

ORDINANCE NO. 2021-10-51

HISTORIC PRESERVATION ORDINANCE. AN ORDINANCE AMENDING CHAPTER 15.20 TITLED “HISTORIC PRESERVATION ORDINANCE”

WHEREAS, Utah Code Annotated §10-8-85.9 provides that “a municipality may: (1) expend public funds to preserve, protect, or enhance an historical area or site; (2) acquire an historical area or site by direct purchase, contract, lease, trade, or gift; (3) obtain an easement or right-of-way across public or private property to ensure access or proper development of an historical area or site; (4) protect an historical area or site; (5) ensure proper development and utilization of land or an area adjacent to an historical area or site; and (6) enter into an agreement with a private individual for the right to purchase an historical area or site if and when the private individual elects to sell or dispose of the owner's property”; and

WHEREAS, it is the desire of the City Council of American Fork City that its Historical Preservation ordinance be up-to-date and provide the flexibility and authorization necessary to properly effect the purposes of historical preservation, as permitted by State and Federal law; and that said ordinances should be amended accordingly.

NOW THEREFORE BE IT ORDAINTED BY THE CITY COUNCIL OF AMERICAN FORK, UTAH:

SECTION 1. Amending of Chapter 15.20 of the American Fork Municipal Code

Chapter 15.20 “Historic Preservation Ordinance” of the American Fork Municipal Code is hereby amended as follows:

Sec 15.20.010 Title

The provisions codified in this chapter shall be known and may be referred to as the historic preservation ordinance.

Sec 15.20.020 Purpose And Intent

1. The city recognizes that the historical heritage of the community is a valued and important asset. It is therefore the purpose and intent of American Fork City to identify, preserve, protect and enhance historic and prehistoric areas, buildings, structures, properties, heritage trees, sites, objects, and districts lying within the jurisdictional limits of the city.
2. The requirements are intended to:
 1. Preserve historic and prehistoric properties and buildings and related structures of historic and architectural significance; and

2. Allow improvements to existing and related structures or new construction to be conducted without destroying or damaging the historic character of said site, district or neighborhood.

Sec 15.20.030 City Historic Properties

- A. The historic preservation commission shall designate historic areas and buildings as city historic properties as a means of providing recognition to, and encouraging the preservation of, historic locations in the community.
- B. Any building, structure, object or site meeting the following criteria is hereby designated as a city historic property:
 1. It is located within the official boundaries of the city and
 2. Was originally constructed prior to 1950 or otherwise designated by City Council.
- C. If a city historic property is to be demolished the following procedure shall be used to document the property's history and physical appearance before a permit is issued for such action:
 1. The city building department shall delay issuing a demolition permit until the applicant has submitted to the historic preservation commission two copies of the documentation required herein. The historic preservation commission shall review the documentation within thirty days.
 2. Required documentation will include, at a minimum, the following: (a sample of required documentation is available from the city building inspection department)
 1. At least one black and white or color photo of each outer façade of the historical building(s) on site.
 2. At least two black and white or color photos of the real property on which any historical building is situated, consisting of at least one view of the building and surrounding property from the public or private street or lane in which the building fronts.
 3. Exterior and interior measurements of the building and a scaled floor plan of the interior of the building (showing walls, windows, doorways, and fireplaces).
 4. A history of the property and site, including the date that the historic building(s) was first constructed, who built the building(s) and the name of its first occupant(s) if it served as a dwelling, and known uses of the property and site since they were developed and/or built, if this historical information can be obtained with reasonable diligence.
 3. The historic preservation commission may require other documentation that will otherwise preserve a record of the property and that can reasonably be obtained.
 4. Once the required documentation has been completed and provided to the historic preservation commission, and accepted thereby as meeting the minimum requirements set forth in subsection C.2. above, the historic preservation commission shall provide the applicant with written acceptance thereof for presentation by the applicant to the city's building inspection department in connection with the request for the demolition. The city building inspectors shall monitor and enforce compliance to approved permits.

