

ORDINANCE NO. 440

AN ORDINANCE OF THE CITY OF FOSSIL FOR HISTORIC PRESERVATION AND TO ESTABLISH AN ADVISORY LANDMARK COMMISSION AND DECLARING AN EMERGENCY

WHEREAS, the City of Fossil establishes a Historic Preservation Ordinance to identify, recognize, and preserve significant properties related to the community's history; encourage the rehabilitation and ongoing viability of historic buildings and structures; strengthen public support for historic preservation efforts within the community; foster civic pride; and encourage cultural heritage tourism.

No provision of this Ordinance shall be construed to prevent the ordinary maintenance of a Landmark when such action does not involve a change in design, materials, or appearance. No provision in this Ordinance shall prevent the alteration, demolition, or relocation of a Landmark when the Building Official certifies that such action is required for public safety. At his or her discretion, the Building Official may find that under state law and Section 6 D that a Landmark does not meet current building code but is not dangerous.

Section 1:

Definitions. The following definitions apply to terms used in this Ordinance. Terms not defined have their commonly construed meaning:

Alteration: An addition, removal, or reconfiguration which alters the exterior appearance of a historic resource.

Demolition: The razing, destruction, or dismantling of a historic resource in its entirety or a substantial portion of a historic resource to the degree that its historic character is obliterated.

Exceptional Significance: The quality of historic significance achieved outside the usual norms of age, association, or rarity.

Historic Resource: A building, structure, object, site or district, as defined by the National Park Service, that is at least fifty (50) years old or is of exceptional significance and potentially meets the age, integrity, and significance criteria for listing in the Local Landmark Register, but may not necessarily be recorded in the historic Resource Survey.

Historic Resources or Statewide Significance: Buildings, structures, sites, objects, and districts that are listed in the National Register.

Historic Resource Survey: The record of buildings, structures, objects, and sites recorded by the City of Fossil used to identify historic resources potentially eligible for listing in the Local Landmark Register.

Historic Significance: The physical association of a building, structure, site, object, or district with historic events, trends, persons, architecture, method of construction or that have yielded or may yield information important in prehistory or history.

Landmark: A building, structure, site, object or district listed in the City of Fossil Local Landmark Register.

Local Landmark Register: The list of historic resources officially recognized by the City of Fossil as important to its history and afforded the protection under this Ordinance.

Relocation: The removal of a resource from its original historic location.

Section 2:

Historic Landmark Advisory Commission: The City of Fossil Historic Landmark Advisory Commission is hereby established as an advisory body to the City of Fossil Planning Commission, or if there is not an acting Planning Commission, the Fossil City Council with the following provisions:

A) The City Council shall appoint a City staff member to serve as staff to the Commission and to carry out the administrative provisions of this Ordinance.

B) The City Council shall appoint a Historic Landmark Advisory Commission, hereinafter referred to as the "Landmark Commission," of at least three members with a demonstrated competence, knowledge, willingness or interest in historic preservation with preference given to those with professional experience in the fields of preservation, architecture, archaeology, community history, building trades, real estate or related specialties.

C) Initial appointments to the Landmark Commission shall be for terms of two, three and four years. Seats 1, 2 and 3 will be for a two year term; seats 4 and 5 will be for a three year term; seats 6 and 7 will be for a four year term. Each commissioner thereafter shall be appointed for a four year term, or in the case of a replacement, for the remainder of the unexpired term. Commissioners shall be eligible for reappointment.

D) Three commissioners must be present to establish a quorum to conduct official business.

E) A Chair, Vice-Chair and Secretary shall be elected annually by and from the seated commissioners. Officers are eligible for reelection.

F) The Landmark Commission shall meet at least four times a year on the fourth Friday of the months January, April, July, and October; and as required to conduct business in a timely fashion. Notice of the meetings shall be posted at least 24 hours before the meeting at City Hall and the Post Office bulletin board. Meetings shall be recorded, and minutes typed. Meeting minutes, applications for Certificated of Appropriateness, Landmark nominations, records of designation, staff reports, and decisions of the commission shall be created and maintained as public records in accordance with applicable local and state laws.

