

ORDINANCE NUMBER 742

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GRASS VALLEY AMENDING THE GRASS VALLEY DEVELOPMENT CODE, TITLE 17 OF THE CITY MUNICIPAL CODE BY ADDING CHAPTER 17.52, CULTURAL AND HISTORIC RESOURCE PRESERVATION

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GRASS VALLEY AS FOLLOWS:

SECTION 1. Code Amendment. The Municipal Code of the City of Grass Valley, Title 17, "Development Code" is hereby amended as shown in Exhibit "A".

SECTION 2. Findings. In compliance with Chapter 17.94 of the City Development Code, the City Council adopts the following findings in support of this amendment to the Development Code:

1. The proposed amendment is consistent with the General Plan. *Rationale: The 2020 General Plan includes a Historic Element. This element includes a goal and several policies and implementation measures that support the protection and preservation of historic resources.*
2. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City. *Rationale: The proposed amendment establishes a review process for changes to historic resources in the 1872 Townsite. It establishes standards to ensure the protection of historic resources and will not result in any significant changes that could be detrimental to the public interest, health, safety, convenience, or welfare.*
3. The proposed amendment is internally consistent with other applicable provisions of the Development Code. *Rationale: The proposed changes will create internal consistency with other provisions of the Development Code.*
4. On January 19, 2012, the Grass Valley Historic Commission reviewed and recommended approval of a proposed ordinance to add Chapter 17.52 to the Development Code.
5. On February 21, 2012, the Grass Valley Planning Commission conducted a public hearing on a proposed amendment to the Development Code and provided a

recommendation of approval to the City Council.

6. On May 22, 2012, the City Council approved the first reading of an ordinance.

7. On August 7, 2012, the City Council, prior to conducting a second reading, considered another alternative, and referred the item to the Planning Commission.

On August 21, 2012, the Planning Commission recommended the City Council approve the alternative ordinance.

8. The City adopted a Negative Declaration for the Development Code on April 11, 2007. The proposed amendment creates a review process for property owners when they remodel, add to, or change the exterior of a historically important building within the 1872 Townsite. Based on the nature of the amendment, the project is exempt from environmental review pursuant to Section 15601 b.3 of the California Environmental Quality Act.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or its application to other persons and circumstances. The City Council of the City of Grass Valley hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

SECTION 4. Continuation of Provisions. To the extent the provisions of the Grass Valley Municipal Code contained within this Ordinance contain language identical, and numbered identically, to provisions of that Code as they read immediately prior to the adoption of this Ordinance, then the earlier provisions shall remain in effect without amendment or reenactment by this ordinance.

SECTION 5. Effective Date. This ordinance shall take effect thirty (30) days from and after the date of its adoption and a summary of said ordinance shall be published once within fifteen (15) days upon its passage and adoption in The Union, a newspaper of general circulation printed and published in the Grass Valley Area.

SECTION 6. Publication. The City Clerk shall certify to the passage and adoption of this Chapter and shall cause the same to be published once in **The Union**, a newspaper of general circulation, printed, published, and circulated within the City.

INTRODUCED and first read on the 11th day of September 2012

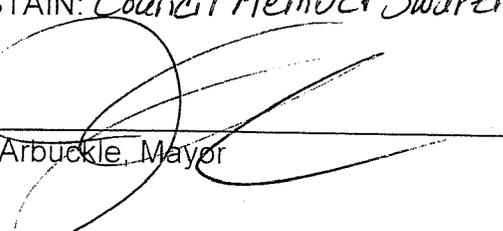
PASSED AND ADOPTED this 25th day of September 2012, by the following vote:

AYES: *Council Member COOKSON, FOLYER + Mayor Arbuckle*

NOES: *NONE*

ABSENT: *NONE*

ABSTAIN: *Council Member Swarthout + Vice Mayor Miller*

/s/ 
Jan Arbuckle, Mayor

ATTEST:

/s/ Kristi K. Bashor
Kristi K. Bashor, City Clerk

PUBLISH DATE: 9/29/2012

APPROVED AS TO FORM:

/s/ Michael Colantuono
Michael Colantuono, City Attorney
Cobden Asst.

EXHIBIT A
CITY OF GRASS VALLEY
HISTORIC PRESERVATION ORDINANCE

Municipal Code Chapter 17.52 Cultural and Historic Resource Preservation

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17.52.10 - Findings and Purpose

- A. **Findings.** The City of Grass Valley has a distinctive physical character and rich history that is reflected in its many cultural resources, such as historic structures and sites located within Grass Valley's 1872 Historic Townsite and delineated on the City of Grass Valley 1872 Historic Townsite Map. These irreplaceable resources are important to the community's economic vitality, quality of life, and sense of place, and deserve protection from deterioration, damage, and inappropriate alteration or demolition.

