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CHARLES STERN
COUNTY CLERK
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88-443

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
FOR THE COUNTY OF YAMHILL
SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Adoption of)
the Historic Landmark Preserva-)
tion Ordinance of Yamhill County) ORDINANCE 466
and Declaring an Emergency to)
Exist) (Amended by Ord 471
+ ORD 479)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business in regular session on August 3, 1988, Commissioners Ted Lopuszynski, Donald D. Porter, and David E. Bishop being present.

WHEREAS, on July 26, 1988 the Landmarks Commission voted to recommend adoption of the attached Historic Landmark Preservation Ordinance of Yamhill County, Oregon; and

WHEREAS, the Board finds that adoption of the ordinance will serve the purposes set forth therein and thereby promote the welfare of the citizens of Yamhill County; and

WHEREAS, public input on this matter was regularly obtained through hearings by the Landmarks Commission, and a duly noticed public hearing was held on this matter on July 6, 1988, and continued to July 20, 1988 and August 3, 1988; Now, Therefore,

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY ordains as follows:

HISTORIC PRESERVATION ORDINANCE

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HISTORIC LANDMARK PRESERVATION ORDINANCE

Section 1. Title. This ordinance shall be known as the Historic Landmark Preservation Ordinance of Yamhill County, Oregon.

Section 2. Purpose and Scope.

- (1) Purpose. The purpose of this ordinance is to:
- (a) Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration and protection of those buildings, structures, sites, districts, and objects of historic interest within the county;
 - (b) Foster civic pride in the accomplishments of the past;
 - (c) Strengthen the economy of the county by enhancing the historic resources for tourists and visitors; and
 - (d) Carry out the provisions of the Land Conservation and Development Commission Goal 5.
- (2) Conformance Required. No land shall be used, and no building, site, object, district, or structure of significance, or part thereof, shall be demolished, moved, or altered, nor shall any new construction take place within a district or on a landmark site except in conformity with this ordinance.

Section 3. Definitions. As used in this ordinance, unless the context requires otherwise:

- (1) "Alteration" means a change, addition, or modification to the exterior of a building.
- (2) "Board" means the Yamhill County Board of Commissioners, or the city council in any city where an intergovernmental agreement has been established to apply this ordinance.
- (3) "Commission" means the Yamhill County Landmarks Commission.
- (4) "County" means Yamhill County, Oregon, or any city where an intergovernmental agreement has been established to apply this ordinance.
- (5) "Cultural Resource Inventory" or the "Inventory" means the product of the 1984/85 County Cultural Resource Survey or any city inventories identified by intergovernmental agreement and any future updates.

- (6) "Demolish" means to raze, destroy, dismantle, deface or in any other manner cause partial or total destruction of a landmark or any building within an historic district.
- (7) "Department" means the Yamhill County Department of Planning and Development.
- (8) "Director" means Director of the Yamhill County Department of Planning and Development, the director's designee, or an official with similar responsibilities in any city where an intergovernmental agreement has been established to apply this ordinance.
- (9) "Historic District" means a geographically definable area, the boundaries of which have been adopted by the Board under Section 5 of this ordinance.
- (10) "Landmark" means any site, object, building, or structure designated by the Board under Section 5 of this ordinance.
- (11) "Major Public Improvement" means the expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of property within a district or on a landmark site, except for the repair or maintenance of existing public improvements.

Section 4. Citizen Information.

- (1) Subject to the availability of funds, the Planning Department shall hold public workshops, distribute written information, and educate the public regarding local, state, and federal programs and incentives to encourage protection of historic resources.
- (2) The director shall be available for consultation with citizens making application for district or landmark designation or for exterior alterations or new construction in an historic district or on a landmark site.
- (3) The director shall provide notice to the current owner upon receipt of a request for designation if the property owner is different from the applicant.

Section 5. Landmark and District Designation.

- (1) The process for designating a landmark or historic district may be initiated by the Board, the Commission, or by any interested person who submits an application for designation to the director. At the time of application the director shall provide the property owner and applicant with information regarding the benefits and restrictions of designation.