H) Chair of the Landmarks Commission may request that the City Council consider declaring the position vacant of any member who is absent from three meetings in a single calendar year without being excused prior to the meeting by the Chair of the Landmark Commission.

Section 3:

Landmark Commission Duties: The Landmark Commission shall have the following duties:

A) Employing the procedures and criteria in Section 6, the Landmark Commission shall maintain a Historic Resource Survey consistent with the standards of the Oregon State Historic Preservation Office, hereinafter referred to as "SHPO".

B) Employing the procedures and criteria in Section 6, the Landmark Commission shall recommend that the Planning Commission (or City Council if no active Planning Commission) designate historic resources to Local Landmark Register.

C) Employing the procedures and criteria in Section 6, the Landmark Commission shall review and provide recommendations to the Planning Commission (City Council) on applications for the alteration, relocation, or demolition of Landmarks.

D) The Landmark Commission shall support the enforcement of all state laws relating to historic preservation.

E) The Landmark Commission shall perform any other functions that may be designated by resolution or motion of the Planning Commission or City Council, as applicable.

Section 4:

Identification and Evaluation of Historic Resources: The Historic Resource Survey lists, describes and determines the eligibility of historic resources for listing in the Local Landmark Register. Not all properties listed in the Historic Resource Survey are eligible for listing in the Landmarks Register. A property need not be first listed in the historic Resource Survey before being nominated to the Local Landmark Register under Section 5.

A) The Landmark Commission shall determine and periodically revise priorities for the identification and evaluation of historic resources based on the community's needs and interests.

B) Evaluation and documentation of properties in the Historic Resource Survey shall meet the requirements of the Oregon State Historic Preservation Office and be provided to that agency within six (6) months of the completion of the study.

C) The Historic Resource Survey shall be maintained as a public record with the exception of archaeological sites, which is prohibited by State law.

Section 5:

Local Landmark Register: The Commission may recommend that a historic resource be designated to the Local Landmark Register as a means of providing recognition of its significance and providing incentives and guidelines for their preservation. The Local Landmark Register shall be available to the public.

B) Criteria for designating Historic Resources to the Local Landmark Register: Any building, structure, object, site, or district may be designated to the Local Landmark Register if it is listed in the National Register of Historic Places or meets the criteria listed below:

1) The property is located within the boundaries of the City of Fossil.

2) The property is over fifty (50) years of age or of exceptional importance, or in the case of a district, the majority of the properties are over fifty (50) years old or have exceptional significance.

3) The property retains enough of its historic appearance and materials to convey its history.

4) The property has historic significance as demonstrated by meeting at least one of the following criteria:

a) Association with events that have made a significant contribution to the broad patterns of our history; and/or

b) Association with the lives or persons significant in our past; and/or

c) 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; and/or

d) Have yielded, or may be likely to yield, information important in prehistory or history.

C) Nomination Procedure. Any person, group, or government agency may nominate a property for listing in the Local Landmark Register. The nomination procedures are as follows:

1) There is no fee associated with nominating a historic resource to the Local Landmark Register.

2) The nomination for a historic resource to the Local Landmark Register must include a description of the boundaries of the proposed nominated area and the building, structures, objects, and sites contained therein, and a statement explaining how the historic resource(s) meet(s) the criteria under B of this Section.

5) Upon acceptance of a complete application and receipt of written owner consent, a public hearing shall be scheduled before the Landmarks Commission. Based on the criteria set forth in this section, the Landmark Commission shall provide a written recommendation to the Planning Commission to approve, deny, or table the application pending further testimony, or to allow for the petitioner to provide additional information as requested by the Landmark Commission.

