetings to be Public. All meetings of the Commission shall be open to the public.

Section 3.6 Seating and Roll Call Vote. Each quarter, the Chair may establish the order of seating of members. A roll call vote shall be taken upon the passage of all resolutions and be entered upon the journal of the proceedings of the Commission. Upon the request of any member, a roll call vote shall be taken and recorded on any vote. Whenever a roll call vote of the Commission is in order, the names of the members shall be called in the order seated, provided that the name of the presiding officer shall be called last. All members present shall be required to vote, unless a member has a conflict of interest which requires abstention from voting. The affirmative or negative vote of a majority of the entire membership of the Commission shall be necessary for it to take action.

Section 3.7 Attendance. Regular attendance at all meetings of the Commission is required of all members to enable the Commission to discharge the duties imposed upon it by law. If a member is absent from three (3) regular meetings of the Commission consecutively, without securing the permission of the Commission expressed in its official minutes, the member shall be deemed to have resigned from the Commission, and the member's office shall become vacant.

Section 3.8 Agenda and Reports. In order to facilitate the orderly conduct of the business of the Commission, the Secretary shall arrange an agenda of the matters to be considered by the Commission at its next meeting together with a report outlining all known facts in each case to be considered by the Commission, with such analysis as is necessary, including recommended action when appropriate. The agenda and all reports shall be delivered or mailed to each member of the Commission, the City Manager, and the City Attorney prior to

the Commission meeting at which they are to be considered, as far as possible in advance of the meeting as time for preparation will permit.

Matters not included on the agenda will not be acted upon by the Commission unless (a) a majority of the Commission present determine that an emergency situation exists, or (b) the Commission by a two-thirds vote, or if less than two-thirds of the members are present by a unanimous vote, determines that the need to take action arose subsequent to the agenda for the meeting being posted, or (c) the item was on a properly posted agenda for a prior meeting of the Commission occurring not more than five (5) days prior to the meeting at which the action is taken.

Section 3.9 Field Trips. In cases where a view of the premises will assist the Commission in making a decision, a field trip may be arranged prior to the meeting at which time that case shall be heard.

Section 3.10 Reading of the Minutes. Unless the reading of the minutes of a previous Commission meeting is requested by a member of the Commission, such minutes may be approved without reading if the Secretary has previously furnished each member of the Commission with a copy thereof.

#### ARTICLE IV. OFFICERS

Section 4.1 Enumerated. The officers of the Commission shall be:

A Chairperson, whose duties shall be to preside at all meetings and call special meetings; and

A Vice-Chairperson, who shall, in the absence of the Chairperson, perform the duties of the Chairperson.

If both are absent, a Chairperson, Pro tempore, shall be elected by the Commissioners present at a given meeting.

Section 4.2 Election of Officers. As soon as practical following the first day of January of each year, the Commission shall elect a Chairperson and Vice-Chairperson.

#### ARTICLE V. PROCEDURES, POWERS, DUTIES, AND STAFF

Section 5.1 Designated. The provisions of the Municipal Code of the City of Modesto pertaining to procedures, powers, duties, and staff shall prevail. The City Manager shall designate staff to serve as Secretary to the Commission. The Secretary shall keep a written record of all business transacted by the Commission, notify Commission members of meetings, and keep the official records of the Commission. Upon the direction of the Commission, the Secretary shall perform such other secretarial duties as the Commission may require.

ARTICLE VI.  
PARLIAMENTARY PROCEDURE

Section 6.1 Rules of Order. Except as otherwise provided in these rules and regulations, all meetings of the Commission shall be conducted in accordance with the City's Rules of Order as contained in Section 2-1.10 of the Modesto Municipal Code.

ARTICLE VII.  
COMMITTEES

Section 7.1 Special Committees. There shall be such special committees as the Commission may establish from time to time.

ARTICLE VIII.  
PUBLIC HEARINGS

Section 8.1 Public Hearing Procedures. The following rules shall govern the conduct of public hearings.

(a) All hearings will be recorded by mechanical means. If a court reporter is desired for a verbatim transcript, the fee or fees of such court reporter shall be paid by the party requesting the services.

