

# AGENDA ITEM SUMMARY

April 15, 2014

City Council

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## STAFF

Karen McWilliams, Historic Preservation Planner

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## SUBJECT

Items Relating to Historic Preservation.

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## EXECUTIVE SUMMARY

- A. Second Reading of Ordinance No. 057, 2014, Amending Chapter 14 of the City Code Regarding Landmark Preservation.
- B. Second Reading of Ordinance No. 058, 2014, Amending Section 2-278 of the City Code Pertaining to the Functions of the Landmark Preservation Commission.
- C. Second Reading of Ordinance No. 059, 2014, Amending Section 3.4.7 of the Land Use Code Pertaining to New Construction as it Affects Historic and Cultural Resources.

These Ordinances, unanimously adopted on First Reading, on April 1, 2014, amend the City Code and the Land Use Code regarding the historic preservation program.

At the April 1, 2014 Council meeting, questions were raised by Council concerning the effect of certain Code changes, principally those related to dangerous condition and imminent threat. For Second Reading, staff has revised the Code language to make the intent of these Code provisions clearer.

Section 14-51 and a new Section 14-73 now state that, if the Building Official or another properly authorized public official or employee determines that a historic structure must be demolished because it presents an imminent threat to life, health or property, nothing in Chapter 14 will interfere with carrying out that order. However, if the official or employee determines that it is reasonable to repair the structure and that repairing it will make it safe, then the owner of the structure will need to comply with Chapter 14 before work is undertaken that will affect the exterior of the structure.

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## STAFF RECOMMENDATION

Staff recommends adoption of the Ordinances on Second Reading.

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## ATTACHMENTS

- 1. First Reading Agenda Item Summary, April 1, 2014 (w/o attachments) (PDF)
- 2. Ordinance No. 057, 2014 (PDF)
- 3. Ordinance No. 058, 2014 (PDF)
- 4. Ordinance No. 059, 2014 (PDF)

# AGENDA ITEM SUMMARY

April 1, 2014

City Council

## STAFF

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Karen McWilliams, Historic Preservation Planner  
Laurie Kadrich, Community Development & Neighborhood Services Mgr

## SUBJECT

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Items Relating to Historic Preservation.

## EXECUTIVE SUMMARY

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- A. First Reading of Ordinance No. 057, 2014, Amending Chapter 14 of the City Code Regarding Landmark Preservation.
- B. First Reading of Ordinance No. 058, 2014, Amending Section 2-278 of the City Code Pertaining to the Functions of the Landmark Preservation Commission.
- C. First Reading of Ordinance No. 059, 2014, Amending Section 3.4.7 of the Land Use Code Pertaining to New Construction as it Affects Historic and Cultural Resources.

The purpose of this item is to present to Council the proposed changes to Chapter 2 and Chapter 14 of the City Code and Section 3.4.7 of the Land Use Code resulting from the 2012-2013 Historic Preservation Process and Codes Improvements Study.

## STAFF RECOMMENDATION

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Staff recommends adoption of the Ordinances on First Reading.

## BACKGROUND / DISCUSSION

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In 2012 and 2013, per Council's direction, historic preservation staff undertook a comprehensive evaluation of the City's Historic Preservation Program to enhance its transparency, predictability, and effectiveness. Phase 1 of this review resulted in two substantive changes to the City Code, adopted in August 2012:

- An appeal process for determinations of eligibility, and for the determination of the effect of proposed work on this eligibility; and
- More specificity to Landmark Preservation Commission (LPC) member requirements, ensuring compliance with Certified Local Government (CLG) standards.

Council directed that Phase 2 look more comprehensively at the various components that make up the Historic Preservation Program. Based upon direction received at Council's August 26, 2013 Work Session (**Attachment 1**), staff is bringing forward revisions to both the City Code and Land Use Code (LUC) for Council's consideration.

**Code revisions, (Ordinance No. 057, 2014; Ordinance No. 058, 2014; and Ordinance No. 059, 2014), to improve transparency and predictability include:**

- A complete re-organization of Chapter 14, “Landmark Preservation,” and the addition of explanations and references, enhancing the clarity and understanding of the Code, grouping all eligibility information together and all landmark designation information together. Previously, information was scattered throughout the Chapter;
- The inclusion of a building’s context as a consideration in determining eligibility. Previously, each property was looked at individually regardless of the surrounding character of the property;
- Having determinations remain valid for five years, rather than the current one year period;
- Adding a requirement that a minimum of three residents of the city must sign to submit an application for a non-consensual landmark designation. Currently, one resident can submit;
- Change LUC Section 3.4.7(F), “New Construction,” to better clarify the area to be considered when evaluating the compatibility of new structures, when a project involves irregular shaped parcels or land that has not been platted in a standard grid pattern;
- Requiring applicants to provide a Plan of Protection, showing how the applicant will ensure that no damage will occur to any historic resources on or adjacent to the site;
- Requiring repair, rather than demolition, of properties undergoing review under either “Landmark Preservation” or “Historic and Cultural Resources,” and which are declared dangerous by the Chief Building Officer. If a property is found to be an imminent threat by the Chief Building Officer, then an owner will have the option of repair or demolition;
- Providing penalties for actions that violate the protection mechanisms of the landmark Preservation Code.

### Code revisions to improve effectiveness and shorten review times include:

- Adding the ability for the Community Development and Neighborhood Services (CDNS) Director to be able to approve minor alterations on landmark properties administratively, so that permit approval may be granted within days rather than weeks;
- Adding the ability for the LPC Design Review Subcommittee, established by Council under Ordinance No. 002, 2011, to provide recommendations to the CDNS Director on plans it has reviewed and approved. The Director could then approve the plans administratively, without the necessity of the Subcommittee recommendation going before the full LPC for approval;
- Adding the ability for the LPC to review development projects affecting individually eligible and designated historic properties, and to provide a recommendation to the Decision Maker. This action would provide important information to the Decision Maker on projects subject to both historic preservation and development Code requirements. The change would also bring the City into compliance with federal CLG requirements, which recognizes the LPC as the City’s qualified historic review board;
- Changing the LUC review process to add non-binding determinations of eligibility, enabling potential historic resources to be identified without undue cost or delay to development applications. This is the process currently used; however, these determinations are not identified in the Code as non-binding, which has the potential to cause problems.

### FINANCIAL / ECONOMIC IMPACTS

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These Code changes provide greater predictability to the Historic Preservation Code processes, and provide for alternative review processes to facilitate project review, saving staff and the public both time and cost.

### BOARD / COMMISSION RECOMMENDATION

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At its March 12, 2014 regular meeting, the Landmark Preservation Commission unanimously (9-0) recommended approval of the Code revisions to City Codes Chapter 2, “Landmark Preservation Commission,” and Chapter 14, “Landmark Preservation” (**Attachment 2**).

At its March 13, 2014 regular meeting, the Planning and Zoning Board unanimously (7-0) recommended approval of the Code revisions to Land Use Code Section 3.4.7, “Historic and Cultural Resources” (**Attachment 3**).

**PUBLIC OUTREACH**

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Board and Commission Outreach:

- Met with the Planning and Zoning Board at three meetings and work sessions;
- Met with the Landmark Preservation Commission at 12 meetings and work sessions.

Citizen Outreach:

- Twelve-member Citizens Committee, with representation from all major stakeholders. This committee convened three times during the fall of 2012 and spring of 2013, and provided additional review through emails;
- Public Open House held on January 28, 2014, attended by 12 citizens;
- Attended three meetings of the Government Affairs Committee of the Board of Realtors, to discuss proposed Code revisions;
- Surveyed best practices of historic preservation programs in 22 peer communities, and compared these with Fort Collins' program to identify strengths and weaknesses;
- Conducted an on-line survey of nearly 2,800 property owners and adjacent property owners who went through Demolition/Alteration Review, to assess the relevancy and effectiveness of this process.

**ATTACHMENTS**

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1. Work Session Summary, August 27, 2013 (PDF)
2. Landmark Preservation Commission minutes (draft), March 12, 2014 (PDF)
3. Planning and Zoning Board minutes (draft), March 13, 2014 (PDF)
4. Powerpoint presentation (PDF)

ORDINANCE NO. 057, 2014  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 14 OF THE CODE OF THE CITY FORT COLLINS  
REGARDING LANDMARK PRESERVATION

WHEREAS, the City Council has directed City staff to undertake a two-phase project to consider improvements to the City's historic preservation codes and processes to make these codes and processes more transparent, predictable and effective; and

WHEREAS, City staff has prepared and presented to the City Council the second phase of the work, which addresses City Council's concerns regarding the readability of the codes, increased flexibility in applying the codes, and better notice of the City's historic review processes and regulations to the purchasers of historic landmarked properties and properties that are eligible to become landmarks; and

WHEREAS, the Landmark Preservation Commission has reviewed the proposed changes and has recommended the same to the City Council; and

WHEREAS, the City Council has determined that the proposed changes are in the best interests of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Article I of Chapter 14 of the Code of the City of Fort Collins is hereby amended to read as follows:

**ARTICLE I.  
IN GENERAL**

**Sec. 14-1. Definitions.**

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section:

*Adverse effect* shall mean that a project or undertaking may alter, directly or indirectly, any of the characteristics that qualify a property for designation, either individually or as a contributing element of a district, in a manner that would diminish the property's exterior integrity. Adverse effects may include reasonably foreseeable effects caused by the undertaking that may occur later in time, be removed in distance, or be cumulative.

