

**ORDINANCE NO. 1463
SERIES 2005**

**AN ORDINANCE AMENDING TITLE 15 OF THE LOUISVILLE MUNICIPAL CODE,
ENTITLED “BUILDINGS AND CONSTRUCTION,” BY THE ADDITION OF CHAPTER
15.36 ENTITLED “HISTORIC PRESERVATION.”**

WHEREAS, Chapter 2.66 of the Louisville Municipal Code establishes a Historic Preservation Commission, whose powers, duties and responsibilities are as set forth by Resolution No. 34 Series 2002; and

WHEREAS, the Louisville Historic Preservation Commission has forwarded to the City Council this historic preservation ordinance to provide for the designation and protection of historic properties within the City; and

WHEREAS, the Louisville Planning Commission has duly considered this historic preservation ordinance; and

WHEREAS, the City Council has considered the recommendations of the Historic Preservation Commission and the Planning Commission concerning the adoption of an historic preservation ordinance, and has held a duly noticed public hearing on this ordinance; and

WHEREAS, the City Council finds that the adoption of this historic preservation ordinance will promote the protection and preservation of the City’s historic and cultural heritage; will promote the enhancement of property values and the stabilization of historic neighborhoods; will increase the economic and financial benefits realized through the City’s attraction to tourists and visitors, and will promote the provision of education opportunities to increase public appreciation of Louisville’s unique heritage; and

WHEREAS, in adopting this ordinance, it is the intent of the City Council to create a method to draw a reasonable balance between private property rights and the public interest in preserving Louisville’s unique historic character by ensuring that demolition of, moving, or alterations to properties of historic value shall be carefully considered for impact to the property’s contribution to Louisville’s heritage.

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

Section 1. The Louisville Municipal Code is hereby amended by the addition of a new Chapter 15.36 to read as follows:

Chapter 15.36

HISTORIC PRESERVATION

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Sec. 15.36.010. Purpose.

It is the purpose of this Chapter to promote the public health, safety, and welfare through:

- A. The creation of a Louisville Register of Historic Places whereby physical reminders of the vibrant history of the City may be recognized, promoted, maintained and enhanced,
- B. The promotion of preservation of those places and structures in Louisville which are of historical, cultural, social and architectural significance to the community by encouraging and rewarding their designation as landmarks or

districts on the Louisville Register,

C. The promotion of continued private ownership and utilization of such places and structures, and to maintain and improve property values,

D. The protection and enhancement of Louisville's unique attractiveness to residents, businesses, visitors and prospective home buyers and businesses,

E. The fostering of civic pride in the beauty, dignity and accomplishments of Louisville's past,

F. A program to allow building owners the ability to take advantage of incentives, financial and otherwise, offered on the national, state, and local level.

The intention of this Chapter is to create a method to draw a reasonable balance between private property rights and the public interest in preserving Louisville's unique historic character by ensuring that demolition of, moving, or alterations to properties of historic value shall be carefully considered for impact to the property's contribution to Louisville's heritage.

Sec. 15.36.020 Definitions.

For purposes of this Chapter, the following definitions shall apply.

Alteration: Any act or process that changes either (a) one or more of the exterior architectural features of a structure, or (b) one or more of the physical features of a site or district.

Commission: The Louisville Historic Preservation Commission.

Cultural Resource Inventory: The inventory of historic resources completed by the City of Louisville in accordance with the guidelines of the Colorado State Historic Preservation Office.

District: A group of structures or a site or sites which make a coherent whole due to their similar historic significance. A district would include, for example, neighborhoods; mining, agricultural, or commercial districts; and town sites.

Exterior Architectural Features: The exterior architectural features of a structure, including but not limited to the kind and texture of building materials, and the type, design, and character of windows, doors, and appurtenances.

Hardship Relief: A finding by the Historic Preservation Commission or the City Council that the denial of a landmark alteration certificate has imposed a hardship on a property owner.

Historic Landmark or Landmark: A structure, site, or district which has been designated by the Historic Preservation Commission because of its historic significance and importance to the City.

Historical Resource: Any building or district that has been landmarked by the City of Louisville.

Historic Significance: Having importance in the history, architecture, archaeology, or culture of the City of Louisville, the State of Colorado, or the United States.

Listed: Properties officially included in the Local, State of Colorado, or National Register of Historic Places.

