ORDINANCE NO. 884

AN ORDINANCE FOR THE CITY OF REXBURG, A MUNICIPAL CORPORATION OF IDAHO, PROVIDING FOR THE ESTABLISHMENT OF THE HISTORIC PRESERVATION COMMISSION; PROVIDING FOR DUTIES AND FUNDING FOR THE SAID COMMISSION; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

WHEREAS, Chapter 46 of Title 67 of the Idaho Code empowers cities to make provisions for the identification and preservation of historic sites; and,

WHEREAS, the City Council of the City of Rexburg deems it in the best interest of the community to establish a historic preservation ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF REXBURG, THAT THE HISTORIC PRESERVATION CODE, BE ESTABLISHED BY THIS ORDINANCE FOR THE CITY OF REXBURG, WHICH SHALL READ AS FOLLOWS:

**SECTION I** PURPOSE:

The purpose of this ordinance is to promote the educational, cultural, economic and general welfare of the public of the City of Rexburg through identification, evaluation, designation, and protection of those buildings, sites, districts, areas, structures, and objects that reflect significant elements of the City's, the State's, and the Nation's historic, architectural, archaeological, and cultural heritage.

**SECTION II** DEFINITIONS:

The following words and phrases when used in this Ordinance shall have, unless the context clearly indicates otherwise, the following meanings:

*City.* The City of Rexburg.

*Commission.* The Historic Preservation Commission of the City of Rexburg.

*Historic Property.* Any building, structure, district, area or site that is significant in the history, architecture, archaeology or culture of this community, the State or the Nation.

*Designated Historic Property.* In order for any historic property to be designated in the ordinance, it must, in addition, meet the criteria established for inclusion of the property in the National Register of Historic Places.

*Historic Preservation.* The identification, evaluation, recordation, documentation, curation, acquisition, management, protection, restoration, rehabilitation, stabilization, maintenance, interpretation, conservation, and education of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archaeology or culture of this State,

its communities or the Nation.

**SECTION III** COMMISSION CREATED APPOINTMENT TERMS:

(1) The Historic Preservation Commission shall consist of nine (9) members who shall be appointed by the Mayor with the advice and consent of the Council.

(2) Members of the Commission, at least seven (7) of whom shall be residents of the City, shall demonstrate an interest in the historical and architectural development of the City, and shall be appointed with due regard to the proper representation of such fields as history, architectural history, architecture, landscape architecture, urban planning, engineering, archeology and law.

(3) Members shall be appointed by the Mayor with the consent of the City Council, and shall serve terms of three (3) years. Terms of current members shall not be affected by passage of this Ordinance. Members may be reappointed upon approval of the Council.

(4) Vacancies shall be filled in the same manner as original appointments and the appointee shall serve for the remainder of the unexpired term.

(5) The members of the Commission shall serve without compensation, but may be reimbursed by the City for approved expenses incurred in connection with their duties.

**SECTION IV** ORGANIZATION, OFFICERS, RULES, MEETINGS:

(1) The Commission shall have the power to make whatever rules are necessary for the execution of its duties as set forth in this Ordinance. Rules of procedure and bylaws adopted by the Commission shall be available for public inspection.

(2) The commission shall elect officers from among the Commission members. The chairperson shall preside at meetings of the Commission. The vice-chairperson shall, lacking the chairperson, perform the duties of the chairperson.

(3) All meetings of the Commission shall be open to the public, and follow the requirements of Idaho Open Public Meeting laws. The Commission shall keep minutes and other appropriate written records of its resolutions, proceedings, and actions.

(4) The Commission may recommend to the Council, within the limits of its funding, the employment of or the contracting with other parties for the services of technical experts or other persons as it deems necessary to carry on the functions of the Commission.

**SECTION V** POWERS, DUTIES, AND RESPONSIBILITIES:

The Commission shall be advisory to the Council and shall be authorized to:

(1) Conduct a survey of local historic properties.

(2) Recommend the acquisition of fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequest, or donation.

(3) Recommend methods and procedures necessary to preserve, restore, maintain and operate historic properties under the ownership or control of the City.

(4) Recommend the lease, sale, or other transfer or disposition of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.

(5) Contract, with the approval of the Council, with the state or federal government, or any agency of either, or with any other organization.

(6) Cooperate with the federal, state, and local governments in the pursuance of the objectives of historic preservation.