*Alteration* shall mean any act or process, including relocation, which changes one (1) or more of the physical characteristics of a designated site, structure, object, or district or a site, structure, object or district eligible for designation.

*Characteristics* shall mean the visible and tangible attributes of a site, structure, object or district, including, but not limited to, the architectural design, style, general arrangement and components of all the outer surfaces of a site, object, structure or improvement, including, but not limited to, the color, texture, materials, type and style of all windows, doors, lights, signs and other fixtures appurtenant to said site, object, structure or improvement.

*Commission* shall mean the Landmark Preservation Commission created in § 2-276.

*Compatible* shall mean the characteristics of different uses or activities or design which allow them to be located near or adjacent to each other in harmony. Some elements affecting compatibility include height, scale, mass and bulk of structures. Other characteristics include pedestrian or vehicular traffic, circulation, access and parking impacts. Other important characteristics that affect compatibility are landscaping, lighting, noise, odor and architecture. Compatibility does not mean "the same as." Rather, compatibility refers to the sensitivity of development proposals in maintaining the character of existing development.

*Construction* shall mean the erection of any on-site improvements on any parcel of ground located within a designated or eligible district or on a designated or eligible site, whether the site is presently improved or unimproved, or the erection of a new structure on such property.

*Context* shall mean the totality of interrelated conditions in which a site, structure, object or district exists. The context of an area is the sum of the existing buildings and spaces, and the pattern of physical development in the area. It can also be a measurement of the scarcity or profusion of a particular resource type.

*Contributing* shall mean a site, structure or object eligible for designation, or formally designated, that has significance and that retains enough exterior integrity to contribute to the character of a district even though its exterior may have been altered.

*Demolition* shall mean any act or process that destroys in its entirety an eligible or designated site, structure or object, or a site, structure or object within an eligible or designated district.

*Determination of eligibility* shall mean a decision by the Director and the chair of the Commission, or the Commission, that a site, structure, object or district meets one (1) or more of the standards for designation as a Fort Collins landmark, which determination shall be valid for five (5) years. The determination of eligibility for the National and/or State Register of Historic Places shall be according to the processes and procedures of the Colorado Historical Society.

*Director* shall mean the Director of Community Development and Neighborhood Services or his or her designee.

*District* shall mean a geographically definable area possessing a significant concentration, linkage, or continuity of sites, structures, or objects and their surrounding environs united by past events or aesthetically by plan or physical development. A district may also comprise individual elements separated geographically but linked by association or history.

*Eligibility* shall mean a resource's ability to meet one (1) or more of the standards for designation as a Fort Collins landmark, or the criteria for designation on the National Register of Historic Places and/or State Register of Historic Places Properties. There are three (3) levels of eligibility for Fort Collins landmark designation: individual, contributing to a district, and noncontributing/not eligible.

*Improvement* shall mean any building, structure, place, work of art or other object constituting a physical betterment of real property or any part of such betterment, including improvements on public property.

*Individual landmark* shall mean a site, structure or object eligible for designation, or that has been formally designated, that has significance and exterior integrity. The property may have minor exterior alterations as long as such alterations have not substantially compromised the site's, structure's or object's exterior integrity.

*Landmark or landmark district* shall mean any site, structure, object or improvement and its surrounding environs or a group of sites, structures, objects or improvements or both and their surrounding environs:

- (1) Which has a special character or special historic or aesthetic interest or value as part of the development, heritage or cultural characteristics of the City, State or Nation; **or**
- (2) Wherein any event of major historic significance with a measurable effect upon society took place; **or**
- (3) Which is closely identified with a person or group of persons who have had some measurable influence on society; **or**
- (4) Wherein the broad cultural, political, economic or social heritage of the community is exemplified; **or**
- (5) Which faithfully portrays the environment of a group of people in an era of history characterized by a distinctive architectural style or which embodies those distinguishing characteristics of an architectural-type specimen or which is the work of an architect or master builder whose individual work has influenced the development of the City; **or**

(6) Which, because of being a part of or related to a square, park or other distinctive area, should be developed or preserved according to a plan based upon a historic, cultural or architectural significance; **or**

(7) Which, due to unique location or singular physical characteristic, represents an established, familiar and significant visual feature of the neighborhood, community or City; **or**

(8) Officially designated as a Fort Collins landmark or Fort Collins landmark district pursuant to the provisions of this Chapter; **or**

**(9) Officially designated as a state or national landmark or landmark district.**

*Major alteration* shall mean work that has the potential to substantially affecting more than one (1) aspect of exterior integrity.

*Minor alteration* shall mean work that has the potential to substantially affecting no more than one (1) aspect of exterior integrity.

*Noncontributing/not eligible* shall mean a site, structure or object that does not possess sufficient significance and/or exterior integrity for designation, and is considered noncontributing to a district, or not eligible to be designated as an individual landmark.

*Object* shall mean a material thing of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable.

*Owner* shall mean the owner of fee simple title as shown in the records of the County Assessor.

*Repair and maintenance* shall mean work done on a site, structure or object in order to correct any deterioration, decay or damage to any part thereof in order to restore the same as nearly as practical to its condition prior to such deterioration, decay or damage.

*Resource* shall mean any site, structure or object that is part of or constitutes a property.

*Significant structure* shall mean a house, commercial/industrial building, barn, stable, granary, carriage house, chicken house or similar structure.

*Site* shall mean the location of a significant event, a prehistoric or historic occupation or activity, or a structure or object whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing structure.

*Structure* shall mean that which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.

**Sec. 14-2. Declaration of policy.**

(a) It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of sites, structures, objects and districts of historical, architectural or geographic significance, located within the City, are a public necessity and are required in the interest of the prosperity, civic pride and general welfare of the people.

(b) It is the opinion of the City Council that the economic, cultural and aesthetic standing of this City cannot be maintained or enhanced by disregarding the historical, architectural and geographical heritage of the City and by ignoring the destruction or defacement of such cultural assets.

**Sec. 14-3. Purpose.**

The purposes of this Section are to:

- (1) Designate, preserve, protect, enhance and perpetuate those sites, structures, objects and districts which reflect outstanding elements of the City's cultural, artistic, social, economic, political, architectural, historic or other heritage;
- (2) Foster civic pride in the beauty and accomplishments of the past;
- (3) Stabilize or improve aesthetic and economic vitality and values of such sites, structures, objects and districts;
- (4) Protect and enhance the City's attraction to tourists and visitors;
- (5) Promote the use of outstanding historical or architectural sites, structures, objects and districts for the education, stimulation and welfare of the people of the City;
- (6) Promote good urban design;
- (7) Promote and encourage continued private ownership and utilization of such sites, structures, objects or districts now so owned and used, to the extent that the objectives listed above can be attained under such a policy.

**Sec. 14-4. Staff.**

The staff of the Commission shall consist of a secretary and such other staff as may be authorized by the City. The secretary shall be the custodian of the records of the Commission, shall handle official correspondence and shall generally supervise the clerical and technical work of the Commission. The Director shall act as secretary and staff liaison to the Commission.

**Sec. 14-5. Standards for determining the eligibility of sites, structures, objects and districts for designation as Fort Collins Landmarks or Landmark Districts.**

Properties eligible for designation must possess both significance and exterior integrity. In making a determination of eligibility, the context of the area surrounding the property shall be considered.

(1) *Significance* is the importance of a site, structure, object or district to the history, architecture, archeology, engineering, or culture of our community, state or nation. *Significance* is achieved through meeting one or more of four standards recognized by the U.S. Department of Interior, National Park Service. These standards define how properties are significant for their association with events or persons, in design or construction, or for their information potential.

