

TITLE 16. PROVO CITY LANDMARKS PRESERVATION

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Chapter 16.01. General Provisions.

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16.01.010. Short Title.

This Title shall be known as the Landmarks Preservation Title of the Provo City Code, and may be so cited and pleaded. Said Title shall be referred to herein as "this Title," and the chapters and sections hereinafter referred to shall be chapters and sections of this Title. (Enacted 1994-107)

16.01.020. Purpose and Intent.

This Title and the regulations and restrictions contained therein are adopted and enacted for the purpose of promoting the health, safety, morals, and welfare of the present and future inhabitants of Provo City, including but not limited to the following:

- (1) to safeguard the City's historic and cultural heritage, as embodied and reflected in its landmarks and historic districts;
- (2) to revitalize neighborhoods by restoring confidence and creating an environment conducive to reinvestment and continued maintenance;
- (3) to stabilize and enhance property values;
- (4) to foster community identity and civic pride;
- (5) to protect, enhance, and perpetuate the use of structures, sites and areas that are reminders of past eras, events, and persons important in local, state, or national history; or which reflect the distinct phases of the City's, State's, or Nation's cultural, social, economic, political, and architectural heritage;
- (6) to educate citizens about Provo's history;
- (7) to promote compatible new development while at the same time protecting the old;
- (8) to protect and enhance the City's attractions to residents, tourists, and visitors, and serve as a support and stimulus to business and industry;
- (9) to strengthen the economy of the City;
- (10) to generally improve the quality of life in the City; and
- (11) to maintain community integrity for future generations.

(Enacted 1994-107)

16.01.030. Definitions.

For the purposes of this Title, certain words and terms shall be interpreted as follows:

- (1) Words used in the present tense include the future.
- (2) Words in the singular number include the plural and the plural will include the singular.
- (3) Words which are not included herein, but are defined in the International Building Code, shall have the meaning as defined within said International Building Code.

(4) Chapter and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any chapter or section herein.

"**Alteration**" means any act or process that changes one (1) or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.

"**Certificate of Appropriateness**" means a certificate issued by the Landmarks Commission indicating its approval of plans for alteration, construction, removal, or demolition of a landmark or of a structure within a historic district.

"**Certificate of Economic Hardship**" means a certificate issued by the Landmarks Commission authorizing an alteration, construction, removal, or demolition, even though a Certificate of Appropriateness has previously been denied.

"**Commission**" means the Provo City Landmarks Commission as designated by this Title.

"**Construction**" means the act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

"**Contributory building or site**" means a building or site which individually may lack the necessary historical or architectural significance to merit designation as a historic landmark, but which, because it is either a part of a group nomination or historic district, does still contribute to the overall character of the group or district and should be protected.

"**Council**" means the Provo City Municipal Council.

"**Demolition**" means any act or process that destroys in part or in whole a historic site, landmark, or a structure within a historic district.

"**Design guideline**" means a standard of appropriate activity that will preserve the historic and architectural character of a structure or site.

"**Designation**" means the legal listing of a site, structure, building, natural feature, or district, as a historic site or landmark pursuant to this title.

"**Emergency Situations**" means any unforeseen circumstances or combination of circumstances which calls for immediate action by the Commission, in order to obtain building and demolition permits to remedy a damaging, dangerous, unhealthy, or otherwise adverse situation to a nominated or designated historic landmark.

"**Hazardous or Dangerous Building**" means a building which has been determined by the Chief Building Official to be structurally unsound or unsafe to the general public in accordance with the provisions of Section 203 of the International Building Code.

"**Historic District**" means an area of defined geographic boundaries which may contain one (1) or more historic sites or landmarks, and which may have within its boundaries other properties that, while not of such historic or architectural significance to be designated as landmarks or historic sites, nevertheless contribute to the overall visual characteristics and integrity of the significant properties within the district.

"**Historic Site**" means any district, building, structure, object, or site, formally designated to the Provo List of Historic Sites pursuant to procedures prescribed herein.

"**International Building Code**" means the building code applicable to Provo City as provided in Section 9.52.010, Provo City Code.

"**Intensive Level Survey**" means detailed historic research and documentation of the structure's significance, including information on previous owners (chain of title), the builder, and architect; significant events that may have taken place on the property; a detailed description of the building and site, including the form and style of the building, distinctive architectural features, exterior materials, and

a description of any additions or changes that may have altered the original character of the structure.

"Landmark" means any property or structure formally designated to the Provo Landmarks Register pursuant to procedures prescribed herein.

"Landmarks Commission" means the Provo City Landmarks Commission.

"Nomination" is the act of proposing a site, structure, building, natural feature, or district to be formally designated as a historic resource, in accordance with applicable provisions of this Title.

"Owner of record" means the person, corporation, or other legal entity listed as owner on the records of the County Recorder of Deeds.

"Relocation" means any relocation of a building or structure on its site or to another site in Provo City.

"Significant Building, Structure, or Site" means a building, structure, or site which has been found by the Landmarks Commission, or a qualified historic preservation consultant, to possess enough historic and/or architectural value and structural integrity to be potentially eligible for listing on the Provo Historic Sites List or Landmarks Register. (Enacted 1994-107, Am 1996-30, Am 2006-50)

16.01.040. Issuance of Licenses and Permits.

Licenses and permits shall not be granted for the construction or alteration of any building or structure, or for the relocation of a building onto a lot, or for the change of the use in any land, building, or structure if such construction, alteration, moving, or change in use would be a violation of any of the provisions of this Title. (Enacted 1994-107)

16.01.050. Violation of a Misdemeanor.

Any person, firm, or corporation, whether as principal, agent, employee, or otherwise, violating or causing or permitting the violation of any of the provisions of this Title shall be guilty of a misdemeanor; and upon conviction thereof shall be punishable by a fine of not more than two hundred ninety-nine dollars (\$299.00) or by imprisonment for a term not exceeding six (6) months, or by both such fine and imprisonment. Such person, firm or corporation shall be deemed guilty of a separate offense for each and every day during which any portion of any violation of this Title is committed. (Enacted 1994-107)

Chapter 16.02. Landmarks Commission.

