

**ORDINANCE NO. 1538
SERIES 2008**

AN ORDINANCE AMENDING CERTAIN SECTIONS OF CHAPTER 15.36 OF THE LOUISVILLE MUNICIPAL CODE, REGARDING HISTORIC PRESERVATION, TO REVISE THE PROCEDURES APPLICABLE TO DEMOLITION REVIEW OF BUILDINGS THAT ARE OVER FIFTY YEARS OLD

WHEREAS, by Ordinance Nos. 1463 and 1476, Series 2005, codified in Chapter 15.36 of the Louisville Municipal Code, the City has adopted provisions concerning historic preservation; and

WHEREAS, the City Council finds that it is in the best interest of the City, its citizens and property owners within the City, to amend the City's historic preservation ordinances to allow, under limited circumstances, demolition review of buildings that are over fifty years without the necessity of first filing an application for a building permit; and

WHEREAS, the Louisville Historic Preservation Commission has forwarded to the City Council the amendments to the historic preservation ordinance set forth herein in order to further advance the purposes and implementation of the City's historic preservation ordinance;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Section 15.36.200 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 15.36.200 Criteria for Demolition or Relocation of Non-Landmarked Buildings.

A. *Purpose*: The purpose of the review of permit applications for demolition, moving, and removal of buildings that are over fifty (50) years old is to prevent the loss of buildings that may have historical or architectural significance. The purpose of this Chapter is also to provide the time necessary to initiate designation as an individual landmark or to consider alternatives for the building. The purpose of a pre-filing conference is to allow the owner an opportunity to discuss with the Commission any historic significance of a site or building prior to commencing with a project. In particular, the Commission may give input on what the Commission determines to be the historic elements or features and significant facades of a site.

B. *Pre-Filing Conference*: Any owner of a building which is over fifty (50) years and who intends to pursue any building or development activity that may require a permit under this chapter may request a pre-filing conference with the Commission to discuss the historic nature, status and features of the property. Such conference shall occur at a regular meeting of the Commission and is intended to provide an opportunity for information exchange and dialogue between the Commission and the owner concerning the historic nature, status and

features of the property and the City's program, goals and objectives relating to historic preservation. Public comment shall be allowed as part of such conference. No action shall be taken by the Commission as part of this conference, nor shall the Commission, owner or any interested party be bound by any discussion or comments during the conference. The conference shall not be a part of or in lieu of any demolition review required by this Chapter.

C. *Permit Requirement:* No person shall demolish, move, or remove any building which is over fifty (50) years old without first applying to the Building Division for a permit under this Chapter and receiving a permit. Any person receiving such a permit may conduct the demolition, moving, or removal of the building as authorized under such permit only in compliance with the terms of the permit and only before the permit expires.

D. *Demolition Determination:* The City will determine if demolition review under this Chapter is required by examining building permit applications for buildings described in subsection C above. In addition, a demolition review under this Chapter will be initiated upon referral from the Planning Department when a building over fifty (50) years old is located on property that is contained within a pending application for a PUD final development plan or a special review use (SRU) request, which application has not been withdrawn and has had development referrals issued by the Planning Department. The PUD or SRU application shall indicate whether the owner plans to demolish, move or remove the building, and if the owner's plan is other than full demolition and removal of the building, the application shall include a detailed written explanation of the plan for such building (e.g., partial demolition, moving to a new location, etc.).

E. *Initial Review:* A staff member and two randomly selected Commission members shall review all permit applications for demolition, moving or removal of buildings that are over fifty (50) years old, as well as all referrals for demolition review received pursuant to subsection 15.36.200.D. The initial review shall be completed within ~~fourteen (14)~~ twenty-one (21) days after the date of City Building Division acceptance of a completed permit application or issuance of Planning Department referral, to determine whether there is probable cause to believe that the building may be eligible for designation as an individual landmark consistent with the purposes and standards of this Chapter. For filed building permit applications, if the staff member and two randomly selected members of the Commission members fail to submit their recommendation to the Building Division within thirty days (30) after the Building Division accepts a completed permit application, the Building Division shall issue the permit if all other requirements of the permit process have been met.

F. *Scope of Permit Review and Stay of the Issuance of a Permit:* For filed building permit applications, if the staff member and two randomly selected members of the Commission members unanimously determine that there would be no significant impact or potential detriment to the historic resources of the City, the Building Division shall issue the permit if all other requirements of the permit process have been met. In the case of a Planning Department referral for demolition review pursuant to subsection 15.36.200.D, if the staff member and

two randomly selected members of the Commission members unanimously determine that there would be no significant impact or potential detriment to the historic resources of the City, the Building Division shall recognize the building as eligible for issuance of a building permit for demolition, moving or removal without further review under this section, which recognition shall be valid for a period of three (3) years after city council approval of the PUD final development plan or SRU plan for which such referral was received. Such three-year period may be extended concurrent with any extension granted of the PUD final development plan or SRU plan. If a permit is not issued within such three-year period or any approved extension thereof, or if the permit requested within such period is not consistent with the property owner's written explanation of the plan for the building, a new demolition review shall be required. If the staff member or one of the two randomly selected members of the Commission determines that there is probable cause to believe that the building may be eligible for designation as an individual landmark, the issuance of ~~any~~the permit shall be stayed for up to sixty (60) days from the date that a completed application is accepted by the ~~City Building Division~~, and the permit ~~or Planning Department referral for demolition review~~ shall be referred to the Commission for a public hearing. A copy of this determination, including the reasons why the building may be eligible for designation, shall be provided to the property owner within fourteen days of the determination.