(7) Make recommendations in the planning processes undertaken by the county, the city, the state, or the federal government and the agencies of these entities.

(8) Recommend ordinances and otherwise provide information for the purposes of historic preservation in the City.

(9) Promote and conduct an educational and interpretive program on historic preservation and historic properties in the City.

(10) Commission members, employees or agents of the Commission may enter private property, buildings, or structures in the performance of its official duties only with the express consent of the owner or occupant thereof.

(11) Review nominations of properties to the National Register of Historic Places for properties within the City's jurisdiction.

**SECTION VI** COMMISSION FUNDING:

The City Council may make funds available to the Commission for grant-matching purposes, or for projects deemed suitable by the Council. Any such funds may be retained in a special account by the City.

**SECTION VII** SPECIAL RESTRICTIONS:

Under the provisions of Idaho Code 67-4612, the City of Rexburg may provide by ordinances, special conditions or restrictions for the protection, enhancement and preservation of locally designated historic properties.

**SECTION VIII** SEVERABILITY:

If any section, subsection, sentence, clause or phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

**SECTION IX** EFFECTIVE DATE:

This Ordinance shall be in full force and effect from and after its passage, approval and publication according to law.

PASSED AND APPROVED this 02 day of October, 2002.

City of Rexburg, a municipal corporation of the State of Idaho.

BY: _____
Mayor

ATTESTED: Blair D. Kay
City Clerk

PUBLISHED: October 09, 2002

STATE OF IDAHO )
)ss.
County of Madison )

I, BLAIR KAY, City Clerk of the City of Rexburg, Idaho, do hereby certify: That the above and foregoing is a full, true and correct copy of the Ordinance entitled:

AN ORDINANCE FOR THE CITY OF REXBURG, A MUNICIPAL CORPORATION OF IDAHO, PROVIDING FOR THE ESTABLISHMENT OF THE HISTORIC PRESERVATION COMMISSION; PROVIDING FOR DUTIES AND FUNDING FOR THE SAID COMMISSION; PROVIDING THAT THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FROM AND AFTER ITS PASSAGE, APPROVAL, AND PUBLICATION ACCORDING TO LAW.

Passed by the City Council and approved by the Mayor this 2nd day of October, 2002.

Blair D. Kay
City Clerk, Blair Kay

(SEAL)

Ordinance - City of Boise

# CHAPTER 18

# HISTORIC PRESERVATION COMMISSION

SECTION:


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2-18-12: Ordinary Repairs; Public Safety
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2-18-18: Amendment or Recision of Historic Designation on Recommendation of Commission
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2-18-1: PURPOSE: The purpose of this Chapter is to promote the educational, cultural and economic welfare of the public of the City by engaging in a comprehensive program of historic preservation to promote, preserve and protect historic buildings, structures, sites, monuments, streets, squares and neighborhoods which serve as visible reminders of the historical, archeological, architectural, educational and cultural heritage of the City. It is the further purpose of this Chapter for the social, economic and environmental advantages of the City to promote the use and conservation of such property, to stabilize and improve property values in historic areas, and to encourage new buildings and developments that will be harmonious with the existing historical, archeological, architectural, educational and cultural buildings, structures, sites, streets, squares and neighborhoods.

2-18-2: DEFINITIONS: For the purposes of this Chapter, the following terms, phrases and words shall have the meanings given herein. The word "shall" is always mandatory and not merely directory.

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| COMMISSION: | Historic Preservation Commission. |
| CONTRIBUTING: | A contributing building, site, structure, or object adds to the historic architectural qualities, historic associations, or archeological values for which a property is significant because (a) it was present during the period of significance, and possesses historic integrity reflecting its character at that time or is capable of yielding important information about the period, or (b) it independently meets the National Register criteria. |
| DEMOLITION: | Any act or process that destroys or razes in whole or in part any building, object, site, structure or landmark, or permanently impairs its visual integrity. |
| EXTERIOR FEATURES: | The architectural style, general design and general arrangement of the exterior of a building or structure, including the color, the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs, other appurtenant fixtures and other natural features such as trees and shrubbery. |
| EXTERIOR FEATURES (outdoor advertising signs): | The style, material, size and location of all such signs. |
| HISTORIC EASEMENT: | Any easement, restriction, covenant or condition running with the land designed and designated to preserve, maintain and enhance all or part of the existing state of places of historical, architectural, archeological, educational or cultural significance. |
| HISTORIC OR HISTORICAL LANDMARK (whether used inter-changeably | Any site (including significant trees or other plant life located thereon), building or structure of particular historic or aesthetic significance to the City, the State or the Nation. Landmarks may include, and are hereby defined to include sites, buildings, or structures where cultural, political, spiritual, economic, social or artistic history of the City, State or Nation is reflected or exemplified or which are identified with |