- 16.02.010. Creation and Membership.
- 16.02.020. Duties and Powers.
- 16.02.030. Jurisdiction.
- 16.02.040. Commission Meetings.

16.02.010. Creation and Membership.

(1) In order to execute the purposes declared in this Title, there is hereby created the Provo City Landmarks Commission which shall consist of seven (7) voting members, and two (2) "alternate" non-voting members. Alternate members may vote in place of absent commission members, and shall be called upon to do so when it is necessary to fill a quorum.

(2) Members appointed to the Commission shall have a demonstrated interest, competence, or knowledge in historic preservation.

(3) At least three (3) members shall be professionals from the disciplines of history, archaeology, planning, law, architecture or architectural history.

(4) Members shall be appointed by the Mayor, with the advice of the Municipal Council, and shall serve for terms of four (4) years.

Appointments shall be made so that the composition specified herein is maintained. The terms of the first Commission appointees only, shall be as follows: one (1) member - one (1) year; two (2) members - two (2) years; two (2) members three (3) years; and two (2) members - four (4) years. Alternate members shall serve for four (4) year terms.

(5) In the event of a vacancy, the Mayor shall make an appointment to fill that vacancy with the advice and consent of the Municipal Council. The person appointed shall hold the appointment for the unexpired term and shall represent the same membership category as vacated. Members of the Commission shall serve at the pleasure of the Mayor and Council, without compensation and be eligible for reappointment.

(6) The Commission shall meet in accordance with the requirements of Section 16.02.040, Provo City Code.

(7) Written or recorded minutes of each Commission meeting shall be prepared and made available for public inspection in accordance with the requirements of Section 16.02.040, Provo City Code. (Enacted 1994-107, Am 1997-36, Am 2004-12, Am 2006-50)

16.02.020. Duties and Powers.

The Landmarks Commission shall have the following duties and powers:

(1) Survey and Inventory Community Historic Resources. The Landmarks Commission shall conduct or cause to be conducted a survey of the historic, architectural, and archaeological resources within the community. The survey shall be compatible with the Utah Inventory of Historic and Archaeological Sites. Survey and inventory documents shall be maintained and shall be open to the public. The survey shall be updated at least every ten (10) years.

(2) Recommend the designation of historic sites and landmarks to the Municipal Council in accordance with the procedures of this Title.

(3) Review applications for Certificates of Historic Appropriateness concerning any alteration or construction affecting a designated, or formally nominated, historic resource, including but not limited to alterations that require a permit from the Building Inspections Division.

(4) Review all applications for rezoning, conditional use permits, and variances which apply to designated or formally nominated, historic resources. Recommendations of the Commission shall be forwarded to the Planning Commission, Board of Adjustment, or Municipal Council, depending on which body makes the final decision on the matter.

(5) Review applications for Redevelopment Agency rehabilitation and historic preservation loans to determine the historic appropriateness of the application. Recommendations of the Commission shall be forwarded to the Municipal Council.

(6) Recommend future policies and programs to the Municipal Council which will further the purposes of historic preservation, and to carry out such programs and policies as directed by the Municipal Council. The Landmarks Commission shall prepare and recommend a Historic Preservation Element in the Provo General Plan.

(7) Review and comment upon nominations for the National Register of Historic Places as referred to the Commission by the Utah State Division of History.

(8) Provide the Planning Commission with a regular update of historic preservation projects in the community.

(9) Support the enforcement of all state laws relating to historic preservation. These include, but are not limited to: U.C.A. 17A-3-1301, "The Historic District Act;" U.C.A. 9-8-305, 307, and 308 regarding the protection of Utah antiquities; and U.C.A. 9-8-404 regarding notification of the State Historic Preservation Office of any known proposed action which will destroy or affect a site, building or

object owned by the State of Utah and included on or eligible for the State of National Registers. (Enacted 1994-107)

16.02.030. Jurisdiction.

- (1) Jurisdiction of the Commission shall be limited to:
 - (a) designated historic sites and landmarks as defined in this Title, and
 - (b) formally nominated potential historic resources, pending designation procedures only.
 - (c) Nothing in this Title shall be construed to apply to structures and sites that have been condemned by the Chief Building Official as being "dangerous or hazardous" properties, prior to the enactment date of this Title. (December 13, 1994)

(2) The Commission shall be concerned with elements of development, reconstruction, redevelopment, rehabilitation and preservation that affect visual quality or structural matters related to preservation and control of deterioration of a designated, or formally nominated, historic site or landmark. The jurisdiction of the Commission shall include all actions relative to the above elements, whether proposed by a private agent or government entity.

(3) The jurisdiction of the Commission is not intended to extend to the use of land or buildings, except as provided in Section 16.03.03, Provo City Code, or as otherwise provided in Title 14 - Zoning, Provo City Code. Land use is regulated by the Zoning ordinance. (Enacted 1994-107, Am 1996-30)

16.02.040. Commission Meetings.

(1) Regular meetings shall be held at least quarterly. Business shall be conducted in accordance with the Utah Open and Public Meetings law, and the meeting date, time, place and agenda items shall be publicly noticed. The Commission shall give public notice at least once each year of its annual meeting schedule. The notice shall specify the date, time, and place of such meetings.

