

## CHAPTER 39

### HISTORIC BUILDINGS AND SITES

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#### **11-39-101 Purpose**

Farmington City (the “*City*”) recognizes that the historical heritage of the community is among its most valued and important assets. It is the intent of the City to identify, preserve, protect, and enhance historic buildings, sites, monuments, streetscapes and landmarks within the City deemed architecturally or historically significant. By protecting such historically significant sites and structures, they will be preserved for the use, observation, education, pleasure and general welfare of the present and future residents of the City.

#### **11-39-102 Definitions**

For the purposes of this Chapter, the following terms and words and their derivations shall have the meaning as given herein. Words not included herein or in the building code shall be given their usual meaning as found in the English dictionary, unless the context of the words clearly indicates a different meaning.

“Certificate of Historic Appropriateness” – A document evidencing approval by the Historic Preservation Commission of an application to make a material change in the appearance of a designated Historic Resource.

“Exterior Architectural Features” – The architectural style, general design and general arrangement of the exterior of a building, structure or object, including but not limited to the kind of texture of the building material and the type and style of windows, doors, signs and other appurtenant architectural fixtures, details or elements relative to the foregoing.

“Exterior Environmental Features” – All those aspects of the landscape or the development of a site which affect the historic character of the property.

“Important” – Marked by or indicative of significant worth or consequence.

“Historic Resource” - Any building, structure, object, site or district listed on the City’s Historic Sites List or the Historic Landmarks Register.

“Material Change in Appearance” – A change to a building or Historic Resource that would affect the exterior architectural or environmental features of a Historic Resource, such as:

1. Reconstruction or alteration of the size, shape or façade of a Historic Resource, including relocation of any doors or windows or removal or alteration of any architectural features, details or elements;
2. Demolition or relocation of a Historic Resource;
3. Commencement of excavation for construction purposes; or
4. The erection, alteration, restoration or removal of any building or Historic Resource, including walls, fences, steps and pavements or other appurtenant features except exterior paint alterations.

“Major Alteration” – A change or alteration to a building or Historic Resource that would destroy the historic integrity including, but not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on the principal facades, addition of upper stories or the removal of original upper stories, covering exterior walls (except adobe) with non-historic materials, moving the Historic Resource from its original location to one that is dissimilar to the original, or additions which significantly detract from or obscure the original form and appearance of the Historic Resource when viewed from a public right-of-way.

“Positioning” – The placement of a Historical Resource on a property or its placement relative to other structures and/or landmarks in the general vicinity.

“Reconnaissance Level Survey” – A visual evaluation of a large portion of properties in a community for the purpose of providing a “first cut” of buildings that may, based on their age and integrity, be eligible for listing in the National Register of Historic Places. The evaluation rating of potential sites and Historic Resources shall be given one of the following ratings:

- A – Eligible/Significant: built within the historic period and retains integrity; excellent example of a style or type; unaltered or only minor alterations or additions; individually eligible for National Register of Historic Places under criterion “C”; also, buildings of known historical significance.
- B – Eligible: built within the historic period and retains integrity; good example of a style or type, but not as well-preserved or well-executed as “A” buildings; more substantial alterations or additions than “A” buildings, though overall integrity is retained; eligible for National

Register of Historic Places as part of a potential historic district or primarily for historical, rather than architectural, reasons.

C – Ineligible: built during the historic period but has undergone Major Alterations or additions; no longer retains integrity.

D – Out-of-period: constructed outside the historic period.

“Scale” – The distinctive relative size, extent or degree of a Historic Resource.

“Significant” – Having or likely to have influence and effect.

### **11-39-103 Historic Preservation Commission**

The Historic Preservation Commission, created pursuant to Farmington City Code §3-03-040, as amended, shall provide advisory assistance to the City regarding the implementation of the provisions of this Chapter.

