

CHAPTER 17

HISTORIC PRESERVATION CODE

17-1-1 HISTORIC PRESERVATION. The purpose of this Code is to promote the protection, enhancement, perpetuation, and use of improvements of special character or historical interest or value in the interest of the health, prosperity, safety, and welfare of the people of the City by:

(A) Providing a mechanism to identify and preserve the historic and architectural characteristics of Benton which represents elements of the City's cultural, social, economic, political and architectural history;

(B) To promote civic pride in the beauty and noble accomplishments of the past as represented in Benton's landmarks and historic districts;

(C) Stabilizing and improving the economic vitality and value of Benton's landmarks and historic areas;

(D) Protecting and enhancing the attractiveness of the City to have buyers, visitors and shoppers and thereby supporting business, commerce, industry, and providing economic benefit to the City;

(E) Fostering the encouraging preservation, restoration of structures, areas, and neighborhoods and thereby preventing future urban blight.

17-1-2 DEFINITIONS. Unless specifically defined below, words or phrases in this Code shall be interpreted giving them the same meaning as they have in common usage and so as to give this Code its most reasonable application.

"ALTERATION": Any act or process that changes **one (1)** or more of the exterior architectural features of a structure, including, but not limited to the erection, construction, reconstruction, or removal of any structure.

"AREA": A specific geographic division of the City.

"ADDITION": Any act or process which changes **one (1)** or more of the "exterior architectural features" of a structure designated for preservation by adding to, joining with or increasing the size or capacity of the structure.

"BUILDING": Any structure created for the support, shelter, or enclosure of persons, animals or property of any kind and which is permanently affixed to the land.

"CERTIFICATE OF APPROPRIATENESS": A certificate from the Historic Preservation Commission authorizing plans for alterations, construction, removal or demolition of a landmark or site within a designated historic district.

"COMMISSION": Benton Historic Preservation Commission.

"COMMISSIONERS": Voting members of the Benton Historic Preservation Commission.

"CONSTRUCTION": The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

"COUNCIL": The City Council of the City of Benton.

"DEMOLITION": Any act or process that destroys in part or in whole a landmark or site within a historic district.

"DESIGN GUIDELINE": A standard of appropriated activity that will preserve the historic and architectural character of a structure or area.

"EXTERIOR ARCHITECTURAL APPEARANCE": The architectural and general composition of the exterior of a structure, including, but not limited to the kind, color, and the texture of the building material and the type, design and character of all windows, doors, light fixtures, signs and appurtenant elements.

"HISTORIC DISTRICT": An area designated as a "historic district" by ordinance of the City Council and which may contain with definable geographic boundaries **one (1)** or more landmarks and which may have within its boundaries other properties or structures that, while not of such historic

and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

"LANDMARK": Any building, structure or site which has been designated as a "landmark" by ordinance of the City Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/or architectural significance to the City.

"OWNER OF RECORD": The person, corporation, or other legal entity listed as owner on the records of the County Recorder of Deeds.

"REHABILITATION": The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

"REMOVAL": Any relocation of a structure on its site or to another site.

"REPAIR": Any change that does not require a building permit, that is not construction, relocation or alteration.

"STRUCTURE": Anything constructed or erected, the use of which requires permanent or temporary location on or in ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae, including supporting towers, swimming pools, satellite dishes, solar panels and wind generation.

"STRUCTURAL CHANGE": Any change or repair in the supporting members of a building, structure, roof or exterior walls which expand the building in height, width or bulk of the building.

17-1-3 COMPOSITION OF HISTORIC PRESERVATION COMMISSION. The Benton Historic Preservation Commission shall consist of **five (5)** voting members, residents of the City, appointed by the Mayor and approved by the City Council.

17-1-4 QUALIFICATIONS. The members shall be appointed on the basis of expertise, experience or interest in the area of architectural history, building construction or engineering, finance, historical and architectural preservation, neighborhood organizing or real estate.

17-1-5 TERMS. Members of the Commission shall be appointed for terms of **three (3) years**. Of those members first taking office, **two (2)** shall be appointed for **one (1) year, two (2) for two (2) years**, and **one (1)** for **three (3) years**. No member shall serve more than **two (2)** successive **three (3) year terms**. Alternate members shall be appointed to serve in the absence of or disqualification of the regular members. Vacancies shall be filled for the unexpired term only. Members shall serve without compensation.