(2) Standards for determining significance:

a. *Events*. Properties may be determined to be significant if they are associated with events that have made a recognizable contribution to the broad patterns of the history of the community, state or nation. A property can be associated with either (or both) of two types of events:

1. A specific event marking an important moment in Fort Collins prehistory or history; and/or

2. A pattern of events or a historic trend that made a recognizable contribution to the development of the community, state, or nation.

b. *Persons/Groups*. Properties may be determined to be significant if they are associated with the lives of persons or groups of persons recognizable in the history of the community, state or nation whose specific contributions to that history can be identified and documented.

c. *Design/Construction*. Properties may be determined to be significant if they embody the identifiable characteristics of a type, period, or method of construction; represent the work of a craftsman or architect whose work is distinguishable from others by its characteristic style and quality; possess high artistic values or design concepts; or are part of a recognizable and distinguishable group of properties. This standard applies to such disciplines as formal and vernacular architecture, landscape architecture, engineering, and artwork, by either an individual or a group. A property can be significant not only for the way it was originally constructed or crafted, but also for the way it was adapted at a later period, or for the way it illustrates changing tastes, attitudes, and/or

uses over a period of time. Examples are residential buildings which represent the socio-economic classes within a community, but which frequently are vernacular in nature and do not have high artistic values.

d. *Information potential.* Properties may be determined to be significant if they have yielded, or may be likely to yield, information important in prehistory or history.

(3) *Exterior integrity* is the ability of a site, structure, object or district to be able to convey its significance. The exterior integrity of a resource is based on the degree to which it retains all or some of seven (7) aspects or qualities established by the U.S. Department of Interior, National Park Service: location, design, setting, materials, workmanship, feeling, and association. All seven (7) qualities do not need to be present for a site, structure, object or district to be eligible as long as the overall sense of past time and place is evident.

(4) Standards for determining exterior integrity:

a. *Location* is the place where the historic property was constructed or the place where the historic event occurred.

b. *Design* is the combination of elements that create the form, plan space, structure, and style of a property.

c. *Setting* is the physical environment of a historic property. Whereas location refers to the specific place where a property was built or an event occurred, setting refers to the character of the place. It involves how, not just where, the property is situated and its relationship to the surrounding features and open space.

d. *Materials* are the physical elements that form a historic property.

e. *Workmanship* is the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory. It is the evidence of artisans' labor and skill in constructing or altering a building, structure, or site.

f. *Feeling* is a property's expression of the aesthetic or historic sense of a particular period or time. It results from the presence of physical features that, taken together, convey the property's historic character.

g. *Association* is the direct link between an important historic event or person and a historic property. A property retains association if it is the place where the event or activity occurred and is sufficiently intact to convey that relationship to an observer. Like feeling, association requires the presence of physical features that convey a property's historic character.

(5) *Context.* The area required for evaluating a resource's context is dependent on the type and location of the resource. A house located in the middle of a residential block could be evaluated in the context of the buildings on both sides of the block, while a house located on a corner may require a different contextual area. Upon the submittal of an application necessitating a determination of eligibility for designation as a Fort Collins Landmark or Landmark District, the Director ~~of Community Development and Neighborhood Services~~ and/or the chair of the Commission shall determine the minimum area required for evaluating context, and such information, including photographs and other documents, as required for the determination.

**Sec. 14-6. Process for determining the eligibility of sites, structures, objects and districts for designation as Fort Collins Landmarks or Landmark Districts.**

(a) *Application.* An application for determining the eligibility of a site, structure, object or district for designation as a Fort Collins Landmark or Landmark District may be made by any resident of the City or owner of property in the City on forms prescribed by the City. Said application shall be filed with the Director. Within fifteen (15) days of the filing of such application, the Director and the chair of the Commission (or a designated member of the Commission appointed by the chair) shall determine the site, structure, object or district's current level of eligibility (individual, contributing or not eligible) for designation as a Fort Collins landmark based on the information contained in the application and information provided by the staff of the City or others, which determination shall be valid for five (5) years. The Director shall promptly publish the determination in a newspaper of general circulation in the City, and cause a sign to be posted on or near the structure stating that the building or structure is undergoing historic review. Said sign shall be at least four (4) square feet in size, readable from a point of public access and shall state that more information may be obtained from the Director.

(b) *Appeal of determination.* Any determination made by the Director and the chair of the Commission, or his or her designee, regarding the structure's level of eligibility may be appealed to the Commission by any resident of the City or owner of property in the City. Such appeal shall be set forth in writing and filed with the Director within fourteen (14) days of the date of the Director's determination. The appeal shall include a Colorado Cultural Resource Survey Architectural Inventory Form, prepared by an expert in historic preservation acceptable to the Director and the applicant, with the cost of such form to be paid by the appellant. Such form need not be filed with the appeal but must be filed at least ten (10) days prior to the hearing of the appeal. The Director shall schedule a date for hearing the appeal before the Commission as expeditiously as possible. Not less than ten (10) days prior to the date of the hearing, the Director shall provide the appellant with written notice of the date, time and place of the hearing of the appeal, which notice shall be deposited in the U.S. Mail, and shall publish notice of the hearing in a newspaper of general circulation in the City. In addition, the Director shall cause a sign to be posted on or near the structure stating that the building or structure is undergoing historic review.

Said sign shall be at least four (4) square feet in size, be readable from a point of public access, and state that more information may be obtained from the Director.

**Sec. 14-7. Waiver of conditions.**

(a) Upon a showing of substantial hardship or to protect against an arbitrary result, and following notice as provided in § 14-25, the Commission may waive such conditions and requirements as are set forth in this Chapter provided the Commission finds that the spirit and purpose of the Chapter are not significantly eroded and that the requested waiver meets one or both of the following criteria:

(1) The requested waiver is the minimum necessary to accommodate exceptional physical conditions or other extraordinary and exceptional situations unique to the affected property, which may include, but are not limited to, physical conditions such as exceptional narrowness, shallowness or topography, and such difficulties or hardship are not caused by the act or omission of the applicant; and/or

(2) The requested waiver as submitted will not diverge from the conditions and requirements of this Chapter except in nominal and inconsequential ways, and will continue to advance the purposes of this Chapter.

(b) Any finding made under Paragraph (1) or (2) above shall be supported by specific findings showing how the proposal, as submitted, meets the requirements and criteria of said Paragraph (1) or (2).

**Sec. 14-8. Offenses against historic property.**

(a) Except as may be authorized pursuant to this Chapter 14 or the provisions of the Land Use Code, no person shall damage, deface, or destroy any site, structure or object that is designated as a Fort Collins, state or national historic landmark or that is a contributing structure to any Fort Collins or national landmark district, or that is undergoing any of the processes provided for in this Chapter 14.

(b) Except in response to a bona fide determination of imminent threat under § 14-51, no person shall deviate from or fail to comply with any approved plan of protection for any historic resource that is required under this Chapter 14 or the Land Use Code.

**Sec. 14-9. Appeal of decisions.**

Final decisions of the Commission shall be subject to the right of appeal to the City Council as set forth in § 2-46 et seq. unless otherwise provided. Any action taken in reliance upon any decision of the Commission that is subject to appeal under the provisions of this Chapter shall be at the sole risk of the person(s) taking such action, and the City shall not be liable for any damages arising from any such action taken during said period of time.

**Sec. 14-10. Severability.**

It is hereby declared to be the legislative intent of the City Council that the provisions of this Chapter shall be severable in accordance with the provisions set forth below:

(1) If any provision of this Chapter is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such judicial decision shall be limited to that provision which is expressly stated in the decision to be invalid. Such decision shall not affect, impair or nullify this Chapter as a whole or any other part, and the rest of this Chapter shall continue in full force and effect.

(2) If the application of any provision of this Chapter to any lot, structure or other improvement or a tract of land is declared to be invalid by a decision of any court of competent jurisdiction, the effect of such judicial decision shall be limited to that lot, structure or other improvement or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered. Such decision shall not affect, impair or nullify this Chapter as a whole or the application of any provision to any other lot, structure or other improvement or tract of land.

**Secs. 14-11 – 14-20. Reserved**

Section 2. That Article II of Chapter 14 of the Code of the City of Fort Collins is hereby repealed and reenacted to read as follows:

**ARTICLE II.  
DESIGNATION PROCEDURE**

**Sec. 14-21. Initiation of designation procedure.**

The landmark designation process may be initiated by motion of the Commission or upon application of the owner(s) of the property to be designated, or of any three (3) or more residents of the City. All applications submitted in accordance with this Section shall include a description of the property proposed for designation and a detailed outline of the reasons why such property should be designated and why the boundaries of the property should be determined as described in the application. The Commission shall promptly determine whether the site, structure, object or district meets the criteria of a landmark or landmark district, and, if so, direct staff to investigate the benefits to the City of landmark designation. If the owner is not the applicant, the Director shall contact the owner or owners of such landmark or landmark district outlining the reasons and effects of designation as a landmark and, if possible, shall secure the owner's consent to such designation. If the Director is unable to personally contact such owner(s), it shall be sufficient to send a written request for the consent to designation of such property by certified or registered mail, return receipt requested, addressed to the owner(s) as shown on the most recent records of the County Assessor at the address shown on such records.