Louisville Historic Preservation Commission: A commission appointed by the City Council pursuant to Louisville Municipal Code Chapter 2.66 to make recommendations on the designation of historic landmarks and to administer the City's historic preservation program.

Louisville Register of Historic Places: A list of all sites, structures, and districts that have been approved as Louisville Historic Landmarks.

Noncontributing Structures or Features: Structures or features which may be within a site or district, but are not of historic significance per se; however, the relationship of these structures with the contributing structures may be important in the preservation of the site or district.

Owner of Record or Owner: The person or persons listed on the records of the Boulder County Assessor as the owner of the subject property. Also referred to as the owner.

Physical Features: The features of a landmark which help to define its historic significance. For example, physical features may include archaeological resources, structural elements, foundations, gravestones, or tailings piles.

Preservation: The protection, enhancement, and maintenance of historic properties.

Property: The cultural resources, including buildings, structures, objects, sites, and districts, which are of historic significance.

Recording: Recording of the Historic Landmark status of a site with the Boulder County Clerk and Recorder's Office.

Site: The scene of an activity which has a historic significance to the City. A site may or may not include structures and may include, for example, parks, abandoned mining or agricultural areas, and archaeological sites.

Sec. 15.36.030 Incentives for preservation.

The City Council may by separate legislative or administrative enactment provide one or more preservation incentives programs. Information on preservation incentives programs, as adopted and in effect from time to time, shall be maintained in the offices of the Louisville Planning Department.

Sec. 15.36.040 Cultural resource inventories.

Inventories of historic properties have been prepared for a portion of the Old Town overlay district, as designated on the City zoning district map, and are on file at City Hall.

Sec. 15.36.050 Criteria for designation.

The Commission and City Council will consider the following criteria in reviewing applications for designation of properties:

A. **Landmarks.** Landmarks must be at least () years old and meet one (1) or more of the criteria for architectural, social or geographic/environmental significance as described in this Chapter. The City Council may exempt a landmark from the age standard if it is found to be exceptionally important in other significance criteria.

1. Historic landmarks shall meet one (1) or more of the following criteria:

a. *Architectural.*

- (1) Exemplifies specific elements of an architectural style or period.
- (2) Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally.
- (3) Demonstrates superior craftsmanship or high artistic value.
- (4) Represents an innovation in construction, materials or design.
- (5) Style particularly associated with the Louisville area.
- (6) Represents a built environment of a group of people in an era of history that is culturally significant to Louisville.
- (7) Pattern or grouping of elements representing at least one of the above criteria.
- (8) Significant historic remodel.

b. *Social.*

- (1) Site of historic event that had an effect upon society.
- (2) Exemplifies cultural, political, economic or social heritage of the community.
- (3) Association with a notable person or the work of a notable person.

c. *Geographic/environmental.*

- (1) Enhances sense of identity of the community.
- (2) An established and familiar natural setting or visual feature that is culturally significant to the history of Louisville.

2. Prehistoric and historic archaeological sites shall meet one (1) or more of the following:

a. *Architectural.*

- (1) Exhibits distinctive characteristics of a type, period or manner of construction.
- (2) A unique example of structure.

b. *Social.*

- (1) Potential to make an important contribution to the knowledge of the area's history or prehistory.
- (2) Association with an important event in the area's history.
- (3) Association with a notable person(s) or the work of a notable person(s).
- (4) A typical example/association with a particular ethnic group.
- (5) A unique example of an event in Louisville's history.

c. *Geographic/environmental.*

- (1) Geographically or regionally important.

3. All properties will be evaluated for physical integrity and shall meet one or more of the following criteria:

- a. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state, or nation.
- b. Retains original design features, materials and/or character.
- c. Remains in its original location, has the same historic context after having been moved, or was moved more than () years ago.
- d. Has been accurately reconstructed or restored based on historic documentation.

B. Districts. For the purposes of this Chapter, a district is geographically definable as including a concentration, linkage or continuity of surface or subsurface sites, buildings, structures or objects, or any combination thereof. The district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria to the pattern(s) and unifying element(s).

- 1. It shall require the consent of at least forty percent (40%) of the owners in a proposed district for an application to be considered under the Designation with Owner's Consent section.
- 2. Applications for designation of a district will not be considered if there is written opposition to such district formation from at least forty percent (40%) percent of the property owners within the district boundaries. When calculating the district's owner percentage, each property will receive one vote.
- 3. Properties that do not contribute to the significance of the historic district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, or information potential.
- 4. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or site density as established through research or inventory. District boundaries may be non-contiguous.
- 5. In addition to meeting at least one (1) of the criteria outlined in subsection 15.36.050.B.6, below, the contributing features of the district must be at least () years old. The City Council may exempt the district from the age standard if the resources are found to

be exceptionally important in other significant criteria.