(2) In addition to the notice requirements of Subsection (1) of this Section, the Commission shall give not less than five (5) days public notice of the agenda, date, time and place of each of its meetings.

- (3) Public notice shall be satisfied by:
 - (a) Posting written notice at the principal office of the Commission, and at least two (2) other public places in the City; and
 - (b) Providing notice to at least one (1) newspaper of general circulation within Provo.

(4) When because of unforeseen circumstances it is necessary for the Commission to hold an emergency meeting to consider matters of an emergency or urgent nature, the notice requirement of this Section may be disregarded and the best notice practicable given. No such emergency meeting of the Commission shall be held unless an attempt has been made to notify all of its members and a majority votes in the affirmative to hold the meeting.

(5) All meetings of the Commission shall be open to the public and a public record shall be kept of the resolutions, proceedings and actions of the Commission. Written or recorded minutes of each Commission meeting shall be prepared and made available for public inspection. A written Report of Action shall be prepared for each agenda item which requires Commission action. The Report of Action shall identify the decision made, the vote of the Commission, the name of the persons making and seconding the motion and specific findings of fact supporting the decision. (Enacted 1994-107, Am 2004-12)

Chapter 16.03. Administration and Procedures.

- 16.03.010. Amendment Procedure.
- 16.03.020. Operating Procedures.

16.03.030. Review of Rezonings, Conditional Use Permits, and Variances.

16.03.040. Appealing Decisions of Landmarks Commission.

16.03.010. Amendment Procedure.

(1) This Landmarks Preservation Title may be amended by the Provo Municipal Council after said amendments shall have first been submitted for recommendation to the Landmarks Commission.

(2) Any person seeking to amend the Landmarks Preservation Title shall submit to the Landmarks Commission a written petition containing the following information:

- (a) a specific description of the Title amendment desired;
- (b) the reason and justification for such text change, and a statement setting forth the manner in which a proposed amendment would further promote the objectives and purposes of this Title; and
- (c) the filing fee as shown on the Consolidated Fee Schedule adopted by the Municipal Council.

(3) Upon receipt of a petition, the Commission shall hold a public hearing on the matter before submitting recommendations to the Municipal Council.

(4) Before recommending an amendment to this Title, it must be shown that such amendment is in the interest of the public, and is consistent with the goals and policies of the Provo City General Plan. (Enacted 1994-107, Am 2006-15)

16.03.020. Operating Procedures.

(1) The Commission shall elect from its membership a chair and a vice-chair who shall serve for terms of one (1) year and who shall not succeed themselves. All regular members of the Commission shall vote on agenda items, including the Chair. However, the Chair may not make a motion on any agenda item.

(2) A majority of the current appointed members of the commission shall constitute a quorum for the transaction of business. All official actions of the Commission shall require a majority vote of the members present and voting. (Enacted 1994-107)

16.03.030. Review of Rezonings, Conditional Use Permits, and Variances.

(1) All requests for rezoning, conditional use permits, and variances affecting designated and formally nominated landmarks shall first be submitted to the Landmarks Commission for review and recommendation before action is taken by the appropriate decision-making body.

(2) The Landmarks Commission comment shall be limited to anticipated impacts, if any, to the integrity and character of the historic landmark being effected.

(3) The recommendation of the Landmarks Commission shall be forwarded to the appropriate body making the final decision for their consideration. (Enacted 1994-107)

16.03.040. Appealing Decisions of Landmarks Commission.

Any decision of the Landmarks Commission involving either the "designation" of a property as a historic "landmark," or their refusal to issue a Certificate of Historic Appropriateness, may be appealed to the Municipal Council. An appeal to the Council must be made on or before thirty (30) days after the Commission's decision. If an applicant's appeal is rejected by the Council, a further appeal may be made to the District Court, provided that such appeal is made within thirty (30) days after the final decision of the Council. The appeal shall set forth the specific reasons and justification for the applicant's opposition to the Commission's and/or Council's decision(s). (Enacted 1994-107)

Chapter 16.04. Provo Historic Sites List.

- 16.04.010. Purpose.
- 16.04.020. Criteria for Designating Properties to Historic Sites List.
- 16.04.030. Designation Procedures.
- 16.04.040. Results of Designation to Historic Sites List.
- 16.04.050. Removal of Properties from Historic Sites List.

16.04.010. Purpose.

The Provo Landmarks Commission may designate historic properties to the Historic Sites List as a means of providing recognition to and encouraging the preservation of historic properties in the community. (Enacted 1994-107)

16.04.020. Criteria for Designating Properties to the Historic Sites List.

Any district, building, structure, object or site may be designated to the Historic Sites List if it meets all the criteria outlined below:

- (1) it is located within the official boundaries of Provo City;
- (2) it is at least 50 years old;
- (3) it retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one that is dissimilar to the original, additions which significantly detract from or obscure the original form and appearance of the building or structure when viewed from the public way;
- (4) if the property does not meet the integrity requirements outlined in (3), it may still qualify for designation if it meets one (1) of the following requirements for exceptional significance:
 - (a) It is directly associated with events of historic significance in the City, State, or Nation;
 - (b) It is closely associated with the lives of persons who were of historic importance to the City, State, or Nation;
 - (c) It exhibits significant methods of construction or materials that were used within the historic period; and
- (5) It has been documented according to the Utah State Historic Preservation Office standards for intensive level surveys, and copies of that documentation have been placed in the local and state historic preservation files. (Enacted 1994-107)