17-1-6 OFFICERS. Officers shall consist of a chairman, vice-chairman, and a secretary elected by the Preservation Commission who shall each serve a term of **one (1) year** and shall be eligible for re-election, but no member shall serve as an officer for more than **two (2) consecutive years**. The chairman shall preside over meetings. In the absence of the chairman, the vice-chairman shall perform the duties of the chairman. If both are absent, a temporary chairman shall be elected by those present. The secretary to the Preservation Commission shall have the following duties:

- (A) Take minutes of each Preservation Commission meeting;
- (B) Be responsible for publication and distribution of copies of the minutes, reports, and decisions of the Preservation Commission to the members of the Preservation Commission;
- (C) Give notice as provided herein or by law for all public hearings conducted by the Preservation Commission;
- (D) Advise the Mayor of vacancies on the Preservation Commission and expiring terms of members; and

(E) Prepare and submit to the City Council a complete record of the proceedings before the Preservation Commission on any matter requiring Council consideration.

17-1-7 MEETINGS. A quorum shall consist of a majority of the members. All decisions or actions of the Historic Preservation Commission shall be made by a majority vote of those members present and voting at any meeting where a quorum exists. Meetings shall be held at regularly scheduled times to be established by resolution of the Commission at the beginning of each calendar year or at any time upon the call of the Chairman. There shall be a minimum of **four (4) meetings** per year.

No member of the Historic Preservation Commission shall vote on any matter that may materially or apparently affect the property, income or business interest of that member. No action shall be taken by the Commission that could in any manner deprive or restrict the owner of property in its use, modification, maintenance, disposition, or demolition until such owner shall first have had the opportunity to be heard at public meeting of the Preservation Commission, as provided herein. The Chairman, and in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Preservation Commission shall be open to the public. The Preservation Commission shall keep minutes of its proceedings, showing the vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Preservation Commission and shall be a public record.

17-1-8 POWERS AND DUTIES. The Benton Historic Preservation Commission shall have the following powers and duties:

- (A) To adopt its own procedural regulations;
- (B) To conduct an ongoing survey to identify historically and architecturally significant properties, structures and areas;
- (C) To investigate and recommend to the City Council the adoption of ordinance designating properties or structures having special historic, community, or architectural value as "landmarks";
- (D) To investigate and recommend to the City Council the adoption of ordinances designating areas as having special historic, community, or architectural value as "historic districts";
- (E) To keep a register of all properties and structures that have been designated as landmarks or historic districts, including all information required for each designation.
- (F) To determine an appropriate system of markers and make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another.
- (G) To advise owners of landmarks and property or structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the State of National Register of Historic Places.
- (H) To inform and educate the citizens of Benton concerning the historic and architectural heritage of the City by publishing appropriate maps, newsletters, brochures, and pamphlets, and by holding programs and seminars;
- (I) To hold public hearings and to review applications for construction, alteration, removal, or demolition affecting proposed or designated landmarks or structures or historic districts and issue or deny Certificates of Appropriateness for such actions. Applicants shall be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions.
- (J) To develop specific guidelines for the alteration, demolition, construction, or removal of landmarks or property and structures within historic districts.
- (K) To review proposed zoning amendments, applications for special use permits or variances that affect proposed or designated landmarks and historic districts. Such review shall be made prior to the date of the hearing by the City Planning Commission or the Zoning Board of Appeals.
- (L) To administer on behalf of the City of Benton any property or full or partial interest in real property, including a conservation right as that term is used in **765 ILCS 120/1**, which the City may have or accept as a gift or otherwise, upon designation by the City Council.

(M) To accept and administer on behalf of the City of Benton, upon designation by the City Council, such gifts, grants, and money as may be appropriate for the purposes of this Code.

(N) To call upon available City staff members as well as other experts for technical advice.

(O) To testify before all boards and commissions, including the City Planning Commission and the Zoning Board of Appeals, on any matter affecting historically and architecturally significant property and landmarks.

(P) To periodically review the Benton Zoning Code and to recommend to the City Planning Commission and City Council any amendments appropriate for the protection and continued use of landmarks or property and structures within historic districts.

17-1-9 SURVEYS AND RESEARCH. The Historic Preservation Commission shall undertake an ongoing survey and research effort in the City of Benton to identify neighborhoods, areas, sites, structures, and objects that have historic, community, architectural, or aesthetic importance, interest, or value. As part of the survey, the Historic Preservation Commission shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts, and photographs. The Historic Preservation Commission shall identify potential landmarks and adopt procedures to nominate them in groups based upon the following criteria:

(A) The potential landmarks associated with a particular person, event, or historical period;

(B) The potential landmarks of a particular architectural style or school, or of a particular architect, engineer, builder, designer, or craftsman;

(C) Such other criteria as may be adopted by the Preservation Commission to assure systematic survey and nomination of all potential landmarks within the City.

