

ORDINANCE NO. 2054

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2038 AS CODIFIED IN CHAPTER 31 OF THE LIVINGSTON MUNICIPAL CODE TITLED HISTORIC DISTRICT OVERLAY ZONING BY CHANGING THE RESIDENCY REQUIREMENT FOR MEMBERS ON THE HISTORIC PRESERVATION COMMISSION, IN MATTERS OF HISTORIC PRESERVATION.

* * * * *

Preamble.

The purpose of this Ordinance is to enhance the City of Livingston and its heritage by requiring review of all proposed projects within the Historic Overlay District which will have an impact on the exterior appearance of buildings located therein.

* * * * *

WHEREAS, the City of Livingston has a unique and historic downtown and the City desires to protect this asset; and

WHEREAS, the City of Livingston has established an historic district located in the downtown commercial area of the City of Livingston and which is specifically defined by the map attached to this ordinance as Exhibit A and incorporated by this reference as though fully set forth herein; and

WHEREAS, the current code specifies a membership of nine (5) members who must all be City residents and the HPC believes that the membership should include owners of property in the downtown historic district who may not reside within the City limits which is believed to be more responsive and representative; and

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of

Livingston, Montana, that Ordinance No. 2038 as codified in Chapter 31 entitled Historic District Overlay Zoning of the Livingston Municipal Code be and the same is hereby amended, with additions shown in italic and deletions struck through as follows:

SECTION 1

CHAPTER 31

HISTORIC DISTRICT OVERLAY ZONING

Sec 31.01. Title.

The ordinance codified in this chapter shall be known as the Historic District Overlay Zoning Ordinance of the City of Livingston. (Ord. 1878, 9/21/98)

Sec 31.02. Purpose and intent.

The purposes and intents of this chapter are as follows:

A. To promote the tourist industry in the City of Livingston through the preservation of historically significant building structures and the creation of a central business district that reflects the cultural and architectural past of the City;

B. To provide a means of informing owners of property and building structures within the historic districts of potential tax incentives and federal grants that might be obtained through the preservation of those historic structures;

C. To enhance the property values and to increase economic and financial benefits to the City of Livingston and its inhabitants through the preservation of historic buildings. (Ord. 1878, 9/21/98)

Sec 31.03. Territorial jurisdiction.

A. Official Historic District Zoning Map. The properties to be included in the Historic

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District Overlay Zone are identified on the Historic District Overlay Zoning Map on file at the City Clerk's office, and entitled "The Historic District Overlay Zoning Map of the City of Livingston." The properties included in this zoning district are those properties accepted by the United States Department of the Interior for inclusion into the National Register of Historic Places.

B. Amendments to the Zoning Map. The Historic District Zoning Map may be amended from time to time through the procedure outlined in Section 30.71 of the Livingston Code of City Ordinances.

C. Criteria for Inclusion into Historic District Zone. Only those sites and structures that have been accepted as Historic Places by the National Register of Historic Places may be included in the Historic District Zone.

D. Exclusion of Properties from the Historic District Zone. The Livingston City Commission may eliminate certain properties from the Historic Zoning District, only after following the procedures outlined in Section 30.71 of the Livingston Code of City Ordinances. In such cases, the property shall maintain the zoning classification specified in the underlying district.

E. Fees. No fees shall be charged for any petition requesting either inclusion to or exclusion from the Historic District Zone. (Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

Sec. 31.04. Permitted uses.

Any building or structure within the designated historic district may be used for any purpose allowed in the underlying zoning district. Any request for a change in use not permitted as a use by right in the underlying zoning district must be submitted to the Livingston Zoning

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Commission as a request for a Special Exemption or a Change in Zone in accordance with the procedures outlined in Chapter 30, Section 30.71 or Section 30.75. If such a Special Exemption Permit or Zone Change is granted by the Livingston City Commission such change shall not have any effect on the designation of the property as a historic district zone.

The Historic District designation shall be an overlay zone, and as such shall be in addition to existing zoning designations and the regulations appropriate thereto. (Ord. 1868, 2/2/98- Ord. 1878, 9/21/98)

Sec. 31.05. Historic Preservation Commission (HPC).