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| or synonymously historic historical property): | historic personages or important events in local, State or national history, or which embody the distinguishing characteristics of an with architectural specimen inherently valuable for representation of a or period, style or method of construction, or a notable work of construction, or a notable work of a master designer or architect whose individual genius influenced his age. |
| HISTORIC OR HISTORICAL | Any building, structure, area or site that is significant in the history, architecture, archeology, education or culture of the City, State or Nation. |
| HISTORIC PRESERVATION | The research, protection, restoration and rehabilitation of buildings, structures, landmarks, signs, appurtenances, objects, districts, areas and sites significant in the history, architecture, archeology, education or culture of the City, State or Nation. |
| HISTORICAL DISTRICT: | Any area designated as such by ordinance which includes or encompasses such historic sites, landmarks, buildings, signs, appurtenances, structures or objects as the Commission may determine to be appropriate for historical preservation. Such designated district or districts need not be a single enclosed area nor do the areas or sites have to be contiguous to constitute a district. |
| HISTORICAL DISTRICT - RESIDENTIAL: | An area designated as such by ordinance which includes or encompasses such historic sites, landmarks, buildings, appurtenances, structures or objects as the Commission may determine to be appropriate for historical preservation. Such designated district or districts need not be a single enclosed area nor do the areas or sites have to be contiguous to constitute a district. |
| INTRUSION: | A building, structure, site or object that has no architectural, cultural or historical significance as relates to the contributing buildings, structures, sites or objects within the District; and does not provide visual harmony to the District. |
| NONCONTRIBUTING: | A noncontributing building, site, structure, or object does not add to the historic architectural qualities, historic associations or archeological values for which a property is significant because (a) it is not present during the period of significance, (b) due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important |

information about the period, or (c) it does not independently meet the National Register criteria.

PERSON: An individual, firm, corporation, association, state subdivision, municipal corporation, or any other governmental or quasi-governmental agency, or group or combination thereof acting as a unit.

PERSON IN CHARGE: The person or persons possessed of the freehold, or a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent or any person directly or indirectly in control of a historic property or landmark.

2-18-3: HISTORIC PRESERVATION COMMISSION: There is hereby created and established an Historic Preservation Commission which shall consist of seven (7) members who shall be appointed by the Mayor with the advice and consent of the Council. Members of the Commission shall be appointed with due regard to the proper representation of such fields as history, architecture, urban planning, archeology and law. Initially two (2) members shall be appointed for a term of two (2) years and three (3) members shall be appointed for a term of three (3) years. Thereafter all appointments shall be made for a term of three (3) years, the members of said Commission being eligible for reappointment as provided by Section 1-21-8 of the Boise City Code. If a vacancy occurs, the Mayor with the consent of the Council shall appoint a member to fill the unexpired term. The members of the Commission shall serve without pay but shall be reimbursed by the City for necessary expenses incurred in connection with their duties.

2-18-4: ORGANIZATION; OFFICERS; RULES; MEETINGS: At their first meeting, the appointed Commissioners shall elect officers who shall serve for terms of one (1) year. The Commission may establish any rule necessary for the orderly conduct of its business, and all meetings of the Commission shall be open to the public. The Commission shall keep a record of its resolutions, proceedings and actions.

2-18-5: POWERS AND DUTIES OF COMMISSION: The Commission shall be authorized to:

A. Conduct a survey of local historic properties and landmarks;

B. Recommend acquisition of the fee and lesser interest in historic properties and landmarks, including adjacent or associated properties and lands, by purchase, bequest or donation;

C. Preserve, restore, maintain and operate historic properties under the ownership or control of the City;

D. Recommend the lease, sale, transfer or disposition of historic property subject to rights of public access and upon such terms and conditions that will insure the preservation of the property;

E. Recommend contracting with the State or Federal government, or any agency of either, or with any other person, firm, corporation, or organization, to accomplish the purposes of this Chapter;

F. Cooperate with the Federal, State and local governments in the pursuit of the objectives of historic preservation;

G. Participate in the conduct of land use, urban renewal and other planning processes undertaken by the County, the City or any other entity;

H. Recommend ordinances and otherwise provide information for the purposes of historic preservation of the City;

I. Promote and conduct an educational and interpretative program on historic properties with the jurisdiction of the City; and

J. Only after having received prior consent of the owner, occupant or person in charge thereof and solely in performance of official duties and only at reasonable times, enter upon private lands for the examination or survey thereof.