**Sec. 14-22. Hearing process.**

(a) If all owners of the property to be designated consent in writing to such designation, the Commission, upon the affirmative vote of a majority of the members present, may adopt a resolution recommending to the City Council the designation of the landmark or landmark district without the necessity of notice or hearing and without the review by the Department of Community Development and Neighborhood Services required by § 14-24 below.

(b) If all owners of the property to be designated do not consent to designation of the property within fifteen (15) days from the date of receipt of the request for consent to designation, the Commission shall hold a hearing at a specified time, date and place, following the giving of notice as described in § 14-23. The purpose of said hearing shall be to determine whether to proceed with consideration of the designation process without the consent of one (1) or more owners of the property. Upon the affirmative vote of at least six (6) of its members at the hearing, the Commission may adopt a resolution stating that the preliminary investigation by the Commission indicates that the described property is eligible for designation as a landmark or landmark district, and stating the reason the Commission feels that it should further consider the possible designation of the property without the consent of the owner(s). The Commission shall then schedule a second public hearing as described in Subsection (c).

(c) Upon determination by the Commission under Subsection (b) that it should further consider the designation of the property, and following the giving of notice as described in § 14-23, the Commission shall hold a second hearing. At least six (6) members of the Commission must be present at such hearing. If at least six (6) members are not present, the members present shall adjourn the meeting to another date within two (2) weeks. If at least six (6) members are not present at such adjourned meeting, the hearing shall be canceled and the designation procedure terminated. If any hearing is continued, the time, date and place of the continuation shall be established and announced to those present when the current session is to be adjourned. Such information shall be promptly forwarded, by regular mail, to the owners of record as established and addressed pursuant to § 14-23.

(d) Reasonable opportunity shall be provided for all interested parties to express their opinions at the foregoing hearings regarding the proposed designation(s). However, nothing contained herein shall be construed to prevent the Commission from establishing reasonable rules to govern the proceedings of the hearings or from establishing reasonable limits on the length of individual presentations. The hearings shall be recorded and minutes provided to each City Councilmember. Written presentations, including the report of the Department of Community Development and Neighborhood Services as described in § 14-24, shall be included in the record of the hearing.

**Sec. 14-23. Notice of hearing.**

Notice of the hearings referenced in § 14-22 shall be given as follows:

(1) Written notice of the time, date, place and subject of the hearing shall be sent by registered or certified mail not less than thirty (30) days prior to the hearing to all owners of record on the date of the resolution who own the real property being proposed for designation as a landmark or landmark district. Such notice shall be deemed delivered upon the passage of five (5) days from the deposit of the notice in the mail.

(2) Signs indicating that landmark designation is being considered by the Commission shall be posted by the Commission for a period of not less than fifteen (15) days immediately preceding the applicable hearing on all property proposed for landmark designation and/or on the boundaries of all areas proposed for landmark district designations. Such signs shall be prominently displayed and easily readable from abutting public ways.

(3) A legal notice indicating the nature of the hearings, the property involved and the time, date and place of the scheduled public hearing shall be published in a local newspaper of general circulation one (1) time at least fifteen (15) days prior to the hearing.

(4) Written notice of the proposed landmark designation, including the identification of the property, the basis for commencing with the designation procedure and the time, date and place of the hearing, shall be given to the Director not later than thirty (30) days prior to the hearing.

**Sec. 14-24. Department of Community Development and Neighborhood Services review.**

(a) The Department of Community Development and Neighborhood Services shall review the proposed designation with respect to:

(1) Its relationship to the zoning ordinance of the City and the Comprehensive Plan of the City;

(2) The effect of the designation upon the surrounding neighborhood;

(3) Such other planning considerations as may be relevant.

(b) The Department of Community Development and Neighborhood Services may recommend approval, rejection or modification of the proposed designation and its recommendation shall contain a statement of the basis for the recommendation. The recommendation shall be delivered to the Commission in written form at or prior to any hearing held under Subsection 14-22(c).

**Sec. 14-25. Findings and recommendations of the Commission.**

The Commission shall, within thirty-five (35) days of a hearing held under Subsection 14-22(c), adopt a recommendation to the City Council regarding the application for designation. The Commission may recommend modification of any proposal, but no proposal may be extended beyond the boundaries of the land described in the original application unless the initiation and hearing procedures ~~is~~ are repeated for the enlarged boundaries. The Commission shall set forth in its records the findings of fact that constitute the basis for its recommendation.

**Sec. 14-26. Transmittal to City Council.**

(a) Within fifteen (15) days after reaching its decision, the Commission shall transmit to the City Council its recommendation on the designation of a landmark or landmark district, including the description of the property involved and the findings upon which the recommendation was based.

(b) If more than one (1) property is involved in the designation procedure, the Commission may recommend designation for any or all of the properties involved. In no event may any property be added to the area described in the initiation resolution without instituting a new designation procedure.

**Sec. 14-27. City Council action.**

Upon receipt of the recommendations transmitted by the Commission, the City Council may by ordinance designate property as a landmark or landmark district. Due consideration shall be given to the written view of owners of affected property, and in its discretion the City Council may hold public hearings on any proposed landmark or landmark district designation. If the City Council does not so designate a property, then any pending application for a permit to alter or demolish the structure on the property may be approved without the necessity of compliance with Article IV of this Chapter.

**Sec. 14-28. Recording with County Clerk.**

Within fifteen days of the effective date of an ordinance designating property as a landmark or landmark district, the City shall record among the real estate records of the County Clerk and Recorder either:

(1) A certified copy of the ordinance designating the specified property as a landmark or landmark district; or

(2) A notice stating that the specified property has been designated as a landmark or landmark district and citing the ordinance and the effective date of the ordinance which

made the designation effective. The notice may also contain a brief summary of the effects of such designation as set forth in this Chapter.

**Sec. 14-29. Final notification to owner.**

Within fourteen (14) days after the recording of the ordinance or the notice of designation of property as a landmark or landmark district, the Director shall send to the owner of each property so designated a letter outlining the reasons for such designation and the obligations and restrictions created by such designation. Such letter shall also contain a request that the owner or his or her successors or assigns notify the Director prior to:

- (1) Preparation of plans for the reconstruction or alteration of the exterior of improvements located on such property;
- (2) Preparation of plans for the construction, exterior alteration, or demolition of improvements on such property.

**Sec. 14-30. Interim control.**

No building permit shall be issued by the Department of Community Development and Neighborhood Services for the construction, exterior alteration, or demolition of a site, structure or object under consideration for landmark designation or any site, structure or object within a district under consideration for landmark district designation from the date of the hearing of the Commission at which the Commission approves a motion directing staff to investigate the benefits to the City of landmark designation under §14-21 until final disposition of the designation by the City Council unless such alteration, construction, or demolition is approved by a motion of the Commission as not having an adverse effect on the property's eligibility for designation, or is authorized by resolution of the City Council as necessary for public health, welfare or safety. In no event shall the delay in issuance of a building permit due to the provisions of this Section be for more than one hundred eighty (180) days.

**Sec. 14-31. Amendment or rescission of designation.**

A landmark and landmark district designation may be amended or rescinded in the same manner as the original designation was made.

**Sec. 14-32. Notification of state or national designation.**

The Director shall promptly notify the Commission of any known national or state designations which occur within the City.

**Secs. 14-33 – 14-45. Reserved.**

Section 3. That Article III of Chapter 14 of the Code of the City of Fort Collins is hereby amended to read as follows:

### ARTICLE III.

#### CONSTRUCTION, EXTERIOR ALTERATIONS, OR DEMOLITION OF DESIGNATED HISTORIC RESOURCES

##### Sec. 14-46. Work requiring building permit.

(a) Except as provided in § 14-51, action on an application for a building permit for a structure or object designated as a landmark or located in a landmark district, shall be deferred by the Director of ~~Building and Zoning~~ until the application is accompanied by a report of acceptability from the Commission for the proposed work, when the proposed work involves any of the following:

- (1) Alteration or reconstruction of or addition to the exterior of any improvement which constitutes all or part of a landmark or landmark district;
- (2) Demolition or exterior alteration of any improvement or object which constitutes all or part of a landmark or landmark district;
- (3) Construction or erection of or addition to any improvement upon any land included in a landmark district.