6. Historic districts shall meet one (1) or more of the following criteria:

a. *Architectural.*

- (1) Exemplifies specific elements of an architectural period or style.
- (2) Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally.
- (3) Demonstrates superior craftsmanship or high artistic value.
- (4) Represents an innovation in construction, materials, or design.
- (5) Style particularly associated with the Louisville area.
- (6) Represents a built environment of a group of people in an era of history that is culturally significant to Louisville.
- (7) Pattern or grouping of elements representing at least one of the above criteria.
- (8) Significant historic remodel.

b. *Social.*

- (1) Site of historic event that had an effect upon society.
- (2) Exemplifies cultural, political, economic or social heritage of the community.
- (3) An association with a notable person(s) or the work of a notable person(s).

c. *Geographic/environmental.*

- (1) Enhances sense of identity of the community.
- (2) An established and familiar natural setting or visual feature that is culturally significant to the history of Louisville.

d. *Archaeology/subsurface.*

- (1) Potential to make an important contribution to the area's history or prehistory.

- (2) An association with an important event in the area's development.
- (3) An association with a notable person(s) or the work of a notable person(s).
- (4) Distinctive characteristics of a type, period or manner of construction.
- (5) Geographical importance.
- (6) A typical example/association with a particular ethnic group.
- (7) A typical example/association with a local cultural or economic activity.
- (8) A unique example of an event or structure.

C. Any site listed on the State or National Register of Historic Places shall be presumed to qualify for local designation under this Chapter.

D. Any district designated as an historic district by the State or National Register of Historic Places shall be presumed to meet the minimum standards for local designation; however, such presumption is rebuttable and the Commission and City Council will also take into consideration the written and oral testimony of owners of the affected properties, in addition to any other evidence presented at its hearing.

Sec. 15.36.060 Historic designation with the owner's consent.

A. *Application.* An application for designation may be made by the property owner, the owners in a proposed district, the Commission, the City Council, or an organization with a recognized interest in historic preservation. When an application is submitted other than by the property owner, the City Manager or his or her designee and at least one (1) member of the Commission shall contact the owner or owners of the proposed landmark or the owners within the proposed district, to advise them that an application has been filed, to outline the reasons for and effects of designation as a landmark, and to secure the consent of the owner or owners to such designation before the application is accepted as complete for review.

B. *Commission review.* The Commission shall hold a public hearing on the application no more than sixty (60) days after the filing of the application. Notice of time, date and place of such hearing, and a brief summary or explanation of the subject matter of the hearing, shall be given by at least one (1) publication in a newspaper of general circulation within the City not less

than fifteen (15) days prior to the date of the hearing. In addition, at least fifteen (15) days prior to the hearing date, City staff shall:

1. Post the property in the application so as to indicate that a landmark or historic district designation has been applied for and include the date and time of the public hearing;
2. Mail written notice of the hearing, by certified mail and regular mail, to the record owners of all property included in the proposed designation; and
3. Mail written notice of hearing, by regular mail, to the surrounding property owners within 500 feet of the property included in the proposed designation.

The Commission shall review the application for conformance with the established criteria for designation and with the purposes of this Chapter. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after the hearing date first set, unless otherwise mutually agreed by the Commission, the applicant, and the owner or owners within the landmark district, the Commission shall either approve, modify and approve, or disapprove the proposal, and, shall refer the proposal with a copy of its report and recommendation to the City Council.

C. Proceedings by the City Council.

1. Within forty-five (45) days after the date of any referral from the Commission, the City Council shall hold a public hearing on the proposed designation. Notice of the time, date, place, and subject matter of the hearing shall be given by one (1) publication in a newspaper of general circulation within the City not less than fifteen (15) days prior to the date of the hearing, and the property shall be posted to indicate that a landmark or district designation is to be considered by the City Council. In addition, written notice of the hearing shall be mailed, by certified mail and regular mail at least fifteen (15) days prior to the hearing date, to the record owners of all property included in the proposed designation.
2. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after the hearing date first noticed, unless otherwise mutually agreed by the City Council, the applicant, and the owner or owners within the landmark district, the City Council shall approve, modify and approve, or disapprove the proposed designation. Pursuant to such procedures, the City Council may by resolution:

- a. Designate as a landmark an individual structure or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value, and designate a landmark site for each landmark;
 - b. Designate as an historic district an area containing a number of structures having a special historical or architectural value; or
 - c. Deny the application for designation as a landmark or district.
3. Each such designating resolution shall include a description of the characteristics of the landmark or historic 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 landmark site or historic district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Chapter.
 4. The property included in any such designation shall be subject to the controls and standards set forth in this Chapter, and eligible for such incentive programs as may be adopted by the City Council.