### **11-39-104 Farmington Historic Sites List**

(a) Created. There is hereby created a Farmington Historic Sites List (the “List”), which shall serve as a means of providing recognition to and encouraging the preservation of Historic Resources in the City. The List shall be prepared and maintained by the Historic Preservation Commission and filed with the City Recorder's Office.

(b) Contents. The List shall describe each Historic Resource, the date or approximate date of its construction the date during which its historic significance was established, the reason for including it on the List, and the name and address of the current owner as shown on the records of the Davis County Recorder.

(c) Criteria. The Historic Preservation Commission may designate any building, structure, object, site or district to the List as a Historic Resource in accordance with the procedures set forth herein if it is determined by the Historic Preservation Commission that the Historic Resource meets all of the following criteria:

- (1) It is located within the official boundaries of the City; and
- (2) It is at least fifty (50) years old; and
- (3) There are no Major Alterations or additions that have obscured or destroyed the significant historic features.

(d) Designation Procedures. The Historic Preservation Commission is charged with designating properties to and maintaining the List. The List shall reference any research related to the Historic Resource and a copy of the List shall be kept in the Historic Preservation Commission’s historic sites files. The historic sites files shall be

open to the public in accordance with the Farmington City Government Records Access and Management Ordinance. This List shall be reviewed and Historic Resources shall be added or deleted as appropriate on, at minimum, a yearly basis by the Historic Preservation Commission. The List should include all Historic Resources located within the City that meet the minimum requirements set forth below:

- (1) Rate an “A” or “B” on a professional Reconnaissance Level Survey;
  - (2) Are deemed “A” or “B” by the Historic Preservation Commission (for properties outside of a surveyed area);
  - (3) Any Historic Resource that does not meet the “A” or “B” criteria established by the National Register of Historic Places, but is of exceptional importance to Farmington’s history; or
  - (4) Any Historic Resource that has undergone Major Alterations or has been destroyed. Markers may be placed on these sites with City Council approval.
- (e) Results of Designation.
- (1) Certificate. The owner of an officially designated Historic Resource may obtain a historic site certificate from the Historic Preservation Commission. The certificate shall contain the historic name of the property, the date of designation, and signatures of the Mayor and the Historic Preservation Commission Chairperson.
  - (2) Demolition or Partial Demolition. Applications for a demolition of an Historic Resource on the List shall be subject to the standards and process set forth in Chapter 28 of the Zoning Ordinance.
  - (3) Major Alterations, Demolitions, or Partial Demolitions. If a Historic Resource is to be demolished, partially demolished, or undergo Major Alterations, efforts shall be made by the Historic Preservation Commission to document its physical appearance before that action takes place.
    - a. The City shall delay issuing a demolition permit or building permit for a maximum of ten (10) calendar days and shall notify a member of the Historic Preservation Commission, who will take responsibility for the documentation.

- b. Documentation shall include, at a minimum, exterior photographs of all elevations of the Historic Resource. When possible, both exterior and interior measurements of the building will be made in order to provide an accurate floor plan drawing of the building.
- c. A building permit or demolition permit shall be issued after a period ten (10) calendar days from the initial date of permit application whether or not the Historic Preservation Commission has documented the building. The permit may be issued earlier if the Historic Preservation Commission has completed its documentation before the ten (10) day deadline.
- d. Documentation shall be kept in the Historic Preservation Commission's historic sites files, which shall be open to the public in accordance with the Farmington City Government Records Access and Management Ordinance.

(f) **Removal of Properties.** If, after review and consideration by the Historic Preservation Commission, it is determined that a Historic Resource no longer meets the criteria for listing, the Historic Preservation Commission may remove the Historic Resource from the List.

**11-39-105 Farmington Historic Landmarks Register**

(a) **Created.** There is hereby created a Farmington Historic Landmarks Register (the "Register"), which shall provide further recognition of significant Historic Resources; provide protection for Historic Resources as set forth in this Chapter; and may qualify owners of Historic Resources to special assistance from the City as may be determined by the City Council in its sole discretion. The Register shall be prepared and maintained by the Historic Preservation Commission in accordance with the provisions set forth in this Chapter. A Notice of Listing shall be filed for each property listed on the Register with the City and recorded in the office of the Davis County Recorder.