16.04.030. Designation Procedures.

Any person, group, or government agency may nominate a property for listing in the Provo Historic Sites List. The nomination and listing procedures are as follows:

- (1) Completed Intensive Level Survey documentation for each nominated property must be submitted in duplicate to the Landmarks Commission.
- (2) The Commission will review and consider properly submitted nominations at its next scheduled meeting. The Commission will notify the nominating party and property owner, either orally or in writing, fourteen (14) days prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting.
- (3) The Landmarks Commission will review the documentation for completeness, accuracy and compliance with the "Criteria for Designating Historic Properties to the Provo Historic Sites List" and will make its decision accordingly. (Enacted 1994-107)

16.04.040. Results of Designation to Historic Sites List.

(1) Owners of officially designated historic sites may obtain a historic site certificate from the Landmarks Commission. The certificate contains the historic name of the property, the date of designation, and signatures of the Mayor and the Landmarks Commission Chair.

(2) The Commission will also deposit a listing of designated historic sites with the Planning Commission and Building Inspections Division.

(3) Properties designated to the Historic Sites List may receive special consideration in the granting of zoning variances or conditional use permits, and they may be eligible for rehabilitation and/or preservation loans.

(4) If a historic site is to be demolished or extensively altered, efforts will be made to document its physical appearance before that action takes place.

(a) The City will delay issuing a demolition permit and will notify the owner of the building or site, who will take responsibility for the documentation.

(b) Documentation will include, at a minimum, exterior photographs (both black-and-white and color slides) of all elevations of the building. When possible, both exterior and interior measurements of the building will be made in order to provide an accurate floor-plan drawing of the building.

(c) The Commission may require, as a condition of approval, that the owner complete documentation of the building or site prior to the construction and/or demolition. (Enacted 1994-107)

16.04.050. Removal of Properties from the Historic Sites List.

Properties which, in the opinion of the Landmarks Commission, no longer meet the criteria for eligibility may be removed from the Historic Sites List after review and consideration by the Commission. Only the Landmarks Commission, Municipal Council, or the owner of the historic site may initiate actions to remove properties from the Historic Sites List. The removal process shall follow the same public hearing procedure outlined above for designations. (Enacted 1994-107)

Chapter 16.05. Provo Landmarks Register.

- 16.05.010. Purpose.
- 16.05.020. Criteria for Designating Properties to the Landmarks Register.
- 16.05.030. Designation Procedures.
- 16.05.040. Notification and Recordation of Designation.
- 16.05.050. Results of Designation to the Landmarks Register and Requirement for Certificates of Appropriateness.
- 16.05.060. Demolition and Removal of Landmark Buildings and Sites.
- 16.05.070. Claims of Economic Hardship.
- 16.05.080. Standards for Certificate of Appropriateness for Demolition of a Contributing Structure in an Historic District.
- 16.05.090. Final Decision.
- 16.05.100. Removal of Properties from the Landmarks Register.

16.05.010. Purpose.

Significant historic properties may be designated to the Historic Landmark Register for the purposes of recognizing their significance, providing incentives for their preservation, and providing standards and regulations for their protection. (Enacted 1994-107)

16.05.020. Criteria for Designating Properties to the Landmarks Register.

Any district, building, structure, object or site may be designated to the Historic Landmark Register if it meets the first three (3) criteria below, and at least one (1) of the other criteria outlined in numbers (a) through (f) below:

- (1) It is located within the official boundaries of Provo City;

(2) It is at least fifty (50) years old; and

(3) It retains its historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that would destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one (1) that is dissimilar to the original, additions which significantly detract from or obscure the original form and appearance of the building or structure when viewed from the public way.

(a) It is currently listed in the National Register of Historic Places, or it has been officially determined eligible for listing in the National Register of Historic Places under the provisions of 36 CFR 60.6(s). Properties listed on or determined to be eligible for the National Register must still retain their integrity;

(b) It is associated with events that have made a significant contribution to the broad patterns of the history of the City, State, or Nation;

(c) It is associated with the lives of persons significant in the history of the City, State, or Nation;

(d) It embodies the distinctive characteristics of a rare or unique type, period, or method of construction; or that represents the work of an architect or builder recognized as a master in the field; or that possesses high artistic values or style; or that represents a significant and distinguishable entity whose components may lack individual distinction;

(e) It has yielded or may be likely to yield, information important in prehistory or history (archeological sites, for example); or

(f) Because of its prominent spatial location, contrasts of siting, age, or scale, it is an easily identifiable visual feature of its neighborhood or the City, and contributes to the distinctive quality or identity of its neighborhood or the City. (Enacted 1994-107, Am 2006-50)

16.05.030. Designation Procedures.

(1) Official nominations of properties to the Landmarks Register must originate with the owner of the property, or the Landmarks Commission, or the Municipal Council. Completed Intensive Level Survey documentation for each nominated property must be submitted in duplicate to the Landmarks Commission.

(2) The Commission will review and consider properly submitted nominations at its next scheduled meeting. The Commission will notify the nominating party and property owner, either orally or in writing, fourteen (14) days prior to the meeting that the nomination will be considered and will place that item on the agenda posted for the meeting. The fourteen (14) day notification period may be waived at the property owners option. In the case of historic districts, notification of proposed nominations may be made by public notice placed in the local newspaper or posted in the public building.