D. Notification. When a landmark or historic district has been designated by the City Council as provided above, the City shall promptly notify the owners in writing of the property included therein and shall cause a copy of the designating resolution to be recorded with the Boulder County Clerk and Recorder's Office.

Sec. 15.36.070 [Reserved]

Sec. 15.36.080 Limitation on resubmission and reconsideration of proposed designation.

Whenever the Commission or City Council disapproves a proposed designation, no application that is the same or substantially the same may be submitted for at least six (6) months from the effective date of the final action on the original proposal.

Sec. 15.36.090 Amendment of designation.

Designation of a landmark or historic district may be amended to add features or property to the site or district under the procedures prescribed by this Chapter for initial designations. Whenever a designation has been amended, the City shall notify in writing within 10 days the owners of the property subject to the

amendment and shall record a copy of the amending resolution with the Boulder County Clerk and Recorder's Office.

Sec. 15.36.100 Landmark alteration certificate required.

A. No person shall carry out or permit to be carried out on a designated landmark site or in a designated historic district any new construction, alteration, removal, or demolition of a building or other designated feature without first obtaining a landmark alteration certificate pursuant to this Chapter, as well as any other permits required by this code or other ordinances of the City.

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 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.

C. No person shall receive a permit to construct, alter, remove, or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after the date an application has been filed to initiate the designation of such landmark site or district. No such permit application filed after such date will be approved while proceedings are pending on such designation.

Sec. 15.36.110 Landmark alteration certificate application and review.

A. An owner of property designated as a landmark or located in an historic district may apply for a landmark alteration certificate. The application shall be on a form provided by the City, shall include plans and specifications showing all proposed exterior alterations, including their proposed exterior appearance, with texture, materials, and architectural design and detail, and such other information that the Commission determines in necessary to consider the application.

B. *Review.* A designated staff person and two (2) randomly selected members of the Commission shall review all applications for landmark alteration certificates for alterations to buildings or special features and shall determine within seven (7) days after a complete application is filed whether or not the proposed work would have a significant impact upon or be potentially detrimental to a landmark site or historic district.

C. *No significant impact.* If it is determined by both Commission designees that there would be no significant impact or potential detriment, the City shall issue a landmark alteration certificate to the applicant and shall notify the Commission of such issuance.

D. *Commission referral.* If one of the Commission designees determines that the proposed work would create a significant impact or potential detriment, they shall refer the application to the Commission for a public meeting and shall notify the applicant of the referral in writing. Notice of the time, date, place, and subject matter of the meeting shall be given by one (1) publication in a newspaper of general circulation within the City not less than fifteen (15) days prior to the date of the meeting. In addition, written notice of the hearing shall be mailed, by certified mail and regular mail at least fifteen (15) days prior to the hearing date, to the applicant and the record owner of the property subject to the application.

E. *American's with Disabilities Act Compliance.* It is understood that nothing in this ordinance will supersede ADA regulations. Alternation Certificates will allow for upgrades to buildings to meet ADA requirements.

F. *Energy Conservation Allowances.* The Commission will make allowances for energy conservation when issuing alterations certificates. Such allowances will be decided on a case-by-case basis.

Sec. 15.36.120 Criteria to review an alteration certificate.

A. The Commission shall issue an alteration certificate for any proposed work on a designated historical site or district only if the proposed work would not detrimentally alter, destroy or adversely affect any architectural or landscape feature which contributes to its original historical designation.

B. The Commission must find the proposed alteration to be visually compatible with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is in an historic district, the Commission must also find that the proposed alteration is visually compatible with characteristics that define the district. For the purposes of this Chapter, the term "compatible" shall mean consistent with, harmonious with, or enhancing to the mixture of complementary architectural styles, either of the architecture of an individual structure or the character of the surrounding structures.