17-1-10 CRITERIA FOR LANDMARK DESIGNATION.

(A) Nominations shall be made to the Historic Preservation Commission on a form provided by the Commission. A filing fee may be required.

(B) The Commission shall, upon investigation as it deems necessary, make a preliminary determination as to whether a property, structure, or area possesses the integrity of design, workmanship, materials, location, setting and feeling and meets **one (1)** or more of the following criteria:

- (1) Significant value as part of the historic, heritage of cultural characteristics of the community, county, state or nation;
- (2) Its identification with a person or persons who significantly contributed to the development of the community, county, state or country;
- (3) Representative of the distinguishing characteristics of architecture inherently valuable for the study of a period, type, method of construction or use of indigenous materials;
- (4) Notable work of a master building, designer, architect or artist whose individual work has influenced the development of the community, county, state or country.
- (5) Its unique location or singular physical characteristics that make it an established or familiar visual feature;
- (6) Its character as a particularly fine or unique example of a utilitarian structure, including but not limited to farmhouses, gas stations, or other commercial structures, with a high level of integrity or architectural significance.
- (7) Area that has yielded or may be likely to yield, information important in history or prehistory.

A preliminary determination as to whether a property, structure, or area meets **one (1)** or more of the foregoing criteria shall be made within **fifteen (15) days** of the filing of a nomination with the Commission.

17-1-11 LANDMARK DESIGNATION PROCEDURES.

(A) The Commission shall schedule a public hearing within **sixty (60) days** after the filing of an application to the Planning Department.

- (1) Any person, group of persons or association, including, but not limited to the Benton Historic Preservation Commission, may request a Historic Landmark designation for any structure, building or site within the boundaries of the City which may have historic or architectural significance as defined by the Code. The Planning Department shall supply, upon request, the application forms. Completed forms shall be submitted to the Planning Department which shall be forwarded to the Commission for their consideration.
- (2) Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners, not less than **fifteen (15)** nor more than **thirty (30) days** prior to the date of the hearing. A public notice also shall be published in a newspaper having general circulation in the City. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection (B) under Criteria for Landmark Designation.
- (3) Upon receipt of the application, the secretary of the Commission shall schedule a public hearing, to be held within **forty-five (45) days** after preliminary approval of application.
- (4) During the public hearing, the Commission shall review and evaluate the application according to the criteria established by ordinance.
- (5) If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.
- (6) A Certificate of Appropriateness shall be required for alteration, construction, removal or demolition of a proposed landmark from the date when the nomination form is presented to the Commission until the final disposition of the request.

(B) A decision shall be made within **thirty (30) days** following the date of the closing of the public hearing.

- (1) Following the public hearing, the Secretary of the Commission shall prepare the Commission's evaluation, recommendation and all available information for submission to the City Council within **thirty (30) days**.
- (2) If the Commission decides that the landmark should be designated, it shall do so by a resolution passed by a majority of the Commission.
- (3) The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.
- (4) A simple majority vote by the City Council is necessary for approval of a landmark designation. If the City Council approves the application for a designation, a notice will be sent to the property owner, the Planning Department, the Building Inspector, the City Clerk's office, and recorded with the County Recorder of Deeds. If the City Council denies the petition, no petitioner or applicant can file for **ninety (90) days** to the Secretary of the Commission.
- (5) Buildings designated as Historic Landmarks shall be subject to issuance of Certificates of Appropriateness.

17-1-12 CRITERIA FOR HISTORIC DISTRICT DESIGNATION.

(A) Nominations shall be made to the Historic Preservation Commission on a form provided by the Commission. A filing fee may be required.

(B) The following criteria shall be utilized by the Benton Historic Commission in determining the designation of Historic Districts:

- (1) The Historic District contains **one (1)** or more landmarks along with such other buildings, places or areas within its definable geographic boundaries which, while not of such historic significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located in such District;
- (2) A significant number of structures meeting any of the standards of Subsection (B) under Landmark Designation Criteria;
- (3) Establishing a sense of time and place unique to the City, and/or
- (4) Exemplifying or reflecting the cultural, social, economic, political or architectural history of the nation, the state or the City.

(C) A preliminary determination as to whether a district or an area meets **one (1)** or more of the foregoing criteria shall be made within **sixty (60) days** of the filing of a nomination with the Commission.