2-18-6: FUNDING:

A. For the purpose of providing funds for an Historic Preservation Commission, the Council may:

1. Provide funds from current revenues;

other

2. Receive and expend monies from any available source or sources, or

3. Use any combination of the foregoing.

B. Funds received for an Historic Preservation Commission may be accumulated from year to year and need not be expended during any one fiscal year, except that unexpended monies appropriated by the Council shall be deemed surplus to be budgeted and appropriated for the subsequent year as provided by law.

2-18-7: DESIGNATION OF HISTORICAL DISTRICTS, INCLUDING HISTORICAL DISTRICTS - RESIDENTIAL: Historical Districts shall be designated by Ordinance and in accordance with the following requirements:

A. The buildings, structures, features, sites, objects and surroundings of an historical district shall meet one or more of the following four (4) criteria:

1. Historical, Cultural or Educational:

a. Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the City, State or Nation; or is associated with the life of a person significant in the past; or

b. Is the site of an historic event with a significant effect upon society; or

c. Exemplifies the cultural, political, economic, social, educational or historic heritage of the community; or

2. Architectural, Engineering Importance:

a. Portrays the environment in an era of history characterized by a distinctive architectural style; or

b. Embodies those distinguishing characteristics of an architectural-type or engineering specimen; or

c. Is the work of a designer whose individual work has significantly influenced the development of Boise; or

d. Contains elements of design, detail, materials or craftsmanship which represent a significant innovation; or

3. Geographic Importance:

a. By being part of or related to a street, square, park or other distinctive area, should be developed or preserved according to a plan based on historic, cultural or architectural motif; or

b. Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community or City; or

4. Archeological Importance:

a. Has yielded or may be likely to yield, information important in pre-history or history.

B. The Commission, either on its own initiative, or upon the request of the City Council, or upon the request of one or more owners of property residing in the area of a proposed historical district, may recommend the designation of one or more historical districts. Prior to recommending designation the Commission shall conduct studies, research and investigations based on the relevant criteria given in Section 2-18-7A regarding buildings, structures, features, sites, objects and surroundings of such proposed historical district or districts. Thereafter, the Commission shall prepare a report containing recommendations concerning the area or areas to be included in the proposed historical district or districts.

C. Copies of the report shall be transmitted for review and recommendation to the Planning-Zoning Commission, and within sixty (60) days after the date of transmittal of such report to the Planning-Zoning Commission, the Historic Preservation Commission shall hold a public hearing thereon. Notice of the time, place and purpose of such hearing shall be given at least fifteen (15) days prior to such hearing by one publication in a newspaper of general circulation in the City and by a written notice of such

hearing, postage prepaid, given to the owners of all properties to be included in the district or districts.

D. After such public hearing, the Historic Preservation Commission shall submit a final report with its recommendations and a draft of a proposed ordinance to the City Council.

E. The City Council shall act upon the report and recommendation in accordance with the provisions of Section 11-1-8.10 of the Boise City Code.

2-18-8: DESIGNATION OF HISTORIC PROPERTY OR HISTORIC LANDMARKS:

Historic Properties or Historic Landmarks shall be designated by ordinance and in accordance with the following requirements:

A. The building, structure, feature, site or object proposed for such designation shall meet one or more of the criteria required in Section 2-18-7 A. In addition, it must meet the criteria established for inclusion in the National Register of Historic Places as such criteria are applied to historic properties in the State by the Idaho Historic Sites Review Board.

