



Oregon

John A. Kitzhaber, M.D., Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: (503) 373-0050

Fax: (503) 378-5518

www.oregon.gov/LCD



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: April 27, 2015

Jurisdiction: City of Bend

Local file no.: PZ-14-1095

DLCD file no.: 010-14

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 04/22/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 39 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR chapter 661, division 10).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 010-14 {22591}

Received: 4/22/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: City of Bend

Local file no.: **PZ-14-1095**

Date of adoption: March 18, 2015

Date sent: 4/22/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 12/12/2014

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

No changes.

Local contact (name and title): Heidi Kennedy

Phone: 541-617-4524

E-mail: hkennedy@bendoregon.gov

Street address: 710 Wall Street

City: Bend

Zip: 97701

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

The City of Bend Planning division is proposing a text amendment to Chapter 10.20 Historic Preservation Code in order to make a couple of minor changes to the recently modified and adopted Preservation Code. There are a few word changes to Section 10.20.30 Procedures and a few word changes to Section 10.20.130 Design Review Criteria. Please see a copy of the uploaded Ordinance and exhibit information.

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
---------------------------	--------------	----------------

Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: Oregon State Historic Preservation Office - SHPO

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

ORDINANCE NO. 2236

AN ORDINANCE AMENDING THE BEND CODE CHAPTER 10.20, HISTORIC PRESERVATION CODE.

Findings

- A. The City of Bend initiated amendments to the Bend Code Chapter 10.20, Historic Preservation Code on December 22, 2014.
- B. On January 20, 2015, the Bend Landmarks Commission opened a public hearing and accepted testimony on the proposed legislative amendments to the Bend Code Chapter 10.20, Historic Preservation Code. On January 20, 2015, the Commission voted to recommend that the City Council approve the proposed text amendment contained in Exhibit A. The Planning Division staff report and recommendation together with the testimony of the persons testifying at the City Council August 20, 2014 public hearing were considered and are part of the record.
- C. The Bend City Council held a public hearing on March 4, 2015, to consider the Landmarks Commission recommendation.
- D. The requested Bend Code amendments approved by this Ordinance are consistent with all applicable criteria, including those set forth in Bend Development Code Chapter 4.6.200.B.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Code Chapter 10.20, Historic Preservation Code is amended as shown in Exhibit A.

First reading: March 4, 2015.

Second reading and adoption by roll call vote: March 18, 2015.

Yes: Jim Clinton, Mayor
Victor Chudowsky
Doug Knight
Sally Russell
Nathan Boddie
Casey Roats
Barb Campbell

No: None



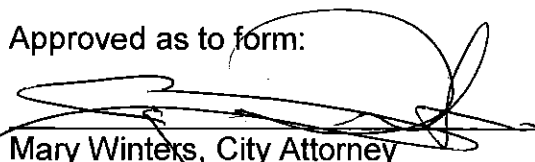
Jim Clinton, Mayor

Attest:



Robyn Christie, City of Bend Recorder

Approved as to form:



Mary Winters, City Attorney

EXHIBIT A

Amendments to Bend Code Chapter 10.20, Historic Preservation Code

Language that is proposed to be inserted is highlighted and underlined. Text to be removed is highlighted and ~~struck through~~.

Chapter 10.20

HISTORIC PRESERVATION CODE Revised 10/14

Sections:

10.20.010 Purpose. Revised 10/14

10.20.020 Applicability. Revised 10/14

10.20.030 Procedures. Revised 10/14

10.20.040 Definitions. Revised 10/14

10.20.050 Criteria of Approval. Revised 10/14

10.20.060 Designation of Historic Resources. Revised 10/14

10.20.070 Removal of Historic Resource Designation. Revised 10/14

10.20.080 Demolition or Moving of Historic Structures. Revised 10/14

10.20.090 Signs/Plaques. Revised 10/14

10.20.100 Capital Improvement Projects. Revised 10/14

10.20.110 Appeals. Revised 10/14

10.20.120 Penalties. Revised 10/14

10.20.130 Design Review Criteria. Revised 10/14

10.20.140 Supplemental Information. Revised 10/14

10.20.010 Purpose. Revised 10/14

The standards and criteria of this chapter were created to implement the Secretary of the Interior's Standards for the treatment of historic properties. The standards are contained in BC 10.20.140. The purpose of this chapter is to implement the Bend Area General Plan's policies regarding the preservation and designation of historic resources that have special historic and prehistoric association or significance as a part of the heritage of the citizens of the City and for the education, enjoyment and pride of the citizens, as well as the beautification of the City and enhancement of the value of such property. The Bend Area General Plan includes the City's official list of historic and cultural resources and sets policy for the protection and designation of these locally recognized historic resources, which are protected by the standards contained within this chapter. This chapter also protects properties registered with the National Register of Historic Places. The Landmarks Commission appointed by the Mayor consistent with the provisions of the Bend Code is responsible for carrying out the provisions of this code and is an advisory body to the City Council on decisions that could affect historic resources. [Ord. NS-2226, 2014; Ord. NS-1970, 2005]

10.20.020 Applicability. Revised 10/14

This chapter applies to historic resources as defined in this chapter that are within the City of Bend. [Ord. NS-2226, 2014; Ord. NS-1970, 2005]

10.20.030 Procedures. Revised 10/14

A. Chapter 4.1 of the Bend Development Code (BDC) provides uniform procedures for reviewing applications. All applications required by this Code are subject to the procedural requirements of Bend Development Code Chapter 4.1.

B. All applications for alterations, additions, new construction, demolition, removal, signs, restoration, rehabilitation and other actions involving a historic resource and addressed by this chapter shall be submitted to the City Community Development Department on the appropriate application form and with the review fee as set by the City Council.

C. No person may alter a designated historic building or building within a historic district to change its exterior appearance, nor may any new ~~building structure~~ be built within a historic district unless approved in accordance with this chapter. Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of exterior architectural features which does not involve a change in design or type of materials.

D. A pre-application meeting is encouraged for complex applications or for applicants who are unfamiliar with the City's historic preservation program or the development review process. The purpose of the pre-application meeting is:

1. To acquaint the applicant with the substantive and procedural requirements;
2. To provide for an exchange of information regarding applicable requirements; and
3. To identify issues likely to arise in processing an application.

E. Applications shall be reviewed according to the processes described below:

1. The following applications are reviewed by the Director via the Type I process:

- a. Fences.
- b. Solar panels ~~not visible from the primary facade of the listed resource~~ a public street.
- c. AC unit/mechanical equipment either rooftop or window mounted ~~not~~ visible from a public street.
- d. Replacement-in-kind such as a front door, residing or reroofing.
- e. Side venting for a fireplace unit or insert provided venting does not impact masonry.
- f. Demolition of nonhistoric features or building.
- g. Signs.
- h. At the discretion of the Director, a Type I application may be elevated to a Type II application.