The California Environmental Quality Act (CEQA) provides specific treatment measures for significant historic resources and the establishment of clear and concise local guidance for the preservation

and enhancement of such resources, which inevitably lends clarity and certainty to the review of development applications involving designated or significant historic resources (rated 1-2) within Grass Valley's 1872 Historic Townsite.

B. Purpose. This Chapter promotes the public health, safety and welfare through the protection, enhancement and preservation of those properties, structures, sites, artifacts and other cultural resources that represent significant and distinctive elements within the 1872 Historic Townsite. This includes the City's cultural, educational, social, economic, political and architectural history. Specifically, this Chapter, reflective of the 1872 Townsite boundaries, sets forth regulations and procedures to:

1. Preserve and promote the continuing use and upkeep of Grass Valley's historic buildings, structures, sites and districts.
2. Foster the retention and restoration of historic buildings and other cultural resources that promote tourism, economic vitality, sense of place, and cultural diversity.
3. Encourage private stewardship of historic buildings and other cultural resources through incentives where possible.
4. Implement the historic preservation goals and policies of the City of Grass Valley through the existing Historic Context, Historic Design Review Guidelines, General Plan, and Ordinances.
5. Promote the conservation of valuable material and embodied energy in historic structures through their continued use, restoration and repair, and on-going maintenance.
6. Promote the knowledge, understanding and appreciation of the City's distinctive character, cultural resources, and history.

7. Establish the policy of the City to pursue all reasonable alternatives to achieve compliance with this Chapter for the protection of historic resources.

17.52.20 – Applicability to Residential Properties

The provisions of this Chapter shall apply to new construction, reconstruction, additions, modifications, alterations, rehabilitation, and relocation of properties and structures that meet the following criteria:

1. The property or structure is used primarily for residential purposes;
and
2. The property or structure is designated a Priority 1 or 2 resource on the Inventory of Historic Resources;

17.52.30 - Definitions

For the purposes of this Chapter, certain terms, words and their derivatives are used as follows:

Accessory Structure: a structure which is subordinate or incidental and directly related to a permitted use or structure on the same parcel, such as a barn, shed, or carriage house. As used in this Chapter, accessory structures may include structures that have achieved historic significance in their own right, as determined through survey and appropriate documentation.

Adverse Effects: effects, impacts, or actions that is detrimental or potentially detrimental to a historic resource's condition, character, or architectural or historical integrity.

Alteration: change, repair, replacement, remodel, modification, or new construction to:

- a. the exterior of an historic resource.

- b. the significant character defining features of an historic resource, including, but not limited to, the structural elements which support the exterior walls, roof, or exterior elements, together with windows, doors, siding, porches, roof shapes, dormers, and ornamentation, such as gingerbread.
- c. other construction on a lot , or
- d. character defining features of the interior of a historic resource if the structure's significance is wholly or partially based on interior features and the resource is publicly-accessible, such as a library or public type building. "Alteration" does not include ordinary landscape maintenance, unless the landscaping is identified as significant at the time a property is determined to be individually significant or a contributing element to a historic district. "Alteration" also does not include ordinary property maintenance or repair that is exempt from a building permit, and is consistent with the Secretary of the Interior Standards for Treatment of Historic Properties.

California Register: California Register of Historical Resources defined in California PRC 5024.1 and in CCR Title 14 Chap 11.5, Sec 4850 et seq. as it may be amended.

California State Historical Building Code: if the building is determined to be historically significant under any State, Federal, Regional or Local criteria, the building shall be subject to the Historical Building Code. Any improvements to the historic structure either on-site or at a relocated site shall be eligible to be evaluated and regulated by the Historical Building Code.

Character Defining Features: as outlined in the City of Grass Valley Design Review Guidelines for the 1872 Historic Townsite (2010) and the U.S. Department of the Interior's National Register Bulletin 15 and Preservation Brief 17: "How to Identify Character Defining Features", the architectural character and general composition of a resource, including, but not limited to, type and texture of building material; type, design, and character of all windows, doors, stairs, porches, railings, molding and other appurtenant elements; and fenestration, ornamental detailing, elements of craftsmanship, finishes, etc.

Contributing Historic Resources: a designation that may be applied to buildings, structures, or objects within the Historic 1872 Townsite that maintain their original or attained historic and architectural character, and contribute either by themselves or in conjunction with other buildings or structures to the unique or historic character of a neighborhood(s), district, or to the City as a whole. These properties are designated Priority 1 or 2 in the Inventory of Historic Resources.

