

ORDINANCE NO. 920

AN ORDINANCE OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES, COLORADO CREATING A HISTORIC PRESERVATION COMMISSION.

BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BERTHOUD, LARIMER AND WELD COUNTIES:

Section 1. Historic Preservation

The purpose of this section is to promote the public health, safety, and welfare through:

- A. The protection and preservation of the Town's historic and cultural heritage, as embodied in historic structures and districts;
- B. The enhancement of property values, and the stabilization of historic commercial and residential neighborhoods;
- C. The increase of economic and financial benefits through the Town's attraction of tourists and visitors.

Section 2. Historic Preservation Commission Established.

There is hereby created a historic preservation commission, referred to as the "HPC", which shall have principal responsibility for matters of historical preservation and designation of historic sites and districts within the municipal boundaries of the Town of Berthoud.

- A. Membership. The HPC shall consist of five (5) members providing a balanced community wide representation. Four (4) members shall reside within the corporate limits of the Town and one (1) may reside in either Weld or Larimer County. Efforts will be made to locate at least two members who are either professionals or have extensive experience in history, architecture, planning or archeology. The director of the Little Thompson Museum and/or an appointed planning department representative shall serve as technical consultants to the HPC.
- B. Appointments and Terms of Office. Members of the HPC shall be appointed by the Board of Trustees and shall serve three-year staggered terms from the date of appointment. In order to stagger the initial terms of membership, the original members shall serve as follows:

One (1) appointee shall serve a one-year term;
Two (2) appointees shall serve two-year terms;
Two (2) appointees shall serve three-year terms.

Members may continue to serve until their successors are appointed.
Members may be appointed to serve successive terms without limitation.

Appointment to fill vacancies on the HPC shall be made by the Board of Trustees. All members of the HPC shall serve without compensation except for such amounts determined appropriate by the Board of Trustees to offset expenses incurred in the performance of their duties. The Board of Trustees for neglect of duty or malfeasance in office or for good cause or in its discretion may remove members of the HPC.

- C. Quorum and Voting. A quorum for the HPC shall consist of three members. A quorum is necessary for the HPC to hold a public hearing or to take official action. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed denial of the motion or recommended action.
- D. Officers. The HPC shall by majority vote, elect one (1) of its members to serve as chairperson to preside over the HPC's meetings, one (1) member to serve as vice-chair and one of its members to serve as secretary. The members so designated shall serve in those capacities for terms of one (1) year, and may serve successive terms.
- E. Meetings. The HPC shall meet alternate months for a total of six (6) times annually, at the minimum. Minutes shall be kept of all HPC proceedings. Meetings shall be conducted in general conformance with Robert's Rules of Order.
- F. Powers and Duties. The Berthoud HPC shall:
 - 1. Adopt criteria for review of historic resources and for review of proposals to demolish designated resources.
 - 2. Review resources nominated for designation as either a historic structure or historic district and designate those resources qualifying for such designation.
 - 3. Review and make decisions on any application for alterations to the exterior of designated historic structures or historic districts.
 - 4. Review and make decisions on any application for moving or demolishing a historic structure.
 - 5. Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, including nomination to the National Register of Historic Places.
 - 6. Develop and assist in public education programs including, but not limited to, walking tours, brochures, marker programs for historic properties, lectures, and conferences.
 - 7. Conduct surveys of historic properties for the purpose of defining those of historic significance, and to prioritize the importance of identified historic properties and areas.

8. Advise the Board of Trustees on matters related to preserving the historic character of the Town.
9. Actively pursue financial assistance for preservation-related programs.
10. Remove properties from the register for reasons the HPC deems appropriate including, but not limited to, acts of God, undue hardship and public health/safety concerns.
11. Establish and collect an application fee for applications made by citizens applying for historical designation or who are applying to alter or demolish a historically designated property.

G. Rules and Procedures for HPC. The HPC will conduct its meetings in accordance with the Town of Berthoud's procedures for commissions, which set forth additional rules and procedures regarding officers' duties, member resignations, vacancies, agenda procedures, etc. In addition, the HPC may establish additional rules of operation that are consistent with this code.