(b) In order to obtain a report of acceptability, the applicant shall submit the application for a building permit, including sketches and plans. Such plans shall include, without limitation, a plan of protection acceptable to the Commission showing how the applicant will ensure that no damage will occur to any historic resources on or adjacent to the site, and other documents as required by the Commission, to the Commission through the Director. All such applications shall be reviewed by the Commission in two (2) phases to determine compliance with this Chapter as follows:

- (1) *Conceptual review.* Conceptual review is an opportunity for the applicant to discuss requirements, standards, design issues and policies that apply to landmarks or sites, structures and objects within a landmark district. Problems can be identified and solved prior to final review of the application. Conceptual review of any proposed work may be limited to certain portions of the work as deemed appropriate by the Commission. If, upon review of the proposed work, the Commission determines that conceptual review is not necessary given the absence of a significant impact on the landmark or landmark district involved, it may be waived by the Commission, and the Commission may then proceed to consider the proposed work on final review at the same meeting.

(2) *Final review and approval.* Each application shall be finally reviewed and approved by the Commission at the same meeting as the Commission's conceptual review of the application, if any or at a subsequent meeting of the Commission. During final review, the Commission shall consider the application and any changes made by the applicant since conceptual review as set forth in this Subsection.

**Sec. 14-47. Work not requiring building permit; application for approval.**

(a) Except as otherwise provided herein, no land surface within any real property designated as a landmark or landmark district shall be changed and no improvements shall be erected, removed, restored, demolished or altered, including alterations of color, without prior written approval of the Commission. No addition shall be made to any real property designated as a landmark or landmark district in such a manner or of such a character as to change the exterior appearance or exterior characteristics which change shall be visible from any public street, park or other public place, without prior written approval of the Commission.

(b) Any person desiring to remove, demolish, or in any way change the exterior appearance or the exterior characteristics of improvements on real property designated as a landmark or in a landmark district or desiring to change the land surface of any such real property, shall submit to the Commission an application for approval and a specific statement of the work proposed, together with such details as the Commission may require.

**Sec. 14-48. Report of Acceptability.**

(a) If upon receipt of an application for a report of acceptability pursuant to § 14-46, or upon receipt of an application pursuant to § 14-47, the Commission finds that the proposed work is of a nature that will not erode the authenticity or destroy any distinctive exterior feature or characteristic of the improvements or site and is compatible with the distinctive characteristics of the landmark or landmark district and with the spirit and purpose of this Chapter, the Commission shall advise the applicant in writing by issuing a report of acceptability. In the case of an application under § 14-46, upon receipt of the Commission's report of acceptability and approved plans and specifications, the Director of Building and Zoning may proceed with the review of the application for a building permit. No change that would defeat the purpose of this Chapter shall be made in an application for a building permit or the plans and specifications for the proposed work approved by the Commission without resubmittal to the Commission and approval of such changes in the same manner as the original application.

(b) In determining the decision to be made concerning the issuance of a report of acceptability, the Commission shall consider the following criteria:

- (1) The effect of the proposed work upon the general historical and/or architectural character of the landmark or landmark district;
- (2) The architectural style, arrangement, texture and materials of existing and proposed improvements, and their relation to the landmark or the sites, structures and objects in the district;
- (3) The effects of the proposed work in creating, changing, obscuring or destroying the exterior characteristics of the site, structure or object upon which such work is to be done;
- (4) The effect of the proposed work upon the protection, enhancement, perpetuation and use of the landmark or landmark district;
- (5) The extent to which the proposed work meets the standards of the City and the United States Secretary of the Interior for the preservation, reconstruction, restoration or rehabilitation of historic resources.

**Sec. 14-49. Work not detrimental to historic, architectural or cultural material; administrative process.**

(a) Any work that would otherwise qualify for consideration under the procedures established in § 14-46 or 14-47 of this Article may, at the option of the applicant and with the consent of the chair of the Commission, be considered administratively by the Director. The Director may consider, under the authority of this Section, applications for approval of color selection from a historically authentic palette of colors, signs, awning re-coverings and minor exterior alterations to a landmark or a site, structure or object located in a landmark district. The Director may, under the authority of this Section, consider changes originally initiated by the applicant as well as changes to plans previously approved by the Commission. Any application submitted to the Director under the authority of this Section shall be in writing and shall contain a specific statement of the work proposed, together with such details as the Director may require.

(b) If, upon receipt of any such application, the Director finds that the proposed work is compatible with the distinctive characteristics of the landmark or landmark district and with the spirit and purpose of this Chapter, and complies with all of the criteria for review established in § 14-48(b) above, the Director shall render a written decision approving the work. In the case of an application under § 14-46, the Director of ~~Building and Zoning~~ shall proceed with the review of the building permit application only upon receipt of the Director's decision and approved plans and specifications. No change shall be made in any such application for a building permit or in the plans and specifications for work approved by the Director unless such changes are submitted to and approved by the Director in the same manner as the original application. The proposed work shall not be commenced until the Director has issued the decision approving the work and a building permit (if applicable) has been issued.

(c) Decisions of the Director made under the authority of this Section may be appealed to the Commission by the applicant, provided that any such appeal shall be set forth in writing and filed with the Director within fourteen (14) days of the date of the Director's decision. The Commission shall schedule a date for hearing the appeal before the Commission as expeditiously as possible. The Commission shall provide the appellant with written notice of the date, time and place of the hearing of the appeal, which notice shall be deposited in the U.S. Mail not less than five (5) days prior to the date of the hearing, and shall also publish notice of the hearing in a newspaper of general circulation in the City not less than ten (10) days prior to the date of the hearing. Any action taken in reliance upon the decision of the Director shall be totally at the risk of the persons taking such action until all appeal rights related to such decision have been exhausted, and the City shall not be liable for any damages arising from any such action taken during said period of time.

**Sec. 14-50. Denial of building permit.**

If the proposed work is not approved by the Commission, the Director of ~~Building and Zoning~~ shall deny the application for the building permit and shall advise the applicant. No reapplication shall be submitted pursuant to § 14-46 et seq., under the original plans and specifications found unacceptable by the Commission except upon a showing of changed circumstances sufficient to justify the reapplication.

**Sec. 14-51. Remediating of dangerous conditions.**

In any case where ~~the Director of Building and Zoning, the Poudre Fire Authority or any other~~ a properly authorized public official or employee orders ~~or directs~~ the reconstruction, alteration, repair, or demolition of any structure that has been designated as a Fort Collins or national landmark, or any structure located in a Fort Collins or national landmark district, ~~or any structure that has been determined under this Chapter to be eligible for designation as a contributing element of such district,~~ for the purpose of remedying conditions determined by that officer ~~or employee, department or authority~~ to constitute an imminent threat to life, health or property, nothing contained herein shall be construed as making it unlawful for any person to comply with such order. ~~Any~~ Such officer, ~~department or authority~~ employee shall take immediate steps to notify the Commission of the proposed issuance of any such order ~~or directive~~ and may include in such ~~the~~ order ~~or directive~~ any timely received requirements or recommendations of the Commission. **In the event that such officer or employee has determined that the structure in question is capable of being made safe by repairs and need not be demolished, the structure shall be repaired or demolished only in accordance with the provisions of this Article.**

**Sec. 14-52. Normal maintenance and repair.**

Nothing in this Chapter shall be construed to prohibit the accomplishment of any work on any landmark or in any landmark district which will neither change the exterior appearance nor the exterior characteristics of improvements, nor the character or appearance of the land itself and which is considered necessary as a part of normal maintenance and repair.

**Sec. 14-53. Minimum maintenance requirements.**

(a) All sites, structures or objects designated as landmarks and all sites, structures or objects located within a landmark district shall be maintained in such fashion as to meet the requirements of the International Property Maintenance Code or the Uniform Code for Building Conservation, as adopted by the City. The owner of such sites, structures or objects shall also keep in good repair all structural elements thereof which, if not so maintained, may cause or tend to cause the exterior portions of such sites, structures or objects to deteriorate, decay or become damaged or otherwise to fall into a state of disrepair which would have a detrimental effect upon the historic character of such sites, structures or objects or the landmark districts, if any, in which they are situated.

(b) The Commission may request that the Director of ~~Building and Zoning~~ require correction of defects or repairs to any sites, structures or objects regulated by this Section.

**Sec. 14-54. Violations and penalties.**

Any person violating any provision of this Chapter shall be subject to the penalty provided in § 1-15. In case any improvement is erected, constructed, reconstructed, altered, added to or demolished in violation of this Chapter, the City or any proper person may institute an appropriate action or proceeding to prevent such unlawful action. The imposition of any penalty hereunder shall not preclude the City or any proper person from instituting any proper action or proceeding to require compliance with the provisions of this Chapter and with administrative orders and determinations made hereunder.

**Sec. 14-55. Severability.**

It is hereby declared to be the legislative intent that the several provisions of this Chapter shall be severable in accordance with the provisions set forth below:

(1) If any provision of this Chapter is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that provision which is expressly stated in the decision to be invalid. Such decision shall not affect, impair or nullify this Chapter as a whole or any other part, but the rest of this Chapter shall continue in full force and effect;

(2) If the application of any provision of this Chapter to any lot, structure or other improvement or a tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of

such decision shall be limited to that lot, structure or other improvement or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered. Such decision shall not affect, impair or nullify this Chapter as a whole or the application of any provision to any other lot, structure or other improvement or tract of land.