C. The Commission will use the following criteria to determine compatibility:

1. The effect upon the general historical and architectural character of the structure and property.
2. The architectural style, arrangement, texture, and material used on the existing and proposed structures and their relation and compatibility with other structures.

3. The size of the structure, its setbacks, its site, location, and the appropriateness thereof, when compared to existing structures and the site.
4. The compatibility of accessory structures and fences with the main structure on the site, and with other structures.
5. The effects of the proposed work in creating, changing, destroying, or otherwise impacting the exterior architectural features of the structure upon which such work is done.
6. The condition of existing improvements and whether they are a hazard to public health and safety.
7. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.
8. The proposal's compliance with the following standards:
 - a. 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.
 - b. 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.
 - c. 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.
 - d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - e. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - f. Deteriorated historic features shall be repaired rather than replaced. When 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. In the replacement of missing features, every effort shall be made to substantiate the structure's historical features by documentary, physical, or pictorial evidence.
 - g. 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.

- h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- i. 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.
- j. 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.

Sec. 15.36.130 Exemptions from an alteration certificate.

A. If an applicant is unable to meet the applicable criteria set forth in this Chapter, the applicant may request an exemption from the alteration certificate requirement. The applicant must provide adequate documentation or other evidence acceptable to the Commission to establish qualification for one (1) of the exemptions listed in this section. The Commission may require that information provided by the applicant be substantiated either by professionals in an applicable field, or by thorough documentation of how the information was obtained. The Commission may request additional information from the applicant as necessary to make informed decisions.

B. *Economic hardship exemption.* Economic hardship exemptions are granted only to the specific owner and use, are not transferable, and are subject to the following review criteria:

1. For investment or income producing properties: the owner must demonstrate an inability to obtain a reasonable rate of return on the property in its present condition or if rehabilitated. Reasonable rate of return does not mean highest rate of return.
2. For non-income producing properties consisting of owner occupied single-family dwellings or non-income producing reasonable use properties not solely operating for profit: the owner must demonstrate an inability to convert the property to reasonable use in its present condition or if rehabilitated.
3. The consideration for economic hardship shall not include willful or negligent acts by the owner, purchase of the property for substantially

more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

C. *Undue hardship.* An applicant requesting an exemption based on undue hardship must show that the application of the alteration certificate criteria creates a situation substantially inadequate to meet the applicant's needs because of specific health or safety issues.

D. *Inability to use.* If within three (3) years after denial of a demolition permit, no feasible use or ownership is found for the structure, the owner may request a waiver of all or a part of the restraint of demolition. The Commission will include the following factors in their consideration of the request:

1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the property owner to make necessary repairs, to find an appropriate user, or to find a purchaser for the property; and
2. The adequacy of the property owner's efforts to locate available assistance for making the property functional without demolition.

Sec. 15.36.140 Landmark alteration certificate or exemption hearing.

A. Unless the application has been found to have no significant impact as noted in section 15.36.110, the Commission shall hold a public hearing on all applications for landmark alteration certificates or exemptions from such certificate requirement, for new construction, removal, or demolition of a designated landmark structure or a structure within an historic district. The Commission shall hold its hearing no more than sixty (60) days after the completed application was filed.

B. *Commission review.* The Commission shall determine whether the application meets the standards in this Chapter and the Commission's established review standards for alterations. Within thirty (30) days after the hearing date first set, unless otherwise mutually agreed upon by the Commission and applicant, the Commission shall adopt its written findings, conclusions and order on the application.

C. *Extension of review period.* When reviewing alteration certificate applications involving moving or demolition of a resource, the Commission may extend the review period up to ninety (90) additional days if the Commission finds the original application meets the standards in this Chapter and the Commission's review standards for alterations. The ninety-day extension period

shall be used to encourage both the applicant and the Commission to explore acceptable alternative solutions to the original submittal.

Sec. 15.36.150 Criteria to review relocating an historic resource or landmark.