B. The Commission, either on its own initiative, or upon the request of the City Council, or upon the request of the owner of the property proposed to be designated, may recommend the designation of historic property or historic landmark. Prior to recommending the designation, the Commission shall conduct studies, research and investigations based on the relevant criteria given in Section 2-18-8 A. Thereafter, the Commission shall prepare a report containing recommendations concerning the property proposed to be designated and a draft of a proposed ordinance to the City Council. The report of the Commission shall include comments regarding the suitability of the property for preservation or restoration. In case there is a question of an adaptive or alternative use of the property, the report shall include a statement regarding the appropriateness of such adaptive or alternative use. The report shall also include a statement regarding the administrative and financial responsibility of the person or organization proposing to undertake all or a portion of the cost of acquisition, restoration, maintenance, operation or repair, or the cost of

adaptive or alternative use of the property to the extent that any such considerations apply to the property proposed for designation. If the owner of the property proposed for designation has not consented to such designation, the report of the Commission shall also include a statement regarding the appraised value of the property.

C. For each designated historic property or landmark, an ordinance shall require the waiting period prescribed by Section 2-18-11B to be observed prior to its demolition, material alteration, remodeling or removal. The Ordinance shall also provide guidelines for a suitable sign or marker on or near the property or landmark indicating that the property has been so designated.

D. The City Council shall hold a public hearing on the proposed ordinance, after having given written notice to the owners and occupants of the property and the publication of such notice in the time and manner required by Section 2-18-7 hereof.

E. Following such public hearing, the Council may act on the ordinance.

F. Upon passage of the ordinance, the owners and occupants of each designated historic property or landmark shall be given written notification of said designation by the Council, and one copy of the ordinance shall be filed in the office of the County Recorder of Ada County, Idaho.

G. The Commission shall give notice of such designation to the Tax Assessor of Ada County, Idaho.

2-18-9: CERTIFICATE OF APPROPRIATENESS REQUIRED FOR ALTERATIONS OR CHANGE IN USE OR ZONING CLASSIFICATION IN HISTORICAL DISTRICTS OR HISTORICAL DISTRICTS - RESIDENTIAL.

A. Historical Districts

After the designation by ordinance of an historical district, no exterior feature of any building or other structure (including walls, fences, light fixtures, steps and pavement or other appurtenant features), above ground utility structure or any type of outdoor

advertising sign shall be erected, altered, restored, moved or demolished within such designated area until after an application for a certificate of appropriateness has been submitted to and approved by the Commission. For the purpose of constructing or altering any building or structure, a utility structure or any type of outdoor advertising sign, the Commission shall issue a certificate prior to the issuance of a building permit, but a certificate will be required whether or not a building permit is required. The Commission shall not consider interior arrangement and shall take no action under this Section except for the purpose of preventing the construction, reconstruction, alteration or restoration, moving or demolition of buildings, structures, appurtenant fixtures, outdoor advertising signs or natural features in the historical district which would be incongruous with the historical, architectural, archeological, educational or cultural aspects of the district.

B. Historical Districts - Residential

Historical districts - residential must meet all of the provisions of an historical district except as herein provided.

(1) **Paint**. No Certificate of Appropriateness shall be required to paint any portion of a building or structure which has been previously painted that is located within, or comprising a part of, any such district.

(2) **Signs**. No Certificate of Appropriateness shall be required to erect a sign for which no permit is required under the Boise City Code.

(3) **Site Improvements**. No Certificate of Appropriateness shall be required for site improvements (including, but not limited to: wood fences up to and including six feet in height enclosing the rear yard, walls, retainers, greenhouses, light fixtures, hot tubs, pools, fountains, barbecues, fireplaces, steps or pavement) which are not visible from any public right-of-way, except alleys, and which do not structurally alter an existing historical building or structure.

(4) **Landscaping**.

(a) No Certificate of Appropriateness is required for landscaping that is not visible from any public right-of-way, excluding alleys, or for other landscaping improvements such as lawns, shrubs or trees except as provided in (b) below.

(b) A Certificate of Appropriateness shall be required for the following landscape improvements:

i. Non-vegetative ground covers including, but not limited to, gravel, river and lava rock, with the exception of soil aid and bark accessory to plantings, that are visible from any public right-of-way, excluding alleys.

ii. Removal of any deciduous tree greater than 4" caliper and any evergreen tree greater than 5' in height. Caliper shall be measured as defined under the American Standard for Nursery Stock, American Association of Nurserymen.

iii. All hedge screens exceeding 18" at mature height that are visible from any public right-of-way, excluding alleys.

iv. Any plantings that will obscure the view of any building or structure from a public right-of-way, excluding alleys.

c) No Certificate of Appropriateness is required for installation of landscape irrigation systems.

