

**PARK CITY MUNICIPAL CORPORATION MUNICIPAL CODE**

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**TITLE 15 - LAND MANAGEMENT CODE - CHAPTER 11 HISTORIC PRESERVATION**

*Chapter adopted by Ord. No. 02-07; Chapter amended in entirety by Ord. No. 03-34*

[15-11- 1. ESTABLISHMENT OF BOARD .](#)

[15-11- 2. TERMS AND QUALIFICATIONS OF MEMBERS .](#)

[15-11- 3. ORGANIZATION .](#)

[15-11- 4. ABSENCE DEEMED RESIGNATION OR GROUNDS FOR REMOVAL .](#)

[15-11- 5. PURPOSES .](#)

[15-11- 6. ADDITIONAL DUTIES .](#)

[15-11- 7. LIMITATIONS .](#)

[15-11- 8. STAFF ASSISTANCE .](#)

[15-11- 9. PRESERVATION POLICY .](#)

[15-11- 10. HISTORIC DISTRICT GUIDELINES .](#)

[15-11- 11. HISTORIC DISTRICT DESIGN REVIEW .](#)

[15-11- 12. DETERMINATION OF HISTORICAL SIGNIFICANCE .](#)

[15-11- 13. DEMOLITION AND REMOVAL OF HISTORIC BUILDINGS, STRUCTURES, AND SITES .](#)

[15-11- 14. CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION \(CAD\) .](#)

[15-11- 15. PRE-HEARING APPLICATION REQUIREMENTS .](#)

[15-11- 16. CAD HEARING .](#)

**15-11 -1. ESTABLISHMENT OF BOARD.**

Pursuant to the Historic District Act (Section 11-18-1, et seq. of the Utah Code, 1953) and other applicable power, there is hereby created a Park City Historic Preservation Board (HPB). The HPB shall be composed of seven (7) members.

*(Amended by Ord. No. 06-69)*

**15-11 -2. TERMS AND QUALIFICATIONS OF MEMBERS.**

Members of the HPB shall serve terms of three (3) years. No member may serve more than two (2) consecutive terms. The terms shall be staggered. Terms may expire on May 1, however, members of the HPB shall continue to serve until their successors are appointed and qualified.

(A) The Mayor shall appoint a new HPB member to fill vacancies that might arise and such appointments shall be to the end of the vacating member's term.

(B) It is the first priority of the City Council that the HPB have technical representation in Historic preservation. Therefore, when vacancies occur and if appropriate, it shall be the first consideration of the City Council to ensure that there is a licensed architect, or other professional having substantial experience in rehabilitation-type construction, serving on the HPB, and secondly, that there is representation from the Park City Historical Society. After being notified by the City of a vacancy, at least two (2) nominations shall be rendered to the City Council by the Park City Historical Society if it desires to participate in the Application process.

(C) In addition, the HPB should include members with the following qualifications, or representing the following interests:

- (1) A member recommended by or associated with the Utah State Historical Society or Utah Heritage Foundation.
- (2) A member living in the Historic District with demonstrated interest and knowledge of Historic preservation.
- (3) A member appointed at large from Park City with demonstrated interest and knowledge of Historic preservation.
- (4) A member associated with Main Street Business and commercial interests.

**15-11 -3. ORGANIZATION.**


(A) **CHAIRMAN.** The HPB shall elect one of its members to serve as Chairman for a term of one (1) year at its first meeting in March. The Chairman may be elected to serve for one (1) consecutive additional term, but not for more than two (2) successive terms. If the Chairman is absent from any meeting where a quorum would otherwise exist, the members may appoint a Chairman Pro Tem to act as Chairman solely for that meeting.

(B) **QUORUM.** No Business shall be conducted without a quorum at the meeting. A quorum shall exist when the meeting is attended by four (4) of the appointed members, including the Chairman or Chairman Pro Tem.

(C) **VOTING.** All actions of the HPB shall be represented by a vote of the membership. A simple majority of the members present at the meeting in which action is taken, shall approve any action taken. The Chairman may vote at the meetings.

*(Amended by Ord. No. 07-34)*

#### **15-11 -4. ABSENCE DEEMED RESIGNATION OR GROUNDS FOR REMOVAL.**

Any HPB member who is absent from two (2) consecutive regularly scheduled board meetings, or a total of four (4) regularly scheduled meetings per calendar year may be called before the City Council and asked to resign or be removed for cause by the Council. Members of the HPB are not required to reside within the City limits, however, the majority of the members shall reside in Park City.