**Secs. 14-56 – 14-70. Reserved.**

Section 4. That Article IV of Chapter 14 of the Code of the City of Fort Collins is hereby amended to read as follows:

**ARTICLE IV.**

**DEMOLITION OR EXTERIOR ALTERATION OF HISTORIC STRUCTURES NOT DESIGNATED AS FORT COLLINS LANDMARKS OR LOCATED IN A FORT COLLINS LANDMARK DISTRICT**

**Sec. 14-71. General.**

(a) This Article shall not apply to any structure designated as a Fort Collins landmark or located in a Fort Collins landmark district.

(b) With the exception of any structure found to pose an imminent threat under Section 14-51 as adopted and amended by the City, no structure (or portion thereof) fifty (50) years of age or older that meets one (1) or more of the standards of eligibility contained in § 14-5 of this Code may be demolished or its exterior altered nor shall any permit for such demolition or alteration be issued unless the owner of such structure has complied with the provisions of this Section and § 14-72 below. (This Article shall not apply to interior demolition or alteration activities not visible from any public street, park or other public place, or to demolition or alteration activities as they affect the surface or subsurface of the ground, or any archeological impacts pertaining thereto.)

**Sec. 14-72. Procedures for review of applications for demolition or exterior alteration.**

(a) The owner of any structure governed by this Article shall make application for City approval of the demolition or exterior alteration of such structure (or portion thereof) on forms prescribed by the City. Said application shall be filed with the Director. Within fourteen (14) days of the filing of such application, the Director and the chair of the Commission, (or a designated member of the Commission appointed by the chair, who shall in this Section be referred to as “designee”), shall determine if the proposed work constitutes a demolition or a minor or major alteration of the exterior.

(b) If the Director and chair of the Commission (or designee) agree that the proposed work is a minor alteration, then the application shall be approved, and any such approval shall not be subject to appeal. If the work is determined to be a demolition or major alteration, the Director and the chair of the Commission (or designee) shall either refer the matter to the Commission or Design Review Subcommittee pursuant to Subsection (c), or shall determine whether either Paragraphs (1) or (2) are met:

(1) the structure (or portion thereof), is not eligible for individual designation as a Fort Collins landmark, and the structure is not designated on the National Register of Historic Places and/or State Registers of Historic Places Properties, either individually or as a contributing element of a National and/or State Register district; or

(2) both of the following conditions are met:

a. the structure (or portion thereof) is eligible for individual designation as a Fort Collins landmark, or the structure is designated on the National and/or State Registers of Historic Places, either individually or as a contributing element of a National and/or State Register district; and

b. the proposed demolition or exterior alteration of the structure (or portion thereof), in the judgment of the Director and the chair of the Commission (or designee), would not be detrimental to the current level of eligibility of the remaining structure, if any, adjacent properties, the surrounding neighborhood and the National and/or State Register district in which the structure is located, if any.

If the Director and chair of the Commission (or designee) so determine, then the application shall be approved.

(c) If the application is not approved pursuant to Paragraphs (1) or (2), above, the application shall be considered by the Commission pursuant to Subsection (f), below, unless the Director or the chair of the Commission, with the consent of the applicant, refers the application to the Design Review Subcommittee of the Commission. The decision to refer is not an appealable decision.

(d) If the application is referred to the Design Review Subcommittee, the Director shall schedule a meeting on the application before the Design Review Subcommittee as expeditiously as practical following receipt of the information required under Subsection 14-46(b) and any other documents required by the Design Review Subcommittee. At the meeting, the Design Review Subcommittee shall explore with the applicant all means for substantially preserving the eligibility of the structure which would be affected by the requested permit.

(1) In making a determination concerning the proposal, the Subcommittee shall consider the following criteria:

- a. the effect of the proposed work upon the general historical and/or architectural character of the landmark or landmark district;
- b. the architectural style, arrangement, texture and materials of existing and proposed improvements, and their relation to the landmark or the sites, structures and objects in the district;
- c. the effects of the proposed work in creating, changing, obscuring or destroying the exterior characteristics of the site, structure or object upon which such work is to be done;
- d. the effect of the proposed work upon the protection, enhancement, perpetuation and use of the landmark or landmark district; and
- e. the extent to which the proposed work meets the standards of the City and the United States Secretary of the Interior for the preservation, reconstruction, restoration or rehabilitation of historic resources.

(2) If the Design Review Subcommittee unanimously agrees on alternative plans acceptable to the applicant, it shall provide the Director with a written approval of such alternative plans, and any permit for the project shall include such alternative plans.

(3) If the Design Review Subcommittee does not so agree, then the application shall be referred to the Commission for review under § 14-72(f).

(e) Any determination made pursuant to Section 14-72(b) by the Director and the chair of the Commission (or his or her designee) or made by the Design Review Subcommittee pursuant to Section 14-72(d), may be appealed to the Commission by any resident of the City or owner of property in the City. Such appeal shall be set forth in writing and filed with the Director within fourteen (14) days of the decision being appealed. The appeal shall include a Colorado Cultural Resource Survey Architectural Inventory Form, prepared by an expert in historic preservation acceptable to the Director and the applicant, with the cost of such form to be paid by the appellant. Such form need not be filed with the appeal but must be filed at least ten (10) days prior to the hearing of the appeal. The Commission shall schedule a date for hearing the appeal before the Commission as expeditiously as possible. Not less than ten (10) days prior to the date of the hearing, the Commission shall provide the appellant with written notice of the date, time and place of the hearing of the appeal, which notice shall be deposited in the U.S. Mail, and shall publish in a newspaper of general circulation in the City notice of the hearing. In addition, the Commission shall cause a sign to be posted on or near the

structure proposed for demolition or exterior alteration stating that the building or structure is undergoing historic review. Said sign shall be at least four (4) square feet in size, readable from a point of public access and shall state that more information may be obtained from the Director.

(f) If a demolition or exterior alteration permit application has been referred to the Commission under Subsection (c), then the application shall be processed and considered in accordance with this Subsection.

(1) All applications under Section 14-72(f) shall be accompanied by the payment of a fee in the amount of two hundred fifty dollars (\$250.) to cover the costs of processing the request for demolition or exterior alteration at the final hearing before the Commission and shall contain such information as the Director reasonably believes is necessary for a full and complete consideration of the request, which information shall include, but need not be limited to:

- a. A Colorado Cultural Resource Survey Architectural Inventory Form prepared by an expert in historic preservation, acceptable to the Director and the applicant, with the cost of such form and report to be paid by the applicant;
- b. Detailed plans and specifications describing and depicting the appearance of the site, structure or object that is the subject of the application, in context, after the proposed alteration or demolition;
- c. Evidence satisfactory to the Director that all administrative and quasi judicial approvals necessary to accommodate the proposed demolition or alteration have been obtained.
- d. A plan of protection acceptable to the Commission showing how the applicant will ensure that no damage will occur to any historic resources on or adjacent to the site.

(2) The Director shall schedule a date for any hearing to be held by the Commission under this Paragraph as expeditiously as possible and shall provide the applicant with written notice of the date, time and place of the hearing, which notice shall be deposited in the U.S. Mail not less than ten (10) days prior to the date of the hearing, and shall publish in a newspaper of general circulation in the City notice of the hearing not less than ten (10) days prior to the date of the hearing.

(3) Not less than thirty (30) days prior to the hearing of the Commission, the applicant shall:

a. Cause a sign to be posted on or near the structure proposed for demolition or exterior alteration, stating that the building or structure is undergoing historic review. Said sign shall be at least four (4) square feet in size, readable from a point of public access and shall state that more information may be obtained from the Director.

b. Request that the City generate a list of owners of record of all real property within a minimum of eight hundred (800) feet (exclusive of public rights-of-way, public facilities, parks or public open space) of the property lines of the parcel of land upon which the structure is situated, which list shall be prepared from the records of the County Assessor.

(4) Written notice of the hearing shall be mailed by the Director to all persons named on the list generated under Paragraph (3)b. above. Said mailing shall occur at least fourteen (14) days prior to the hearing date. The applicant shall pay postage and handling costs as established by the Director.

(5) The Commission shall approve the application (with or without conditions) at the hearing or, in the alternative, it may postpone consideration of the application for a period not to exceed forty-five (45) days, in order to facilitate the gathering of additional information needed for the full and complete consideration of the request by the Commission, which information may include the opinion of the staff regarding the benefits to the City of landmark or landmark district designation of the property in accordance with Article II of this Chapter. In the event that the Commission has not made a final decision within said forty-five (45) day period, then the Commission shall be deemed to have approved, without condition, the proposed demolition or exterior alteration.