6) Applications approved or denied by the Planning Commission shall be forwarded to the City Council. The City Council shall consider the merits of the application based on the Criteria set forth in this Section and the comments of the Landmark Commission and Planning Commission.

D) Results of listing in Local Landmark Register. Historic resources listed in the Local Landmark Register receive the following benefits:

1) All uses and restrictions established by the underlying zoning, existing conditional use permits, and other applicable design standards shall remain in effect unless changed through due process.

2) Landmarks are protected under the provisions of Section(s) 6

3) City staff and the Planning Commission shall consider granting zoning variances and/or conditional use permits in order to encourage the productive use and preservation of Landmarks.

Section 6

Treatment of Historic resources listed in the Local Landmark Register. In consideration of the recommendation of the Landmark Commission and using the provisions of this Section, the Planning Commission shall preserve the exterior character – defining features of individual Landmarks; the exterior of individual building in Landmark historic districts; and exteriors and public spaces of city-owned Landmarks.

A) Activities not subject to the provisions of this Section.

- 1) Alteration to building interiors, exempting those owned by the City of Fossil.
- 2) Alterations not requiring a building permit from the city or state.

B) For all applications submitted under this Section, the Landmark Commission shall prepare a written report that summarizes the proposed project, notes the criteria specified in this Ordinance under which the application shall be considered, and make a recommendation to the Planning Commission and/or City Council to approve, approve with conditions, or deny the application

C) No Landmark shall be altered, relocated, demolished, or a new building or structure constructed within the designated boundaries of landmark without a public hearing before the Landmark Commission and Planning Commission or if no Planning Commission the City Council..

- 1) An application for the alteration, relocation, demolition, or construction of a new building or structure within the designated boundaries of a Landmark shall include a description of the proposed activity, accompanying maps, photographs, drawings, and other documentation as deemed necessary by the Landmarks Commission.
- 2) The Landmark Commission shall review applications for the alteration, relocation, and demolition of a Landmark, and recommend to the Planning Commission that the application be approved, approved with conditions, or denied.
- 3) The Planning Commission or City Council shall review applications for the alteration, relocation, and demolition of a Landmark and the recommendations of the Landmark Commission. Applications may be approved, approved with conditions, or denied. In order to approve an application, the Planning Commission must find that the proposal meets the following guidelines as applicable:
 - a) A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships; and/or
 - b) The historic integrity of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided; and/or
 - c) A 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 elements from other historic properties, shall not be undertaken; and/or
 - d) Changes to a property that have acquired historic significance in their own right shall be retained and preserved; and/or
 - e) Distinctive materials, features, finishes, and construction techniques or examples or craftsmanship that characterize a property shall be preserved; and/or

- f) Deteriorated historic features shall be repaired rather than replaced. The severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence; and/or
 - g) Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken; and/or
 - h) New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment; and/or
 - i) 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.
- D) A public hearing before the Landmark Commission, Planning Commission, and/or the City Council shall be required to relocate or demolish a Landmark or any property listed in the National Register of Historic Places individually or as part of a historic district.
- 1) The Landmark Commission shall establish standards for a complete application for the relocation or demolition of a Landmark.
 - 2) Based on the criteria set forth in this section, the Landmark Commission shall provide a written recommendation to the Planning Commission to approve or deny the application.
 - 3) Applications approved or denied by the Planning Commission shall be forwarded to the City Council. The City Council shall consider the merits of the application based on the Criteria set forth in this Section and the comments of the Landmark Commission and Planning Commission.
 - 4) At its discretion, the City Council may impose conditions limited to the extent of that body's powers and not necessarily confined by the provisions of this Section, such as requiring photographic, video, or drawn recordation of the Landmark in its original location, or, in the case of demolition, that the property be moved to a new site.
 - 5) In the interest of seeking alternative solutions to relocation and/or demolition, the City Council may delay the proposed relocation or demolition of a Landmark for up to one-hundred eighty (180) calendar days. A permit to relocate or demolish a Landmark shall be issued at the end of the waiting period.
 - 6) Relocated Landmarks shall remain listed in the Local Landmark Register if within the corporate boundaries of the City of Fossil unless removed under Section 7.
 - 7) Demolished Landmarks shall be removed by the Landmarks Commission from the Local Landmark Register using the procedures described in Section 7.