(b) **Contents.** The Register shall describe each Historic Resource, the date or approximate date of its construction, the date during which its historic significance was established, the qualifications for including it on the Register, and the name and address of the current owner of the property as shown on the records of the Davis County Recorder.

(c) **Criteria.** Any building, structure, object, or district may be designated to the Register in accordance with the procedures set forth herein if it meets all the criteria set forth below:

- (1) It is located within the corporate boundaries of Farmington City.

- (2) It is currently listed in the National Register of Historic Places (the “*National Register*”), or it has been officially determined eligible for listing in the National Register under the criteria of 36 C.F.R. 60.4, as amended.
- (3) Historic Resources shall also meet at least two (2) of the following criteria:
  - a. It is an easily identifiable visual feature of its neighborhood or the City because of its positioning, location, age, scale or style, and it contributes to the distinctive quality or identity of its area in such a way that its absence would negatively affect the area’s sense of place;
  - b. It figures importantly into Farmington’s founding or development through its uses, especially public uses;
  - c. It is associated with persons significant in the founding or development of Farmington, especially the earliest settler families (1847-1900);
  - d. It is associated with events that have made a significant contribution to the founding or development of Farmington;
  - e. It illustrates an important architectural form, style, or building technique, especially as an example of “local vernacular” (e.g. single & two-story rock/adobe homes; simple brick Victorians) or as a singular example of form, style, or technique within the City;
  - f. It has been used as a way-finding landmark for at least 50 years; or
  - g. It has yielded, or may be likely to yield, information important in prehistory or history (e.g. archeological sites).
- (4) If a Historic Resource does not meet at least two (2) of the criteria of Subsection (2) above, but is of exceptional importance to Farmington’s history and the owner of the property wishes to have it designated as a Historic Resource on the Register, the Historic Preservation Commission may review the request and, if deemed suitably significant, may recommend to the City Council that the Historic Resource be added to the Register.

(d) Notification. The owner of the Historic Resource shall be notified in writing either by certified mail or hand delivery of proposed action to designate the Historic Resource to the Register and shall be invited to attend the Historic Preservation Commission meeting in which the designation will be discussed.

(e) Designation.

- (1) Official designation proceedings shall begin with submittal of a written request for designation by either the property owner or a member of the Historic Preservation Commission. The request shall identify the property by its address and historic name, give the date the property was listed in the National Register or officially determined eligible, and include a statement summarizing the property's significance to the City. This official request may be preceded by informal contacts with the property owner by Historic Preservation Commission members, private citizens, local officials, or others regarding designation of the property.
- (2) Upon written request for designation, the Historic Preservation Commission Chairperson shall arrange for the designation to be considered at the next Historic Preservation Commission meeting, which shall be held at a time not to exceed thirty (30) days from the date the designation request was received.
- (3) A decision by the Historic Preservation Commission shall be based on whether the property meets the criteria for designating properties to the Register as set forth in Section 11-39-105 (c). The Historic Preservation Commission shall forward its recommendation in writing to the City Council within fourteen (14) days of the decision.
- (4) The City Council may, by adoption of an appropriate ordinance, designate a Historic Resource to the Register. The owner of the Historic Resource shall be notified at least three (3) days prior to the City Council meeting at which the ordinance will be considered and shall be allowed to address the Council with regard to the designation. Following designation, a notice of such shall be mailed to the owners of record together with a copy of Chapter 39 of the City code.
- (5) A Historic Resource which, in the opinion of the Historic Preservation Commission, no longer meets the criteria for eligibility may be removed from the Register after review and recommendation by the Historic Preservation Commission and the adoption of an appropriate ordinance by the City Council.