(6) Upon approval of the application by the Director or the Commission, the owner may obtain a demolition or alteration permit and may thereafter demolish or alter the structure (or portion thereof) in compliance with all applicable laws, ordinances and regulations.

(7) The Commission may, as a condition of its approval of the demolition or alteration of a structure (or portion thereof), require the property owner to provide the City with such additional information as will, in the opinion of the Commission, help to mitigate the loss to the City caused by the demolition or exterior alteration of the structure (or portion thereof). These conditions may include, but need not be limited to:

a. Comprehensive photographic documentation of such structure, with prints and negatives;

b. Comprehensive historical, developmental, social, and/or architectural documentation of the property and the neighborhood containing the property; and/or

c. Any other mitigating solution agreed upon by the Commission, the applicant, and any other applicable parties.

**Sec. 14-73. Remedying of dangerous conditions.**

In any case where a properly authorized public official or employee orders the demolition of any structure that has been determined under this Chapter to be eligible for designation as a contributing element of a Fort Collins or national landmark district, or any structure located in a Fort Collins or national landmark district, for the purpose of remedying conditions determined by that officer or employee to constitute an imminent threat to life, health or property, nothing contained herein shall be construed as making it unlawful for any person to comply with such order. Such officer or employee shall take immediate steps to notify the Commission of the proposed issuance of such order and may include in the order any timely received requirements or recommendations of the Commission. In the event that such officer or employee has determined that the structure in question is capable of being made safe by repairs and need not be demolished, the structure shall be repaired or demolished only in accordance with the provisions of this Article.

**Sec. 14-73~~73~~74. Notice defects.**

Neither of the following shall affect the validity of any hearing or determination made under the provisions of this Chapter:

(a) The fact that written notice, mailed as required under the provision of this Chapter, was not actually received by one or more of the intended recipients.

(b) The fact that signage posted in compliance with the provisions of this Chapter was subsequently damaged, stolen, or removed, either by natural causes or by persons other than the person responsible for posting such signage or his or her agents.

**Secs. 14-74~~74~~5 – 14-80. Reserved.**

Section 5. That Article V of Chapter 14 of the Code of the City of Fort Collins is hereby amended to read as follows:

**ARTICLE V.  
LANDMARK REHABILITATION LOAN PROGRAM**

**Sec. 14-81. Purpose.**

The City Council hereby establishes a landmark rehabilitation loan program and finds that the program promotes a valid public purpose of increasing the quality, exterior integrity and permanence of the City's stock of historic landmarks for the enjoyment and benefit of present and future generations of citizens of the City by making available to the owners of designated Fort Collins landmarks or contributing structures in designated Fort Collins landmark districts a source of funding for exterior rehabilitation of such structures.

**Sec. 14-82. Establishment; funding.**

The City Manager shall administer the program for awarding zero-interest loans for the rehabilitation of Fort Collins landmark structures and/or contributing structures in Fort Collins landmark districts. The City Manager may promulgate procedural rules and regulations for the efficient administration of the program. No such loan shall exceed the sum of seven thousand five hundred dollars (\$7,500.) unless the City Council, by ordinance or resolution, authorizes a larger loan. All loans shall be funded solely from those funds held by the City for financial support of the program in the General Fund, and all loans shall be expressly contingent upon the availability of sufficient funds to support the loan. Loan recipients shall, as a condition of obtaining the loan, agree to repay the loan in full upon sale or transfer of the property. All loan repayments shall be returned to the landmark rehabilitation loan program.

**Sec. 14-83. Criteria.**

No landmark rehabilitation loan shall be awarded unless the following criteria and requirements have been met:

- (1) The subject structure must have been designated as a Fort Collins landmark or be a contributing structure in a Fort Collins landmark district pursuant to this Chapter before the landmark rehabilitation loan can be awarded.
- (2) All loan recipients shall provide matching funds in an amount equal to or greater than the amount of the loan.
- (3) The matching funds provided by the loan recipient may be utilized only for exterior rehabilitation of the subject property and/or the stabilization of the structure, the rehabilitation of electrical, heating or plumbing systems, and/or the rehabilitation or installation of fire sprinkling systems in commercial structures. Neither the loan nor the matching funds shall be used for the installation of nor rehabilitation of signage or interior rehabilitation or decoration, nor the installation of building additions or the addition of architectural or decorative elements which are not part of the landmarked structure.
- (4) Loan funds may be expended only for rehabilitation of the exterior of a designated Fort Collins landmark structure or contributing structure in a Fort Collins landmark district. No interior improvements may be purchased utilizing City loan funds.

(5) The standards and/or guidelines of the City and the United States Secretary of the Interior for the preservation, reconstruction, restoration or rehabilitation of historic resources then in effect shall serve as the standards by which all rehabilitation work must be performed.

(6) No loan funds shall be disbursed until after the recipient has completed the work, the work has been physically inspected by the City and has been approved by the City Manager and the loan recipient has documented the cost of the work by submitting to the City copies of all bills, invoices, work orders and/or such other documentation showing, to the satisfaction of the City, that the funds requested are reasonable and are supported by actual proof of expense.

(7) Loan recipients shall, as a condition of the loan, prominently place a sign upon the property being rehabilitated stating that such rehabilitation has been funded, in part, through the City's landmark rehabilitation loan program.

(8) Property owners who have previously received loans shall be eligible for subsequent loans.

(9) All rehabilitation work shall be completed within one (1) year from the date upon which the loan was awarded; provided, however, that upon application and a showing of good cause as to why the project cannot be timely completed, the Commission may authorize an extension of up to one (1) additional year for completion of the work.

(10) No landmark rehabilitation loan shall be awarded unless the Commission (or in cases of loans exceeding the maximum amounts established herein, the City Council) first determines that:

- a. The applicant has demonstrated an effort to return the structure to its original appearance;
- b. It is in the best interests of the public welfare that the structure proposed to be rehabilitated be preserved for future generations; and
- c. The amount proposed to be spent on exterior rehabilitation is reasonable under the circumstances.

(11) No landmark rehabilitation loan shall be awarded unless the loan recipient has, as a condition of obtaining the loan, agreed to repay the loan in full upon sale or transfer of the property.

**Sec. 14-84. Reserved.**

Introduced, considered favorably on first reading, and ordered published this 1st day of April, A.D. 2014, and to be presented for final passage on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

ORDINANCE NO. 058, 2014  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 2-278 OF THE CODE OF THE  
CITY OF FORT COLLINS PERTAINING TO THE FUNCTIONS OF THE  
LANDMARK PRESERVATION COMMISSION

WHEREAS, the City Council has directed City staff to undertake a two-phase project to consider improvements to the City's historic preservation codes and processes to make these codes and processes more transparent, predictable and effective; and

WHEREAS, City staff has prepared and presented to the City Council the second phase of the work, which addresses City Council's concerns regarding the readability of the codes, increased flexibility in applying the codes, and better notice of the City's historic review processes and regulations to the purchasers of historic landmarked properties and properties that are eligible to become landmarks; and

WHEREAS, the Landmark Preservation Commission has reviewed the proposed changes as set forth below and has recommended the same to the City Council; and

WHEREAS, the City Council has determined that the changes set forth below are in the best interests of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 2-278 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 2-278. Functions.**

(a) The Commission shall perform all duties relating to preservation of historic landmarks as set out in Chapter 14, including the designation of sites, structures, objects or districts as landmarks and the review and approval or rejection of plans for the construction, alteration, demolition or relocation of any such site, structure, object or district. Decisions of the Commission are final unless appealed to the City Council.

(b) The Commission shall also perform the following additional functions:

(1) To promote awareness and understanding of, and appreciation for, the value of historic resource preservation in contributing to the quality of life in the City, and actively encouraging property owners to voluntarily designate their properties as historic landmarks;

(2) To advise the City Council and City staff with regard to the identification and evaluation of historic resources within the Growth Management Area and providing information regarding the significance of the resources, the nature and degree of threat to their preservation, and methods for their protection;

(3) To advise the City Council and City staff with regard to appropriate policies, incentives and regulations for encouraging and/or requiring preservation and rehabilitation of historic resources;

(4) To coordinate with the various other City boards, commissions and City staff members whose actions may affect the preservation of historic resources in the community; and

(5) To establish a committee of its members to provide advice and, if required under Section 2.10.2(H) of the Land Use Code, written recommendations to the owners of eligible historic properties, and of properties located near eligible historic properties, regarding historically appropriate design and site planning for additions, alterations and new construction in the City; provided, however, that any members of such committee who provide such advice or recommendations to property owners under this provision shall refrain from participating in any subsequent decisions of the Commission related to such properties; and

(6) To provide advice and written recommendations to the appropriate decision maker and/or administrative body regarding plans for properties containing or adjacent to sites, structures, objects or districts that: (a) have been determined to be individually eligible for local landmark designation or for individual listing in the State or National Registers of Historic Places; (b) are officially designated as a local or state landmark, or are listed on the National Register of Historic Places; or (c) are located within an officially designated historic district or area.