#### **15-11 -5. PURPOSES.**

The purposes of the HPB are:

(A) To preserve diverse and harmonious architectural styles and design preferences reflecting phases of the City's history and to encourage complimentary, contemporary design and construction through the creation of comprehensive Historic District Design Guidelines, and update as necessary;

(B) To protect and enhance the City's Historic appeal to tourists and visitors;

(C) To identify as early as possible and resolve conflicts between the preservation of cultural resources and alternative land Uses;

(D) To provide input to City Council towards safeguarding the heritage of the City in protecting Buildings of Significance and Contributing Buildings, Structures, Sites/Areas or Objects;

(E) To promote the private and public Use of Buildings of Significance and Contributing Buildings, Structures, Sites/Areas or Objects;

(F) To make recommendations to the City Council on policies and ordinances that may encourage Historic preservation;

(G) To communicate and promote the benefits of Historic preservation for education, prosperity, and general welfare of the people;

(H) To provide input to staff, Planning Commission, and City Council on matters concerning the overall Development of the City's Historic preservation program;

(I) To make recommendations to the City Council on the Development of, and to administer, all City-sponsored preservation incentive programs;

(J) To review all appeals on action taken by the Planning Department regarding compliance with the Historic District Design Guidelines; and

(K) To review and take action on all Determination of Historic Significance Applications submitted to the City.

#### **15-11 -6. ADDITIONAL DUTIES.**

In addition to the powers set forth in Section 15-11-5, the HPB may at the direction of City Council:

(A) Participate in the design review of any City-owned projects located within the designated Historic District.

(B) Recommend to the City Council the purchase of interests in Property for purposes of preserving the City's cultural resources.

(C) Investigate and report to the City Council on the Use of Federal, State, local, or private funding sources and mechanisms available to promote the preservation of the City's cultural resources.

(D) Recommend to the Planning Commission and the City Council zoning boundary changes for the district to preserve the historical integrity of the Area. Subdivision, Conditional Uses, and planned unit Development Applications must continue to be acted upon by the Planning Commission.

(E) Recommend to the Planning Commission and the City Council changes to the Park City Land Management Code to reinforce the purpose of Historic preservation.

(F) Provide advice and guidance on request of the Property Owner or occupant on the construction, restoration, alteration, decoration, landscaping, or maintenance of any cultural resource, and Property within the Historic District, or neighboring Property within a two (2) block radius of the Historic District.

#### **15-11 -7. LIMITATIONS.**

The HPB has no authority to waive or increase any requirement of any ordinance of the City.

**15-11 -8. STAFF ASSISTANCE.**

The City may, subject to the approval of the City Manager, provide staff and/or the HPB with such assistance from:

- (A) Utah Heritage Foundation.
- (B) National Trust for Historic Preservation.
- (C) Utah State Division of History.
- (D) Park City Historical Society.
- (E) American Institute of Architects (AIA).

*(Amended by Ord. No. 06-35)*

**15-11 -9. PRESERVATION POLICY.**

It is deemed to be in the interest of the citizens of Park City, as well as the State of Utah, to encourage the preservation of Buildings, Structures, and Sites of Historic Significance in Park City. These Buildings, Structures and Sites are among the City's most important cultural, educational, and economic assets. In order that they are not lost through neglect, Demolition, expansion or change within the City, the preservation of the remaining Buildings, Structures and Site of Historic or community Significance is required based on the level of Significance. This section is intended to provide an incentive for identification and preservation of Historic Buildings, Structures or Sites that may occur within the Park City Historic District, as well as those that may be located outside the Historic District.

**15-11 -10. HISTORIC DISTRICT DESIGN GUIDELINES.**

The HPB shall promulgate and update as necessary Historic District Design Guidelines for Use in the Historic District zones. These guidelines shall, upon adoption by resolution or ordinance by the City Council, be used by the Planning Department staff in reviewing Historic District design review Applications. The Historic District Design Guidelines shall address rehabilitation of existing Structures, additions to existing Structures, and the construction of new Structures. From time to time, the HPB may recommend changes to the Historic District Design Guidelines to the City Council, provided that no changes in the guidelines shall take effect until adopted by a resolution of the City Council.

The Historic District Design Guidelines shall apply in all zones within the Historic District, which are designated throughout this Code by the Use of the word "Historic" in the Zoning District name, or the letter "H" in the abbreviation of that name.