A. Establishment of the HPC. In order to carry out the purpose and intent of this chapter, the HPC is created. The HPC shall consist of five (5) residents of the City *or owners of property within the downtown historic district* and, inasmuch as possible, shall consist of the following mix:

1. Two (2) members with professional expertise in the disciplines of history, planning, archaeology, architecture, architectural history, historic archaeology, or other historic preservation-related disciplines such as cultural geography or cultural anthropology;
2. One (1) locally licensed contractor;
3. One (1) resident knowledgeable about the historical aspects of Livingston;
4. One (1) owner or lessee of property within the historical district.

B. Appointment, Term, Vacancy.

1. All appointments to the HPC shall be made by the Chairman of the City Commission and approved by the City Commission.

2. The terms of the HPC members shall be for three (3) years.
3. The terms of the HPC members are to be staggered by appointing two of the five commissioners to an initial term of two (2) years.

C. Officers, Quorum, Staff.

1. The Chairperson shall be elected by the members of the HPC at the first meeting held in each calendar year.
2. A quorum shall consist of three (3) members of the HPC.
3. The Director of Building and Planning shall serve as the executive secretary to the HPC and shall perform all staff duties required by this chapter.

D. Conflict of Interest. No member of the HPC may vote on any project *in* which he or she or any partner has worked or in which he or she or any partner has any financial interest, including professional fees.

E. Meetings, Notice of Meetings.

1. The HPC shall schedule a minimum of one (1) regularly scheduled meeting each month, except that the Chairperson may cancel the meeting if *no item is on the agenda*. Additional special meetings may be called by the Chairperson when such meetings are necessary to carry out the provisions of this chapter.

2. Requirements for notice of meetings of the HPC shall be determined by the Chairperson in consultation with the City Attorney. Notice of meetings should be calculated to reach all interested and affected members of the community in sufficient time to enable them to participate meaningfully in HPC proceedings. Notice may be achieved by posting, through advertisements in newspapers of general circulation, radio public service announcements, news

releases to local news media or any other method deemed necessary and appropriate.

F. Powers and Duties. The HPC shall have the power to:

1. Establish criteria for designation of properties as a historic site or district, pursuant to the National Register of Historic Preservation criteria;
2. Review and comment upon the conduct of land use, housing and redevelopment, municipal improvement, and other types of planning programs undertaken by city, county, state or federal agencies, as they relate to cultural and historical resources;
3. Establish guidelines to be used by the HPC in reviewing applications for permits to construct, alter, change, modify, remove, or significantly affect any cultural resource;
4. Provide to all interested parties information available on surveys, technologies and funding sources needed to promote cultural resource preservation;
5. Approve or disapprove applications for permits;
6. Render advice and guidance upon request of the property owner as to the restoration, alteration, decoration, landscaping or maintenance of any cultural resource designation.

(Amended by Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

Sec 31.06. Permit procedure for alteration or construction.

A. Within the Downtown Historic District, all projects affecting the exterior appearance of a building or structure, including work not requiring a building permit, shall require review by the HPC and must obtain an Historic District Review Certificate prior to any required building permits being issued and before the work is started. The basis for all such review shall be those guidelines provided in the publication "The Secretary of the Interior's Standards for Rehabilitation" as that document may be amended from time to time.

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B. Application Procedure.

1. Applications for permits for construction, renovation and/or demolition of any structure within an historic district shall be made to the Building and Planning Department on forms supplied by that office.

2. Upon receipt of an application, the Director of Building and Planning shall place the application upon the agenda for the next regularly scheduled HPC meeting.

3. The Director of Building and Planning shall provide public notice of HPC meetings in accordance with existing City policy and subject to consultation with the City Attorney.

C. Permit Criteria. In considering applications for construction, renovation or demolition permits, the HPC shall base its decision on whether the proposal therein is architecturally compatible with the buildings, structures and landmarks within the district. In applying such standard, the HPC shall consider, among other factors, the following:

1. Exterior architectural features, including all signs;
2. General design, scale and arrangement;
3. Texture, material and color scheme;
4. The relationship of subsections (C)(1), (2) and (3) of this section, to other structures and features of the district;
5. The purposes for which the district was created;
6. The extent to which the denial of the permit would constitute a deprivation to the owner of a reasonable use of his property;
7. The relationship of the site and siting of any new or reconstructed structure to the

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landscape of the district.

All approvals or denials by the HPC shall include a statement of the reasons for such approval or denial, and the conditions to be met, where applicable, whereby the applicant could make his application acceptable to the *HPC*;

D. Appeals. Decisions of the HPC shall be treated as administrative. Any decision of the HPC may be appealed by any aggrieved party to the Livingston City Commission.