2. The following applications are reviewed by the Director via the Type II process:

- a. Minor additions and alterations;
- b. At the discretion of the Director, a Type II application may be elevated to a Type III application.

3. The following applications are reviewed by the Landmarks Commission via the Type III process:
 - a. Major alterations;
 - b. New construction;
 - c. Moving or partial/complete demolition of a historic structure.

4. The following applications are reviewed through the Type IV process with the Landmarks Commission serving as the advisory body to the City Council:

- a. Designation or removal of a historic district.
- b. Designation or removal of a historic resource.

F. Except as otherwise provided for in this chapter, all other development regulations contained in the Bend Development Code apply to historic resources and historic districts.

G. All improvements in the public right-of-way shall meet the requirements of the City's standards and specifications. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.040]

10.20.040 Definitions. Revised 10/14

The following words and phrases as used in this chapter shall have the meanings described below. These definitions are used in conjunction with the definitions contained in BDC Chapter 1.2. Where there is a conflicting definition relating to a historic resource, this section shall prevail.

Adaptive reuse means putting a historic structure to a new use and altering its interior and/or exterior and making other modifications to allow for its new use, while retaining the qualities for which the resource has been recognized.

Alteration means the addition to, removal of or from, or physical modification of any exterior part or portion of a structure.

Alteration, major means an addition, removal or reconfiguration which significantly changes the historical or architectural significance of a historic resource including new construction in historic districts.

Alteration, minor means an alteration which does not affect the historical or architectural significance of a structure.

Architectural significance means that the structure, building or district (1) portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or (2) embodies those distinguishing characteristics of an architectural type, or (3) is the work of an architect or master builder whose individual work has influenced the development of the City, or (4) contains elements of architectural design, detail, materials, or craftsmanship which represent an architectural innovation.

Character-defining means the qualities for which the resource has been recognized.

Demolish means to raze, destroy, dismantle, deface or, in any other manner, cause partial or total ruin of a designated structure.

Exterior means any portion of the outside of a designated historic structure and/or building or a structure and/or building in a designated historic district or any addition thereto.

Historic resource means a building, historic or cultural site, structure, object, or historic district that meets the significance and integrity criteria for designation as a landmark designated by the City Council, State of Oregon or National Park Service. Resource types are further described as:

1. **Building:** Shall have the same meaning as defined in BDC Chapter 1.2.
2. **Structure:** Shall have the same meaning as defined in BDC Chapter 1.2.
3. **Historic Object:** A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g., statue, fountain, milepost, monument, sign, etc.
4. **Historic Site:** The location of a significant event, use or occupation which may include associated standing, ruined, or underground features, e.g., battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering areas, etc.
5. **Historic District:** A geographically defined area designated by the National Register of Historic Places possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects unified by past events or aesthetically by plan or physical development. Historic districts consist of contributing and noncontributing properties.

Historic resources of statewide significance are buildings, structures, objects, cultural sites, or districts listed in the National Register of Historic Places, and those located within approved National Register Historic Districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).

Historical significance means that the structure or historical district (1) has character, interest, or value as part of the development, heritage, or cultural characteristics for the City, County, State, or nation; (2) is the site of a historic event with an effect upon society; (3) is identified with a person or group of persons who had some influence on society; or (4) exemplifies the cultural, political, economic, social, or historic heritage of the community.

Inventory is a survey, map, or description of one or more resource sites that is prepared by a local government, State or Federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites.

Landmarks Commission or **Commission** means the Bend Landmarks Commission.

Maintenance means the process of mitigating the wear and deterioration of a property without altering the historic character of the property, including action taken to protect and repair the condition of the property with the least possible impact on the historic character of the property.

Preservation means the process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property, including but not limited to the ongoing maintenance and repair of historic materials, but not including the extensive replacement of historic materials or new construction.

Property owner means the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.

Protect means to require Landmarks Commission review of applications for demolition, removal, or exterior alteration of a historic resource, new construction or signs on the designated property in accordance with the provisions of this chapter so that the defining characteristics of the building and its site and environment are retained.

Real market value has the meaning given in ORS 308.205.

Reconstruction means the process of depicting, by means of new construction, the form, features, and detailing of a nonsurviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Rehabilitation means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Replacement means the process of replacing historic materials and features with new materials when the deterioration of a character-defining material or feature is so extensive that protection, maintenance, or repair is not possible. Replacing severely deteriorated or damaged historic materials with new materials of the same kind as the historic materials and in the same design as the historic element is “replacement.”

Resource, contributing means a building, structure, or object which has been identified by the State or the General Plan as adding to the historical integrity or architectural qualities that make the historic district or resource significant.

Resource, noncontributing means buildings within an historic district identified by the State or General Plan as a contributing resource that does not contribute to the historical integrity or architectural qualities that make the historic district or resource significant.

Restoration means the process of accurately depicting the forms, 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.

Site means the location of a significant event, prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archaeological value regardless of the value of any existing structure.

Structure means anything constructed or built, any edifice or building or any kind, or any pieces of work architecturally built or composed of parts joined together in some definite manner. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.050]

10.20.050 Criteria of Approval. Revised 10/14

A. Applications for Type I applications shall meet the following criterion:

1. The proposal is consistent with this chapter, including the design review criteria of BC 10.20.130.

B. Applications for Type II and III additions to and alterations of existing structures shall meet all of the following criteria of approval:

1. The proposed alteration will not change the qualities for which the structure has been recognized.

2. The alteration will be compatible with the appearance and character of the historic structure or district.

3. The proposal is consistent with the design review criteria of BC 10.20.130.

C. Type II and III applications for the construction of new structures in a historic district shall meet all of the following criteria of approval:

1. The new structure will be compatible with the appearance and character of the historic district.
2. The new structure is consistent with the design review criteria of BC 10.20.130. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.060]

10.20.060 Designation of Historic Resources. Revised 10/14

A. Any individual or organization may apply to designate a building or site as a historic resource with the consent of the property owner. The application shall be processed as a quasi-judicial General Plan amendment with a recommendation from the Landmarks Commission and final decision by the City Council. The criteria for evaluating the request are as follows:

1. The request is consistent with relevant State administrative rules and statutes and with Federal regulations; and
2. The request is consistent with relevant General Plan policies; and
3. The building or site has architectural or historical significance based upon past use; or the site had a prior use involving the establishment, growth, or particular incidents relating to the history of the City.

B. A request to establish a local Historic District or resource shall be processed as a legislative General Plan amendment with a recommendation from the Landmarks Commission and final decision by the City Council. The criteria for evaluating the historic district designation request are as follows:

1. The designation is consistent with relevant State administrative rules and statutes and with Federal regulations; and
2. The designation is consistent with the historic preservation General Plan policies; and
3. The area has architectural or historical significance based upon past use. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.070]

10.20.070 Removal of Historic Resource Designation. Revised 10/14

A. If any historic resource has been demolished or destroyed, no longer possesses the charter-defining features related to its architectural significance for which it was recognized or an error in documentation occurred, the City Council, upon recommendation of the Landmarks Commission, may remove the historic resource designation from the site.