(3) The Landmarks Commission will review the documentation for completeness, accuracy and compliance with the "Criteria for Designating Historic Properties to the Provo Landmarks Register" and will make its decision accordingly. The Commission shall forward its recommendation in writing to the Municipal Council within fourteen (14) days.

(4) The Municipal Council may, by approval and passage of an appropriate resolution, designate properties to the Landmarks Register. (Enacted 1994-107, Am 2001-34)

16.05.040. Notification and Recording of Designation.

When historic properties have been officially designated to the Provo Landmarks Register by the Municipal Council, the Commission

shall promptly notify the owners of those properties. A notice of such designation shall be mailed to the owners of record together with a copy of Chapter 16.05, Provo City Code. In the case of historic district designation, such notice may be placed in the local newspaper or in a public building rather than mailed to each owner of record in the district. The Commission shall record the Historic Landmark Register status designation with the County Recorder's Office. (Enacted 1994-107, Am 2001-34)

16.05.050. Results of Designation to the Landmarks Register and Requirement for Certificates of Appropriateness.

(1) Properties designated to the Landmarks Register may receive special consideration in the granting of zoning variances or conditional use permits in order to encourage their preservation, and shall be eligible for low-interest rehabilitation and preservation loans, which the City may offer.

(2) In the event of rehabilitation of the property, local building officials shall consider waiving certain code requirements in accordance with the Historic Building provisions of the International Building Code or the Uniform Code for Building Conservation, a special code for existing buildings

(3) Owners of Historic Landmarks may seek assistance from the Landmarks Commission in applying for grants or tax credits for rehabilitating their properties.

(4) After a property has been designated on the Landmarks Register, any alteration of the exterior appearance of a structure, site, object or work of art affecting a Landmark shall be made or permitted only after application for a Certificate of Appropriateness has been submitted to and approved by the Landmarks Commission, or the Landmarks Commission staff, if applicable, pursuant to Subsection (6) of this Section.

(5) Certificates of Appropriateness shall be required for alterations such as but not limited to:

(a) Any construction that requires a building permit;

(b) Removal and replacement or alteration of architectural detailing, such as porch columns, railing, window moldings, cornices and siding;

(c) Relocation of a structure or object on the same site or to another site;

(d) Construction of additions or decks;

(e) Alteration or construction of accessory structures, such as garages, carports, sheds, etc.;

(f) Alteration of windows and doors, including replacement or changes in fenestration patterns;

(g) Construction or alteration of porches;

(h) Masonry work, including, but not limited to, tuckpointing, sandblasting and chemical cleaning;

(i) Construction or alteration of site features including, but not limited to, fencing, walls, paving and grading;

(j) Installation or alteration of any exterior sign;

(k) Any demolition;

(l) Change of exterior paint color, and

(m) New Construction.

(6) The following types of construction or demolition may be decided administratively by the Landmarks Commission staff subject to the standards in this Title or other applicable standards:

(a) minor alterations, repairs or additions to a Landmark or Contributory Building or Site in a historic district;

(b) alterations, repairs or additions to a Non-Contributory Building or Site in a historic district;

(c) any alterations or demolition of an accessory structure;

(d) demolition of a Non-Contributory Building or Site in a historic district.

(7) Applications for administrative decisions shall be made in the same form as applications for Landmarks Commission decisions

as set forth in Subsection (12) below. Landmarks Commission staff shall determine whether a request is to be processed administratively or referred to the Landmarks Commission.

(8) Landmarks Commission staff shall have ten (10) days to render an administrative decision after an application for a Certificate of Appropriateness has been accepted and deemed complete.

(9) Administrative decisions shall be based on findings that analyze the proposal for compliance with the Standards and Guidelines for Historical Rehabilitation and Preservation as set forth in Section 16.06 of this Title.

(10) Landmarks Commission staff may refer any application to the Landmarks Commission (a) due to the complexity of the application or the significance of a change proposed for a Landmark or Contributory Building or Site, or (b) if the staff reasonably believes it should consult the expertise available from members of the Commission. Landmarks Commission staff may routinely decide on requests to remove and replace architectural features with like materials. If architectural materials are proposed to be altered, staff shall consider referring such requests to the Landmarks Commission for action.

(11) Persons aggrieved by an administrative decision may appeal to the Landmarks Commission by filing a letter of appeal within ten (10) days of the date the decision is mailed. Such appeals shall be scheduled for action at the next meeting of the Landmarks Commission.

(12) Proposed repairs, alterations or additions to Historic Landmarks, if not administratively approved, are subject to the review of the Landmarks Commission and the subsequent review and approval of the Mayor, if the Commission's decision is appealed. The purpose of such review is to ensure the preservation of historic materials and features to the greatest degree possible.

(a) Applications for building, and sign permits pertaining to designated Landmark properties, formally nominated landmarks, or any land located in a historic district, shall be forwarded by the Chief Building Official to the Landmarks Commission prior to their issuance.

(b) A permit applicant, in order to obtain a permit from the Building Inspection Division, shall file a request for a Certificate of Appropriateness with the Landmarks Commission staff on a form furnished by the Landmarks Commission.

(c) At its next scheduled meeting, the Landmarks Commission shall review applications received for compliance with "Standards for Rehabilitation," promulgated by the United States Secretary of the Interior, hereafter referred to as "Standards" (see Chapter 16.06). A Certificate of Historic Appropriateness shall be issued by the Landmarks Commission for applications which comply with the provisions of this Title, within thirty (30) days after the filing of the application.