5. In the event the historic preservation commission deems the documentation provided by the applicant to be incomplete, the applicant may appeal such finding to the city administrator or his designee.
6. The documentation will be kept in the historic preservation commission's historic properties files, which shall be kept in a secure location. The commission shall develop rules and regulations governing the manner and mode of dissemination of the documentation. The policies shall ensure that the documentation is preserved and protected from physical abuse or misuse. The files are open and available to the public.

Sec 15.20.040 City Historical Sites

- A. The historic preservation commission shall 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. The city council may designate by resolution or ordinance a structure as a structure of local historical significance.
- B. Criteria for designating properties to the City 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 the city;
 2. It is at least fifty years old; and
 3. It contains historic integrity. Historic integrity is defined as:
 1. 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, and additions which significantly detract from or obscure the original form and appearance of the house when viewed from the public way.
 2. If the property does not meet the integrity requirements outlined in subsection 3.a. above, it may still qualify for designation if it meets one of the following requirements for exceptional significance:
 1. It is directly associated with events of historic significance in the community;
 2. It is closely associated with the lives of persons who were of historic importance to the community; and
 3. It exhibits significant methods of construction or materials that were used within the historic period.
- C. Designation procedures. Any person, group, or government agency may nominate a property for listing in the City Historic Sites List. The nomination and listing procedures are as follows:
 1. The nominating party shall submit to the historic preservation commission a fully completed nomination form.

2. Notice of the nomination shall be provided to the property owner of the nominated property at least ten (10) days prior to consideration at the historic preservation commission meeting. The ten (10) day notice requirement may be waived at the option of the property owner.
 3. The historic preservation commission shall notify the nominating party, either orally or in writing, at least ten (10) days prior to the meeting that the nomination will be considered, and will place that item on the agenda posted for said meeting. The ten (10) day notice requirement may be waived at the option of the nominating party.
 4. The historic preservation commission will review the nomination form for completeness, accuracy and compliance with the criteria for designating properties to the City Historic Sites list and will make its designation accordingly.
 5. In the event that a property is designated as a City Historic Site, the Historic Preservation Commission shall notify the property owner in writing within sixty (60) days of its designation and record the designation with the Utah County Recorder's Office within ninety (90) days of its designation.
- D. Appeal Procedures.
1. A property owner may appeal the Historic Site designation made by the historic preservation commission to the city council. Such appeal shall be made in writing by fully completing the designation appeal form provided to the property owner.
 2. Upon receipt of the completed appeal form, City Council will place the item on the agenda for review within forty-five (45) days.
 3. City Council will review the documentation provided, hear from the impacted parties and make its decision accordingly.

Sec 15.20.050 Results Of Designation To The Historic Sites List

- A. Owners of officially designated historic sites may obtain a historic site certificate from the historic preservation commission. The historic site certificate contains the historic name of the property, the date of designation, and signatures of the mayor and the historic preservation commission chairperson.
- B. All owners of properties on the city historic sites list who are planning to obtain a building permit to significantly change the building structure, build an addition or to obtain a demolition permit to destroy a building shall be required by the city building department to obtain a review of the proposal with a voting majority of the historic preservation commission about the standards for rehabilitation and design (see Section 15.20.100) before submitting an application. (The purpose of this review is to discuss other building alternatives to preserve the historic integrity of the historic site.) Following the review with the historic preservation commission, the applicant will receive a written decision, within three working days, to submit with their application. The building department will utilize the standards in Section 15.20.100 in their approval of these applications.
- C. All owners of properties on the city historic sites list who are planning a development proposal shall be required by the city planning department to obtain a review of the proposal with a voting majority of the historic preservation commission about the

standards for rehabilitation and design Section 15.20.100 before submitting an application. (The purpose of this review is to discuss other building alternatives to preserve the historic integrity of the historic site.) Following the review with the historic preservation commission, the applicant will receive a written decision, within three working days, to submit with their application. The planning department and planning commission will utilize the standards in Section 15.20.100 in their approval of these applications.