B. If the designation is proposed to be removed from any historic resource, the same process and criteria shall be used as upon the designation as a historic resource.

C. In accordance with ORS 197.772, a property owner shall be allowed to remove a historic designation imposed on the property by the City. [Ord. NS-2226, 2014; Ord. NS-1970, 2005]

10.20.080 Demolition or Moving of Historic Structures. Revised 10/14

The following regulations apply to the demolition and moving of contributing and noncontributing historic resources:

A. The owner shall apply for approval to demolish or move a historic resource to the City of Bend. A pre-application meeting with the City is required.

B. At least 30 days prior to submitting an application to move or demolish a designated historic resource, the applicant shall provide mailed notice of the intended demolition or removal to the

Deschutes County Historical Society and State Historical Preservation Office. The letters shall include the historic name of the resource, the date of construction or significant event associated with the property, a statement of its cultural or historic significance, and the reason for the proposed removal or demolition. Copies of the two mailed notices shall be submitted by the applicant with the demolition or removal application.

C. As part of the pre-application meeting, staff will provide the applicant information regarding financial incentives for historic preservation and adaptive reuse projects including but not limited to the Oregon Special Assessment Program, donations of facade easements, the Federal Investment Tax Credit, the "Preserving Oregon" grants, the "Preserving America's Treasures" grants and special provisions in the International Building Code and International Existing Building Code available for designated historic resources. The applicant shall acknowledge in writing that he/she is aware of the above incentives.

D. At least 30 days before submitting an application for demolition or removal of a historic structure, the applicant shall post a notice on the property notifying the public that the applicant is considering applying to move or demolish a historic structure. The notice shall also invite purchasers and tenants to make written offers to purchase and/or rent the structure. The notice posted on the property shall be placed at a conspicuous location easily visible from the adjacent street. A copy of the notices shall be submitted with the removal or demolition application.

E. An application to move or demolish a historic resource shall contain the following information, if available:

1. The first list of submittal requirements applies to all historic resources, both contributing and noncontributing resources.
 - a. Proof of ownership of the property.
 - b. Whether or not the structure could be adaptively reused.
 - c. Records of how the structure has been used over time.
 - d. Date property was acquired and status of the property under this chapter at the time of acquisition, e.g., whether the property had been designated as a historic resource.
 - e. Statement of the necessity of the action requested.
 - f. Whether or not there is a viable economic or public use for the structure as it exists.
 - g. Alternatives to the requested action that have been studied.
 - h. Records of the current owner's efforts to maintain and rehabilitate the structure in the past five years or since purchasing the structure, if ownership has been for a period of less than five years.
 - i. The information used in the original designation of the property or structure as a historic resource as filed in the Deschutes County Historical Landmarks Commission Historic Sites file or applicable National Register of Historic Places nomination.
 - j. Evidence of structural maintenance including maintenance records for the past five years or since the current owner purchased the building, and whether the current owner has neglected the structure thereby deliberately leading to demolition by neglect.

- k. Records of applications for any available historic preservation or energy efficiency grants or tax incentives.
- l. Whether or not the structure poses a threat to the public health or is a safety or fire hazard and whether or not there is a technically feasible means of alleviating the public health, safety, or fire hazard.
- m. Current photographs of the structure and its setting showing all exterior sides of the structure.
2. The following applies to contributing resources only:
 - a. Records of efforts to sell the property during the past 18 months to a party interested in preserving or adaptively reusing the structure.
 - b. Records of advertisements for tenants for the structure.
 - c. Evidence prepared by parties of comparable lease or rental rates for the structure.
 - d. Architectural plans and construction drawings of the historic structure.
 - e. Copies of all attempts to market the property, such as advertisements, notices, and news articles in magazines, newspapers, and the local historical society newsletter.
 - f. Evidence that the owner(s) are willing to consider in good faith, in the interest of preserving the structure, all reasonable offers to purchase, rent or lease the property and whether the owners have made a good faith effort to locate a tenant or a buyer for the property.
 - g. Reports of registered structural engineers, registered architects or historic preservation contractors with historic preservation experience about the feasibility of rehabilitation, restoration or an adaptive reuse project.
 - h. The importance of the historic structure to the identity of the neighborhood and the importance to the appearance of the built environment and architectural diversity and texture of Bend.
- F. The Landmarks Commission shall make a decision on whether a resource may be demolished or moved based on the following criteria:
 1. The request is consistent with relevant State Administrative Rules and statutes; and
 2. The request is consistent with relevant General Plan policies; and
 3. There is no viable economic alternative to demolition.
- G. The Commission may attach conditions to the decision regarding historic artifacts and/or regarding the future development of the location if other historic resources will be affected by the proposed development.
- H. If the City approves the application for demolition, a building permit may not be issued until all appeals have been exhausted or waived.
- I. The Building Division shall notify the Landmark Commission staff of abatement of dangerous buildings involving historic structures. Landmark Commission staff may work with property owners to remedy the cause for the abatement notice. The Building Division shall entertain requests for extensions of time in processing such abatements to enable the property owner to remedy such dangerous conditions; provided, that the public safety is maintained.

J. The same procedures as stated in this section for demolition shall apply to moving a building or structure. The setting is an important component of the historical context. The site to which the building or structure is moved shall be as similar as is possible to the original setting.

K. When the Landmarks Commission approves the demolition of a historic resource inventoried in the Bend Area General Plan it shall make a recommendation to the City Council regarding whether or not the landmark or historical status should be removed from the General Plan. In making this recommendation the Commission shall consider the following factors among others: The historic resource was part of an ensemble designated as a historic landmark; or the site of the historic resource itself was designated as a significant feature of a historic landmark; or other buildings, structures, or objects on the property are historic resources.

L. Notice of the demolition of a historic resource shall be given to the State after the resource is removed.

M. If a designated historic resource is to be demolished, if it is practical and if funds are available, the Landmarks Commission shall keep a pictorial and graphic history of the historic building or site and obtain artifacts from the building or site which it deems worthy of preservation. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.110 – 10.20.130]

10.20.090 Signs/Plaques. Revised 10/14

- A. No sign or plaque may be displayed on a historic resource except for signs or plaques approved in conformance with this chapter and the Sign Code.
- B. All signs and plaques to be displayed on a historic property must be approved by the City.
- C. Signs that are freestanding, painted on the windows or glass doors or that are similar to signs shown in historic photographs of the structure are permitted.
- D. Signs must be attached to the structure in such a way as to not cause irreversible damage to the building. New signs shall be attached by reusing existing hardware whenever possible. New brackets and bolts on masonry buildings shall be put only in wood or mortar, and not in bricks or rock.
- E. The size of the sign must be in proportion to the size of the historic building. The placement of the sign shall not obscure significant architectural elements of the building.
- F. The type of the sign, font, design and shape of the sign should be compatible with the historic building and the historic character of the historic district.
- G. The materials of which the sign is made must be compatible with the historic building and the historic character of the historic district.
- H. Backlighted or internally illuminated signs are prohibited. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.140]