17-1-13 HISTORIC DISTRICT DESIGNATION PROCEDURE.

(A)

- (1) Any person, group of persons, or association, including but not limited to the Benton Historic Commission, may present to the Commission a petition requesting that a defined geographic area be designated as a Historic District. The Planning Department shall supply, upon request, the application forms. Completed forms shall be submitted to the Planning Department which shall forward them to the Commission for their consideration.
- (2) The petition shall contain the names of no less than **fifty-one percent (51%)** of the property owners. Or, if lease holders, with a **five (5) year** or longer leasehold interest, are signatories to the petition then the petition shall contain no less than **fifty-one percent (51%)** of the property owners and/or leaseholders.
- (3) Notice of date, time, place and purpose of the public hearing shall be sent by mail to owner(s) of record and to the nominator(s) as well as to the adjoining property owners, not less than **fifteen (15)** nor more than **thirty (30) days** prior to the date of the hearing. A public notice also shall be published in a newspaper having general circulation in the City. The notice shall state the location of the property and a statement summarizing how the proposed landmark meets the criteria set forth in Subsection (B) under Criteria for Historic Designation.
- (4) Upon receipt of the application, the secretary of the Commission shall schedule a public hearing to be held within **thirty (30) days** from after preliminary approval of application.
- (5) During the public hearing the Commission shall review and evaluate the application according to the criteria established by ordinance.
- (6) If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.

(B) A decision shall be made within **thirty (30) days** following the date of the closing of the public hearing.

- (1) Following the public hearing, the secretary of the Commission shall prepare the Commission's evaluation, recommendation and all available information for submission to the City Council within **thirty (30) days**.
- (2) If the Commission decides that the proposed historic district should be designated, it shall do so by a resolution passed by a majority of the Commission.
- (3) The owner(s) of record shall be notified promptly by a letter containing information of the Commission's decision.
- (4) A simple majority vote by the City Council is necessary for approval of a historic preservation designation. If the City Council approves the application for a designation, a notice will be sent to the property owner, the Planning Department, the Building Inspector, the City Clerk's office and recorded with the County Recorder of Deeds that the area has been designated as such and that building located within the boundaries of the Historic District shall be subject to issuance of Certificates of Appropriateness. If the City Council denies the petition, no petitioner can file for **ninety (90) days** to the Secretary of the Commission.

17-1-14 APPLICATIONS FOR NOMINATIONS OF LANDMARKS AND HISTORIC DISTRICTS. Any person, group of persons or association, may apply to the Benton Historic Preservation Commission for the designation of a Landmark or Historic District. Applications for a nomination shall be filed at the Planning Office. Persons wishing guidance or advice prior to completing an application may contact the Staff of the Planning Commission. At a minimum, the application shall include the following:

For a Landmark:

- (A) The name and address of the property owner.
- (B) The legal description and common street address of the property.
- (C) A written statement describing the property and setting forth reasons in support of the proposed designation.
- (D) Documentation that the property owner has been notified or consents to the application for designation.
- (E) A list of significant exterior architectural features that should be protected.
- (F) An overall site plan and photographs of the landmark. The plan shall also include a front, side and rear elevation drawing.

For an Historic District:

- (A) The names and addresses of the property owners.
- (B) A map delineating the boundaries of the area to be designated.
- (C) A written statement describing the area and properties within the proposed Historic District and setting forth reasons in support of the proposed designation.
- (D) A list and photographs of significant exterior architectural features of all properties in the district that should be protected.

17-1-15 CERTIFICATE OF APPROPRIATENESS.

(A) A Certificate of Appropriateness issued by the Commission shall be required before a building permit, moving or building permit or demolition permit is issued for any designated Historic Landmark or any building, structure or site or part thereof in the Historic District. It is required if the building, structure or site will be altered, extended, or repaired in such a manner as to produce a major change in the exterior appearance of such building or structure. Such major changes include, but are not limited to:

- (1) Major changes by addition, alterations, maintenance, reconstruction, rehabilitation, renovation or repair;

- (2) Any new construction and demolition in whole or in part requiring a permit from the City;
- (3) Moving a building;
- (4) Any construction, alteration, demolition, or removal affecting a significant exterior architectural feature as specified in the ordinance designating the landmark or historic district.

(B) An exception to the Certificate of Appropriateness shall be made if the applicant shows to the Commission that failure to grant the permit will cause an imminent threat to life, health or property.