**15-11 -11. HISTORIC DISTRICT DESIGN REVIEW.**

(A) The Planning Department shall review and approve, deny, all Historic District design review Applications associated with a Building Permit to build, locate, construct, remodel, alter or modify any Building, Structure, Site, or other visible element, including but not limited to, signs, lighting fixtures, and Fences located within the Park City Historic District.

(1) The Owner and/or Applicant for any Property shall be required to submit an Historic District design review Application for proposed work requiring a Building Permit in order to complete the work.

(2) Planning Department staff shall review all Historic District design review Applications, including those associated with an Allowed or Conditional Use, which upon determining compliance with the guidelines, shall be approved by the department staff without HPB review or hearing.

(B) **NOTICE.** Prior to taking action on any Historic District design review Application, the Planning staff shall provide notice pursuant to Section 15-1-20 of this Code.

(C) **DECISION.** Upon taking action on the Application, the Planning Department staff shall make written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the Owner and/or Applicant with a copy.

(D) **APEALS.** The Owner, Applicant, or any Person with standing as defined in Section 15-1-18(D) of this Code, may appeal any Planning Department staff decision made on a Historic District design review Application to the Planning Director. All appeal requests shall be submitted to the Planning Department within ten (10) days of the decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. The scope of review by the Director shall be the same as the scope of review at the staff level.

(1) In those cases, the Director shall either approve, approve with conditions, or disapprove the proposal based on written findings, conclusions of law, and conditions of approval, if any, supporting the decision, and shall provide the Owner and/or Applicant with a copy.

(2) Any Director decision may be appealed to the HPB. Appeal requests shall be submitted to the Planning Department within ten (10) days of the Director's decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. The scope of review by the HPB shall be the same as the scope of review by the Director.

(3) Any HPB decision may be appealed to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the HPB decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. Appeals shall be considered only on the record made before the HPB.

**15-11 -12. DETERMINATION OF HISTORICAL SIGNIFICANCE.**

The HPB is the official body to review matters concerning the historical designation of Buildings, Structures and Sites within Park City, and to make this information available to all interested citizens. It is hereby declared that all Buildings, Structures and Sites within Park City which substantially comply with the standards of review found in Section 15-11-13(A), are determined to be Significant for the purposes of this Chapter.

The Planning Department shall maintain a list of such Significant Properties. Any Owner of a Building, Structure or Site may apply for a hearing before the HPB to ascertain Significance of said Property. The Application shall be on forms as prescribed by the City and shall be filed with the Planning Department. Upon receiving an Application for determination of historical Significance, the Planning staff shall schedule a hearing on the HPB agenda within thirty (30) days. Notice of the hearing shall be posted on the Property and published at least once prior to the hearing. At the hearing, the Applicant shall have an opportunity to present testimony and evidence to demonstrate the historical Significance, or insignificance of the Building, Structure or Site.

(A) **STANDARDS OF REVIEW.** In determining the Historic Significance of the Property at the hearing, the HPB shall evaluate whether the Building, Structure or Site demonstrates a quality of Significance in local, regional, state or national history, architecture, archaeology, engineering or culture, and integrity of location, design, setting, materials, and workmanship according to the following criteria:

- (1) The Building, Structure or Site is associated with events or lives of Persons Significant to our past; and/or
- (2) The Building, Structure or Site embodies the distinctive characteristics of a type, period or method of construction or that represent the work of a master; and/or
- (3) The architectural or historical value or Significance of the Building, Structure or Site contributes to the Historic value of the Property and surrounding Area; and/or
- (4) The Building, Structure or Site is at least fifty (50) years old, or has achieved Significance within the past fifty (50) years if the Property is exceptional importance to the community; and/or
- (5) The relation of Historic or architectural features found on the Building, Structure or Site to other such features within the surrounding Area; and/or
- (6) Any other factors, including aesthetic, which may be relevant to the historical or architectural aspects of the Building, Structure or Site.

(B) **NOTICE.** Prior to taking action on any determination of historical Significance Application, the Planning staff shall provide public notice pursuant to Section 15-1-20 of this Code.

(C) **DECISION.** If the HPB finds that the Building, Structure or Site is insignificant pursuant to Section 15-11-13(A), it shall immediately be removed from the list, if any, of historically Significant Properties. The HPB shall forward a copy of its written findings to the Owner and/or Applicant.

