

ORDINANCES OF THE CITY OF HELENA, MONTANA

ORDINANCE NO. 3320

AN ORDINANCE AMENDING TITLE 3, CHAPTER 15 OF THE CITY OF HELENA CODE (REVIEW PROCESS FOR DEMOLITION OF HISTORIC BUILDINGS)

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF
HELENA, MONTANA:

Title 3, Building Regulations, Chapter 15, Review Process for
Demolition of Historic Buildings is hereby amended as follows:

CHAPTER 15

REVIEW PROCESS FOR DEMOLITION OF HISTORIC BUILDINGS, STRUCTURES,
AND SITES

SECTION:

- 3-15-1: Intent
- 3-15-2: Definitions
- 3-15-3: Demolition Permit Required
- 3-15-4: Determination If Review Is Required
- 3-15-5: Preapplication Meeting
- 3-15-6: Application Requirements
- 3-15-7: Administrative Application Review
- 3-15-8: Demolition Review Procedure and Criteria
- 3-15-9: Issuance of a Demolition Permit
- 3-15-10: Application After Denial

3-15-1: INTENT:

A. General Intent:

1. Historic districts and historic buildings, structures, sites, and contributing properties listed on the National Register of Historic Places recognize national, state and local architectural, historical, social and cultural values. Helena's historic districts embody the area's identity to the community, provide a "sense of place", or the connection with the historic places we value, for residents and visitors, and provide

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recognition for the area (including an attraction for heritage tourism); provide a defined area to promote economic incentives (such as federal tax credits, the local tax abatement program and grants for building rehabilitation); represent a financial investment for property owners and protect property values; and promote tourism, as a benefit to the local economy, by protecting the area's significant historical values.

2. Helena's historic districts and historic buildings, structures, sites, and contributing properties include a wealth of architectural variety; contribute to greater knowledge, awareness and understanding of the area's cultural development over time; and encourage the integration of historic preservation into the private, local, state and federal decision-making process.

3. Understanding that the National Register of Historic Places does not protect nor prevent the destruction of historic buildings, structures, and sites, the intent of this ordinance is to accomplish, at the local level, what the National Register of Historic Places cannot.

B. Intent For The Demolition Permit Review Process:

1. The purpose of the demolition permit review process is to protect and preserve the historical and archeological heritage of Helena, because the historic district designation is not permanent, and the designation and related benefits can be lost forever if changes and alternatives are not carefully considered.

2. This section applies to those buildings, structures, and sites within the city that are individually listed on the National Register of Historic Places and those properties located within the city's historic districts which are designated by the state historic preservation office (SHPO) as contributing.

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3-15-2: DEFINITIONS:

For purposes of this chapter, the following definitions are applicable:

BUILDING: a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure.

CONTRIBUTING: Any building, structure or site so designated by the SHPO that contributes to the overall fabric of the historic district.

DEMOLITION: To raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a historic building, structure, or site in a historic district or otherwise completely alter the building, structure, or site so that it no longer qualifies for contributing status, or listing on the National Register.

HERITAGE PRESERVATION OFFICER (HPO): An employee assigned by both the Lewis and Clark County Commission and the Helena City Commission to coordinate day to day activities of the Heritage Tourism Council (HTC); to assist with local historic preservation and heritage tourism programs; to advise and provide assistance to government agencies and the public; to review and provide comment on any development affecting historic properties and heritage tourism, including demolition review of historic structures in accordance with this chapter.

HERITAGE TOURISM COUNCIL (HTC): Formally known as the Lewis and Clark County Heritage Preservation and Tourism Development Council, the HTC is a joint advisory body of the Lewis and Clark County Commission and the City of Helena Commission on matters related to historic preservation and development within historic districts and heritage and cultural tourism.

HISTORIC: Any building, structure, or site herein defined as contributing to a historic district, or any building, structure,

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or site individually listed on the National Register of Historic Places.

HISTORIC DISTRICT: Any area so designated by SHPO and/or so designated by the City of Helena or Lewis and Clark County.

NATIONAL REGISTER OF HISTORIC PLACES (NATIONAL REGISTER): A list maintained by the national park service of properties such as buildings, structures, sites, districts and objects that are important in history, prehistory, architectural history, engineering history, archeology or culture.

SITE: the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

STATE HISTORIC PRESERVATION OFFICER (SHPO): the person who has been designated by the Governor or by State statute to administer the State Historic Preservation Program, including identifying and nominating eligible properties to the National Register and otherwise administering applications for listing historic properties in the National Register.