(d) A person whose application is found to be in noncompliance with the provisions of this Title, shall be offered a negotiating period of sixty (60) days, during which time the Landmarks Commission, together with the applicant, shall explore all means for proper repair, alteration or addition to the historic landmark, which may include the following:

- (i) feasibility of modifications to the plans;
- (ii) feasibility of alternative uses of the landmark;
- (iii) feasibility of public acquisition or resale;
- (iv) feasibility of acquiring easements; and
- (v) feasibility of obtaining financial or other forms of assistance from preservation organizations.

If no solution is agreed upon within the initial sixty (60) days, the Landmarks Commission may offer the applicant an extension of sixty (60) days. If no solution is agreed upon at the conclusion of one hundred twenty (120) days, the Certificate of Historic Appropriateness shall be denied; consequently, the

Building Official shall not issue any permits. Nevertheless, an applicant may, at any time after the conclusion of the initial hearing, elect to receive a final determination by the Landmarks Commission.

(e) An applicant who is aggrieved by a decision of the Landmarks Commission, may appeal that decision to the Mayor, subject to the procedures in Section 3.06.010, Provo City Code.

(f) Unless there is substantial action leading toward completion of the work described in the Certificate of Historic Appropriateness within a period of twelve (12) months from the date of approval, such approval shall expire, unless after reconsideration of the progress of the project an extension is approved by the Landmarks Commission.

(g) Under emergency situations, a subcommittee is hereby authorized upon twenty-four (24) hour notice to make special review of requests for Certificates of Appropriateness, and to make approvals of the same. The decision as to whether emergency conditions exist shall rest with the Commission Chair, or Vice-Chair in the absence of the Chair. (Enacted 1994-107, Am 1997-55, Am 1997-73, Am 2001-34)

16.05.060. Demolition and Removal of Landmark Buildings and Sites.

It is the intent of this and succeeding Sections to preserve the historic and architectural landmarks of Provo City through limitations on demolition and removal of historic buildings and sites to the extent it is economically feasible, practical and necessary. The demolition or removal of historic buildings and sites in Provo City diminishes the character of the City's older neighborhoods and historic districts, and it is strongly discouraged. Instead, the City recommends and supports preservation, renovation, adaptive reuse and relocation within Provo City. It is recognized, however, that structural deterioration, economic hardship and other factors not entirely within the control of a property owner may result in the necessary demolition or removal of a historic building or site.

(1) Certificate of Appropriateness for Demolition. No building or other structure that has been formally designated or nominated as a historic landmark (including significant and contributory buildings within a historic district) may be demolished or removed without the prior issuance of a Certificate of Appropriateness by the Landmarks Commission. Application for a Certificate of Appropriateness for demolition shall be made on forms provided by the Commission and shall be submitted to the Commission staff.

(2) Standards for Certificate of Appropriateness for Demolition of Landmark Sites (including significant sites within historic districts). In considering an application for a Certificate of Appropriateness for demolition of a Landmark Site, including significant sites within historic districts, the Landmarks Commission shall approve the application only upon finding that the project fully complies with one (1) of the following standards:

(a) The demolition is required to alleviate a threat to public health and safety as determined by the Building Official; or

(b) The demolition is required to rectify a condition of economic hardship, as defined and determined pursuant to the provisions of this Title.

(3) Pre-hearing Application Requirements. Upon refusal of the Community Development Department to issue a Certificate of Appropriateness, a pre-hearing period of sixty (60) days shall commence, during which time the owner shall allow the City to post and sustain a visible sign stating the structure is "proposed to be demolished." Said sign shall be at least 3' x 2', readable from a point of public access, and state that more information may be obtained from the Community Development Department for the duration of the stay. In addition, the owner shall conduct negotiations with the City for the sale or lease of the property or some interest in the property

such as a facade easement, or take action to facilitate proceedings for the City to acquire the property under its power of eminent domain, if appropriate and financially feasible. At the end of the sixty (60) days, the owner may request a hearing before the Landmarks Commission upon showing that the above requirements have been met. The applicant shall also pay any applicable fees as shown on the Consolidated Fee Schedule adopted by the Municipal Council. The Department staff shall, within fourteen (14) days, notify the owner if any additional information is needed to complete the application. If the Department staff does not notify the owner, the application will be deemed complete. Within sixty (60) days of receiving the completed application, the Department staff shall schedule a hearing regarding the application on the agenda of the Landmarks Commission. If no decision is reached by the Landmarks Commission at the conclusion of one hundred twenty (120) days, the Certificate of Appropriateness for demolition shall be approved.

(4) Demolition of Buildings in Historic District. Unless a building in a historic district has been declared a dangerous or hazardous building by the Chief Building Official, a permit to demolish such structure shall not be issued until the Commission has first reviewed plans for the construction of a replacement structure, and has determined that the proposed new construction will comply with the provisions of this Title.

(5) Demolition of Dangerous Buildings. Notwithstanding the other provisions of this Section, upon a finding by the Chief Building Official or the Chief Building Official's designee, that a building which is on the Provo City Landmarks Register poses imminent and immediate risk to the health, safety, and welfare of persons, a demolition permit may be issued by the Chief Building Official without first obtaining a Certificate of Appropriateness. (Enacted 1994-107, Am 1996-30, Am 1997-55, Am 1997-73, Am 2005-43, Am 2006-15, Am 2006-50)

16.05.070. Claims of Economic Hardship.

The Landmarks Commission may approve a Certificate of Appropriateness for Rehabilitation or Demolition of a landmark building or site if the owner has presented substantial evidence demonstrating that unreasonable economic hardship will result from denial of the certificate of appropriateness.

(1) Definition and Determination of Economic Hardship. The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this ordinance deprives the applicant of all reasonable economic use or return on the subject property.