(D) **APEAL.** The Applicant or any party participating in the hearing may appeal the HPB decision to the Board of Adjustment pursuant to Section 15-10-7 of this Code. Appeal requests shall be submitted to the Planning Department within ten (10) days of the HPB decision. Notice of all pending appeals shall be made by staff pursuant to Section 15-1-20 of this Code. Appeals shall be considered only on the record made before the HPB.

#### **15-11 -13. DEMOLITION AND REMOVAL OF SIGNIFICANT HISTORIC BUILDINGS, STRUCTURES AND SITES.**

It is the intent of this and succeeding sections to preserve the Historic and architectural resources of Park City, through limitations on Demolition and removal of Historic Buildings, Structures and Sites to the extent it is economically feasible, practical and necessary. The Demolition or removal of Historic Buildings, Structures and Sites in Park City diminishes the character of the City's Historic District and it is strongly discouraged. Instead, the City recommends and supports preservation, renovation, adaptive reuse and relocation within the Historic District. It is recognized, however, that Structural deterioration, economic hardship and other factors not entirely within the control of the Property Owner may result in the necessary Demolition or removal of a Historic Building, Structure or Site.

All Applications for Demolition of any Building, Structure or Site within the City shall be initially reviewed by the Planning staff for Significance pursuant to Section 15-11-13(A) herein, and forwarded with a recommendation for action to the HPB.

(A) **DETERMINATION OF INSIGNIFICANCE.** If upon review, the HPB concludes that the Building, Structure or Site sought to be Demolished or removed is insignificant, the Planning staff may sign-off on the issuance of a Demolition permit.

(B) **DETERMINATION OF SIGNIFICANCE.** If upon review, the HPB concludes that the Building, Structure or Site sought to be Demolished or removed does possess Significance, the Applicant shall be required to submit a CAD Application pursuant to Section 15-11-15 through 15-11-17 as appropriate.

(C) **REMOVAL OR REPAIR OF HAZARDOUS BUILDINGS.** If the Chief Building Official determines the subject Building, Structure or Site to be structurally unsound, and a hazardous or dangerous Building, pursuant to Section 115.1 of the International Building Code, the Chief Building Official may order its removal or repair.

(D) **REQUIREMENT FOR STAY OF DEMOLITION.** In the absence of a finding either of insignificance or of public hazard, the Application for Demolition or removal shall be stayed for 180 days.

#### **15-11 -14. CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION (CAD).**

With the exception of any Building or Structure falling under the purview of Section 115.1 of the International Building Code or undergoing complete renovation/reconstruction in compliance with this Chapter, no Building, other Structure or Site deemed to be Significant, pursuant to the standards of review set forth in Section 15-11-13(A) herein, may be Demolished or removed without the issuance of a Certificate of Appropriateness for Demolition (CAD) by an independent CAD Hearing Board appointed by the City. Application for a CAD shall be made on forms prescribed by the City and shall be submitted to the Planning Department.

*(Amended by Ord. No. 06-35)*

**15-11 -15. PRE-HEARING CAD APPLICATION REQUIREMENTS.**

Upon submittal of a CAD Application to the Planning Department, a pre-hearing period of forty-five (45) days shall commence, during which time the Owner shall allow the City to post and sustain a visible sign stating that the Property is "threatened." Said sign shall be at least three feet by two feet (3' X 2'), readable from a point of public Access and state that more information may be obtained from the Planning Department for the duration of the stay. In addition, the Owner shall conduct negotiations with the City for the sale or lease of the Property or take action to facilitate proceedings for the City to acquire the Property under its power of eminent domain, if appropriate and financially possible.

At the end of the forty-five (45) days, the Application will be scheduled for a hearing before the CAD Hearing Board, upon showing that the above requirements have been met and all economic hardship information required has been submitted. The Applicant must also submit fees in accordance with the Park City Municipal fee schedule. The Planning Department staff shall notify the Owner if any additional information is needed to complete the Application.

(A) **CAD HEARING BOARD.** Upon confirmation of receipt of a complete CAD Application, the City shall appoint an independent CAD Hearing Board, consisting of three (3) members, for the purpose of reviewing and taking action upon the Application. The City Manager shall appoint the CAD Board as the need might arise, solely for the purpose of reviewing and taking final action on all CAD Applications.

