

## 9252 CULTURAL RESOURCE DISTRICT (CR)

### a Purpose

Tustin has played a vital role in the history of Orange County and has retained a rich and unique cultural heritage. It is hereby declared as a matter of public policy that the recognition, preservation, protection and use of culturally significant structures, natural features, sites and neighborhoods within the City of Tustin is required in the interest of the health, safety, prosperity, social and cultural enrichment and general welfare of City residents. The purpose of Cultural Resource District is to:

1. Safeguard the heritage of the City by preserving neighborhoods, structures, sites and features which reflect elements of the City's cultural, architectural, artistic, aesthetic, political, social, natural and engineering heritage.
2. Encourage public knowledge, understanding and appreciation of the City's past.
3. Strengthen civic and neighborhood pride and a sense of identity based on the recognition and use of cultural resources.
4. Promote the private and public enjoyment, use and preservation of culturally significant neighborhoods, structures and sites appropriate for the education and recreation of the citizens of Tustin and visitors to the City.
5. Enhance the visual and aesthetic character, diversity of architectural styles and aesthetic appeal of the City.
6. Enhance property values and increase economic and financial benefits to the City and its inhabitants.
7. Assure that new construction and subdivision of lots in the Cultural Resource District are compatible with the character of the district.
8. Identify as early as possible and resolve conflicts between preservation of historic and cultural resources and alternative land uses.

### b Applicability

1. The Cultural Resource District is an overlay district and shall apply to those properties as shown on the official Tustin Zoning Map and to those cultural resource structures and sites as may be designated by resolution of the City Council and listed by address and filed with the Department of Community Development.
2. The zoning district map shall be amended to indicate the application of the Cultural Resources District. The designation CR shall be added after the underlying zoning designation.
3. The requirements of this section shall be considered in conjunction with the requirements of the underlying district. If a conflict exists between the requirements of the underlying district and this section the requirements of this section shall apply.

### c Planning Commission

The Planning Commission shall advise the City Council on all matters relating to historic and cultural resources, including without limitation, matters affecting the establishment of a Cultural Resource District, designation of Cultural Resources, and as a liaison between residents, property owners, and the City Council within a Cultural Resources District. In performing its historic and cultural resources duties, the Planning Commission shall not exercise any independent final decision-making authority or expend city funds. Actions of the Commission shall not be considered actions of the City

and shall not be represented as such.

#### d Cultural Resource Designation Criteria

For the purposes of this section, an improvement or natural feature may be designated a cultural resource by the City Council, and any area within the City may be designated as a Cultural Resource District by the City Council if it meets the following criteria:

1. It exemplifies or reflects special elements of the City's cultural, architectural, aesthetic, social, economic, political, artistic, engineering and or architectural heritage; or
2. It is identified with persons, a business use or events significant in local, state, or national history; or
3. It embodies distinctive characteristics of style, type, period, or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship; or
4. It is representative of the notable work of a builder, designer, or architect; or
5. Its unique location or singular physical characteristic represents an established and familiar visual feature of a neighborhood, community or the City; or
6. Its integrity as a natural environment or feature strongly contributes to the well being of residents of the City or the well being of a neighborhood within the City; or
7. It is a geographically definable area possessing a concentration or continuity of site, buildings, structures or objects as unified by past events or aesthetically by plan or physical development.

#### e Cultural Resource Designation Procedures

Cultural Resource Districts and Designated Cultural Resources shall be established by the City Council as follows:

1. Any person may request the designation of an improvement as a cultural resource or the designation of a Cultural Resource District by submitting an application for such designation to the Community Development Director. The Committee or City Council may also initiate such proceedings on their own motion.
2. The Community Development Director or City Council shall refer the proposed request to the Committee for their study, review and recommendation.
3. The Committee shall conduct a study of the proposed designation and make a preliminary determination based on such documentation as it may require as to its appropriateness for consideration. If the Committee determines that the application merits consideration, but only if it so determines, it shall schedule and notice a public hearing.
4. The Committee's decision to schedule or not to schedule a public hearing shall be in writing and shall be filed with the Community Development Department. Notice of a decision not to schedule a public hearing shall be given by mail to the applicant. No permits for alteration, demolition or removal of any improvement, building or structure within the proposed Cultural Resources District or relative to a proposed cultural resource shall be issued while the public hearing or any appeal related thereto is pending.
5. In the case of a proposed Designated Cultural Resource, notice of the date, place, time and purpose of the hearing shall be given by first class mail to the applicant, property owner, and occupants of the improvement at least ten (10) days prior to the date of the public hearing, using the name and address of such owners as shown on the

latest equalized assessment rolls, and shall be advertised once in a newspaper of general circulation.