Section 3. Historic Designations of Structures and Districts.

- A. Designation authorized. Pursuant to the procedures in this section and the criteria in Section 4, the HPC may:
 1. Designate as historic an individual structure or other feature or an integrated group of structures and features on a single lot or site having special historical or architectural value;
 2. Designate as a historic district an area containing a number of structures having special historical or architectural value.

Each such designation shall include a description of the characteristics of the structure or district which justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the structure or historic district. The designation may also indicate alterations which would have a significant detrimental impact upon the structure or historic district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this ordinance.

The property included in any such designation shall be subject to the controls and standards set forth in this section, and eligible for such incentive programs as may be developed by the HPC, or other entities, for historic properties.

B. Procedures for designating structures and districts for preservation.

A nomination for designation may be made by a property owner, the HPC, the Board of Trustees or by any citizen by filing an application with the HPC. If the application is filed by persons other than the owner(s) of the property, the department and at least one (1) member of the HPC shall contact the owner(s) of the subject property and explain orally and provide written documentation as to the reasons for and effects of historic designation, and if possible, shall attempt to secure the consent of the owner(s) to such designation before the nomination is accepted for review by the HPC.

1. **HPC Consideration of Applications.** The HPC shall hold a public meeting on the proposal within sixty days after the filing of the application. The HPC shall review the application for conformance with the established criteria for designation and with the purpose of this section. Generally within thirty (30) to sixty (60) days after the conclusion of the public meeting, the HPC shall either approve, modify and approve, or disapprove the application. The HPC should also promptly notify the Board of Trustees in writing of any decision it makes.

2. **Recording the Designation.**

a. Recording of the designation with the appropriate County Clerk and Recorder should take place within ten (10) business days after the approval of the designation by the HPC. The HPC or Town shall pay recording fees.

b. Promptly after the receipt of the recording of the historic designation, the HPC should send notice to the owner(s) confirming the designation, the reasons for designation, and a copy of the documents recorded.

3. **Signage on historic property.** The HPC shall approve uniform signs for designated properties and may assist in the purchase of signs, subject to availability of funds. Such signs shall conform to Town's ordinances governing other signs in the Town.

C. **Appeal of Decisions** Appeals of HPC decisions must be filed with the Board of Trustees. The findings and determinations of the HPC may be reviewed, modified, affirmed, or reversed by a majority vote of the elected members of the Board of Trustees. Appeals are filed by presenting the Berthoud Town Clerk a written notice of appeal within one (1) month after the determination has been made by the HPC. The notice of appeal shall designate in detail the specific factual and legal issues being appealed. Determinations issued by the Board of Trustees shall constitute final agency action.

Section 4. Criteria for Designation

A property may be eligible for designation for historic preservation and eligible for economic incentives if it meets at least one (1) criterion in two (2) of the following categories:

A. Historic Significance.

The site, building or property has:

1. Character, interest, integrity and reflects the heritage and cultural development of the Town, State or Nation;
2. Is associated with an important historical event;
3. Is associated with an important group which contributed in a significant way to the political, and/or cultural life of the community.

B. Architectural Significance:

The property:

1. Characterizes an architectural style associated with a particular era and/or ethnic group;
2. Is identified with a particular architect, master builder or craftsman;
3. Is architecturally unique or innovative;
4. Has a strong or unique relationship to other areas potentially eligible for preservation because of architectural significance;
5. Has visual symbolic meaning or appeal for the community.

C. Geographic Significance:

The property:

1. Has proximity to a square, park, or unique area deserving of preservation,
2. Is a visual feature identifying an area or neighborhood or consists of utilitarian and commercial structures historically and geographically associated with an area.

D. A district may be designated if the HPC determines that the proposed district meets the definition of a historic district pursuant to the

criteria for single properties and meets one (1) or more of the following criteria:

1. An area which exemplifies or reflects the particular cultural, political, economic or social history of the community;
2. An area identified with historical personages, groups, or which represents important events in national, state or local history;
3. An area which embodies distinguishing characteristics of an architectural type or style inherently valuable for the study of a period, method of craftsmanship, method of construction or of indigenous materials or craftsmanship;
4. An area, which due to its unique location or singular characteristics, presents established and familiar visual features of the neighborhood, or town; or
5. An area which is representative of the notable work of a master builder, designer, or architect whose individual ability has been recognized.