D. If a property on the city historic sites list is to be demolished or extensively altered beyond the standards for rehabilitation and design Section 15.20.100, the following procedure shall be used to document the property's history and physical appearance before a permit is issued for such action to take place.

1. The city building department shall delay issuing a demolition or building permit until the applicant has submitted to the historic preservation commission two copies of the documentation required herein. The historic preservation commission shall review the documentation within thirty days.
2. Required documentation will include the following (a sample of required documentation is available from the city building inspection department):
 1. At least one black and white or color photo of each outer façade of the historical building(s) on site.
 2. At least two black and white or color photos of the real property on which any historical building is situated, consisting of at least one view of the building and surrounding property from the public or private street or lane in which the building fronts.
 3. Exterior and interior measurements of the building and a scaled floor plan of the interior of the building (showing walls, windows, doorways, and fireplaces).
3. In addition, the applicant is required to provide a history of the property and site—including the date that the historic building(s) was first constructed, who built the building(s) and the name of its first occupant(s) if it served as a dwelling, and known uses of the property and site since they were developed and/or built if this historical information can be obtained with reasonable diligence.
4. If the historical information is unattainable with reasonable diligence and the applicant fails to satisfy the historic preservation commission's standards for historical documentation, the Commission shall have an additional thirty (30) days from the time of review to compile the historical documentation if it so desires.
5. Once the required documentation has been completed and provided to the historic preservation commission, and accepted thereby as meeting the minimum requirements set forth in subsection D.2. above, the historic preservation commission shall provide the applicant with written acceptance thereof for presentation by the applicant to the city's building inspection department in connection with the request for the demolition or building permit. The city building inspectors shall monitor and enforce compliance to approved permits.
6. In the event the historic preservation commission deems the documentation provided by the applicant to be incomplete, the applicant may appeal such finding to the city administrator or his designee.

7. The documentation will be kept in the historic preservation commission's historic site files at the American Fork Library.

Sec 15.20.060 City Historic Site List – Removal

At the request of the Historic Preservation Commission or the property owner, the City Council may remove a property from the City Historic Sites List. Prior to such removal the following must occur:

1. The action item must be placed on a City Council agenda within forty-five (45) days of the request;
2. The property owner and the Historic Preservation Commission shall be given an opportunity to be heard by City Council;
3. City Council shall make a determination that the property no longer meets the criteria for eligibility.

Sec 15.20.070 City Historic Landmark Register

Significant historic properties may be designated to the city historic landmark register for the purposes of recognizing their significance and providing incentives and guidelines for their preservation.

Sec 15.20.080 City Historic Landmark Register - Criteria For Designation

Any district, building, structure, object or site may be designated to the city historic landmark register if it meets all the criteria outlined below:

1. It is located within the official boundaries of the city.
2. 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 eligible for the National Register must, in addition to retaining their integrity, meet at least one of the following National Register criteria:
 1. Be associated with events that have made a significant contribution to the broad patterns of the history of the City, State, or Nation;
 2. Be associated with the lives of persons significant to the history of the City, State, or Nation;
 3. Embody the distinctive characteristics of a type, period or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
 4. Have yielded, or may be likely to yield, information important in prehistory or history (archeological sites, for example).

Sec 15.20.090 City Historic Landmark Register - Designation Procedures

1. Official designation proceedings must begin with the submittal of a written request for designation by the property owner to the historic preservation commission chairperson.

The letter must identify the property by its address and historic name, give the date the property was listed in the National Register or officially determined eligible, and include a statement verifying that the property owner is indeed the owner of legal record of the property proposed for designation. This official request may be preceded by informal contacts with the property owner by commission members, private citizens, local officials or others regarding designation of the property.

2. Upon receipt of the written request for designation, the historic preservation commission chairperson shall arrange for the nomination to be considered at the next commission meeting, which shall be held at a time not to exceed thirty days from the date the request was received.
3. The decision by the commission shall be based on the eligibility of the property in terms of meeting the criteria for designating properties to the city historic landmark register (Section 15.20.070). The historic preservation commission shall forward its recommendation in writing to the American Fork City Council within fourteen days.
4. The American Fork City Council may, by approval and passage of an appropriate resolution, designate properties to the city historic landmark register. Following designation, a notice of such shall be mailed to the owners of record together with a copy of the ordinance codified in this chapter.
5. After a property has been formally designated to the city historic landmark register, the designation may be amended or rescinded in the same manner as the original designation was made.
6. Upon official designation, the historic preservation commission shall record the designation with the county recorder's office to indicate such designation on the official title thereof.