- (6) Upon official adoption of a designating or removal ordinance, the Historic Preservation Commission shall record the ordinance with both the City Recorder's Office and the County Recorder's Office to indicate such designation or removal on the official records thereof.
- (f) Result of Designation.
- (1) An owner of a Historic Resource listed on the Register may seek assistance from the Historic Preservation Commission in applying for grants or tax credits for rehabilitating the owner's properties.
  - (2) Proposed repairs, alterations, additions, relocation or demolitions to Historic Resources listed on the Register requiring a building permit are subject to review by the Historic Preservation Commission and shall receive a "Certificate of Historic Appropriateness" prior to issuance of a building permit. The purpose of this review is to ensure the preservation of Historic Resources to the greatest extent reasonably possible.
    - a. Any application for a building permit pertaining to a Historic Resource designated on the Register shall be forwarded by the Zoning Administrator to the Historic Preservation Commission for its determination prior to the issuance of the requested permit.
    - b. At its next scheduled meeting, the Historic Preservation Commission shall review the application and proposed work for compliance using the United States Secretary of the Interior's Standards for Rehabilitation, (the "Standards") as set forth in Section 11-39-106 of the Farmington City Code.
    - c. The Historic Preservation Commission's determination shall be forwarded within three (3) days to the Zoning Administrator for review. If the Historic Preservation Commission denies or requires significant revisions to a permit application, the determination shall indicate of the specific "Standards" on which the decision of the Historic Preservation Commission is based and, where appropriate, shall provide a brief explanation setting forth the reasons for the determination. Copies of the determination shall be forwarded by the Zoning Administrator to the property owner.

- d. The Zoning Administrator shall upon receipt of the Historic Preservation Commission's determination, process the permit as set forth in this section. Projects which, as determined by the Historic Preservation Commission, are consistent with the Standards shall be issued a Certificate of Historical Appropriateness which authorizes the building permit to be issued upon compliance with all other applicable requirements of this Title or any other applicable ordinance.
  
- e. An applicant whose submittal does not comply with the Standards may, for a period of sixty (60) days, meet with the Historic Preservation Commission, together with the Zoning Administrator, to explore means for proper repair, alteration or addition to the Historical Resource which are consistent with the Standards, which may include the following:
  - i. Feasibility of modifications to the plans;
  - ii. Feasibility of alternative uses of the Historic Resource;
  - iii. Feasibility of acquiring easements and/or variances;
  - iv. Feasibility of acquiring financial or other forms of assistance from preservations organizations.
  
- f. If no approval is granted within the initial sixty (60) days, the Historic Preservation Commission may grant an extension of an additional sixty (60) days. If no approval is granted at the conclusion of one hundred twenty (120) days, the Certificate of Historic Appropriateness shall be denied if the Standards for Rehabilitation cannot be met and the requested building permit shall not be issued by the Zoning Administrator.
  
- g. A decision by the Historic Preservation Commission approving or denying a Certificate of Historic Appropriateness for the relocation of a Historic Resource shall be guided by the following criteria:
  - i. How the historic character and aesthetic interest the Historic Resource contributes to its present setting;

- ii. Whether there are definite plans for the area to be vacated and what the effect of those plans on the character of the surrounding area will be;
  - iii. Whether the Historic Resource can be relocated without significant damage to its physical integrity; and
  - iv. Whether the proposed relocation area is compatible with the historical and architectural character of the Historic Resource.
- h. A decision by the Historic Preservation Commission approving or denying a Certificate of Historic Appropriateness for the demolition of a Historic Resource listed on the Register shall be guided by the following criteria:
- i. The historic, scenic or architectural significance of the Historic Resource;
  - ii. The importance of the resource to the character of the neighborhood or City;
  - iii. The difficulty or the impossibility of reproducing the Historic Resource because of its design, texture, material, detail, or unique location;
  - iv. Whether the Historic Resource is one of the last remaining examples of its kind in the neighborhood or City;
  - v. Whether there are definite plans for use of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be;
  - vi. Whether reasonable measures can be taken to save the Historic Resource from deterioration or collapse; and
  - vii. Whether the Historic Resource is capable of being used to earn a reasonable economic return on its value.