10.20.100 Capital Improvement Projects. Revised 10/14

Any capital improvement project administered by the City in or adjacent to a designated historical district, building, or site shall be submitted to the Landmarks Commission during the design phase of the project so that any issues raised by the Commission may be addressed. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.150]

10.20.110 Appeals. Revised 10/14

A. An appellant must file a completed notice of appeal in conformance with BDC 4.1.1100.

B. Appeals of Type II decisions shall be heard by the Landmarks Commission as via the Type III process. Appeals of Landmarks Commission decisions shall be to the City Council and shall comply with the appeal procedures contained in Chapter 4.1. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.160]

10.20.120 Penalties. Revised 10/14

A. A violation of this chapter is a Class A civil infraction.

B. Illegal Demolition or Removal of a Historic Resource.

1. The demolition or removal of a historic resource without the appropriate permit shall constitute a misdemeanor and shall be punishable accordingly.

2. The City is authorized to institute a civil action against any person or group of persons who demolishes a designated historic resource without a demolition permit to recover up to 20 percent of the current real market value of the subject property as determined by the Deschutes County Assessor or in the event that the property is sold or conveyed for profit to recover the difference between the sales price and the purchase price by the property owner. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.170]

10.20.130 Design Review Criteria. Revised 10/14

The following design review criteria shall apply to alterations, additions and new construction:

A. Siting.

1. In addition to the zoning requirements, the relationship of new additions and new construction to the street and to the open space between buildings shall be compatible with adjacent historic buildings and with the historic character of the surrounding area.

2. New additions and new construction shall be sited so that the impact to the primary facade(s) is kept to a minimum. Additions shall generally be located at the rear portions of the property or in such locations where they have the least visual impact from public ways.

B. Landscape (Visible from Adjacent Public ~~Right-of-Way~~ street).

1. Alterations and new development shall incorporate traditional landscape elements evident in the historic properties in the surrounding area such as grass, trees, shrubs, picket fences as applicable.

2. Inappropriate landscape treatments, such as berms and extensive ground cover inconsistent with the historic landscaping of the property, are prohibited.

C. Building Height.

1. In addition to the zoning requirements, the height of new additions and new construction shall not exceed the height of the historic building being added onto, or of historic buildings in the surrounding area.

D. Building Massing.

1. New additions shall be articulated in such a manner that no single element is visually larger than the existing historic building.

E. Proportion and Scale.

1. The relationship of height to width of new additions and their sub-elements, such as windows and doors and of alterations, shall be compatible with related elements of the historic building and with the historic character of the surrounding area.

2. The relationship of solids to voids (wall to window) shall be compatible with related elements on the historic building and with the historic character of the surrounding area.

F. Exterior Features.

1. General.

a. To the extent practicable, original historic architectural elements and materials shall be preserved.

b. Architectural elements and materials for new additions shall be compatible with related elements of the historic building and with the historic character of the surrounding area.

c. The preservation, cleaning, repair, and other treatment of original materials shall be done in a manner as to retain the original materials to the most practical extent.

2. Foundations.

a. Concrete or masonry foundations to replace deteriorated wood foundations are permitted. Such new foundations shall be covered with board skirting or similar treatment to match the original appearance and extend to within six to eight inches of the ground level.

b. Concrete or masonry foundations for new additions need not be covered with material that simulates construction techniques that were practiced at the original time of construction.

c. New foundations shall not significantly alter the historic finish floor elevation of the building.

3. Roofs.

a. Roofs on new additions shall be of forms (gabled, hipped, etc.) that are compatible with the historic building and the historic character of the district.

4. Garages/Carports.

a. When feasible, garages and carports shall be located on the site where they have the minimum visual impact from public ~~ways~~ streets.

b. Where garages must face the street front, they shall be designed to minimize their bulk and visual impact. Single-car garage doors should be employed. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly Appendix "B."]

10.20.140 Supplemental Information. Revised 10/14

Design new buildings to be compatible with surrounding buildings that contribute to the overall character of the historic district in terms of height, form, size, scale, massing, proportion, and roof shape.

A. The Secretary of the Interior's Standards for the Treatment of Historic Properties. The Standards are neither technical nor prescriptive, but are intended to promote responsible preservation practices that help protect our Nation's irreplaceable cultural resources. For example, they cannot, in and of themselves, be used to make essential decisions about which features of the historic building should be saved and which can be changed. But once a treatment is selected, the Standards provide philosophical

consistency to the work. The four treatment approaches are Preservation, Rehabilitation, Restoration, and Reconstruction, outlined below in hierarchical order and explained:

1. The first treatment, Preservation, places a high premium on the retention of all historic fabric through conservation, maintenance and repair. It reflects a building's continuum over time, through successive occupancies, and the respectful changes and alterations that are made.
2. Rehabilitation, the second treatment, emphasizes the retention and repair of historic materials, but more latitude is provided for replacement because it is assumed the property is more deteriorated prior to work. (Both Preservation and Rehabilitation standards focus attention on the preservation of those materials, features, finishes, spaces, and spatial relationships that, together, give a property its historic character.)
3. Restoration, the third treatment, focuses on the retention of materials from the most significant time in a property's history, while permitting the removal of materials from other periods.
4. Reconstruction, the fourth treatment, establishes limited opportunities to re-create a nonsurviving site, landscape, building, structure, or object in all new materials.

B. Standards for Preservation.

1. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archaeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

C. Rehabilitation projects must meet the following Standards, as interpreted by the National Park Service, to qualify as "certified rehabilitations" eligible for the 20 percent rehabilitation tax credit. The

Standards are applied to projects in a reasonable manner, taking into consideration economic and technical feasibility.

The Standards apply to historic buildings of all periods, styles, types, materials, and sizes. They apply to both the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment as well as attached, adjacent, or related new construction.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

D. Standards for Restoration.

1. A property will be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.

3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archaeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.

E. Standards for Reconstruction.

1. Reconstruction will be used to depict vanished or nonsurviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archaeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the nonsurviving historic property in materials, design, color, and texture.
5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed. [Ord. NS-2226, 2014]

ORDINANCE NO. NS-_____

AN ORDINANCE AMENDING THE BEND CODE CHAPTER 10.20, HISTORIC PRESERVATION CODE.

Findings

- A. The City of Bend initiated amendments to the Bend Code Chapter 10.20, Historic Preservation Code on December 22, 2014.
- B. On January 20, 2015, the Bend Landmarks Commission opened a public hearing and accepted testimony on the proposed legislative amendments to the Bend Code Chapter 10.20, Historic Preservation Code. On January 20, 2015, the Commission voted to recommend that the City Council approve the proposed text amendment contained in Exhibit A. The Planning Division staff report and recommendation together with the testimony of the persons testifying at the City Council August 20, 2014 public hearing were considered and are part of the record.
- C. The Bend City Council held a public hearing on March 4, 2015, to consider the Landmarks Commission recommendation.
- D. The requested Bend Code amendments approved by this Ordinance are consistent with all applicable criteria, including those set forth in Bend Development Code Chapter 4.6.200.B.

THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Code Chapter 10.20, Historic Preservation Code is amended as shown in Exhibit A.

First reading: March 4, 2015.

Second reading and adoption by roll call vote: March 16, 2015.

YES:

NO:

Jim Clinton, Mayor

Attest:

Robyn Christie, City of Bend Recorder

Approved as to form:

Mary Winters, City Attorney

EXHIBIT A

Amendments to Bend Code Chapter 10.20, Historic Preservation Code

Language that is proposed to be inserted is **highlighted** and underlined. Text to be removed is **highlighted** and ~~struck through~~.

Chapter 10.20

HISTORIC PRESERVATION CODE Revised 10/14

Sections:

10.20.010 Purpose. Revised 10/14

10.20.020 Applicability. Revised 10/14

10.20.030 Procedures. Revised 10/14

10.20.040 Definitions. Revised 10/14

10.20.050 Criteria of Approval. Revised 10/14

10.20.060 Designation of Historic Resources. Revised 10/14

10.20.070 Removal of Historic Resource Designation. Revised 10/14

10.20.080 Demolition or Moving of Historic Structures. Revised 10/14

10.20.090 Signs/Plaques. Revised 10/14

10.20.100 Capital Improvement Projects. Revised 10/14

10.20.110 Appeals. Revised 10/14

10.20.120 Penalties. Revised 10/14

10.20.130 Design Review Criteria. Revised 10/14

10.20.140 Supplemental Information. Revised 10/14

10.20.010 Purpose. Revised 10/14

The standards and criteria of this chapter were created to implement the Secretary of the Interior's Standards for the treatment of historic properties. The standards are contained in [BC 10.20.140](#). The purpose of this chapter is to implement the Bend Area General Plan's policies regarding the preservation and designation of historic resources that have special historic and prehistoric association or significance as a part of the heritage of the citizens of the City and for the education, enjoyment and pride of the citizens, as well as the beautification of the City and enhancement of the value of such property. The Bend Area General Plan includes the City's official list of historic and cultural resources and sets policy for the protection and designation of these locally recognized historic resources, which are protected by the standards contained within this chapter. This chapter also protects properties registered with the National Register of Historic Places. The Landmarks Commission appointed by the Mayor consistent with the provisions of the Bend Code is responsible for carrying out the provisions of this code and is an advisory body to the City Council on decisions that could affect historic resources. [Ord. NS-2226, 2014; Ord. NS-1970, 2005]

10.20.020 Applicability. Revised 10/14

This chapter applies to historic resources as defined in this chapter that are within the City of Bend.
[Ord. NS-2226, 2014; Ord. NS-1970, 2005]

10.20.030 Procedures. Revised 10/14

- A. Chapter 4.1 of the Bend Development Code (BDC) provides uniform procedures for reviewing applications. All applications required by this Code are subject to the procedural requirements of Bend Development Code Chapter 4.1.
- B. All applications for alterations, additions, new construction, demolition, removal, signs, restoration, rehabilitation and other actions involving a historic resource and addressed by this chapter shall be submitted to the City Community Development Department on the appropriate application form and with the review fee as set by the City Council.
- C. No person may alter a designated historic building or building within a historic district to change its exterior appearance, nor may any new **building structure** be built within a historic district unless approved in accordance with this chapter. Nothing in this chapter shall be construed to prevent ordinary maintenance or repair of exterior architectural features which does not involve a change in design or type of materials.
- D. A pre-application meeting is encouraged for complex applications or for applicants who are unfamiliar with the City's historic preservation program or the development review process. The purpose of the pre-application meeting is:
1. To acquaint the applicant with the substantive and procedural requirements;
 2. To provide for an exchange of information regarding applicable requirements; and
 3. To identify issues likely to arise in processing an application.
- E. Applications shall be reviewed according to the processes described below:
1. The following applications are reviewed by the Director via the Type I process:
 - a. Fences.
 - b. Solar panels **not** visible from **the primary facade of the listed resource a public street.**
 - c. AC unit/mechanical equipment either rooftop or window mounted **not** visible from a public street.
 - d. Replacement-in-kind such as a front door, residing or reroofing.
 - e. Side venting for a fireplace unit or insert provided venting does not impact masonry.
 - f. Demolition of nonhistoric features or building.
 - g. Signs.
 - h. At the discretion of the Director, a Type I application may be elevated to a Type II application.
 2. The following applications are reviewed by the Director via the Type II process:
 - a. Minor additions and alterations;
 - b. At the discretion of the Director, a Type II application may be elevated to a Type III application.

3. The following applications are reviewed by the Landmarks Commission via the Type III process:
 - a. Major alterations;
 - b. New construction;
 - c. Moving or partial/complete demolition of a historic structure.

4. The following applications are reviewed through the Type IV process with the Landmarks Commission serving as the advisory body to the City Council:

- a. Designation or removal of a historic district.
- b. Designation or removal of a historic resource.

F. Except as otherwise provided for in this chapter, all other development regulations contained in the Bend Development Code apply to historic resources and historic districts.

G. All improvements in the public right-of-way shall meet the requirements of the City's standards and specifications. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.040]

10.20.040 Definitions. Revised 10/14

The following words and phrases as used in this chapter shall have the meanings described below. These definitions are used in conjunction with the definitions contained in [BDC Chapter 1.2](#). Where there is a conflicting definition relating to a historic resource, this section shall prevail.

Adaptive reuse means putting a historic structure to a new use and altering its interior and/or exterior and making other modifications to allow for its new use, while retaining the qualities for which the resource has been recognized.

Alteration means the addition to, removal of or from, or physical modification of any exterior part or portion of a structure.

Alteration, major means an addition, removal or reconfiguration which significantly changes the historical or architectural significance of a historic resource including new construction in historic districts.

Alteration, minor means an alteration which does not affect the historical or architectural significance of a structure.

Architectural significance means that the structure, building or district (1) portrays the environment of a group of people in an era of history characterized by a distinctive architectural style, or (2) embodies those distinguishing characteristics of an architectural type, or (3) is the work of an architect or master builder whose individual work has influenced the development of the City, or (4) contains elements of architectural design, detail, materials, or craftsmanship which represent an architectural innovation.

Character-defining means the qualities for which the resource has been recognized.

Demolish means to raze, destroy, dismantle, deface or, in any other manner, cause partial or total ruin of a designated structure.

Exterior means any portion of the outside of a designated historic structure and/or building or a structure and/or building in a designated historic district or any addition thereto.