Sec 15.20.100 City Historic Landmark Register - Results Of Designation

1. Properties designated to the city historic landmark register may receive special consideration in the granting of zoning variances or conditional use permits in order to encourage their preservation.
2. In the event of rehabilitation of the property, local building officials will consider waiving certain code requirements of the Uniform Building Code, which deals with historic buildings, or the Uniform Code for Building Conservation, a special code for existing buildings.
3. Proposed repairs, alterations or additions to city historic landmarks are subject to the review of the American Fork Historic Preservation Commission and the subsequent review and approval of the American Fork City Council. The purpose of this review is to ensure the preservation of historic materials and features to the greatest degree possible.
 1. All owners of properties on the city historic landmark register who are planning to obtain a building permit to significantly change the building structure, build an addition or to obtain a demolition permit to destroy a building shall be required by the city building department to obtain a review of the proposal with a voting majority of the historic preservation commission about the standards for rehabilitation and design (See Section 15.20.100) before submitting an application. (The purpose of this review is to discuss possible tax credits and other building alternatives to preserve the historic integrity of the historic landmark.)

Following the review with the historic preservation commission, the applicant will receive a written decision, within three working days, to submit with their application. The building department will utilize the standards in Section 15.20.100 in their approval of these applications.

2. All owners of properties on the city historic landmark register who are planning a development proposal shall be required by the city planning department to obtain a review of the proposal with a voting majority of the historic preservation commission about the standards for rehabilitation and design (See Section 15.20.100) before submitting an application. (The purpose of this review is to discuss possible tax credits and other building alternatives to preserve the historic integrity of the historic landmark) Following the review with the historic preservation commission, the applicant will receive a written decision, within three working days, to submit with their application. The planning department and planning commission will utilize the standards in Section 15.20.100 in their approval of these applications.
3. The historic preservation commission's review and recommendation together with the application shall be forwarded within three days after a recommendation has been issued to the American Fork City Council for its consideration in reviewing the applications. The recommendation must indicate which of the standards the historic preservation commission's decision was based on and, where appropriate, a brief explanation
4. The American Fork City Council shall schedule the matter for its next regularly scheduled city council meeting and upon review of the historic preservation commission's recommendation and other comments given at the meeting, make a decision regarding the appropriateness of the proposed action. Approved projects will be issued a "certificate of historical appropriateness" which authorizes the building or demolition permit to be issued or the planning proposal to be approved.
 1. If a city historic landmark is approved by the city council to be demolished or extensively altered beyond the standards for rehabilitation and design (see Section 15.20.100), the following procedure will be used to document the site's history and physical appearance before a permit is issued for such action to take place.
 2. The city building inspection department shall delay issuing a demolition or building permit until the applicant has submitted to the historic preservation commission two copies of the documentation required herein. The commission shall review the documentation within thirty days.
 3. Required documentation will include, at a minimum, the following (a sample of required documentation is available from the city building inspection department):
 1. At least one black and white or color photo of each outer façade of the historical building(s) on site.
 2. At least two black and white or color photos of the real property on which any historical building is situated, consisting of at least one view of the building and surrounding property from the public or private street or lane in which the building fronts.