Section 7:

Removal of Landmarks from the Local Landmark Register. A public hearing before the Landmark Commission, Planning Commission, and City Council shall be required to remove a Landmark from the Local Landmark Register. Removal from the Landmark Register does not remove the property from the National Register of Historic Places if such a designation applies.

A) Any individual or group, including the Landmark Commission acting on its own initiative, may initiate the removal of a Landmark or individual property within a historic district from the Local Landmark Register by submitting a complete application to the Landmark Commission.

B) The Landmark Commission shall administratively remove Landmarks destroyed by flood, fire, or other natural or accidental act and meeting the definition of “demolished” as defined in this Ordinance. Notice of this action and written evidence documenting the demolition of the Landmark and its removal from the Local Landmark Register shall be provided to the Planning Commission and City Council at their next regular meeting. This same documentation shall be provided to the Oregon State Historic Preservation Office. If a Landmark is also listed in the National Register, the City Council shall request that the Oregon State Historic Preservation Office remove the property from the National Register of Historic Places.

C) The Landmark Commission shall establish standards for a complete application for the removal of a Landmark from the Local Landmark Register. Upon acceptance of a complete application, the Landmark Commission shall schedule a public hearing pursuant to applicable local and state laws.

D) To recommend that the Planning Commission approve or approve with conditions an application for the removal of a Landmark from the Local Landmark Register, the Landmark Commission shall consider public testimony and must find that one or more of the following conditions have been met:

1) The Landmark has ceased to meet the criteria for listing in the Local Landmark Register because the qualities which caused it to be originally listed have been lost or destroyed; and/or

2) The property owner at the time the property was added to the Local Landmark Register did not provide written permission for such action as required under Section 5.

E) In recommending that the City Council approve or approve with conditions an application to remove a Landmark from the Local Landmarks Register, the Planning Commission shall consider the recommendation of the Landmarks Commission, public testimony, and find that the stated conditions in this section have been met.

F) To approve or approve with conditions an application to remove a Landmark from the Local Landmarks Register, the City Council shall consider the recommendation of the Landmarks Commission, Planning Commission, public testimony, and find that the stated conditions in this section have been met.

G) The City Council shall provide notice to the Oregon State Historic Preservation Office when Landmarks are removed from the Local Landmark Register.

Section 8:

Economic Hardship. At its discretion, the City Council may exempt a property owner from the requirements of Section 6 if the applicant can demonstrate that complying

with the provisions of this Ordinance creates an economic hardship that prevents the profitable use of the subject Landmark.

B) Separate standards for demonstrating an economic hardship are established for investment or income-producing and non-income-producing properties:

1) Economic hardship for an income-producing property shall be found when the property owner demonstrates that a reasonable rate of return cannot be obtained from the Landmark if it retains its historic features, buildings, or structures in either its present condition or if it is rehabilitated.

2) Economic hardship for a non-income-producing property shall be found when the property owner demonstrates that the Landmark has no beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.

Section 9

Appeals. Decisions of the Planning Commission are appealable to the City Council. Decisions of the City Council are appealable to the Oregon State Land Use Board of Appeals.

Section 10:

Enforcement of the Provisions of this Ordinance. Penalties for violations of the provisions of this Ordinance shall be the same as for violation of the City of Fossil Zoning Code.

Ordinance No. 440 read entirely for the first time on January 8, 2013

Ordinance No. 440 read by title only on January 8, 2013

Adopted this 8th day of January, 2013.

Jack Lorts, Mayor

ATTEST:

Angelica Humphreys, Council President