(7) To perform such other duties and functions as may be provided by the City Council by ordinance or resolution.

(c) In order to better perform the foregoing functions and to coordinate the activities of the Commission with similar activities of other public and private agencies, members of the Commission may be appointed, by majority vote of the Commission, to serve as City representatives on the board of directors of the Historic Fort Collins Development Corporation, the Poudre Landmark Foundation or such other privately funded nonprofit corporations as the Commission may approve that are organized for the primary purpose of furthering the preservation of the community's historic resources.

Introduced, considered favorably on first reading, and ordered published this 1st day of April, A.D. 2014, and to be presented for final passage on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

ORDINANCE NO. 059, 2014  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 3.4.7 OF THE LAND USE CODE  
PERTAINING TO NEW CONSTRUCTION AS IT AFFECTS  
HISTORIC AND CULTURAL RESOURCES

WHEREAS, the City Council has directed City staff to undertake a two-phase project to consider improvements to the City's historic preservation codes and processes to make these codes and processes more transparent, predictable and effective; and

WHEREAS, City staff has prepared and presented to the City Council the second phase of the work, which addresses City Council's concerns regarding the readability of the codes, increased flexibility in applying the codes, and better notice of the City's historic review processes and regulations to the purchasers of historic landmarked properties and properties that are eligible to become landmarks; and

WHEREAS, the Landmark Preservation Commission has reviewed the proposed changes set forth below and has recommended the same to the City Council; and

WHEREAS, the City Council has determined that the changes set forth below are in the best interests of the citizens of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 3.4.7 of the Land Use Code is hereby amended to read as follows:

**3.4.7 Historic and Cultural Resources**

- (A) **Purpose.** This Section is intended to ensure that, to the maximum extent feasible: (1) historic sites, structures or objects are preserved and incorporated into the proposed development and any undertaking that may potentially alter the characteristics of the historic property is done in a way that does not adversely affect the integrity or significance of the historic property; and (2) new construction is designed to respect the historic character of the site and any historic properties in the surrounding neighborhood. This Section is intended to protect designated or individually eligible historic sites, structures or objects as well as sites, structures or objects in designated historic districts, whether on or adjacent to the development site.
- (B) **General Standard.** If the project contains a site, structure or object that (1) is determined to be or potentially be individually eligible for local landmark designation or for individual listing in the State Register of Historic Properties or National Registers of Historic Places; (2) is officially designated as a local or state landmark, or is listed on the National Register of Historic Places; or (3) is located within an officially designated national, state or City historic district or area, then to the maximum extent feasible, the development plan and building design shall

provide for the preservation and adaptive use of the historic structure. The development plan and building design shall protect and enhance the historical and architectural value of any historic property that is: (a) preserved and adaptively used on the development site; or (b) is located on property adjacent to the development site and qualifies under (1), (2) or (3) above. New structures must be compatible with the historic character of any such historic property, whether on the development site or adjacent thereto.

- (C) ***Determination of Landmark Eligibility.*** The determination of individual eligibility or potential individual eligibility for local landmark designation will be made in accordance with the applicable provisions of Chapter 14 of the City Code, except that the determination of potential individual eligibility shall be made by the Director and the finding of potential eligibility shall not constitute a finding of eligibility under Section 14-21 or 14-72 of the City Code. A site, structure or object may be determined to be or potentially be individually eligible for local landmark designation if it meets one (1) or more of the criteria as described in Section 14-5 "Standards for determining the eligibility of sites, structures, objects and districts for designation as Fort Collins Landmarks or Landmark Districts" of the City Code.

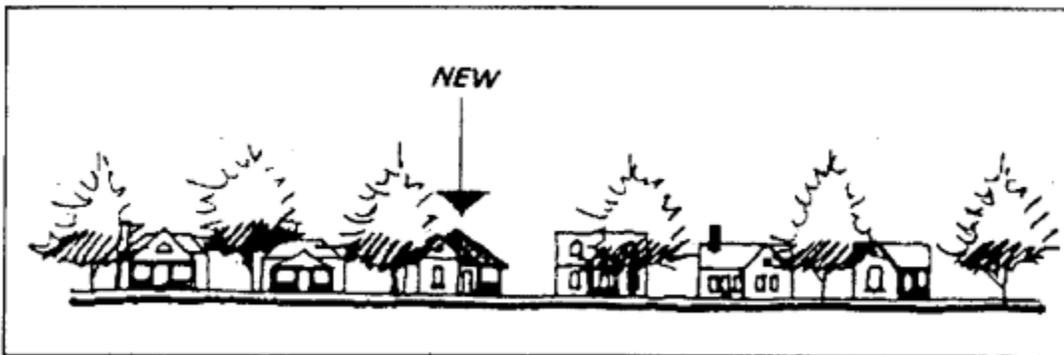
The determination of individual eligibility for the National or State Register of Historic Places shall be according to the processes and procedures of the Colorado Historical Society.

- (D) ***Reuse, Renovation, Alterations and Additions.***
- (1) Original or historic materials and details, as well as distinctive form and scale, that contribute to the historic significance of the structure or neighborhood shall be preserved to the maximum extent feasible. Rehabilitation work shall not destroy the distinguishing quality or character of the structure or its environment.
  - (2) The rehabilitation of structures shall be in conformance with the Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" (available from the Director) or other adopted design guidelines or standards.
- (E) ***Demolition.*** A site, structure or object that is determined to be or potentially be individually eligible for local landmark designation or for individual listing in the State or National Registers of Historic Places may be demolished only if, in the opinion of the decision maker, the applicant has, to the maximum extent feasible, attempted to preserve the site, structure or object in accordance with the standards of this Section, and the preservation of the site, structure or object is not feasible.

(F) *New Construction.*

- (1) To the maximum extent feasible, the height, setback and/or width of new structures shall be similar to: (a) those of existing historic structures on any block face on which the new structure is located and on any portion of a block face across a local or collector street from the block face on which the new structure is located; or (b) when a block does not exist, similar to those on any land adjacent to the property on which the new structure is to be located. Notwithstanding the foregoing, this requirement shall not apply if, in the judgment of the decision maker, such historic structures would not be negatively impacted with respect to their historic exterior integrity and significance by reason of the new structure being constructed at a dissimilar height, setback and/or width. Where building setbacks cannot be maintained, elements such as walls, columns, hedges or other screens shall be used to define the edge of the site and maintain alignment. Taller structures or portions of structures shall be located interior to the site.
- (2) New structures shall be designed to be in character with such existing historic structures. Horizontal elements, such as cornices, windows, moldings and sign bands, shall be aligned with those of such existing historic structures to strengthen the visual ties among buildings. Window patterns of such existing structures (size, height, number) shall be repeated in new construction, and the pattern of the primary building entrance facing the street shall be maintained to the maximum extent feasible. See Figure 6.

Figure 6  
Building Patterns



- (3) The dominant building material of such existing historic structures adjacent to or in the immediate vicinity of the proposed structure shall be used as the primary material for new construction. Variety in materials can be appropriate, but shall maintain the existing distribution of materials in the same block.

- (4) Visual and pedestrian connections between the site and neighborhood focal points, such as a park, school or church, shall be preserved and enhanced, to the maximum extent feasible.
- (5) To the maximum extent feasible, existing historic and mature landscaping shall be preserved and when additional street tree plantings are proposed, the alignment and spacing of new trees shall match that of the existing trees.
- (6) In its consideration of the approval of plans for properties containing or adjacent to sites, structures, objects or districts that: (a) have been determined to be or potentially be individually eligible for local landmark designation or for individual listing in the National Register of Historic Places or the State Register of Historic Properties, or (b) are officially designated as a local or state landmark, or are listed on the National Register of Historic Places, or (c) are located within an officially designated National, State or local historic district or area, the decision maker shall receive and consider a written recommendation from the Landmark Preservation Commission unless the Director has issued a written determination that the plans would not have a significant impact on the individual eligibility or potential individual eligibility of the site, structure, object, or district. A determination or recommendation made under this subsection is not appealable to the City Council under Chapter 2 of the City Code.

Introduced, considered favorably on first reading, and ordered published this 1st day of April, A.D. 2014, and to be presented for final passage on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 15th day of April, A.D. 2014.

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Mayor

ATTEST:

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City Clerk