(2) Application for Determination of Economic Hardship. An application for a Determination of Economic Hardship shall be made on a form prepared by the Community Development Director and shall be submitted to the Department. The application shall include photographs, information pertaining to the historic significance of the Landmark Site and all information necessary to make findings regarding the Standards for Determination of Economic Hardship.

(3) Standards for Determination of Economic Hardship. The Landmarks Commission shall apply the following standards and make findings concerning economic hardship:

(a) The applicant's knowledge of the landmark designation when the property was acquired, or whether the property was designated subsequent to acquisition;

(b) The current level of economic return on the property as considered in relation to the following:

(i) Amount paid for the property, date of purchase, and party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant, and the person from whom the property was purchased;

(ii) Annual gross and net income, if any, from the property for the previous three (3) years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years;

(iii) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years;

(iv) Real estate taxes for the previous four (4) years and assessed value of the property according to the two (2) most recent assessed valuations by the Utah County Assessor;

(v) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing or ownership of the property;

(vi) Fair market value of the property immediately prior to its designation as a Landmark Site and the fair market value of the property as a Landmark Site at the time the application is filed;

(vii) Form of ownership or operation of the property, i.e., sole proprietorship, for-profit corporation or not-for-profit corporation, limited partnership, joint venture, etc; and

(viii) Any state or federal income tax returns on or relating to the property for the previous two (2) years.

(c) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two (2) years. Such determination may include testimony and relevant documents regarding:

(i) any real estate broker or firm engaged to sell or lease the property;

(ii) reasonableness of the price or rent sought by the applicant; and

(iii) any advertisements placed for the sale or rent of the property.

(d) The infeasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:

(i) A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;

(ii) Estimate of the cost of the proposed construction, alteration, demolition, or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the Landmarks Commission concerning the appropriateness of proposed alterations;

(iii) Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use; and

(iv) Testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.

(e) Economic incentives and/or funding available to the applicant through federal, state, City, or private programs.

(4) Procedure for Determination of Economic Hardship. For each application wherein an economic hardship is claimed, the Mayor shall appoint a three (3) person Economic Review Panel pursuant to the requirements of Section 2.20.020, Provo City Code, except as specifically modified by this Section. Panel members shall consist of real estate and redevelopment experts knowledgeable in real estate economics and in particular the economics of renovation, redevelopment, and other aspects of rehabilitation. The Mayor shall

request recommendations for Panel members from the Landmarks Commission and the applicant.

(a) Review of Evidence. All of the evidence and documentation presented to the Landmarks Commission shall be made available to and reviewed by the Economic Review Panel. The Economic Review Panel shall convene a meeting complying with the Open Meetings Act to review the evidence of economic hardship in relation to the standards set forth in Section 16.05.070(3), Provo City Code. The Economic Review Panel may, at its discretion, convene a public hearing to receive testimony by any interested party provided that notice for such public hearing shall be in accordance with the notice requirements of Section 16.02.040, Provo City Code.

(b) Report of Economic Review Panel. Within forty-five (45) days after the Economic Review Panel is established, the panel shall complete an evaluation of economic hardship, applying the standards set forth in Section 16.05.070(3), Provo City Code, and shall forward a written report with its findings of fact and conclusions to the Landmarks Commission.

(5) Landmarks Commission Determination of Economic Hardship. At the next regular Landmarks Commission meeting following receipt of the report of the Economic Review Panel, the Landmarks Commission shall reconvene its public hearing to take final action on the application.

(a) Finding of Economic Hardship. If after reviewing all of the evidence, the Landmarks Commission finds that the application of the standards set forth in Section 16.05.070(3), Provo City Code, results in economic hardship, then the Landmarks Commission shall issue a Certificate of Appropriateness for demolition.

(b) Denial of Economic Hardship. If the Landmarks Commission finds that the application of the standards set forth in Section 16.05.070(3), Provo City Code, does not result in economic hardship then the Certificate of Appropriateness for demolition shall be denied.

(c) Consistency with the Economic Review Panel Report. The Landmarks Commission decision shall be consistent with the conclusions reached by the Economic Review Panel unless, based on all of the evidence and documentation presented to the Landmarks Commission, the Landmarks Commission finds by a vote of three-fourths majority of a quorum present that the Economic Review Panel acted in an arbitrary manner, or that its report was based on an erroneous finding of a material fact. (Enacted 1994-107, Am 1997-55, Am 1997-73, Am 2006-50)

16.05.080. Standards for Certificate of Appropriateness for Demolition of a Contributing Structure in an Historic District.

In considering an application for a Certificate of Appropriateness for Demolition of a contributing structure the Landmarks Commission shall determine whether the project substantially complies with the following standards.

(1) Standards for Approval of a Certificate of Appropriateness for Demolition.

(a) The physical integrity of the site (its location, design, setting, materials, workmanship, feeling and association as defined by the National Park Service for the National Register) is no longer evident;

(b) The streetscape within the context of the Historic District would not be negatively affected;

(c) The demolition would not adversely affect the Historic District due to the surrounding non-contributing structures;

(d) The base zoning of the site is incompatible with reuse of the structure;

(e) The reuse plan has been formulated to minimize impacts on the character of the district.

(f) The site has not suffered from willful neglect, as evidenced by the following:

(i) willful or negligent acts by the owner that deteriorates the structure;

(ii) failure to perform normal maintenance and repairs;

(iii) failure to diligently solicit and retain tenants; and

(iv) failure to secure and board the structure if vacant.