Cultural Resource: any prehistoric or historic district, site, landscape, building, structure, or object included in, or potentially eligible for, local, State or National historic designation, including artifacts, records, and material remains related to such a property or resource.

Demolition: for the purpose of this Chapter, "demolition" refers to any act or failure to act that destroys, removes, or relocates, in whole or in part, a historical resource such that its historic or architectural character and significance are materially altered (refer to the Municipal Code Chapter 15.60).

Deterioration: the significant worsening of a structure's condition and/or architectural or historic integrity, due to lack of maintenance, organisms, neglect, weathering and other natural forces.

Feasible: capable of being accomplished in a successful manner within a reasonable period of time, taking into account cultural, economic, environmental, historic, legal, social and technological factors. Structural feasibility means that a building or other structure can be repaired or rehabilitated so as to be safe and usable without significant loss of historic fabric. Factors to be considered when making this determination include the existence of new technologies that will allow the design of the work and the ability to repair, supplement or replace loadbearing members and the thermal and moisture protection systems required for continued use of the structure, as well as the physical capacity of the structure to withstand the repair and/or rehabilitation process without the danger of further damage.

Grass Valley Design Guidelines for the 1872 Historic Townsite: the City's design guidelines used to assist property owners in making decisions on the preservation, restoration, and rehabilitation of their property or buildings.

Grass Valley Historic Commission (GVHC): The Grass Valley Historical Commission consists of five (5) members and one (1) alternate, each appointed by the City Council for a four year term. The Commission's function is to identify and verify historical resources and encourage their preservation.

Historic Building Code: the most recent version of the California Historical Building Code, Title 25, Part, 8, as defined in Sections 18950 to 18961 of Division 12, Part 2.7 of Health and Safety Code (H&SC), a part of California State law.

Historic Context: Historic context are those events or themes in the history of Grass Valley by which a specific occurrence, property, or site is understood and its meaning and significance is made clear, and as defined in the adopted City of Grass Historic Context available through the City of Grass Valley Planning Department.

Historic District/Historical Preservation District: areas or neighborhoods with a collection or concentration of listed contributing historic properties, where historic properties help define the area or neighborhood's unique architectural, cultural, and historic character or sense of place. Historic districts are delineated on the official Grass Valley Historic District Maps maintained by the City.

Historic Property or Resource: a property, including land and buildings, which possesses aesthetic, architectural, cultural, historic or scientific significance, and which is included in and rated a 1 or 2 in the Grass Valley Historical Resource Inventory of the 1872 Historic Townsite, or otherwise is potentially eligible for local, State or National historic designation.

Historic Status: historic designation of a listed resource or property as approved by the City Council.

Improvement: any building, structure, fence, gate, landscape, hardscape, wall, work of art, or other object constituting a physical feature of real property or any part of such feature.

Inappropriate Alteration: alterations to historic resources which are inconsistent with these provisions and/or the Historic Preservation Program Guidelines.

In-kind: using materials that are identical in composition, shape, form, and design. This does not preclude the use of modern materials nor does it discourage other materials that are sympathetic or more appropriate to meet energy calculations or structural demands.

Integrity, Architectural or Historical: the ability of a property, structure, site, building, improvement or natural feature to convey its identity and authenticity, including, but not limited to, its original location, period(s) of construction, setting, scale, design, materials, detailing, workmanship, uses and association.

Inventory of Historic Resources: the list of historically designated resources and properties, consisting of the Master List and Contributing Properties List of Historic Resources within the Grass Valley 1872 Historic Townsite, and any properties, objects, sites, gardens, sacred places and resources subsequently added to the inventory, as determined to meet criteria outlined herein and approved by the City Council.

Maintenance: a term that refers to keeping a historic property in a condition that does not result in deterioration or damage to significant architectural features or elements resulting in its degradation to a level that it would not be considered a significant resource.

Major Projects: projects that have the potential to significantly alter the character of a historic property through additions, changes in massing, height, scale, and design elements.

Massing: the spatial relationships, arrangement and organization of a building's physical bulk or volume.

Minor Projects: a smaller scale project that does not involve a major alteration to a significant property.

Minor Restoration: a term that implies maintaining a building to a standard that preserves its historic character.

Modern Contributing Resources: designation which may be applied to properties and resources which are less than 50 years old, but which exemplify or include significant works of architecture or craftsmanship or are associated with a person or event significant to the City's history.

National Register of Historic Places (NRHP): the official inventory of districts, sites, buildings, structures, and objects significant in American history, architecture, engineering, archaeology and culture, which is maintained by the Secretary of the Interior under the authority of the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

Neglect: the lack of maintenance, repair or protection of a listed property, resource, site or structure, which results in significant deterioration, as determined by the GVHC, Director, or City Council, based on visual and physical evidence.