C. Demolition or Relocation

After the designation by ordinance of an historical district, or historical district - residential, no building or structure which is a part of such district shall be demolished or moved until after an application for Certificate of Appropriateness relating to the demolition or moving of such building or structure has been submitted to and approved by the Commission. A Certificate of

Appropriateness must be issued prior to the issuance of any building or other permit required by the City for the demolition or moving of any building or structure which is part of an historical district or historical district - residential. A Certificate of Appropriateness shall be required regardless of whether other licenses or permits are required for the moving or demolition of such building or structure.

(1) **Findings.** In order for the Commission to approve a demolition or relocation request, at least three (3) out of the five (5) following findings must be met:

(a) That the building, object, site or structure is not classified as contributory to the district.

(b) That the building, object, site or structure cannot reasonably meet National, State or Local criteria for designation as an historical or architectural landmark.

(c) That demolition of the building, object, site or structure would not adversely affect the character of the District and/or the adjacent properties.

(d) That the owner has reasonably demonstrated that rehabilitation of the building, object, site or structure would not be economically feasible.

(e) That plans have been submitted to redevelop the property if the demolition proceeds, and such plans will have a positive effect on the District and/or adjacent properties.

(2) **Approval.** Should a request for demolition or relocation be approved, the following requirements may be imposed by the Commission:

(a) The owner shall comply with all City ordinances pertaining to treatment of the site during and after demolition, including, but not limited to Ordinance #3848.

(b) In order to protect the overall appearance of the historical district of which such site is a part, the owner shall maintain the site free from weeds and debris until such time as redevelopment occurs.

(c) The owner shall grant permission to the Commission to record as the Commission sees fit, any historical, architectural or archeological significance of the building, object, site or structure prior to or during demolition. Such recordation may include: taking photographs and preparing plans of the historical, architectural or archeological significance of the building, object, site or structure and salvaging items of historical, architectural or archeological importance for the public interest.

Any recordation of the property by the Commission shall be completed within thirty (30) days from the date of the demolition approval by the Commission or Council upon appeal.

D. No change in the use of any building, structure, appurtenant fixtures, outdoor signs or natural features within a designated district or historical district-residential shall be permitted until after an application for a certificate of appropriateness has been submitted to and approved by the Commission. Any change of zoning classification within an historical district or historical district - residential shall first require a certificate of appropriateness.

2-18-10: CERTIFICATE PROCEDURE; APPLICATION; NOTICE; TIME; APPEAL:

A. Application for a certificate of appropriateness shall be submitted by the person (or persons) who is the owner of the property, or by a representative of such person, on a form designated by the Commission and containing such information as required by the Commission in its determination of the application as prescribed in Section 2-18-9.

B. Prior to issuance or denial of a certificate of appropriateness, the Commission shall schedule a public hearing and shall notify, in writing, all adjoining property owners of the change(s) being requested at least seven (7) days prior to the hearing on the Certificate of Appropriateness. In instances where the Commission feels the impact of the request is more widespread, such as in the case of new construction or demolition, notice to all other property owners within the District shall be provided. If the Commission determines the proposed construction, reconstruction, alteration, moving or demolition is appropriate, it shall forthwith approve such application and shall issue to the applicant a certificate of appropriateness.

C. The Commission shall act on an application within forth (40) days after the required information has been submitted; otherwise the application shall be deemed to have been approved and a favorable certificate of appropriateness shall be issued by the Commission; provided, however, that the applicant may waive this requirement and consent to an extension of such period.

D. If the Commission determines that a certificate of appropriateness should not be issued, it shall place upon its records the reason for such determination and shall forthwith notify the applicant of such determination, furnishing him an attested copy of its reasons therefor and its recommendations, if any, as appearing in the records of said Commission. The Commission may approve such application in any case where the applicant would suffer extreme hardship, not including loss of profit, unless the certificate of appropriateness were issued forthwith. The applicant may modify his application to render it acceptable to the Commission and shall have the right to resubmit the application after so doing.

E. Any applicant aggrieved by a determination of the Commission may appeal to the Council of the City, and an appeal from the Council may be taken to a court of competent jurisdiction.

F. The Commission may delegate to the Planning Director review of Certificates of Appropriateness that relate to minor building/site changes that are in compliance with the "Design Guidelines for Boise City's Historic Districts". Within ten (10) working days after receipt of such application, the Planning Director shall

investigate the request and shall either approve, modify or deny such application. Such determination shall be made in writing to the applicant. No public notice is required for staff level Certificates of Appropriateness.