(g) The denial of a Certificate of Appropriateness for demolition would cause an economic hardship as defined and determined pursuant to the provisions of this ordinance.

(2) Landmarks Commission Determination of Compliance with Standards of Approval. The Landmarks Commission shall make its decisions based upon compliance with the requisite number of standards in Section 16.05.080(1), Provo City Code, as set forth below.

(a) Approval of Certificate of Appropriateness for Demolition. Upon making findings that at least six (6) of the standards are met, the Landmarks Commission shall approve the Certificate of Appropriateness for demolition.

(b) Denial of Certificate of Appropriateness for Demolition. Upon making findings that two (2) or less of the standards are met, the Landmarks Commission shall deny the Certificate of Appropriateness for demolition.

(c) Deferral of Decision for up to one (1) year. Upon making findings that three (3) to five (5) of the standards are met, the Landmarks Commission shall defer the decision for up to one (1) year during which the applicant shall conduct a bona fide effort to preserve the site.

(3) Bona Fide Preservation Effort. Upon the decision of the Landmarks Commission to defer the decision on a Certificate of Appropriateness for up to one (1) year, the applicant must undertake bona fide efforts to preserve the structure. The deferral period will begin once the bona fide effort has commenced. A bona fide effort shall consist of all of the following actions at a minimum:

(a) marketing the property for sale or lease;

(b) filing an application for alternative funding sources for preservation, such as federal or state preservation tax credits, Utah Heritage Revolving Loan Funds, Redevelopment Agency Loans, etc;

(c) filing an application for alternative uses or regulatory flexibility if available or feasible, such as conditional uses and variances; and

(d) obtaining written statements from licensed building contractors or architects detailing the actual costs to rehabilitate the property.

(4) Final Decision for Certificate of Appropriateness for Demolition Following Deferral. Upon the completion of the deferral period and if the applicant provides evidence of a bona fide preservation effort, the Landmarks Commission shall make a final decision regarding the Certificate of Appropriateness.

(5) Recordation Requirement for Approved Certificate of Appropriateness for Demolition. Upon approval of a Certificate of Appropriateness for demolition of a Landmark site or contributing structure, the Landmarks Commission shall require the applicant to provide archival quality photographs, plans or elevation drawings, as available, necessary to record the structure(s) being demolished. (Enacted 1994-107, Am 1997-55, Am 1997-73, Am 2006-50)

16.05.090 Final Decision.

(1) Approval. If the Landmarks Commission approves an application, a Certificate of Appropriateness shall be issued and the owner may proceed to rehabilitate or demolish the building or site after first obtaining the necessary permits from the Building Inspection Division. The Commission may require, as a condition of

approval, that the owner provide the Commission with documentation of the physical appearance of the building including black and white photographs and color slides of each building elevation, and exterior and interior measurements of the building.

(2) Denial. In the event the Commission recommends denial of the rehabilitation or demolition, and negotiations with the owner do not result in an agreement, the Commission shall recommend to the Municipal Council whether or not the City should provide some economic assistance, acquire the property, or take some other form of action.

(3) Appeal. All final decisions of the Landmarks Commission are appealable to the Mayor subject to the provisions of Section 3.06.010 of the Provo City Code and the standards of this Title. (Enacted 1997-55, Am 1997-73)

16.05.100 Removal of Properties from the Landmarks Register.

Properties which, in the opinion of the Landmarks Commission, no longer meet the criteria for eligibility may be removed from the Landmarks Register after review and consideration by the Commission. (Enacted 1997-55, Am 1997-73)

Chapter 16.06. Standards and Guidelines for Historical Rehabilitation and Preservation.

- 16.06.010. Historic Character and Purpose of the Property Preserved.
- 16.06.020. Special Guidelines for New Construction in Historic Districts.
- 16.06.030. Guidelines for Rehabilitation.

16.06.010. Historic Character and Purpose of the Property Preserved.

The following "Standards for Rehabilitation" shall be used by the Commission when determining the historic appropriateness of any application under its jurisdiction:

- (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 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 adhere to the old design, in terms of 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 archeological 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. (Enacted 1994-107)

16.06.020. Special Guidelines for New Construction in Historic Districts.

The following general guidelines shall be used by the Commission, in addition to the Standards for Rehabilitation, when determining the historic appropriateness of any application for new construction under its jurisdiction in a historic district. The Commission may also adopt more specific design guidelines for a historic district based upon its unique distinguishing characteristics.

- (1) Height. The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district.
- (2) Proportions of Windows and Doors. The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark and with surrounding structures within a historic district.
- (3) Relationship of Building Masses and Spaces. The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible.
- (4) Roof Shape. The design of the roof should be compatible with the architectural style and character of the landmark and surrounding structures in a historic district.
- (5) Landscaping. Landscaping should be compatible with the architectural character and appearance of the landmark and surrounding structures in a historic district.
- (6) Scale. The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural style and character and with surrounding structures in a historic district.
- (7) Directional Expression. Facades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The directional expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.
- (8) Architectural Details. Architectural details including materials, colors, and textures should be treated so as to make a landmark compatible with its original architectural style and character and to preserve and enhance the architectural style or character of a landmark or historic district. (Enacted 1994-107, Am 1996-63)

16.06.030. Guidelines for Rehabilitation.

The Commission shall utilize the U.S. Department of Interior's Guidelines for Rehabilitation as an aid to applicants in formulating plans for the rehabilitation, preservation, and continued use of historic buildings. Conformance with the Guidelines for Rehabilitation shall be a factor in judging compliance with this Title. (Enacted 1994-107)