Non-Contributing Resource: designation which may be applied to properties and resources in historic districts which are typically less than 50 years old, have greatly diminished integrity, and do not support the prevailing historic character of the district or other listing criteria as outlined herein. These properties are designated Priority 3 or 4 in the Inventory of Historic Resources.

Preservation: the act or process of applying measures necessary to sustain a historic site, building or other structure's historically significant existing form, integrity, and materials through stabilization, repair and maintenance.

Primary Structure: the most important building or other structural feature on a parcel in terms of size, scale, architectural or historical significance, as determined by the Committee.

Reconstruction: the act or process of recreating the features, form and detailing of a non-surviving building or portion of building, structure, object, landscape, or site for the purpose of replicating its appearance at a specific period of time and in its historic location.

Rehabilitation: the act or process of making possible a compatible use for a property through repair, alterations, and additions, while preserving those

portions or features which convey its architectural, cultural, or historic values.

Relocation: removal of a resource from its original site and its re-establishment in essentially the same form, appearance and architectural detailing at another location.

Restoration: the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period.

Scale: the proportions of architectural design that relate to human size or other relative size measure.

Secretary of the Interior's Standards: the Secretary of the Interior's Standards for the Treatment of Historic Properties, as published by the U.S. Department of the Interior and as amended from time to time.

Stabilization: the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated property, while maintaining the essential form as it exists at present.

Survey: a systematic process for identifying and evaluating a community's historic resources using established criteria. "Survey" may also refer to the documentation resulting from a survey project.

17.52.40 - Grass Valley Historic Commission (GVHC)

- A. Duties.** The duties of the GVHC as it pertains to the implementation of this Chapter include the following:
1. Recommend historic resource preservation program guidelines that implement this Chapter and provide guidance to persons or institutions planning projects subject to City review that involve historic properties within the Grass Valley Historic 1872 Townsite.

2. Make recommendations on alterations or changes to historic districts.
3. Review properties, buildings, and other resources for potential inclusion on the City's Inventory of Historic Resources, including those properties, areas, sites, buildings, structures or other features having significant historical, cultural, architectural, community, scientific or aesthetic value to the citizens of Grass Valley. The commission may also recommend to the Council that such properties be added to the Inventory of Historic Resources.
4. Maintain and update the Inventory of Historic Resources.
5. Consolidate information regarding cultural resources and promotion; participation in, or sponsorship of educational and interpretive programs that foster public awareness and appreciation of cultural resources.
6. Support and promote incentive programs approved by the Council that are directed at preserving and maintaining historic resources.
7. Provide information for property owners preparing local, state and federal historic nominations to utilize preservation incentives, such as the Mills Act and federal tax incentives, including, but not limited to rehabilitation tax credits.
8. Respond to referrals by the Director, Development Review Committee, Planning Commission and City Council.
9. Provide interested property owners with advice and information on building design and materials that can maintain the historic character of a building.

B. GVHC and Role of the City Staff. The GVHC is assisted by staff of the City, including, but not limited to, the Community Development Department. The Director is responsible for interpreting and

implementing this Chapter and assisting the GVHC carry out its duties.

17.52.50 - Historic Resource Designation

The City utilizes two classifications to designate historic resources and properties. The two categories of historic significance are the “Contributing” and “Non-Contributing” properties.

- A. Contributing Historical Resources.** The most unique and important resources and properties in terms of age, architectural or historical significance, rarity, or association with important persons or events in the City’s past, which are rated as Priority 1 and 2 properties in the Inventory of Historic Resources.
- B. Non-Contributing Resources.** Buildings, properties and other features in historic districts, which are less than 50 years old, have not retained their original architectural character, or which do not support the prevailing historic character of the district, and are rated as Priority 3 and 4 properties in the Inventory of Historic Resources.

17.52.60 – Procedures for Inclusion in the Inventory of Historic Resources

- A. Application for Inclusion.** The property owner may request a resource be designated as a Contributing Historical Resource in the Inventory of Historic Resources by submitting an application to the Director, accompanied by all available information documenting the historic significance and architectural character of the resource. The GVHC, and Planning Commission may also recommend, or the City Council may directly request, the addition of a resource to the Historical Resources Inventory.
- B. Review Process.** The GVHC shall review all applications for inclusion, whether initiated by the City or a property owner, to determine if a property proposed for inclusion meets eligibility criteria as described in this Chapter. The GVHC will review the eligibility criteria for a proposed listing at a noticed public hearing. The Director shall provide notification to the property owner and public, as

required by City standards. At the public hearing, or in no case more than 60 days from the hearing date, the GVHC shall forward a recommendation on the application to the City Council. The City Council will take action on the application to add or not add the resource to the Historical Resources Inventory. The decision of the City Council is final.