6. In the case of a proposed Cultural Resources District, notice of the date, place, time and purpose of the hearing shall be given by first class mail to the applicant, property owners and occupants of all properties within the proposed district at least ten (10) days prior to the date of the public hearing, using the name and address of such owners as shown on the latest equalized assessment rolls, and shall be advertised once in a newspaper of general circulation.

7. At the conclusion of the public hearing, but in no event more than thirty (30) days from the date set for the initial public hearing for the designation of a proposed Cultural Resource or Cultural Resource District, the Committee shall recommend approval in whole or in part, or disapproval in whole or in part of the application in writing. In the case of a proposed Cultural Resource District, the Committee's recommendation shall be forwarded to the Planning Commission who shall follow all Zoning Amendment procedures contained in the Tustin Municipal Code considering establishment of the Cultural Resource District. In the case of designation of a Cultural Resource or site, the Committee's recommendation shall be transmitted directly to the City Council.

8. The City Council, after receipt of the recommendations from the Planning Commission for designation of a Cultural Resource District, shall by ordinance approve the application in whole or in part, or shall by motion disapprove it in its entirety. In the case of designation of a Cultural Resource recommended by the Committee the City Council shall by resolution approve the application in whole or in part of, or by motion disapprove the request.

9. Failure to send any notice by mail to any property owner where the address of such owner is not a matter of public record shall not invalidate any proceedings in conjunction with the proposed designation.

10. As soon thereafter as reasonably possible the Community Development Department shall send by first class mail a copy of the Ordinance designating a Cultural Resource District or a certified copy of the resolution designating a Cultural Resource to the property owner or owners in the District or the property owner or owners of the Cultural Resource, as applicable.

11. Amendment, revision or deletion of a designation may be accomplished by following the above procedures.

#### f Certificate of Appropriateness Required

1. A Certificate of Appropriateness shall be required prior to:

(a) Alteration of the exterior features of a building or site within a designated Cultural Resource District, or alteration of a Designated Cultural Resource, or construction of improvements within a designated Cultural Resources District requiring a City building permit.

(b) Demolition or removal of any Designated Cultural Resource or of any improvements in a Cultural Resource District.

(c) A certificate of appropriateness shall not be required for the following: (1) ordinary maintenance or repairs that do not involve a change in design, exterior material or original appearance of an improvement, nor (2) any construction, reconstruction, alteration or removal of any feature which has been determined by the Building Official to be necessary to protect the public health or safety due to an unsafe or dangerous condition provided the Building Official certifies such action.

#### g Procedure for Certificate of Appropriateness

1. Application for a Certificate of Appropriateness shall be made on forms provided by the Community Development Department and shall contain whatever detailed information (plans, drawings, agreements, photographs, etc.) as is determined by the Community Development Department to be necessary for the Department to act on the request. Where the proposed project requires other discretionary approvals such as a tentative tract map, the background information shall also be concurrently submitted to the Department on each of these applications.
2. Applications for Certificate of Appropriateness shall comply with the California Environmental Quality Act (CEQA).
3. The Community Development Director shall have the authority to approve, approve with conditions, or deny Certificates of Appropriateness for improvements requiring a City building permit. In reviewing applications for a Certificate of Appropriateness, the Director may consult with and receive the advice and recommendation of the Historic Resource Committee prior to rendering a decision.
4. The decision of the Community Development Director is appealable to the Planning Commission and any decision of the Commission is appealable to the City Council. Any appeal shall be made in writing and delivered to the Department of Community Development no later than seven (7) calendar days from the date of the decision. Such appeal shall specify the grounds upon which the appeal is based and be accompanied by a fee set by resolution of the City Council. Planning Commission or the City Council, as applicable, shall set the matter for consideration at the next regular meeting of the Commission or City Council, and shall give written notice to the appellant of the time and date set for consideration of the appeal. Upon the hearing of such appeal, the Commission or City Council may affirm, reject, or modify a decision on the Certificate of Appropriateness.
5. A Certificate of Appropriateness shall lapse and become void one (1) year following the date on which the certificate was approved unless the conditions of the approval specify a lesser or greater time or unless, prior to such expiration date, a building permit is issued by the Building Official and construction is commenced and diligently pursued toward completion on the site which was the subject of the application. A Certificate may be renewed for an additional period of one (1) year or for a lesser or greater period provided that prior to the expiration of the time period granted, an application for renewal of the permit is filed with the Community Development Department. The Community Development Director may approve, approve with conditions or deny an application for renewal of a Certificate of Appropriateness; such decision may be appealed as set forth in paragraph 4 above.
6. Any Certificate of Appropriateness granted in accordance with the terms of this section may be revoked by the City Council in the manner hereinafter set forth if any of the conditions or terms of such Certificate are violated or upon violation of any applicable provisions of this section.