G. A decision of the Planning Director may be appealed to the Commission within ten (10) calendar days from the date of such decision by filing written notice of such appeal with the Planning Director.

2-18-11: PROCEDURE FOR REMOVAL OF DESIGNATION FOR HISTORICAL DISTRICTS, HISTORICAL DISTRICTS-RESIDENTIAL OR PROPERTY WITHIN SUCH DISTRICTS; AND PROCEDURE FOR DEMOLITION OR CHANGE IN USE OF HISTORIC PROPERTY OR LANDMARK.

A. After the designation by ordinance of an historical district, historical district - residential or property within such districts, such designation shall not be rescinded except as hereinafter provided:

1. The owner or owner's representative shall submit an application for removal of designation on a form designated by the Commission and containing such information as required by the Commission.

2. Prior to issuance or denial of the application for removal of designation, the Commission shall schedule a public hearing on the request and notify, in writing, each property owner within the affected District at least seven (7) days prior to the hearing. Notice of the time, date, place and purpose of such hearing shall also be published at least fifteen (15) days prior to such hearing in a newspaper of general circulation within the city. If the Commission determines the proposed removal of designation is appropriate, it shall forthwith approve such application and shall prepare a report containing such recommendation of removal of designation and a draft of a proposed ordinance removing such designation to the City Council.

3. The City Council shall hold a public hearing on the proposed removal ordinance, after having given written

notice to the owners and occupants of the property and any materially affected owners of property and after the publication of such notice in the time and manner required by Section 2-18-11(A)2 hereof.

4. Following such public hearing, the City Council shall act on the report and recommendation in accordance with the provisions of Section 11-1-8.10, Boise City Code.

5. Upon passage of the ordinance, the owners and occupants of the historical district, historical district-residential or property within such district for which designation was removed shall be given written notification of such removal of the Council, and one copy of the ordinance shall be filed in the office of the County Recorder of Ada County, Idaho.

   The Commission shall give notice of such removal of designation to the Tax Assessor of Ada County, Idaho and to the Internal Revenue Service, Boise office.

6. If the Commission determines that the application for removal of designation should not be recommended, it shall place upon its records the reason for such determination and shall forthwith notify the applicant of such determination, furnishing him an attested copy of its reasons therefor and its recommendations, if any, as appearing in the records of said Commission.

7. Any applicant aggrieved by a determination of the Commission may appeal to the Council of the City, and an appeal from the Council may be taken to a court of competent jurisdiction.

B. An historic property or landmark designated by ordinance as herein provided which is not part of an historical district, may be demolished, materially altered, remodeled, relocated or put to a different use only after one-hundred-eighty (180) days written notice of the owner's proposed action has been given to the Historic Preservation Commission in accordance with the following procedures:

1. During this period, the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the property. During this period, or at any time prior thereto following notice of designation to the owner as provided in Section 2-18-8(F), and where such action is reasonably necessary or appropriate for the continued preservation of the property, the Commission may enter into negotiations with the owner for the acquisition by gift, purchase, or exchange of the property or any interest therein.

2. The Commission may notify, in writing, property owners within a three-hundred foot (300') radius of the historic property of the request to demolish, alter, remodel, relocate or change the use of the historic property or landmark; and may allow such owners to provide input within the 180 day waiting period.

3. The Commission may reduce the waiting period required by this section in any case where the owner would suffer extreme hardship, unless a reduction in the required period were allowed. The Commission shall have the discretionary authority to waive all or any portion of the required waiting period, provided that the alteration, remodeling, relocation or change of use is undertaken subject to conditions agreed to by the Commission insuring the continued maintenance of the historical, archeological or cultural integrity and character of the property.

4. At the end of the required waiting period, as reduced or waived if such be the case, the designation of such historic property or landmark shall be rescinded and a draft of a proposed ordinance removing such designation shall be prepared and submitted to the City Council for approval.

2-18-12: ORDINARY REPAIRS, PUBLIC SAFETY: Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any exterior feature of any building or structure in an historical district, or of any historic property or landmark which does not involve a change in design, material, color or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration or demolition of

any such feature of a structure, building or landmark when the Building Official shall certify such is required for the public safety because of an unsafe or dangerous condition.

2-18-13: ACQUISITION OF PROPERTY: All lands, buildings, structures, sites or areas acquired by funds appropriated by the City, shall be acquired in the name of the City and such historic properties or landmarks shall be maintained by or under the supervision and control of the City.