E. Appeals Procedure. Any aggrieved party may appeal directly to the Livingston City Commission by filing a request for appeal with the Department of Building and Planning within a reasonable time, as provided by the rules of time for the hearing of appeal, not to exceed thirty (30) days. The City will give public notice thereof as well as due notice to the parties in interest, and render a decision within a reasonable period of time, not to exceed ten (10) days thereafter. At the hearing any party may appear in person, or by agent or attorney.

F. Fees. No special fees, other than the appropriate building permit fees, shall be charged to any applicant for construction, renovation, or demolition of any historic structure or any structure located within a designated historic district. (Amended by Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

Sec. 31.07. Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent the ordinary maintenance and/or repair of any structure when such maintenance or repair does not alter the exterior appearance of the building or structure. (Ord. 1878, 9/21/98)

Sec 31.08. Hazardous buildings or structures.

Nothing in this chapter shall prevent the razing or demolition, of any building or structure

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within the historic district which is in such an unsafe condition that it would endanger life or property as determined by the Director of Building and Planning or the Livingston Fire Chief in accordance with the provisions of the International Building Code or any applicable Fire Code duly adopted by the City of Livingston. Prior to any such razing or demolition, notice will be provided to the HPC, by the authorizing Official, so as to accommodate the documentation of any historic resource that may be lost. (Amended by Ord.1692, 7/1/91; Ord. 1878, 9/21/98)

Sec. 31.09. Interior arrangement.

The HPC shall not have authority to consider interior arrangements. (Amended by Ord. 1692, 7/1/91; Ord. 1878, 9/21/98)

Sec. 31.10. Severability.

If any provision of this chapter or its application to any person or circumstances is held invalid, the remainder of the chapter or the application of this provision to other persons or circumstances is not affected. (Ord. 1498, 7/19/82; Ord. 1515, 7/6/83; Ord. 1557,10/21/86; Ord. 1878, 9/21/98)

Sec 31.11. Preservation Officer.

A. Establishment of a Preservation Officer. In order to carry out the purpose and intent of this chapter, the position of Preservation Officer is created.

B. Appointment, Term. The Preservation Officer shall be a salaried employee of the City, appointed by the City Manager for an indefinite term.

C. Qualifications. The Preservation Officer shall have professional expertise in one (1) or more of the following areas: history, planning, archaeology, architecture, architectural history, historic archaeology, of other historic preservation-related disciplines such as cultural geography

or cultural anthropology.

D. Duties, Responsibilities. The Preservation Officer shall coordinate the local historic preservation programs, help in the development of local surveys, projects and historic preservation planning documents, advise and provide assistance to the local HPC, government agencies, and the public, and ensure, to the extent practicable, that the duties and responsibilities delegated to the Certified Local Government by the State Historic Preservation Office are satisfactorily carried out. (Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

SECTION 2

Statutory Interpretation and Repealer.

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings Provision:

This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

SECTION 5

Effective date:

This ordinance will become effective 30 days after second and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, at a regular session thereof held on the 20th day of March, 2015.



JAMES BENNETT - Chairman

ATTEST:



LISA HARRELD
Recording Secretary

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PASSED, ADOPTED AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the 23^d day of April, 2015.



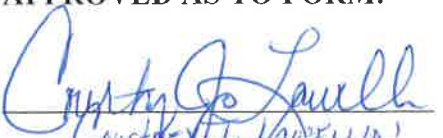
JAMES BENNETT - Chairman

ATTEST:



LISA HARRELD
Recording Secretary

APPROVED AS TO FORM:



Courtney J. Lovell
City Attorney

NOTICE

The public is invited to attend and comment at a public hearing to be held on April 21, 2015, at 6:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on the second reading of ORDINANCE NO. 2054 entitled AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2038 AS CODIFIED IN CHAPTER 31 OF THE LIVINGSTON MUNICIPAL CODE TITLED HISTORIC DISTRICT OVERLAY ZONING BY CHANGING THE RESIDENCY REQUIREMENT FOR MEMBERS ON THE HISTORIC PRESERVATION COMMISSION, IN MATTERS OF HISTORIC PRESERVATION. A copy of the ordinance is available for inspection at the City Office, 414 East Callender Street, Livingston, MT 59047. For further information call the City Attorney at (406)823-6007.

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