It is the first priority of the City that the CAD Board have substantial experience in finance, real estate, and commercial business interests. Hence, the Board should possess the following qualifications, or represent the following interests:

- (1) A member appointed at large from Park City with demonstrated knowledge of economics, accounting and finance;
- (2) A member appointed at large from Park City who is an attorney at law; and
- (3) A member appointed from the Board of Adjustment.

**15-11 -16. CAD HEARING.**

At the hearing, the CAD Hearing Board will review the Application, pursuant to the Economic Hardship Criteria set forth in Section 15-11-17(A) herein, and consider public input. The CAD Hearing Board may only approve Demolition or removal of a Significant Building, Structure or Site if the Owner has presented substantial evidence that demonstrates that unreasonable economic hardship will result from denial of the CAD Application.

(A) **ECONOMIC HARDSHIP CRITERIA.** In order to sustain a claim of unreasonable economic hardship, the Owner shall provide information pertaining to whether the Property is capable of producing a reasonable rate of return for the Owner or incapable of beneficial Use. The City shall adopt by resolution separate standards for investment or income producing and non-income producing Properties, as recommended by the HPB. Non-income Properties shall consist of Owner occupied Single-Family Dwellings and non-income producing institutional Properties. The information required by the City may include, but not be limited to, the following:

- (1) purchase date, price and financing arrangements;
- (2) current market value;
- (3) form of ownership;
- (4) type of occupancy;
- (5) cost estimates of Demolition and post-Demolition plans;
- (6) maintenance and operating costs;
- (7) costs and engineering feasibility or rehabilitation;
- (8) property tax information;
- (9) rental rates and gross income from the Property.

The CAD Hearing Board, upon review of the CAD Application, may request additional information as deemed appropriate.

(B) **CONDUCT OF OWNER EXCLUDED.** Demonstration of economic hardship by the Owner shall not be based on conditions resulting from:

- (1) Willful or negligent acts by the Owner; or
- (2) Purchasing the Property for substantially more than market value at the time of purchase; or
- (3) Failure to perform normal maintenance and repairs; or
- (4) Failure to diligently solicit and retain tenants; or
- (5) Failure to provide normal tenant improvements.

(C) **DECISION.** The CAD Hearing Board shall make written findings supporting the decision made. The CAD Hearing Board may determine that unreasonable economic hardship exists and approve the issuance of a CAD if one of the following conditions exists:

- (1) For income producing Properties, the Building, Structure or Site cannot be feasibly used or rented at a reasonable rate of return in its present condition or if rehabilitated and denial of the Application would deprive the Owner of all reasonable Use of the Property; or
- (2) For non-income producing Properties, the Building, Structure or Site has no beneficial Use as a residential dwelling or for an institutional Use in its present condition or if rehabilitated, and denial of the Application would deprive the Owner of all reasonable Use of the Property; and
- (3) The Building, Structure or Site cannot be feasibly moved or relocated.
- (D) **APPROVAL**. If the CAD Hearing Board approves the Application, the Owner may apply for a Demolition permit with the Building Department and proceed to Demolish the Building, Structure or Site in compliance with other regulations as they may apply. The City may, as a condition of approval, require the Owner to provide documentation of the Demolished Building, Structure or Site according to the standards of the Historic American Building Survey (HABS). Such documentation may include photographs, floor plans, measured drawings, an archeological survey or other information as specified. The City may also require the Owner to incorporate an appropriate memorialization of the Building, Structure or Site, such as a photo display or plaque, into the proposed replacement project of the Property. Approval of a CAD shall be valid for one (1) year.
- (E) **DENIAL**. If the CAD Hearing Board denies the Application, the Owner shall not Demolish the Building, Structure or Site, and may not re-apply for a CAD for a period of three (3) years from the date of the CAD Hearing Board's final decision unless substantial changes in circumstances have occurred other than re-sale of the Property or those caused by the negligence or intentional acts of the Owner. It shall be the responsibility of the Owner to stabilize and maintain the Property so as not to create a structurally unsound, hazardous, or dangerous Building, as identified in Section 115.1 of the International Building Code. The City may provide the Owner with information regarding financial assistance for the necessary rehab or repair work, as it becomes available.
- (F) **APPEAL**. The City or any Persons adversely affected by any decision of the CAD Hearing Board may petition the District Court in Summit County for a review of the decision. In the petition, the plaintiff may only allege that the Officer's decision was arbitrary, capricious, or illegal. The petition is barred unless it is filed within thirty (30) days after the date of the CAD Hearing Board's decision.

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