(C) **Application for Certificate of Appropriateness.** Every application for a demolition permit or a building permit, including plans and specifications shall be forwarded by the Planning Department to the Historic Preservation Commission within **fifteen (15) days** following receipt of the application by the Planning Department. The application for issuance of a Certificate of Appropriateness must include:

- (1) Street address of the property involved.
- (2) Legal description of the property involved.
- (3) Brief description of the present improvements situated on the property.
- (4) A detailed description of the construction, alteration, demolition or use of proposed together with any architect drawings or sketches if those services have been utilized by the applicant and if not, a sufficient description of the construction, alteration, demolition, and use to enable anyone to determine what the final appearance and use of the real estate will be.
- (5) Owner's name.
- (6) Developer's name, if different than owner.
- (7) Architect's name.
- (8) A filing fee is required.

(D) **Standards for Certificate of Appropriateness.** In making a determination whether to approve or deny an application for a Certificate of Appropriateness, the Benton Historic Preservation Commission shall include, but not be limited to:

- (1) A reasonable effort should be made to provide a compatible use for buildings which will require minimum alteration to the building, structure or site and its environment or to use a property for its originally intended purposes.
- (2) The compatibility of proposed new additions or new construction to the original architecture of the landmark or style within the historic district shall be evaluated against the following guidelines:
 - (a) The height of the proposed structure or additions or alterations should be compatible with surrounding structures.
 - (b) The proportion of the front façade, that is, the relationship between the width of the building to the height of the front elevation;
 - (c) The relationship of building mass to the open space between it and adjoining buildings or structures;
 - (d) The directional expression of a building or structure, that is, the vertical or horizontal positioning;
 - (e) The roof shape;
 - (f) Architectural details, general design, materials, textures and colors;
 - (g) Landscape and appurtenances including signs, fences, accessory structures and pavings.
- (3) Deteriorated architectural features should be repaired rather than replaced, wherever possible. In the event that replacement is necessary, the new material should closely match the material being replaced in

composition, design, color, texture, and other visual qualities. Repair or replacement or missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

- (4) All buildings should be recognized as products of their own time. Alterations to create an appearance inconsistent with the actual character of the building should be discouraged.
- (5) Many changes to building and environments which have taken place in the course of time may distinguish the history of the building and the neighborhood. Such significance should be recognized and respected.
- (6) Wherever possible, new additions or alterations to buildings should be done in such a manner that if they were to be removed in the future, the essential form and integrity of the original building would be unimpaired.
- (7) Contemporary design for new buildings in an historic district and additions to existing buildings or landscaping should not be discouraged if such design is compatible with the size, scale, color, material, and character of the district, building, or its environment.
- (8) The distinguishing original qualities or character of a building, structure, or site and its environment, shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
- (9) Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity.
- (10) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage or deface the historic building materials shall not be undertaken.
- (11) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, and project.
- (12) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
- (13) **Design Guidelines.** Design guidelines for applying the criteria for review of Certificates of Appropriateness shall at a minimum consider the following architectural criteria:
 - (a) **Height.** The height of any proposed alteration of construction should be compatible with the style and character of the landmark and with surrounding structures in a historic district.
 - (b) **Proportions of Windows and Doors.** The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark.
 - (c) **Relationship of Building Masses and Spaces.** The relationship of a structure within a historic district to the open space between it and adjoining structures should be compatible.
 - (d) **Roof Shape.** The design of the roof, fascia, and cornice should be compatible with the architectural style and character of the landmark.
 - (e) **Landscaping.** Landscaping should be compatible with the architectural character and appearance of the landmark.
 - (f) **Scale.** The scale of the structure after alteration, construction, or partial demolition should be compatible with its architectural

style and character and with surrounding structures in a historic district.

- (g) **Directional Expression.** Facades in historic districts should blend with other structures with regard to directional expression. Structures in a historic district should be compatible with the dominant horizontal or vertical expression of surrounding structures. The direction expression of a landmark after alteration, construction, or partial demolition should be compatible with its original architectural style and character.
- (h) **Architectural Details.** Architectural details including types of materials, colors, and textures should be treated so as to make landmark compatible with its original architectural style and character and to preserve and enhance the architectural style and character of a landmark or historic district.
- (i) New structures in a Historic District shall be compatible with the architectural styles and design in said districts.

(E) **Hearing on Application.**

- (1) Applications for a Certificate of Appropriateness are available from the Planning Department. Such applications shall be completed and submitted to the Planning Department which shall be forwarded to the Benton Historic Preservation Commission. The Commission shall schedule a public meeting for consideration of the application within **fifteen (15) days** of receipt of application. A public notice for consideration of the application shall be made not less than **fifteen (15) days** nor more than **thirty (30) days** before a hearing, in a newspaper of general circulation published in the City.
- (2) If the Historic Preservation Commission finds at the time that the application merits further consideration, then the Commission may table the request until its next regularly scheduled meeting.