2-18-14: ACQUISITION OF HISTORIC EASEMENTS: The City may acquire, by purchase or donation, historic easements in any area within the jurisdiction of the City wherever and to the extent the Council determines that the acquisition will be in the public interest.

2-18-15: MAINTENANCE & REPAIR REQUIRED: Neither the owner of nor the person in charge of a building, structure, area or site within a designated historical district or of a designated historic property or landmark shall permit such building, structure, area or site, property or landmark to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgement of the Commission, a detrimental effect upon the character of the district as a whole or the life and character of a building, structure or landmark in question, including but not limited to:

A. The deterioration of exterior walls or other vertical supports;

B. The deterioration of roofs or other horizontal members;

C. The deterioration of exterior chimneys;

D. The deterioration or crumbling of exterior plaster or mortar;

E. The ineffective waterproofing of exterior walls, roofs and foundations including broken windows or doors; and

F. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

2-18-16: EXEMPTION FROM FIRE OR BUILDING CODES: The Council, in order to promote the preservation and restoration of any historic properties, landmarks or property within an historical district may, upon the recommendation of the Commission, exempt an historic property, landmark, or property within an historical district from the application of the City Fire or Building Codes upon compliance with the criteria for

exemption set forth in said codes and upon a finding that non-exemption would prevent or seriously hinder the preservation or restoration of said historic property, landmark, or property in an historical district. Upon recision of an historic designation, any code exemption herein granted shall be revoked effective the date of recision.

2-18-17: NOTICE OF CITY DEPARTMENTS AND OTHER AGENCIES; REGISTER OF HISTORICAL DISTRICTS, PROPERTIES AND LANDMARKS: In addition to all other transmittals and notices required by this Chapter, the Commission shall notify the departments of Boise City and other agencies regarding the designation or removal of designation of historical districts, properties, and landmarks and shall maintain a register of such districts, properties and landmarks.

A. Within five (5) days after the designation by ordinance of any historical district, property or landmark, the Commission shall notify all departments of Boise City and other governmental agencies having a regulatory or legally prescribed duty affecting such district, property or landmark. The notice shall state the fact of such designation, identify the boundary of the district, or the address of the property or landmark, and shall summarize the effect such designation will have.

B. The Commission shall maintain a current register and map of all historical districts, properties and landmarks which have been designated by ordinance. Such register and map shall be made public and available to the City departments, other governmental agencies and any interested person.

2-18-18: AMENDMENT OR RECISION OF HISTORIC DESIGNATION ON RECOMMENDATION OF COMMISSION.

A. The City Council, upon the recommendation of the Commission, may amend the boundary of a designated historical district or rescind the designation of an historical district, historic property or historic landmark. All amendments or recisions of historic designations shall be by ordinance.

B. If, in the judgement of the Commission, when any building, structure, feature, site or object included within a designated historical district, or any building, structure or site designated as an historic property or historic landmark, has ceased to comply with the designation criteria or no longer exhibits the characteris-

tics which qualified the property for inclusion within an historical district or for designation as an historic property or landmark, such property or properties may be recommended for exclusion from the boundary of such district, or if the district, as a whole, no longer complies with such criteria, it may be recommended for recision of its historic designation, or such property or landmark may be recommended for recision of its historic designation.

C. The procedure of the Commission with respect to a recommendation for amendment or recision of historic designation shall be affected in the same manner as required for the original designation as prescribed in Sections 2-18-7 and 2-18-8.

D. Within five (5) days after the removal of designation by ordinance of any historical district, property or landmark, the Commission shall notify all departments of Boise City and other governmental agencies having a regulatory or legally prescribed duty affecting such district, property or landmark. The notice shall state the fact of such removal of designation, the effective date thereof and shall identify the boundary or such district or the address of the property or landmark.

2-18-19: PENALTIES:

A. Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and shall be punished by a fine of not more than three hundred dollars ($300.00).

B. Any person who files with the Commission an application or request for a Certificate of Appropriateness who wilfully makes any false statement in such application or request, or who upon demand, wilfully furnishes false information to the Commission, shall be guilty of a misdemeanor and shall be punished by a fine of not more than three hundred dollars ($300.00).

C. For the purpose of this Chapter, each day during which there exists any violation of any provision herein will constitute a separate violation.