Historic resource means a building, historic or cultural site, structure, object, or historic district that meets the significance and integrity criteria for designation as a landmark designated by the City Council, State of Oregon or National Park Service. Resource types are further described as:

1. **Building:** Shall have the same meaning as defined in [BDC Chapter 1.2](#).
2. **Structure:** Shall have the same meaning as defined in [BDC Chapter 1.2](#).
3. **Historic Object:** A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g., statue, fountain, milepost, monument, sign, etc.
4. **Historic Site:** The location of a significant event, use or occupation which may include associated standing, ruined, or underground features, e.g., battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering areas, etc.
5. **Historic District:** A geographically defined area designated by the National Register of Historic Places possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects unified by past events or aesthetically by plan or physical development. Historic districts consist of contributing and noncontributing properties.

Historic resources of statewide significance are buildings, structures, objects, cultural sites, or districts listed in the National Register of Historic Places, and those located within approved National Register Historic Districts pursuant to the National Historic Preservation Act of 1966 (PL 89-665; [16 U.S.C. 470](#)).

Historical significance means that the structure or historical district (1) has character, interest, or value as part of the development, heritage, or cultural characteristics for the City, County, State, or nation; (2) is the site of a historic event with an effect upon society; (3) is identified with a person or group of persons who had some influence on society; or (4) exemplifies the cultural, political, economic, social, or historic heritage of the community.

Inventory is a survey, map, or description of one or more resource sites that is prepared by a local government, State or Federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, “inventory” means to collect, prepare, compile, or refine information about one or more resource sites.

Landmarks Commission or **Commission** means the Bend Landmarks Commission.

Maintenance means the process of mitigating the wear and deterioration of a property without altering the historic character of the property, including action taken to protect and repair the condition of the property with the least possible impact on the historic character of the property.

Preservation means the process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property, including but not limited to the ongoing maintenance and repair of historic materials, but not including the extensive replacement of historic materials or new construction.

Property owner means the owner of record or the contract purchaser and does not include a person or organization that holds a security interest.

Protect means to require Landmarks Commission review of applications for demolition, removal, or exterior alteration of a historic resource, new construction or signs on the designated property in accordance with the provisions of this chapter so that the defining characteristics of the building and its site and environment are retained.

Real market value has the meaning given in ORS [308.205](#).

Reconstruction means the process of depicting, by means of new construction, the form, features, and detailing of a nonsurviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Rehabilitation means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Replacement means the process of replacing historic materials and features with new materials when the deterioration of a character-defining material or feature is so extensive that protection, maintenance, or repair is not possible. Replacing severely deteriorated or damaged historic materials with new materials of the same kind as the historic materials and in the same design as the historic element is “replacement.”

Resource, contributing means a building, structure, or object which has been identified by the State or the General Plan as adding to the historical integrity or architectural qualities that make the historic district or resource significant.

Resource, noncontributing means buildings within an historic district identified by the State or General Plan as a contributing resource that does not contribute to the historical integrity or architectural qualities that make the historic district or resource significant.

Restoration means the process of accurately depicting the forms, 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.

Site means the location of a significant event, prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archaeological value regardless of the value of any existing structure.

Structure means anything constructed or built, any edifice or building or any kind, or any pieces of work architecturally built or composed of parts joined together in some definite manner. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.050]

10.20.050 Criteria of Approval. Revised 10/14

A. Applications for Type I applications shall meet the following criterion:

1. The proposal is consistent with this chapter, including the design review criteria of [BC 10.20.130](#).

B. Applications for Type II and III additions to and alterations of existing structures shall meet all of the following criteria of approval:

1. The proposed alteration will not change the qualities for which the structure has been recognized.

2. The alteration will be compatible with the appearance and character of the historic structure or district.

3. The proposal is consistent with the design review criteria of [BC 10.20.130](#).

C. Type II and III applications for the construction of new structures in a historic district shall meet all of the following criteria of approval:

1. The new structure will be compatible with the appearance and character of the historic district.
2. The new structure is consistent with the design review criteria of [BC 10.20.130](#). [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.060]

10.20.060 Designation of Historic Resources. Revised 10/14

A. Any individual or organization may apply to designate a building or site as a historic resource with the consent of the property owner. The application shall be processed as a quasi-judicial General Plan amendment with a recommendation from the Landmarks Commission and final decision by the City Council. The criteria for evaluating the request are as follows:

1. The request is consistent with relevant State administrative rules and statutes and with Federal regulations; and
2. The request is consistent with relevant General Plan policies; and
3. The building or site has architectural or historical significance based upon past use; or the site had a prior use involving the establishment, growth, or particular incidents relating to the history of the City.

B. A request to establish a local Historic District or resource shall be processed as a legislative General Plan amendment with a recommendation from the Landmarks Commission and final decision by the City Council. The criteria for evaluating the historic district designation request are as follows:

1. The designation is consistent with relevant State administrative rules and statutes and with Federal regulations; and
2. The designation is consistent with the historic preservation General Plan policies; and
3. The area has architectural or historical significance based upon past use. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.070]

10.20.070 Removal of Historic Resource Designation. Revised 10/14

A. If any historic resource has been demolished or destroyed, no longer possesses the charter-defining features related to its architectural significance for which it was recognized or an error in documentation occurred, the City Council, upon recommendation of the Landmarks Commission, may remove the historic resource designation from the site.

B. If the designation is proposed to be removed from any historic resource, the same process and criteria shall be used as upon the designation as a historic resource.

C. In accordance with ORS [197.772](#), a property owner shall be allowed to remove a historic designation imposed on the property by the City. [Ord. NS-2226, 2014; Ord. NS-1970, 2005]

10.20.080 Demolition or Moving of Historic Structures. Revised 10/14

The following regulations apply to the demolition and moving of contributing and noncontributing historic resources:

A. The owner shall apply for approval to demolish or move a historic resource to the City of Bend. A pre-application meeting with the City is required.

B. At least 30 days prior to submitting an application to move or demolish a designated historic resource, the applicant shall provide mailed notice of the intended demolition or removal to the

Deschutes County Historical Society and State Historical Preservation Office. The letters shall include the historic name of the resource, the date of construction or significant event associated with the property, a statement of its cultural or historic significance, and the reason for the proposed removal or demolition. Copies of the two mailed notices shall be submitted by the applicant with the demolition or removal application.

C. As part of the pre-application meeting, staff will provide the applicant information regarding financial incentives for historic preservation and adaptive reuse projects including but not limited to the Oregon Special Assessment Program, donations of facade easements, the Federal Investment Tax Credit, the “Preserving Oregon” grants, the “Preserving America’s Treasures” grants and special provisions in the International Building Code and International Existing Building Code available for designated historic resources. The applicant shall acknowledge in writing that he/she is aware of the above incentives.

D. At least 30 days before submitting an application for demolition or removal of a historic structure, the applicant shall post a notice on the property notifying the public that the applicant is considering applying to move or demolish a historic structure. The notice shall also invite purchasers and tenants to make written offers to purchase and/or rent the structure. The notice posted on the property shall be placed at a conspicuous location easily visible from the adjacent street. A copy of the notices shall be submitted with the removal or demolition application.