- i. A Certificate of Historical Appropriateness shall become void unless construction authorized by a building permit is commenced within one hundred eighty (180) days after issuance of the certificate.
- (3) Ordinary maintenance and repair of any exterior architectural or environmental feature in or on a Historic Resource to correct deterioration, decay, or to sustain the existing form, and that does not involve a material change in design, material or outer appearance thereof, does not require a Certificate of Historic Appropriateness.
- (g) Enforcement. Failure to follow the procedure for acquiring a Certificate of Historical Appropriateness may result in the Zoning Administrator issuing a stop-work order while a review is conducted. The review will determine if revocation of a conditional use permit granted for a use associated with the Historic Resource revocation of building permits and/or other penalty fines are necessary as per Chapter 38, "Enforcement and Penalties", of this Title.
  - (2) Failure to follow the procedure set forth in this Chapter for acquiring a Certificate of Historic Appropriateness may result in removal of the Historic Resource from the Register and the National Register, thus rendering the property ineligible for federal, state, and City tax credits, grant and loan programs.
  - (3) In addition, if the Historic Resource has received land use entitlements as a result of its placement on the Register, the City may consider the revocation of such entitlements and/or the acceleration of any debt issued by the City as part of a program of Historic Preservation/Rehabilitation consistent with applicable law.

**11-39-106 Standards for Rehabilitation.**

The following "Standards for Rehabilitation" shall be used when determining the historic appropriateness of any application pertaining to a Historic Resource:

- (a) A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
- (b) The historic character of a property shall be retained and preserved. The removal of historic materials or alterations of features and spaces that characterize a property shall be avoided.
- (c) Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding

conjectural features or architectural elements from other buildings, shall not be undertaken.

(d) Most properties change over time; those changes that have acquired historical significance in their own right shall be retained and preserved.

(e) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

(f) Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

(g) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

(h) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

(i) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

(j) New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

#### **11-39-107 Deterioration by Neglect**

An owner of a Historic Resource listed on the List or the Register shall not allow any building to deteriorate by failing to provide ordinary maintenance or repair. The Historic Preservation Commission shall be charged with the following responsibilities regarding deterioration by neglect:

(a) The Historic Preservation Commission shall monitor the condition of Historic Resources to determine if any Historic Resource is being allowed to deteriorate by neglect. Conditions such as broken windows, doors and exterior openings which allow the elements to enter or otherwise become an attractive nuisance, or the deterioration of a Historic Resource's structural system shall constitute failure to provide ordinary maintenance or repair.

(b) In the event the Historic Preservation Commission determines there is a failure to provide ordinary maintenance or repair, the Historic Preservation Commission shall notify the owner of the Historic Resource and set forth the steps which need to be taken to remedy the situation. The owner of the Historic Resource shall have thirty (30) days to make necessary repairs.

(c) In the event that the condition is not remedied in thirty (30) days, the Historic Preservation Commission may recommend to the City Council that penalty fines be imposed as provided in Chapter 38, "Enforcement and Penalties", of this Title.

### **11-39-108 Practical Difficulty**

(a) When, by reason of unusual circumstance, the strict application of any provision of Sections 11-39-104(d) and 11-39-105 (e) of this chapter would result in the exceptional practical difficulty or undue economic hardship upon any owner of a Historic Resource, the City Council, with recommendation from the Historic Preservation Commission, shall have the power to modify strict provisions, so as to relieve such difficulty or hardship; provided such modifications or interpretations shall remain in harmony with the general purpose and intent of said provisions, so that the architectural or historical integrity, or character of the Historic Resource, shall be conserved and substantial justice done. In granting modifications, the City Council, with or without recommendation from the Historical Preservation Commission, may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the purpose of this Chapter. Undue hardship shall not include a situation of the person's own making.