(b) The real parties in interest, including the applicant or any party having a substantial interest in the hearing, may be represented by counsel or a spokesperson.

(c) At the opening of the hearing, a report prepared in advance of the hearing by the staff will be presented by a member of the staff. As a part of this presentation, suitable large-scale plot plans, photos and other graphics of the project may be identified and placed in view of the Commission and all persons attending the hearing.

(d) At the conclusion of the presentation by the staff, the applicant and then the proponents may make a presentation, including calling witnesses and presenting any material exhibits, documents or other physical evidence. Reading at length from books and other written material will not be permitted.

(e) At the conclusion of the presentation by the applicant and proponents, any persons who oppose the application may make a presentation, including calling witnesses and presenting any material exhibits, documents or other physical evidence. Reading at length from books and other written material will not be permitted.

(f) All exhibits, documents or other physical evidence used by applicant or other interested parties during the hearings, will become part of the record and retained by the Secretary until the decision becomes final.

(g) Witnesses shall not be required to be sworn. Each witness will be required to approach the microphone and give their full name for the record before making a presentation.

(h) The right to question the witnesses shall be afforded, if requested. However, the Chairperson may require that such questions be addressed through the Chairperson for resubmission to the witness.

(i) The reading of details of letters and petitions by the persons submitting them will not be permitted. Such documents may be filed with the Secretary and the Secretary shall mark them as having been received for the limited purpose of showing the names of the persons protesting or supporting the application.

(j) While it is desirable in a democratic process to permit every person an unlimited right to speak, such a right may unduly prolong a public hearing and cloud the basic issue if the comments presented are merely cumulative and repetitious. Therefore, whenever necessary, the Chairperson will state that cumulative and repetitious comments are to be avoided and may limit the time allocated for persons who wish to speak. Similarly, testimony and comments which are incompetent, irrelevant or immaterial shall be foreclosed by the Chairperson. If, because of the informality of the hearing, such improper comments are received, it shall not be considered by the Commission in reaching its decision.

(k) The Commission may establish special rules for individual meetings, establishing time limits for presentations and requiring presentations to be made through spokespersons, if possible.

(l) After those in favor and opposed to an application have been heard, the Chairperson will ask for the recommendation of the staff and the reasons for such recommendation. After such recommendation, one spokesperson for the applicant and one spokesperson for the opponents shall be given a limited amount of time to summarize their position or respond to the recommendation, after which the Chairperson shall close the public portion of the hearing.

(m) The Commission should discuss the issues involved and make its decision only after hearing the evidence presented at the public hearing. Discussion of the matter by Commission members should be delayed until after the public hearing is closed and the matter is presented to the Commission for discussion and decision.

(n) The Commission may take a field trip to view the property involved in the public hearing. All field trips shall be taken as part of a regular, adjourned regular, or special meeting of the Commission and all interested persons will be afforded the opportunity to

be present to hear any reports or comments. A complete record of such field trip will be entered into the minutes so the record will indicate that the field trip was taken into consideration as evidence. If a Commissioner has personal knowledge of the property or area, the Commissioner should make a statement to that effect at the time of the hearing so the record will reflect everything being taken into consideration in making the final decision.

(o) Commissioners are responsible for ensuring that the public hearing is conducted in a fair and impartial manner. If a Commissioner receives a significant personal contact or telephone call outside of the public hearing which concerns a matter pending before or of interest to the Landmark Preservation Commission, he or she shall disclose the substance and nature of the contact or call at the public hearing. If written materials are presented to the Commission by an applicant or member of the public, a copy should be made available for public review by filing the materials with the Secretary at least three (3) days in advance of the meeting at which the item or matter is scheduled to be considered or at the time the materials are provided to any Commissioner, whichever is earliest.

(p) Summary of Procedure for Conduct of Public Hearings by the Modesto Landmark Preservation Commission:

1. Opening of public hearing
2. Staff report
3. Applicant's presentation
4. Presentation by those in favor
5. Presentation by those opposed
6. Staff recommendation
7. Summation by one spokesperson for the applicant and one spokesperson for the opposition
8. Close of public portion of hearing
9. Discussion and decision by the Commission