G. *Notice of Public Hearing:* The City shall publish notice of the time, place, and subject matter of the public hearing before the Commission in a newspaper of general circulation in the City at least fifteen (15) days before the hearing. At least fifteen days before the hearing, the City shall also:

1. Post the property subject to the application to indicate that a hearing on the application for a permit or referral for demolition review has been requested; and
2. Mail written notice, by certified mail and regular mail, to the record owners of the property subject to the application or referral. If the address of the property owner is not a matter of public record, any failure to send notice by mail does not invalidate any proceedings on the permit application or referral for demolition review.

H. *Commission Public Hearings on Permits:* When applicable, the Commission shall hold a public hearing on the permit application or referral for demolition review within sixty (60) days after the date of ~~City Building Division~~ acceptance of a completed application or issuance of Planning Department referral. For filed building permit applications, if the Commission fails to hold a public hearing within such sixty-day period, the City shall issue the permit if all other requirements of the permit process have been met. The Commission shall consider and base its decision upon any of the following criteria:

1. The eligibility of the building for designation as an individual landmark consistent with the purposes and standards in this Chapter;

2. The relationship of the building as a potential contributing structure to a potential historical district per the criteria set forth in this Chapter;
3. The reasonable condition of the building; and
4. The reasonable projected cost of restoration or repair.

In considering the condition of the building and the projected cost of restoration or repair as set forth in subsections G.3 and G.4, above, the Commission may not consider deterioration caused by unreasonable neglect.

I. Decision of the Commission. For filed building permit applications, if the Commission finds that the building to be demolished, moved or removed does not have historical significance under the criteria set forth above, the City shall issue a permit if all other requirements of the permit process are met. In the case of a Planning Department referral for demolition review filed pursuant to subsection 15.36.200.D., if the Commission finds that the building to be demolished, moved or removed does not have historical significance under the criteria set forth above, the City shall recognize the building as eligible for issuance of a building permit for demolition, moving or removal without further review under this section, which recognition shall be valid for a period of three (3) years after city council approval of the PUD final development plan or SRU plan for which such referral was received. If a permit is not issued within such period, or if the permit requested within such three-year period or any approved extension thereof, or is not consistent with the property owner's written explanation of the plan for the building, a new demolition review shall be required. If the Commission finds that the building may have historical significance under the criteria set forth above, then (1) in the case of a filed building permit application, the application shall be suspended for a period not to exceed one hundred eighty (180) days (180) from the date the permit application was accepted by the Building Division; and (2) in the case of a Planning Department referral for demolition review pursuant to subsection 15.36.200.D., no permit for demolition, moving or removal shall be issued for a period not to exceed one hundred eighty (180) days from the date of issuance of the Planning Department referral. The Commission will make all reasonable efforts to expedite resolution of the application or request.

J. One Hundred Eighty (180) Day Suspension Period: During the period of suspension of an application for or issuance of a permit for demolition, moving, or removal, the Commission may take any action authorized to it that it deems necessary and consistent with the purposes and intent of this Chapter to preserve the structure, including, without limitation, consulting with civic groups, public agencies, and interested citizens; recommending acquisition of the property by private or public bodies or agencies; exploring the possibility of moving buildings that would otherwise be demolished; and salvaging building materials, and looking for alternatives to the proposed action which will not have any adverse impact on the historic significance of the structure. If an individual landmark or district designation has not been completed during the one hundred eighty day (180) period, the City shall issue a permit if all other requirements of the permit process have been met.

K. *Record of Demolished and Moved Properties*: Prior to the issuance of a permit for demolition, moving or removal, the City or the Commission may require the applicant to provide information about the building, including, without limitation, the date of original construction, significant events and occupants, architectural features, and a description of the building through photographs, plans, and maps. As a part of this process, the Commission may require the applicant to allow City staff or its agent on the subject property to provide historic photo-documentation of the structure. The City will determine where the documentation is to be deposited.

L. *Expiration*: Any demolition, moving or removal permit that is issued pursuant to an application that is subject to this section 15.36.200 shall expire no later than one hundred eighty (180) days after the permit is issued if the work authorized by such permit has not commenced.

M. *Preservation or Salvage of Architectural Elements and Photographic Documentation*: The City may require the preservation or salvage of specific architectural elements of the structure and the opportunity to document the building photographically prior to demolition of the site.

Section 2. Subsection B of Section 15.36.100 of the Louisville Municipal Code is hereby amended to read as follows (words added are underlined; words deleted are ~~stricken through~~):

Sec. 15.36.100 Landmark alteration certificate required.

B. The City shall maintain a current record of all designated landmark sites and historic districts and pending designations. If the Building Division receives an application for a permit, or a Planning Department referral for demolition review pursuant to subsection 15.36.200.D., that proposes to carry out any new construction, alteration, removal, or demolition of a building or other designated feature on a landmark site or in an historic district or in an area for which designation proceedings are pending, the Building Division shall promptly forward such permit application to appropriate staff.

Section 3. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 4. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 5. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED** this _____ day of _____, 2008.

Charles L. Sisk, Mayor

ATTEST:

Nancy Varra, City Clerk

APPROVED AS TO FORM:

Light, Harrington & Dawes, P.C.
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this _____ day of _____, 2008.

Charles L. Sisk, Mayor

ATTEST:

Nancy Varra, City Clerk