- (1) **Definition And Determination Of Economic Hardship:** The determination of economic hardship shall require the applicant to provide evidence sufficient to demonstrate that the application of the standards and regulations of this section deprives the applicant of all reasonable economic use or return on the subject property.
- (2) **Standards For Determination Of Economic Hardship:** Farmington City may at its sole discretion solicit expert testimony and/or require that the applicant make submission concerning any or all of the information set forth below before it makes a determination. Such material may include, but is not limited to:
  - a. The applicant's knowledge of the designation and the applicant's knowledge or the condition of the property at time of purchase and the applicant's plan for the property at time of purchase;
  - b. The current level of economic return on the property as considered in relation to the amount paid for the property; the annual gross and net income, if any, for the property; remaining balance on any financing secured by the property and annual debt service, if any;

real estate taxes; appraisals (no older than 6 months); fair market value; form of ownership; and federal and state income taxes related to the property.

- c. The marketability of the property for sale or lease. This determination can include testimony and relevant documents regarding: any real estate broker or firm engaged to sell or lease the property; reasonableness of the price or rent sought by the applicant; and any advertisements placed for the sale or rent of the property.
- d. The infeasibility of a use or alternative uses that can earn a reasonable economic return in the case of income producing properties for the property as considered in relation to the following:
  - i. a report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation.
  - ii. Estimate of the cost of the proposed construction, alteration, demolition or removal, and an estimate of any additional cost that would be incurred to comply with the decision of the historic landmark commission concerning the appropriateness of proposed alterations.
  - iii. Estimated market value of the property in the current condition after completion of the demolition and proposed new construction; and after renovation of the existing property for continued use.
  - iv. The testimony of an architect, developer, real estate consultant, appraiser, or other professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property.
- e. Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- f. Description of past and current use.
- g. An itemized report that identifies what is deficient if the building does not meet City building code, and information as to the cause of the building's current condition.

- h. Consideration of conditional use options, variances or financial incentives to alleviate hardship.
- i. The City and the applicant may submit additional evidence relevant to the issue and determination of economic hardship for review and consideration.

(b) A person who alleges that action by the Historic Preservation Commission or the City will result in an unconstitutional taking of property may request a review thereof as provided in the Farmington City Code.

### **11-39-109 Appeals**

(a) Any person adversely affected by any final decision of the Zoning Administrator in the administration of this Chapter may appeal such decision as set forth in section 11-5-106 of the Zoning Ordinance.

(b) Any person adversely affected by any final decision of the Historic Preservation Commission in the administration of this Chapter may appeal such decision to the City Council in accordance with the provisions of this Section.

- (1) Appeals shall be taken within fifteen (15) days of a written decision by filing a written notice with the City Manager, specifying the grounds for appeal. Only grounds specified in the appeal shall be considered by the Council.
- (2) An appeal stays all proceedings in furtherance of the action appealed from unless the Historic Preservation Commission certifies to the City Council that, by reason of fact stated in the certificate, a stay would cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by restraining order which may be granted by the appropriate appeal body or by the District Court on application and notice and on due cause shown.
- (3) The City Council shall schedule a public hearing to hear the appeal. Notice of the hearing shall be given at least fifteen (15) days prior to the hearing. Notice of the hearing shall be made as required by law. The City Council may modify the order, requirement, decision or determination appealed from and may make such determination as ought to be made and to that end shall have all powers of the Historic Preservation Commission. A concurring vote of a simple majority of the total membership of the Council shall be necessary to act on the appeal.

(c) Any person adversely affected by any final decision of the City Council designating a Historic Resource to the Register, or regarding an appeal from a decision of the Historic Preservation Commission in the administration of this Chapter may have and maintain a plenary action for relief therefrom in a court of competent jurisdiction; provided a petition for such relief is presented to the Court within thirty (30) days after the rendering of such decision.

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