Before the Council considers revocation of any Certificate of Appropriateness, the Planning Commission shall hold a hearing thereon after giving written notice thereof to the permittee at least ten (10) days in advance of such hearing. Within five (5) days thereafter, the Commission shall transmit a report of its findings and its recommendations on the revocation to the City Council who will act on the matter.

#### h Required Findings for Construction or Alteration

The following findings are required for issuance of a Certificate of Appropriateness for alteration

of Designated Cultural Resources, or for construction of improvements within a Cultural Resource District. No Certificate shall be issued if the findings cannot be made. For work on a Designated Cultural Resource within a Cultural Resource District, the required findings for both the resource and district shall be made.

1. Alteration of a designated cultural resource:
  - (a) The proposed work will not detrimentally alter, destroy or adversely affect the resource and, in the case of a structure, is compatible with the architectural style of the existing structure.
  - (b) The proposed modification will retain the essential elements which make the structure, site or feature culturally significant.
2. Construction of improvements in a Cultural Resource District.
  - (a) The proposed work conforms to the Municipal Code and design standards which may be established from time to time by the Historic Resource Committee.
  - (b) The proposed work does not adversely affect the character of the district or Designated Cultural Resources within the district.
  - (c) The proposed work is harmonious with existing surroundings. The extent of harmony shall be evaluated in terms of appropriateness of materials, scale, size, height, placement and use of a new building or structure in relationship to existing buildings and structures and the surrounding setting.

i Findings and Additional Permit Procedures for Demolition, Removal or Relocation of Designated Structures or Structures Constructed Prior to 1940:

1. A Certificate of Appropriateness for the demolition of a Designated Cultural Resource shall not be approved unless the Community Development Director or, on appeal, the City Council finds that one (1) or more of the following conditions exist:
  - (a) The structure/site is a hazard to public health or safety and repairs or stabilization are not physically possible.
  - (b) The site is required for a public use which will be of more benefit to the public than the Cultural Resource, and there is no feasible alternative location for the public use.
  - (c) For a Designated Cultural Resource only:
    - (1) It is not feasible to preserve or restore the structure, taking into consideration the economic feasibility of alternatives to the proposal.
    - (2) The proposed replacement structure does not detract from the neighborhood.
  - (d) Reconstruction or restoration is not economically feasible or practical.
2. No person shall carry out or cause to be carried out any demolition, removal or relocation of a Designated Cultural Resource or structure within a Cultural Resource District built prior to 1940 without first receiving a demolition or relocation permit from the City. Such permit shall not be issued unless one of the following events has occurred and in the case of a demolition the applicant has complied with i.3 below:
  - (a) A Certification of Appropriateness has been approved by the Community Development Director or by the City Council on appeal; or
  - (b) A period of 180 days has expired from the date of the Community Development Director's denial of the Certificate of Appropriateness, and there

has been no City Council appeal.

(c) A period of 180 days has expired from the date of City Council denial of a Certificate of Appropriateness.

3. In addition to the above requirement, no demolition permit or relocation permit shall be issued for the demolition or relocation of a Designated Cultural Resource or structure within a Cultural Resource District built prior to 1940 until a Certificate of Appropriateness and City building permit has been issued for a replacement structure.

#### j Design Criteria and Development Standards

1. The City Council may establish, promulgate and adopt by resolution, design criteria and standards for properties as are necessary to supplement the provisions of this section as a guide to evaluate applications for Certificates of Appropriateness, said criteria may include, but not be limited to, the following:

- (a) Acceptable materials for new construction such as stucco, masonry, metal, and glass curtain;
- (b) Appropriate architectural character, scale, and detail for new construction;
- (c) Acceptable appurtenances to new and existing structures such as gables, parapets, balconies and dormers;
- (d) Acceptable textures and ornamentation such as paint colors and types, use of wood, stone, metal, plaster, plastics, and other man-made materials, use of shutters, wrought and cast iron, finishes of metal, colors of glass, such as silver, gold, bronze, smoke, and other details or architectural ornamentation;
- (e) Acceptable accessories on new or existing structures such as light fixtures, gas lights, canopies, exterior carpentry, tile or wood, signs, banners, flags and projections.

#### 2. Residential standards

##### (a) Permitted uses:

(1) All uses shall be permitted in the Cultural Resources Overlay District as are authorized in the underlying Residential District.

(2) The City Council may also permit other nonlisted uses which support the purposes of the district as a conditional use following a public hearing and recommendation by the Planning Commission.

##### (b) Site development standards (applicable to creation of new lots only):

(1) Minimum single-family lot size: 10,000 square feet.

(2) Minimum multiple-family lot size: 15,000 square feet.