E. An application to move or demolish a historic resource shall contain the following information, if available:

1. The first list of submittal requirements applies to all historic resources, both contributing and noncontributing resources.
 - a. Proof of ownership of the property.
 - b. Whether or not the structure could be adaptively reused.
 - c. Records of how the structure has been used over time.
 - d. Date property was acquired and status of the property under this chapter at the time of acquisition, e.g., whether the property had been designated as a historic resource.
 - e. Statement of the necessity of the action requested.
 - f. Whether or not there is a viable economic or public use for the structure as it exists.
 - g. Alternatives to the requested action that have been studied.
 - h. Records of the current owner’s efforts to maintain and rehabilitate the structure in the past five years or since purchasing the structure, if ownership has been for a period of less than five years.
 - i. The information used in the original designation of the property or structure as a historic resource as filed in the Deschutes County Historical Landmarks Commission Historic Sites file or applicable National Register of Historic Places nomination.
 - j. Evidence of structural maintenance including maintenance records for the past five years or since the current owner purchased the building, and whether the current owner has neglected the structure thereby deliberately leading to demolition by neglect.

- k. Records of applications for any available historic preservation or energy efficiency grants or tax incentives.
- l. Whether or not the structure poses a threat to the public health or is a safety or fire hazard and whether or not there is a technically feasible means of alleviating the public health, safety, or fire hazard.
- m. Current photographs of the structure and its setting showing all exterior sides of the structure.
- 2. The following applies to contributing resources only:
 - a. Records of efforts to sell the property during the past 18 months to a party interested in preserving or adaptively reusing the structure.
 - b. Records of advertisements for tenants for the structure.
 - c. Evidence prepared by parties of comparable lease or rental rates for the structure.
 - d. Architectural plans and construction drawings of the historic structure.
 - e. Copies of all attempts to market the property, such as advertisements, notices, and news articles in magazines, newspapers, and the local historical society newsletter.
 - f. Evidence that the owner(s) are willing to consider in good faith, in the interest of preserving the structure, all reasonable offers to purchase, rent or lease the property and whether the owners have made a good faith effort to locate a tenant or a buyer for the property.
 - g. Reports of registered structural engineers, registered architects or historic preservation contractors with historic preservation experience about the feasibility of rehabilitation, restoration or an adaptive reuse project.
 - h. The importance of the historic structure to the identity of the neighborhood and the importance to the appearance of the built environment and architectural diversity and texture of Bend.
- F. The Landmarks Commission shall make a decision on whether a resource may be demolished or moved based on the following criteria:
 - 1. The request is consistent with relevant State Administrative Rules and statutes; and
 - 2. The request is consistent with relevant General Plan policies; and
 - 3. There is no viable economic alternative to demolition.
- G. The Commission may attach conditions to the decision regarding historic artifacts and/or regarding the future development of the location if other historic resources will be affected by the proposed development.
- H. If the City approves the application for demolition, a building permit may not be issued until all appeals have been exhausted or waived.
- I. The Building Division shall notify the Landmark Commission staff of abatement of dangerous buildings involving historic structures. Landmark Commission staff may work with property owners to remedy the cause for the abatement notice. The Building Division shall entertain requests for extensions of time in processing such abatements to enable the property owner to remedy such dangerous conditions; provided, that the public safety is maintained.

J. The same procedures as stated in this section for demolition shall apply to moving a building or structure. The setting is an important component of the historical context. The site to which the building or structure is moved shall be as similar as is possible to the original setting.

K. When the Landmarks Commission approves the demolition of a historic resource inventoried in the Bend Area General Plan it shall make a recommendation to the City Council regarding whether or not the landmark or historical status should be removed from the General Plan. In making this recommendation the Commission shall consider the following factors among others: The historic resource was part of an ensemble designated as a historic landmark; or the site of the historic resource itself was designated as a significant feature of a historic landmark; or other buildings, structures, or objects on the property are historic resources.

L. Notice of the demolition of a historic resource shall be given to the State after the resource is removed.

M. If a designated historic resource is to be demolished, if it is practical and if funds are available, the Landmarks Commission shall keep a pictorial and graphic history of the historic building or site and obtain artifacts from the building or site which it deems worthy of preservation. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.110 – 10.20.130]

10.20.090 Signs/Plaques. Revised 10/14

A. No sign or plaque may be displayed on a historic resource except for signs or plaques approved in conformance with this chapter and the Sign Code.

B. All signs and plaques to be displayed on a historic property must be approved by the City.

C. Signs that are freestanding, painted on the windows or glass doors or that are similar to signs shown in historic photographs of the structure are permitted.

D. Signs must be attached to the structure in such a way as to not cause irreversible damage to the building. New signs shall be attached by reusing existing hardware whenever possible. New brackets and bolts on masonry buildings shall be put only in wood or mortar, and not in bricks or rock.

E. The size of the sign must be in proportion to the size of the historic building. The placement of the sign shall not obscure significant architectural elements of the building.

F. The type of the sign, font, design and shape of the sign should be compatible with the historic building and the historic character of the historic district.

G. The materials of which the sign is made must be compatible with the historic building and the historic character of the historic district.

H. Backlighted or internally illuminated signs are prohibited. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.140]

10.20.100 Capital Improvement Projects. Revised 10/14

Any capital improvement project administered by the City in or adjacent to a designated historical district, building, or site shall be submitted to the Landmarks Commission during the design phase of the project so that any issues raised by the Commission may be addressed. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.150]

10.20.110 Appeals. Revised 10/14

- A. An appellant must file a completed notice of appeal in conformance with [BDC 4.1.1100](#).
- B. Appeals of Type II decisions shall be heard by the Landmarks Commission as via the Type III process. Appeals of Landmarks Commission decisions shall be to the City Council and shall comply with the appeal procedures contained in Chapter 4.1. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.160]

10.20.120 Penalties. Revised 10/14

- A. A violation of this chapter is a Class A civil infraction.
- B. Illegal Demolition or Removal of a Historic Resource.
 - 1. The demolition or removal of a historic resource without the appropriate permit shall constitute a misdemeanor and shall be punishable accordingly.
 - 2. The City is authorized to institute a civil action against any person or group of persons who demolishes a designated historic resource without a demolition permit to recover up to 20 percent of the current real market value of the subject property as determined by the Deschutes County Assessor or in the event that the property is sold or conveyed for profit to recover the difference between the sales price and the purchase price by the property owner. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly 10.20.170]

10.20.130 Design Review Criteria. Revised 10/14

The following design review criteria shall apply to alterations, additions and new construction:

- A. Siting.
 - 1. In addition to the zoning requirements, the relationship of new additions and new construction to the street and to the open space between buildings shall be compatible with adjacent historic buildings and with the historic character of the surrounding area.
 - 2. New additions and new construction shall be sited so that the impact to the primary facade(s) is kept to a minimum. Additions shall generally be located at the rear portions of the property or in such locations where they have the least visual impact from public ways.
- B. Landscape (Visible from Adjacent Public ~~Right of Way~~ street).
 - 1. Alterations and new development shall incorporate traditional landscape elements evident in the historic properties in the surrounding area such as grass, trees, shrubs, picket fences as applicable.
 - 2. Inappropriate landscape treatments, such as berms and extensive ground cover inconsistent with the historic landscaping of the property, are prohibited.
- C. Building Height.
 - 1. In addition to the zoning requirements, the height of new additions and new construction shall not exceed the height of the historic building being added onto, or of historic buildings in the surrounding area.
- D. Building Massing.
 - 1. New additions shall be articulated in such a manner that no single element is visually larger than the existing historic building.