3. Exterior and interior measurements of the building and a scaled floor plan of the interior of the building (showing walls, windows, doorways, and fireplaces).
4. In addition, applicant is required to provide a history of the property and site—including the date that the historic building(s) was first constructed, who built the building(s) and the name of its first occupant(s) if it served as a dwelling, and known uses of the property and site since they were developed and/or built if this historical information can be obtained with reasonable diligence.
 1. If the historical information is unattainable with reasonable diligence and the applicant fails to satisfy the historic preservation commission's standards for historical documentation, the Commission shall have an additional thirty days after review of the submitted property history to compile the historical documentation.
4. Once the required documentation has been completed, provided to the historic preservation commission, and accepted thereby as meeting the minimum requirements set forth in in this chapter, the historic preservation commission shall provide the applicant with written acceptance thereof for presentation by the applicant to the city's building inspection department in connection with the request for the demolition or building permit. The city building inspectors shall monitor and enforce compliance to approved permits.
5. In the event the historic preservation commission deems the documentation provided by the applicant to be incomplete, the applicant may appeal such finding to the city administrator or his designee.
6. The documentation will be kept in the historic preservation commission's historic site files, which shall be kept in a secure location. The historic preservation commission shall develop rules and regulations governing the manner and mode of dissemination of the documentation. The policies shall ensure that the documentation is preserved and protected from physical abuse or misuse. The files shall be open and available to the public.

Sec. 15.20.110 City Historic Landmarks Register – Removal of Properties

At the request of the Historic Preservation Commission or the property owner, the City Council may remove a property from the City Historic Landmarks Register. Prior to such removal the following must occur:

1. The action item must be placed on a City Council agenda within forty-five (45) days of the request;
2. The property owner and the Historic Preservation Commission shall be given an opportunity to be heard by City Council;

3. City Council shall make a determination that the property no longer meets the criteria for eligibility.

Sec 15.20.120 Standards For Rehabilitation And Design Guidelines In American Fork City

1. The following standards and guidelines shall be used by the city building department, city planning department and historic preservation commission in determining the historic appropriateness of any application pertaining to city historic sites and landmark properties, including structures and surrounding landscaping. The commission shall apply these provisions in furtherance of the city's best interests and those of the property. In addition, the commission may develop and implement further historic design review standards.
 1. If a property is to be used for a new purpose, efforts should be made so that changes to the exterior of the building and its defining characteristics be minimal.
 2. The historic character of a property should be retained and preserved.
 3. Each property should be recognized as a physical record of its time, place, and use.
 4. Most properties change over time; those changes that have acquired historic significance in their own right should be retained and preserved.
 5. Distinctive features, finishes, and construction techniques that characterize a property should be preserved.
 6. Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture, and other visual qualities and, where possible, materials.
2. 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.
3. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used if it can reasonably be avoided. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 1. New additions, exterior alterations, or related new construction should not destroy historic character of the property.
4. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property, and
 1. Avoid demolition of landmark and contributing buildings where possible. They are a finite resource and cannot be replaced.
 2. Vacant buildings should be weather-proofed and vandal-proofed in order to minimize further deterioration and the threat to public safety.
 3. Avoid moving buildings whenever possible, especially to create artificial groupings of historic buildings.
 4. Height, width, setback, roof shape, and the overall scale and massing of new buildings should be compatible with surrounding historic buildings and the overall streetscape.

Sec 15.20.130 Enforcement

1. City building inspectors shall monitor and enforce compliance to approved permits.
2. A violation of any provision of this chapter shall be subject to criminal prosecution as a Class B misdemeanor, for each separate violation.
3. Before any city license or permit is issued to a violator they must appear before the city council to discuss the violation(s).
4. Decisions of the building inspector may be appealed to the city council in consultation with the city historic preservation commission.
5. Decisions of the building inspector may be appealed to the city council in consultation with the city historic preservation commission and any other city departments involved.

SECTION 2. Severability.

If any provision or clause of this Ordinance or its application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other sections, provisions, clauses, or applications which can be implemented without the invalid provision, clause or application. To this end, the provisions of this Ordinance are declared to be severable.

SECTION 3. Effective Date.

This ordinance shall take effect immediately upon its passage and posting as prescribed by law.

PASSED AND ADOPTED BY THE AMERICAN FORK CITY COUNCIL, STATE OF UTAH, ON THIS 26TH DAY OF OCTOBER 2021.



Bradley J. Frost, Mayor

ATTEST:



Terilyn Lurker, City Recorder