STRUCTURE: a work made up of interdependent and interrelated parts in a definite pattern of organization. Structures are generally constructed as part of an engineering project that is large in scale. Examples of structures include, but are not limited to, towers, smokestacks, walls, sculptures, monuments, and bridges.

3-15-3: DEMOLITION PERMIT REQUIRED:

No historic building, structure, or site shall be demolished without obtaining a demolition permit from the City of Helena Building Division. No demolition permit shall be issued unless such issuance conforms with all of the provisions of this chapter and of the State of Montana adopted International Codes and amendments.

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3-15-4: DETERMINATION IF REVIEW IS REQUIRED:

Upon receipt of the completed application for a general building demolition permit, a determination by staff shall be made if the property is individually listed on the National Register or is designated as contributing to the historic district. If the property is determined to be noncontributing to the historic district, a general building demolition permit may be issued.

3-15-5: PREAPPLICATION MEETING:

If the property is determined to be individually listed on the National Register or is a contributing property to the historic district, the applicant shall meet with the City/County Historic Preservation Officer (HPO) to present the proposal for demolition. The HPO and/or HTC staff shall provide procedural information about the historic property demolition requirements and discuss options for the property, such as, but not limited to, alternative designs, grants, tax credits, tax abatements, purchase, land exchanges and building relocation.

3-15-6: APPLICATION REQUIREMENTS:

For any property determined to be individually listed on the National Register or a contributing property to the historic district, an application on forms provided by the city, along with the required application fee, shall be submitted to the Building Division. No application shall be deemed as being filed unless accompanied with the required fees or until the required fees are submitted.

In addition to materials, items, or information required of a general building demolition permit, an application for a historic property demolition shall include the following information:

- A. Legal description, property address and the year the building or structure was built.
- B. A written description and current photographs that illustrate the present condition of the building,

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structure, or site and which show the necessity or justification for the demolition request.

- C. A description of the proposal and the reason demolition is requested.
- D. A description of the surrounding neighborhood and how the proposed loss of a contributing property will not impact the district's SHPO designation as a historic district.
- E. Cost estimates to rehabilitate or repair the structure and the name of the person or firm preparing the estimates. Estimates shall be supplemented with documentation or reports providing justification for the demolition.

3-15-7: ADMINISTRATIVE APPLICATION REVIEW

- A. Upon receipt of a historic property demolition application, the Building Division shall transmit the application and supporting materials to the HPO.
- B. Within fifteen (15) full working days of receipt of a historic property demolition application, the HPO shall determine whether the application contains all of the listed materials required in 3-15-6 of this chapter and which allow for an adequate and sufficient review of the application and shall give written notice to the applicant, or applicant's designated agent, of the determination.
 - 1. If the HPO determines that materials are missing from the application, or the submitted materials are not sufficient for a review of the demolition request, the HPO will identify those materials that are not in the application or are not sufficient for review by written notification to the applicant, or applicant's designated agent. The HPO shall take no further action on the application until the missing or insufficient materials are submitted.

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2. In the event the missing or insufficient materials are not provided by the applicant or applicant's designated agent within six (6) months of notification to the applicant or applicant's agent of the incomplete application, all submitted application materials will be returned to the applicant or the applicant's designated agent. Subsequent resubmittal of the historic property demolition application requires payment of a new application fee.
3. If the applicant or applicant's designated agent resubmits the application to correct deficiencies noted in the written notice, the HPO will have fifteen (15) full working days to notify the applicant, or applicant's designated agent, in writing whether the corrected application contains the listed or deficient materials identified in the written notice.
4. This process will be repeated until the applicant submits an application that contains the elements initially identified as missing or deficient in the notice or the application is withdrawn.
5. Public hearing dates may be tentatively scheduled after the application has been determined to be complete and sufficient for review of the demolition request.
6. A determination that an application is complete and contains information sufficient for review of the demolition request does not ensure that the proposed demolition will be approved or conditionally approved by the City Commission and does not limit the ability of City staff, the HPO, HTC, or the City Commission to request additional information during the review process.

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7. If the applicant, or applicant's agent, disagrees with the HPO's determination that an application is incomplete or otherwise does not contain information sufficient for a review of the demolition request, the applicant or applicant's designated agent may appeal, in writing, to the City Community Development Director. The City Community Development Director shall render a written decision after receipt of a written appeal.