- C. **Removal from Inventory of Historic Resources.** It is the general intention of the City not to remove a property from the Inventory of Historic Resources. Council may, however, rezone a property to remove Historic Overlay Zoning, or remove the property from the Inventory if the structure on the property no longer meets eligibility criteria for inclusion, following the process for inclusion set forth in paragraph B.

17.52.70 – Project Evaluation and Review Process

- A. **Purpose.** The purpose of this section is to encourage property owners to preserve, restore, and rehabilitate their property in a manner that promotes the City's cultural and architectural heritage. The overall goal is to provide property owners with tools that will help retain the historic character, fabric and features of a building as a means to enhance property values. This can be accomplished by using in-kind or compatible building materials and a compatible design, if feasible, when rehabilitating, restoring, or expanding a building within the 1872 Historic Townsite. The City will rely on the adopted City of Grass Valley Design Guidelines for the 1872 Historic Townsite (Guidelines) to accomplish this purpose.
- B. **Project Categories.** As used in this chapter, changes to a building fall under three basic categories:
1. Exempt Projects. The routine maintenance and restoration of buildings, which includes in-kind replacement of deteriorated or damaged historic fabric and materials;
 2. Minor Projects. This includes exterior modifications or alterations that maintain the historic integrity of the building and that comply with the Guidelines; and,

3. Major Projects. This includes exterior modifications that alter the character defining features, such as its shape, elevation, massing, and scale and do not comply with the Guidelines. The Development Review Committee shall review all major projects. If a project is a major project, the City encourages a property owner to first meet with the GVHC prior to formal submittal of an application. The GVHC can provide a property owner with suggestions on design and resource materials that will help maintain the historic character of the building.
- C. **Permit Review.** The City's review process established in Section 17.72.030 of the Development Code shall determine the level of review for all projects in the 1872 Historic Townsite. While the focus of this section is on properties rated as a Priority 1 and 2, the City will also encourage property owners with Priority 3 and 4 properties to use the Guidelines.
1. **Projects exempt from a Development Review Permit pursuant to Section 17.72.030.** These projects are reviewed by the Director as part of a building permit review process. This includes exempt and minor projects as defined in this chapter. The Director shall review changes to all buildings within the 1872 Historic Townsite and make recommendations to encourage compliance with the Guidelines.
 2. **Projects subject to a Development Review Permit pursuant to Section 17.72.030.** These projects are reviewed by the Development Review Committee and/or Planning Commission as part of the development review process. These include projects that are defined as a major project as used in this chapter. In reviewing a project in the 1872 Historic Townsite, the Development Review Committee and/or Planning Commission shall consider the Guidelines in its decision and make recommendations to encourage compliance.

17.52.80 - Reserved

17.52.90 – Criteria for Determination of Historical Significance

For the purpose of determining the historical significance or inclusion in the Inventory of Historic Resources of a building or structure the following criteria shall apply:

1. The building or structure has character, interest or value as a part of the heritage of the City of Grass Valley; or,
2. The location of the building or structure is the site of a significant historic event; or,
3. The building or structure is identified with a person(s) or group(s) who significantly contributed to the culture and development of the City of Grass Valley; or,
4. The building or structure exemplifies a particular architectural style or way of life important to the City; or,
5. The building or structure exemplifies the best remaining architectural type in a neighborhood; or,
6. The building or structure is identified as the work of a person whose work has influenced the heritage of the City, the State or the United States; or,
7. The building or structure reflects outstanding attention to architectural design, detail, materials or craftsmanship; or,
8. The building or structure is related to landmarks or historic districts and its preservation is essential to the integrity of the landmark or historic district; or,

9. The unique location or singular physical characteristics of the building or structure represent an established and familiar feature of a neighborhood; or,
10. The building, structure or site has the potential to yield historical or archaeological information.

17.52.100 – Reserved

17.52.110 – Reserved

17.52.120 – Appeals

Any person may appeal the decision of the Planning Director or the GVHC pursuant to this Chapter to the Planning Commission. Decisions of the Planning Commission pursuant to this Chapter may be appealed to the City Council. An appeal must be submitted in writing with the required appeal fee (if applicable) to the Community Development Department within fifteen (15) days following the final date of the action for which an appeal is made. The written appeal shall include the reason(s) why the Report should or should not be required; or why the Building Permit should be granted, denied or exempt from the provisions of this Chapter.