E. Proportion and Scale.

1. The relationship of height to width of new additions and their sub-elements, such as windows and doors and of alterations, shall be compatible with related elements of the historic building and with the historic character of the surrounding area.
2. The relationship of solids to voids (wall to window) shall be compatible with related elements on the historic building and with the historic character of the surrounding area.

F. Exterior Features.

1. General.

- a. To the extent practicable, original historic architectural elements and materials shall be preserved.
- b. Architectural elements and materials for new additions shall be compatible with related elements of the historic building and with the historic character of the surrounding area.
- c. The preservation, cleaning, repair, and other treatment of original materials shall be done in a manner as to retain the original materials to the most practical extent.

2. Foundations.

- a. Concrete or masonry foundations to replace deteriorated wood foundations are permitted. Such new foundations shall be covered with board skirting or similar treatment to match the original appearance and extend to within six to eight inches of the ground level.
- b. Concrete or masonry foundations for new additions need not be covered with material that simulates construction techniques that were practiced at the original time of construction.
- c. New foundations shall not significantly alter the historic finish floor elevation of the building.

3. Roofs.

- a. Roofs on new additions shall be of forms (gabled, hipped, etc.) that are compatible with the historic building and the historic character of the district.

4. Garages/Carports.

- a. When feasible, garages and carports shall be located on the site where they have the minimum visual impact from public **ways streets**.
- b. Where garages must face the street front, they shall be designed to minimize their bulk and visual impact. Single-car garage doors should be employed. [Ord. NS-2226, 2014; Ord. NS-1970, 2005. Formerly Appendix "B."]

10.20.140 Supplemental Information. Revised 10/14

Design new buildings to be compatible with surrounding buildings that contribute to the overall character of the historic district in terms of height, form, size, scale, massing, proportion, and roof shape.

A. The Secretary of the Interior's Standards for the Treatment of Historic Properties. The Standards are neither technical nor prescriptive, but are intended to promote responsible preservation practices that help protect our Nation's irreplaceable cultural resources. For example, they cannot, in and of themselves, be used to make essential decisions about which features of the historic building should be saved and which can be changed. But once a treatment is selected, the Standards provide philosophical

consistency to the work. The four treatment approaches are Preservation, Rehabilitation, Restoration, and Reconstruction, outlined below in hierarchical order and explained:

1. The first treatment, Preservation, places a high premium on the retention of all historic fabric through conservation, maintenance and repair. It reflects a building's continuum over time, through successive occupancies, and the respectful changes and alterations that are made.
2. Rehabilitation, the second treatment, emphasizes the retention and repair of historic materials, but more latitude is provided for replacement because it is assumed the property is more deteriorated prior to work. (Both Preservation and Rehabilitation standards focus attention on the preservation of those materials, features, finishes, spaces, and spatial relationships that, together, give a property its historic character.)
3. Restoration, the third treatment, focuses on the retention of materials from the most significant time in a property's history, while permitting the removal of materials from other periods.
4. Reconstruction, the fourth treatment, establishes limited opportunities to re-create a nonsurviving site, landscape, building, structure, or object in all new materials.

B. Standards for Preservation.

1. A property will be used as it was historically, or be given a new use that maximizes the retention of distinctive materials, features, spaces, and spatial relationships. Where a treatment and use have not been identified, a property will be protected and, if necessary, stabilized until additional work may be undertaken.
2. The historic character of a property will be retained and preserved. The replacement of intact or repairable historic materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate, and conserve existing historic materials and features will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. The existing condition of historic features will be evaluated to determine the appropriate level of intervention needed. Where the severity of deterioration requires repair or limited replacement of a distinctive feature, the new material will match the old in composition, design, color, and texture.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archaeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.

C. Rehabilitation projects must meet the following Standards, as interpreted by the National Park Service, to qualify as "certified rehabilitations" eligible for the 20 percent rehabilitation tax credit. The

Standards are applied to projects in a reasonable manner, taking into consideration economic and technical feasibility.

The Standards apply to historic buildings of all periods, styles, types, materials, and sizes. They apply to both the exterior and the interior of historic buildings. The Standards also encompass related landscape features and the building's site and environment as well as attached, adjacent, or related new construction.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

D. Standards for Restoration.

1. A property will be used as it was historically or be given a new use which reflects the property's restoration period.
2. Materials and features from the restoration period will be retained and preserved. The removal of materials or alteration of features, spaces, and spatial relationships that characterize the period will not be undertaken.

3. Each property will be recognized as a physical record of its time, place, and use. Work needed to stabilize, consolidate and conserve materials and features from the restoration period will be physically and visually compatible, identifiable upon close inspection, and properly documented for future research.
4. Materials, features, spaces, and finishes that characterize other historical periods will be documented prior to their alteration or removal.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the restoration period will be preserved.
6. Deteriorated features from the restoration period will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials.
7. Replacement of missing features from the restoration period will be substantiated by documentary and physical evidence. A false sense of history will not be created by adding conjectural features, features from other properties, or by combining features that never existed together historically.
8. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
9. Archaeological resources affected by a project will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
10. Designs that were never executed historically will not be constructed.

E. Standards for Reconstruction.

1. Reconstruction will be used to depict vanished or nonsurviving portions of a property when documentary and physical evidence is available to permit accurate reconstruction with minimal conjecture, and such reconstruction is essential to the public understanding of the property.
2. Reconstruction of a landscape, building, structure, or object in its historic location will be preceded by a thorough archaeological investigation to identify and evaluate those features and artifacts which are essential to an accurate reconstruction. If such resources must be disturbed, mitigation measures will be undertaken.
3. Reconstruction will include measures to preserve any remaining historic materials, features, and spatial relationships.
4. Reconstruction will be based on the accurate duplication of historic features and elements substantiated by documentary or physical evidence rather than on conjectural designs or the availability of different features from other historic properties. A reconstructed property will re-create the appearance of the nonsurviving historic property in materials, design, color, and texture.
5. A reconstruction will be clearly identified as a contemporary re-creation.
6. Designs that were never executed historically will not be constructed. [Ord. NS-2226, 2014]