In addition to the alterations criteria in this Chapter, the Commission will use the following criteria in considering alteration certificate applications for relocating a landmark, a structure on a landmark site, a building or structure within an historic district; a structure onto a landmark site; or a structure onto property in an historic district:

A. For consideration of the original site, the Commission will review all of the following criteria:

1. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for reasonable beneficial use of the property;
2. The contribution the structure makes to its present setting, including documentation showing that the contribution the structure makes to its present setting is not crucial to the structure's historical significance;
3. Whether the structure can be moved without significant damage to its physical integrity and whether the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;
4. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting; and
5. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

B. For consideration of the new location, the Commission will review for compliance with all of the following criteria:

1. Whether the building or structure is compatible with its proposed site and adjacent properties and if the receiving site is compatible in nature with the structure or structures proposed to be moved;
2. The structure's architectural integrity and its consistency with the character of the neighborhood;
3. Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site; and

4. Whether a relocation plan has been submitted and approved by the City Manager, including posting a bond to ensure the safe relocation, preservation and repair (if required) of the structure, as well as the completion of site preparation and infrastructure connections as required under this Code.

Sec. 15.36.160 Appeal or call-up of disapproved proposals.

A. A decision of the Commission disapproving on an application for a landmark alteration certificate or exemption is final unless appealed by the applicant or called up by the City Council as provided in this section.

B. *Appeal by Applicant.* Within thirty (30) days after the date of a Commission decision denying an alteration certificate or an application for an exemption, the applicant may appeal the Commission's denial to the City Council. The appeal shall be filed with the City Clerk and shall state in detail the basis of the appeal. The City Council shall hold a public hearing on the appeal within forty-five (45) days after the date of filing of the appeal. Notice of the time, date, place and subject matter of the appeal hearing shall be given by one (1) publication in a newspaper of general circulation within the City not less than fifteen (15) days prior to the date of the hearing. In addition, written notice of the hearing shall be mailed, by certified mail and regular mail, at least fifteen (15) days prior to the hearing date to the applicant and all record owners of all property subject to the application being appealed.

C. *Call up proceedings by the City Council.* Within thirty (30) days after the date of a Commission hearing denying an alteration certificate or an application for an exemption, the City Council may by motion call up the denial for City Council review. The City Council shall hold a public hearing on the application within forty-five (45) days after the date of the City Council motion calling up the application. Notice of the time, date, place, and subject matter of the hearing shall be given by one (1) publication in a newspaper of general circulation within the City not less than fifteen (15) days prior to the date of the hearing. In addition, written notice of the hearing shall be mailed, by certified mail and regular mail, at least fifteen (15) days prior to the hearing date to the applicant and all record owners of all property subject to the application being called up.

D. *City Council Findings.* City Council review of any application which is appealed or called up pursuant to this section shall be de novo. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after the hearing date first noticed, unless otherwise mutually agreed by the Council, the applicant, and the owner or owners other than the applicant, the City Council shall adopt written findings, conclusions and order. With regard to any application appealed or called up, the City Council shall have the authority to

approve an application, approve the application with modifications or conditions, or deny the application.

Sec. 15.36.170 Issuance of a landmark alteration certificate.

A. The City shall issue a landmark alteration certificate if an application has been approved by the Commission or the City Council.

B. *Time limit.* When approving an application for a landmark alteration certificate, the Commission or City Council may impose a reasonable time limit of no less than three (3) years for the applicant to apply for a building permit conforming to the certificate.

C. *Subsequent submittals.* If the Commission or City Council disapproves an application for a landmark alteration certificate, no person may submit a subsequent application for the same construction, alteration, removal, or demolition within one year from the date of the final action upon the earlier application.

Sec. 15.36.180 Unsafe or dangerous conditions exempted.

Nothing in this Chapter shall be construed to prevent any measures of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City Building Division and where the proposed measures have been declared necessary by the City Manager to correct the condition, as long as only such work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a landmark alteration certificate under this Chapter, but a certificate is required for any permanent alteration, removal, or demolition.

Sec. 15.36.190 Property maintenance required.

A. The City intends to preserve from deliberate or inadvertent neglect the exterior portions of designated landmarks and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. No owner of any landmark shall fail to undertake such repairs or maintenance as are necessary to prevent significant deterioration of the exterior of the structure or special feature beyond the condition of the structure on the effective date of the designating resolution.

B. *Compliance with City codes.* No owner of any landmark or structure in an historic district shall fail to comply with all applicable provisions of this Chapter and other ordinances of the City regulating property maintenance.

C. *Owner notification.* Before any code enforcement or police officer files a complaint in court for failure to repair or maintain the property on a landmark site or historic district as required by this section 15.36.190, the Commission shall notify in writing the property owner or lessee of the need to repair and maintain the property, and shall give the owner a reasonable amount of time, as stated in the notice, to perform such work.