(F) **Issuance of a Certificate of Appropriateness.** The Benton Historic Preservation Commission shall notify the applicants of their decision within **five (5) days** after the public meeting. Upon approval of the application, the Commission shall direct the Planning Department to issue signed Certificates of Appropriateness to the applicant with copies forwarded to the Building Inspector.

A Certificate of Appropriateness shall be invalid if changes in the plans reviewed by the Commission are necessary to obtaining a building permit or if the building permit issued for the same work becomes invalid. The Certificate of Appropriateness remains valid for the same period of validity as the building permit (**one (1) year**).

If the Commission's decision is to postpone the issuance of Certificate of Appropriateness for demolition or removal, the Commission shall notify the owner in writing. During the period set forth for postponement of the requested action, the Commission shall explore alternatives to demolition or removal. Such alternatives may include consultation with private civic groups, interested private citizens and other public board or agencies in an effort to find a persuasive means of preserving the structure. If sale of property is considered a feasible alternative to the owner, the building must remain on the open market, dependent on its classifications, for the following lengths of time:

- (1) Designated Landmarks – **six (6) months.**
- (2) Historic and architecturally significant buildings in historic district – **six (6) months.**
- (3) Non-significant buildings located within historic district – **three (3) months.**

Failure to Reach Agreement. If, after a period not to exceed the required waiting period, no alternative agreement has been reached with the applicant, the Commission shall issue a Certificate of Appropriateness for demolition or removal of the structure in question.

(G) **Appeals for Denial of a Certificate of Appropriateness.** In the event of denial of an application for a Certificate of Appropriateness, the Commission shall notify the applicant in writing of the disapproval and the reasons therefore and shall recommend changes, if any, in the proposed action that would cause the Commission to reconsider its denial.

Within **fifteen (15) days** of receipt of the notification of disapproval, the applicant may resubmit an amended application that takes into consideration the recommendations of the Historic Preservation Commission. The application shall be considered to be withdrawn if no written modification on request for public hearing is received. Within **fifteen (15) days** of receipt of a written modification on the Commission must either issue the Certificate of Appropriateness or hold a hearing.

(H) **Findings on Appeal.** The Benton Historic Preservation Commission shall select a reasonable time and place for the hearing of the appeal and give due notice thereof to the applicant by mailing notice of the hearing, said mailing to be made at least **ten (10) days** prior to the date of the hearing.

Notice of the time and place of such public hearing shall be published at least once, not less than **fifteen (15) days** nor more than **thirty (30) days** before the hearing, in a newspaper of general circulation published in the City.

The Chairperson shall conduct the hearing and the Benton Historic Preservation Commission and the applicant shall have the right to introduce evidence and cross-examine witnesses. A recorded or written transcript of the hearing shall be made and kept.

The Commission shall vote, announce its decision, make its recommendation, and notify the Planning Department and the applicant within **five (5) days** after the conclusion of public hearing, unless the time is extended by mutual agreement between the Commission and the applicant.

In the event of a denial of appeal by the Benton Preservation Commission, the applicant may appeal the decision to the City Council, whose decision in this matter shall be final subject only to judicial review as provided by law.

(I) **Natural Destruction or Demolition.** In the case of partial or complete natural destruction or demolition of a site within a Historic Preservation District or of a landmark, the owner will be required to obtain a Certificate of Appropriateness from the Commission prior to reconstruction. Although exact duplication of the previous structure may not be required, the exterior design of the property shall be in harmony with:

- (1) The exterior design of the structure prior to damage, and
- (2) The character of the Historic Preservation District.

(J) **Fees and Penalties.** The Preservation Commission may establish an appropriate system of processing fees for the review of nominations and Certificates of Appropriateness. Any person who undertakes or causes an alteration, construction, demolition, or removal of any nominated or designated landmark or property within a nominated or designated landmark or designated historic district without a Certificate of Appropriateness shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than **Seventy-Five Dollars (\$75.00)** nor more than **Seven Hundred Fifty Dollars (\$750.00)**. Every day such violation shall continue to exist shall constitute a separate violation. The Preservation Commission may institute any appropriate action or proceeding in the name of the City to enjoin, correct or abate any violation of the ordinance.

(Ord. No. 1337; 06-14-93)