3-15-8: DEMOLITION REVIEW PROCEDURE AND CRITERIA:

- A. For a property determined to be individually listed on the National Register or a contributing property to the historic district, the Historic Tourism Council (HTC) shall conduct a legally advertised public hearing.

1. Notice of the hearing must be published in a newspaper of general circulation within the city once, at least fifteen (15) days prior to the hearing date.

- B. At the public hearing the HTC shall review and evaluate:

1. Information submitted that satisfies the application requirements
2. Architectural and/or historical significance of the structure, its relationship to the district and/or its relationship to a larger project,
3. Consider public testimony on the proposed demolition and
4. Any other relevant information.

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C. The HTC shall make a recommendation to the City Commission for the approval, conditional approval, or denial of the demolition application. The HTC's recommendation must be based on information contained in the required application materials and any information presented at the public hearing.

The HTC's recommended conditions may include, but are not limited to:

- i. Those needed to mitigate adverse impacts that the historic demolition may have on the historic district and adjacent historic properties;
- ii. Those needed to mitigate adverse environmental impacts to the immediate area;
- iii. A timeframe within which the demolition must take place; and
- iv. A set delay in the demolition so that alternatives to demolition may be sought after, such as relocation or purchase, for further coordination of salvaging of architectural features and elements, or for additional historical documentation.

D. The City Commission shall hold a public hearing to consider the application.

1. Notice of the hearing must be published in a newspaper of general circulation within the city once, at least fifteen (15) days prior to the hearing date.

E. The City Commission shall consider:

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1. Information provided to the HTC
2. The HTC recommendation; and
3. Any other relevant information including, but not limited to, the property's historical significance or the economic and technical feasibility of the project.

The City Commission shall then approve, conditionally approve, or deny the demolition application within sixty (60) working days after the application has been deemed complete and sufficient for review , unless the applicant, or applicant's designated agent, and the City Commission agree to an extension or suspension of the review period, not to exceed a total of one hundred eighty (180) days.

3-15-9: ISSUANCE OF A DEMOLITION PERMIT:

A. The City building department shall issue the demolition permit within five (5) business days of each the following requirements being met:

1. The City Commission approves or conditionally approves the historic property demolition request; and
2. Applicant provides City staff and the HPO with the following documentation, which must be accompanied by a written narrative or detailed individual descriptions:
 - i. Using the preferred standards in the latest edition of the US Department of the Interior's Consolidated and Updated Photographic Policy for National Register of Historic Places, photographic and/or videographic documentation of all rooms in the interior and all sides of

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the exterior of the building(s) or structure(s) that are proposed to be demolished; and

- ii. Using the preferred standards in the latest edition of the US Department of the Interior's Consolidated and Updated Photographic Policy for National Register of Historic Places, photographic documentation of salvageable interior and exterior architectural elements of the existing building or structure.

B. If the demolition permit is issued, the demolition permit holder must:

1. To the greatest extent possible, salvage, reuse, or make available for reuse the salvageable interior exterior architectural elements of the existing building or structure that were photographed and documented in 3-15-9(A)(2)(ii); and
2. Photograph and video the demolition process and provide a copy of the photographs and video, along with a written narrative, to City staff and the HPO.

C. Upon completion of the demolition process and prior to close-out of the Building Division's general building demolition permit, an interpretative sign with a photograph(s) explaining the local, state, and/or national significance of the demolished historic property shall be installed on the property. Prior to installation, this sign shall be reviewed by the HPO or HPO staff. In consultation with the HPO, preference shall be given to the property owner as to the text or other material included on this sign.

D. Final Inspection Required

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- i. After the completion of demolition activities, as permitted, a final inspection of the site by building division staff shall be required.
2. In addition to a review of the site, a review of the required documentation, signage, and approval conditions must be conducted by the HPO or designated staff.

3-15-10: APPLICATION AFTER DENIAL

If the City Commission denies the application, no further historic property demolition applications may be considered for the subject property for six (6) months from the date of the public hearing wherein the application is denied by the City Commission, unless the City Commission finds there are changed circumstances sufficient to warrant a new application. Any new application must be accompanied with a new application fee.

FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,

THIS 3rd DAY OF JUNE, 2024.



MAYOR

CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA,

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MONTANA, [15]th DAY OF JULY, 2024.



Samuel
MAYOR

Samuel
CLERK OF THE COMMISSION