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 () 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.

B. *Permit Requirement:* No person shall demolish, move, or remove any building which is over () 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.

C. *Demolition Determination:* The City will determine if demolition review under this Chapter is required by examining building permit applications for buildings described in subsection B above.

D. *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 () years old. The initial review shall be completed within fourteen (14) days after the Building Division accepts a completed permit application 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. 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

E. *Scope of Permit Review and Stay of the Issuance of a Permit:* 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. 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 the permit shall be stayed for up to sixty (60) days from the date that a completed application is accepted by the Building Division, and the permit 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.

F. *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 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. 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.

G. *Commission Public Hearings on Permits:* When applicable, the Commission shall hold a public hearing on the permit application within sixty (60) days after the Building Division accepts a completed application. If the Commission fails to hold a public hearing within sixty (60) days after the Building Division accepts a completed permit application, 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.

H. *Decision of the Commission.* 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. If the Commission finds that the building may have historical significance under the criteria set forth above, the application shall be suspended for a period not to exceed one hundred eighty days (180) from the date

the permit application was accepted by the Building Division. The Commission will make all reasonable efforts to expedite resolution of the application.

I. *One Hundred Eighty (180) Day Suspension Period:* During the period of suspension of an application for 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; 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.

J. *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.

K. *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.

L. *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.

Sec. 15.36.210 Revocation of designation.

A. If a building or special feature on a designated landmark site was lawfully removed or demolished, the owner may apply to the Commission for a revocation of the designation.

B. The Commission shall revoke a landmark designation if, after following the notice and hearing procedures prescribed by this Chapter that are applicable to a proposed designation, it determines that without the demolished building or feature the site as a whole no longer meets the purposes and standards of this

Chapter and the Commission's review standards for designation.

C. Upon the Commission's decision to revoke a designation, the City shall cause to be prepared a resolution including the legal description of the affected property stating notice of the revocation, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.

Sec. 15.36.220 Enforcement and penalties.

A. No person shall violate or permit to be violated any of the requirements of this Chapter or the terms of a landmark alteration certificate. A violation of this Chapter is a municipal offense punishable by the provisions set forth in section 1.28.010 of this Code. Violations of this Chapter are also subject to the following additional penalties and remedies:

1. The moving, demolishing, or altering a designated structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition, or building permits for the owner, the structure, and the property at the structure's original location, except for permits required for maintenance or demolition due to neglect or for public safety.
2. The City may obtain from the municipal court an order for mandatory injunctive relief ordering that the owner, within a reasonable time, make the repairs and improvements required to bring a structure into compliance with the provisions of this Chapter.
3. The City Attorney, acting on behalf of the City Council, may maintain an action in municipal court or district court for an injunction to restrain or correct any violation of this Chapter.
4. All remedies of the City for violations of this Chapter shall be cumulative.

B. The City shall have the authority to issue appropriate corrective order and abatement notices to require compliance with the provisions of this Chapter. Any such order or notice shall be effective upon hand delivery to the owner of the property subject to the notice or order or seventy-two hours after such notice is deposited in the U.S. mail, by certified mail, return receipt requested, addressed to the owner of the property subject to the notice at the owner's address as maintained in the records of the City or the Boulder County Assessor.

C. The Louisville Municipal Court is hereby authorized to enter appropriate orders, including but not limited to orders for injunctive relief, to enforce the provisions of this Chapter.

Sec. 15.36.230 Structures of merit.

The Commission may approve a list of structures of historical or architectural merit that have not been designated as landmarks and are not situated in designated historic districts, to which the Commission may add from time to time, in order to recognize and encourage the protection, enhancement, and use of such structures. However, nothing in this Chapter shall be construed to impose any regulations or controls upon, or to provide incentives or awards to, structures of merit solely because they are included on the list. The Commission may authorize such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any listed structure or of any designated landmark or any structure in a designated historic district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.

Section 2. 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 3. 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.

Section 4. Any person who violates any provision of this Ordinance shall be punished by a fine of not more than \$1,000 or by imprisonment not to exceed one (1) year or both such fine and imprisonment. Each day during any portion of which any violation of any provision of this ordinance is committed, continued, or permitted by any such person shall be a separate offense.

Section 5. 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.

**INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED
PUBLISHED** this _____ day of _____, 2005.

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 _____, 2005.

Charles L. Sisk, Mayor

ATTEST:

Nancy Varra, City Clerk