Section 5. Special duties, privileges and obligations.

Owners of designated properties shall be eligible for all economic incentives and tax benefits relating to historic designations, whether the source of funds or incentives are local, state or national

A. Maintenance shall be required of the owners of historic properties and owners of properties in a historic district. Maintenance is defined as:

1. The structure shall not be permitted to deteriorate to a degree that negatively impacts its visual or structural properties; and
2. The surrounding environment such as fences, sidewalks, gates, steps, signs and accessory structures shall be kept in good repair so as not to negatively impact the historic structure.

B. Owners intending to reconstruct, improve, demolish or in any way significantly alter or change the exterior of a historic property, or a property in a historic district, must first submit their plan for review to the appropriate Town departments as to compliance with all Town codes and ordinances.

C. After consultation with the applicable Town departments, the owner shall submit a plan for review by the HPC, and the HPC shall grant a certificate of approval for alterations to properties, or demolition of properties within historic districts, that the HPC finds would not alter or diminish the historic character of the property or district.

D. If a certificate of approval is granted by the HPC, the applicant must obtain all necessary permits required by the Town's ordinances.

E. Action of the HPC upon denial of certificate of approval.

1. If the proposed plan to alter, relocate, or demolish a designated property or a property within a historic district, is denied, the HPC acting with all due diligence, shall explore with the applicant available means for substantially preserving the historic property or district affected by the denial. These investigations may include, by way of example and not of limitation:

a. Feasibility of modification of the plans.

b. Feasibility of alternative use of the structure(s) which would substantially preserve the original character.

2. If the HPC is unsuccessful in developing either alternate plans or an appropriate public or private use for such structure(s), which are acceptable to the applicant, it shall notify the owner and the Building Inspection Department in writing. If the owner and the HPC cannot reach a compromise, then an appeal may be filed pursuant to Section 3(E).

Section VI. Exemptions

In the event a property or district has been designated by the HPC as historic, the Board of Trustees may exempt such property or portions thereof if it finds that historic designation creates an undue hardship.

A. Economic Hardship Exemption. An economic hardship exemption may be granted if:

1. The owner purchased the property prior to the historic designation and is unable to obtain a reasonable return on investment in the property's present condition or in a rehabilitated condition;

or

2. For non-income producing properties the owner's inability to resell the property in its current condition or rehabilitated for at least 85% of its fair market value as valued and without designation as a historical structure.

3. The economic hardship claimed is not self-imposed.

B. Health/Safety Hardship. To qualify for undue hardship, the applicant must demonstrate that the requirements of the historic designation

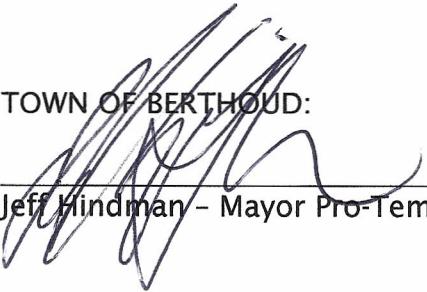
create an unreasonable situation because of health and/or safety considerations.

Section 7. Effective Date

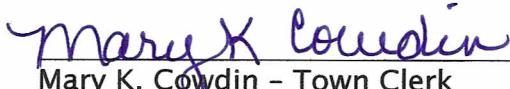
The Board of Trustees of the Town of Berthoud herewith finds, determines and designates that this Ordinance shall take effect and be in force thirty (30) days after publication.

At its meeting February 26, 2002, a public hearing was set by the Board of Trustees of the Town of Berthoud for its meeting held on the 12th day of March, 2002. After the public hearing, the Ordinance was read, passed and ordered published by the Board of Trustees at its meeting this 12th day of March, 2002.

TOWN OF BERTHOUD:


Jeff Hindman - Mayor Pro-Tem

ATTEST:


Mary K. Cowdin - Town Clerk

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