Development of existing lots within the CR District may proceed consistent with the underlying residential zoning district. (Ord. No. 1207, Sec. 2, 11-16-98)

#### 3. Commercial standards

##### (a) Permitted uses:

(1) All uses shall be permitted in the Cultural Resource District as are authorized in the underlying commercial district. The City Council may also permit other nonlisted uses which support the purpose of the district as a conditional use following a public hearing and recommendation from the Planning Commission.

(b) Limitations on permitted uses:

(1) No merchandise shall be displayed nor advertised for sale on or over public right-of-way. This section is not to be construed as restricting nor limiting the outside display and sale of merchandise on private property within the district.

(c) Authorized and encouraged uses:

The following uses are authorized and encouraged with the interest of creating a commercial village atmosphere:

TABLE INSET:

Pipe and tobacco shops	Lamp shops
Wine tasting rooms	Yardage goods
Leather goods	Knit shops
Candle shops	Ice cream shops
Boutique	Jewelry shops
Coffee shops	Wrought iron ware
Ethnic restaurants	Art galleries
(Spanish, Mexican, French, German)	General offices (if located on any floor above and if less than 50 percent of total area are occupied by general offices, consistent with Section 9233a(1)(g))
Hobby shops	Delicatessens
Photographer's studios	Antique shops
China and crystal	Gift shops

The above list of potential uses is not all encompassing but typifies the character of uses that illustrate the desired image.

(Ord. No. 1251, Sec. 2, 5-20-02)

(d) Site development standards and exception

In order to provide maximum flexibility in design and development for various lot sizes, consistent with a concept of village environment, the following criteria and exceptions are applicable:

- (1) Front building setbacks may be established at the property line except for corner properties requiring a five-foot line of sight clearance.
- (2) Rear yard setbacks shall be established at fifteen (15) feet from the rear property line, or in the event the development extends to the next intervening street, the rear setback line shall be construed as the frontage on "C" or Prospect Streets.
- (3) As an exception to the general sections of this Chapter and other provisions of the Zoning Ordinance, when commercial and professional properties are developed or converted to permitted uses under the provisions of this section, on-site parking requirements may be modified under any one or a combination of the following provisions:

a. Property or properties that lie within a Vehicle Parking Assessment District or Business Improvement Area shall be exempt from the requirement for on-site parking accommodations, subject to the provisions of the Parking or Improvement District Ordinance.

b. On-site parking requirements may be waived upon the presentation to the City of a long term lease, running with and as a condition of the business license, for private off-site parking accommodations within 300 feet of the business or activity to be served.

c. All or a portion of required number of parking spaces may be satisfied by depositing with the City an amount, to be used for public parking accommodations within the area, equal to four (4) times the assessed value as determined from the latest assessment roll of the County Assessor, of 200 square feet of land within the area, for each required parking space not otherwise provided.

(e) Public improvements

Public improvements contributing to the motif of the area and the intent of this section are to consist of the following:

- (1) Street furniture for convenience of the pedestrian shopper to consist of benches and trash receptacles.
- (2) Street lighting with the use of stanchions and fixtures that contribute to the development theme.
- (3) Street portals to create an identity of approach to the area for vehicle and pedestrian traffic.
- (4) The use of wishing wells as theme and area identity.
- (5) Street and traffic patterns that segregate vehicle from pedestrian traffic by providing rear access to parking accommodations, delivery services, and through traffic, with frontage accommodations for pedestrians and short term convenience parking.

k Duty to Keep in Good Repair

The owner, occupant, or other person in actual charge of a Designated Cultural Resource shall keep the exterior of any designated structure, site, or feature in good repair.

l Enforcement and Penalties

1. Methods of enforcement. In addition to the regulations of this section which govern the approval or disapproval of Certificates of Appropriateness covered by this section, the Community Development Department shall have the authority to implement the enforcement thereof by any of the following means:

- (a) Serving notice requiring the removal of any violation of this section upon the owner, agent, occupant or tenant of the improvement, building, structure or land;
- (b) Calling upon the city attorney to institute any necessary legal proceedings to enforce the provisions of this section, and the City Attorney is hereby authorized to institute any actions to that end;
- (c) Calling upon the Chief of Police and authorized agents to assist in the enforcement of this section.

In addition to any of the foregoing remedies, the City Attorney may maintain an action for injunctive relief to restrain or enjoin or to cause the correction or removal of any violation of this section, or for an injunction in appropriate cases.

2. Penalties. Any person violating any provision of this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned for a period not exceeding six (6) months or be so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. No. 1001, Sec. 2, 6-20-88; Ord. No. 1301, §§ III--VI, 9-19-05; Ord. No. 1332, Sec. 2, 5-1-07)