- (2) The following information shall be required in an application:
 - (a) The applicant's name and address;
 - (b) The owner's name and address, if different from the applicant;
 - (c) A written description of the boundaries of the proposed district or the location of the proposed landmark;
 - (d) A map illustrating the boundaries of the proposed district or the location of the proposed landmark;
 - (e) A statement explaining the following:
 - (A) The reason(s) why the proposed district or landmark should be designated.
 - (B) The reason(s) why the boundaries of the proposed district are appropriate for designation;
 - (C) The potential impact, if any, which designation of the proposed district or landmark would have on the residents or other property owners in the area.
 - (f) Any other information deemed necessary by the director.
- (3) Within seven days of receipt of a complete application, the director shall forward the request to the Commission. The Commission shall hold a public hearing within 45 days of receipt of the application pursuant to Section 8 of this ordinance. The Commission shall make a written record approving, approving with conditions, disapproving, or postponing final action on the request. The Commission shall forward a summary of its action to the Board within 15 days following conclusion of the public hearing.
- (4) The Commission shall consider the following criteria in determining whether to approve a proposed landmark or district:
 - (a) Association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
 - (b) Association with an event that has made a significant contribution to the city, county, state, or nation;

- (c) Association with broad patterns of political, economic, or industrial history in the city, county, state, or nation;
 - (d) Significance as an example of a particular architectural style, building type and/or convention;
 - (e) Significance due to quality of composition, detailing, and/or craftsmanship;
 - (f) Significance as an example of a particular material and/or method of construction;
 - (g) Significance because the resource retains its original design features, materials, and/or character;
 - (h) Significance as the only remaining, or one of the few remaining resources of a particular style, building type, design, material, or method of construction;
 - (i) Significance as a visual landmark;
 - (j) Significance because existing land-use surrounding the resource contribute to the integrity of the historic period represented;
 - (k) Significance because the resource contributes to the continuity or historic character of the street, neighborhood, and/or community;
 - (l) Significance because the property is 50 years old or older in conjunction with other criteria listed above;
 - (m) The resource is listed on the National Register of Historic Places.
- (5) Within 30 days of receipt of a Commission decision regarding a request for landmark or district designation, the Board may hold a public hearing and shall:
- (a) Designate the proposed landmark or district by a duly enacted board order;
 - (b) Disapprove of designating the proposed landmark or district, or;
 - (c) Remand the matter to the Commission for consideration of additional specified information.
- (6) Board approval, disapproval, or remand of the request for landmark or district designation shall be in writing and shall be supported by findings.

- (7) The process for removing a landmark or historic district designation may be initiated by the Board, the Commission, or by any interested person who submits to the director an application for removal of the designation. The Board may amend or rescind its designation by following procedures required by this ordinance for designating a landmark, including the adoption of appropriate findings.

Section 6. Demolition and Moving.

- (1) No person shall move, demolish, or cause to be demolished a landmark or a significant resource in an historic district, unless a permit to do so has first been obtained from the director. Application for a permit shall be on a form provided by the director and contain information deemed necessary by the director.
- (2) Upon receipt of a complete application, the director may issue a permit for moving or demolition if the resource is located within a designated historic district and is classified as a resource that does not contribute to the character of the district. All other requests shall be included on the agenda for consideration at the next available Commission meeting. The Commission shall hold a public hearing pursuant to Section 8 of this ordinance within 45 days after a complete application has been received by the department.
- (3) In determining whether the requested demolition or moving is appropriate, the Commission shall consider the following:
- (a) Plans, drawings, and photographs submitted by the applicant;
 - (b) Information presented at the public hearing concerning the proposal;
 - (c) Provisions of the applicable Comprehensive Plan;
 - (d) The purpose of this ordinance as set forth in Section 2;
 - (e) The criteria used in the original designation of the resource.
 - (f) If within an historic district, the resource's contribution to the district and the subsequent integrity of the district if the resource is demolished or moved;
 - (g) Whether denial of the request will involve substantial hardship to the applicant;

- (h) Whether issuance of the permit would act to the substantial detriment of the public welfare and be contrary to the purpose and scope of this ordinance;
 - (i) The economic, social, environmental and energy consequences of demolishing or moving the resource compared to preserving it; and
 - (j) The physical condition of the resource.
- (4) The Commission may approve the demolition or moving request after considering the criteria in this section. If no appeal is filed, the director shall issue the permit in compliance with all other codes and ordinances of the county.
- (5) The Commission may disapprove the demolition or removal request if after considering the criteria in this section it determines that, in the interest of preserving historical or architectural values, the resource should not be demolished or moved.
- (6) The Commission may postpone taking final action on a request for issuance of a demolition or moving permit for a period fixed by the Commission as follows:
- (a) For landmarks, no more than 60 days following the date of public hearing. Further postponements may be made for a period not to exceed a total of 120 days from the date of hearing, if the commission makes the findings specified in subsection (c) of this section.
 - (b) For a resource located in an historic district, no more than 120 days following the date of public hearing. Further postponement may be made for a period not to exceed 90 days, with the total postponement not to exceed 210 days from the date of hearing, if the commission makes the findings specified in subsection (c) of this section.
 - (c) Further postponements as stated above may only be made if the Commission finds:
 - (A) There is a program or project underway that could result in public or private acquisition of the landmark or resource; and
 - (B) There is a reasonable ground for believing the program or project may be successful.
 - (d) After granting a further postponement, the Commission may order the director to issue the permit if it finds:

- (A) All programs or projects to save the resource have been unsuccessful;
 - (B) The application for demolition or moving has not been withdrawn; and
 - (C) The application otherwise complies with county ordinances and state law.
- (7) A decision by the Commission to approve, disapprove or postpone issuance of a demolition or moving permit or to grant a further postponement may be appealed to the Board by any aggrieved party who appeared in person or through an attorney at the Commission hearing and presented or submitted testimony related to the request under consideration. An appeal shall be in conformance with Section 9 of this ordinance.
- (8) If no decision on the application is made by the Commission within the periods specified above, the director shall issue the permit.
- (9) At the time a demolition or moving application is made the director shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.
- (10) During a period of postponement, the Commission may require the property owner to:
- (a) List the resource for sale with a real estate agent for a period of not less than 90 days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days over a 5 week period.
 - (b) Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the county and be posted in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for assuring that the sign is posted for a continuous 90-day period in conjunction with (a) above.
 - (c) Prepare and make available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.

- (d) Assure that the owner has not rejected the highest bona fide offer for sale and removal of the resource.
- (11) Prior to issuance of a demolition permit, the director shall issue a press release to local and state newspapers of general circulation in the county. The press release shall include, but not be limited to, a description of the significance of the resource, the reasons for the proposed demolition or removal, and possible options for preserving the resource.
- (12) As a condition for approval of a demolition permit, the Commission may:
 - (a) Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the county or other party determined appropriate by the Commission.
 - (b) Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials. The applicant shall be provided with a list of persons capable of salvaging the resource.
- (13) This ordinance shall not be construed to make it unlawful for any person, without prior approval of the Commission, to comply with an order by the Board to remove or demolish any landmark determined by the Board to be dangerous to life, health, or property.

Section 7. Exterior Alteration and New Construction.

- (1) No person shall alter a landmark or any significant resource in an historic district nor shall any new building or structure be constructed in an historic district or on a landmark site unless approval is first obtained under this section. In addition, no major public improvements shall be made on a landmark site or in an historic district unless approved by the Commission.
- (2) Application for alteration of a landmark or new construction in an historic district or on a landmark site shall be made to the director. The application shall be on a form provided by the director and shall contain information deemed necessary by the director.
- (3) The director shall approve the alteration request if:
 - (a) There is no change in the appearance or material of the resource as it exists; or

- (b) The proposed alteration duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials.
- (4) If a request for alteration does not meet the provisions of subsection (3) of this section, the director shall forward the application to the Commission. The Commission, after notice and public hearing held pursuant to Section 8 of this ordinance, shall approve or disapprove issuance of the requested permit. The Commission may attach conditions to the approval which must be adhered to for the approval to remain valid.
 - (5) The Commission shall consider the following criteria in determining whether to approve an alteration request:
 - (a) The purpose of this ordinance;
 - (b) The provisions of the applicable Comprehensive Plan;
 - (c) The use of the resource, the reasonableness of the proposed alteration, and the relationship of these factors to the public interest in the preservation of the resource;
 - (d) The value and significance of the resource;
 - (e) The physical condition of the resource;
 - (f) The effect of requested changes related to the original exterior design, arrangement, proportion, detail, scale, color, texture, and/or materials;
 - (g) Pertinent aesthetic factors as identified by the Commission;
 - (h) Economic, social, environmental and energy consequences of the proposed alteration; and
 - (i) Any design guidelines adopted by the Commission.
 - (6) A decision by the Commission under this section shall be in writing and shall be supported by findings.
 - (7) Nothing in this ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature which does not involve a change in design, material or appearance of such feature or which the director shall determine is required for the public safety due to an unsafe or dangerous condition.

Section 8. Notice and Public Hearing.

- (1) Within 45 days of receipt of a complete application for designation, alteration, demolition or moving of a landmark, or for undertaking such activities or new construction in a historic district, the Commission shall conduct a public hearing to consider the application.
- (2) At least ten days prior to the hearing, the director shall mail a written notice of the hearing and nature of the application to the following:
 - (a) All property owners within the proposed district;
 - (b) The owner of the landmark or a proposed landmark;
 - (c) All vicinity property owners within 300 feet of the subject property; and
 - (d) All other parties determined by the director to have a possible interest in the property.

Section 9. Appeals.

- (1) An order, requirement, decision, or determination of the director issued under this ordinance may be reviewed as follows:
 - (a) By the Board, upon its own motion, made within 15 days of the date of decision;
 - (b) By the Commission, upon its own motion, made within 15 days of the date of decision; or
 - (c) By the Board, upon appeal of a person aggrieved by the order, requirement, decision or determination of the director, filed with the director within 15 days of the date of decision.
- (2) An order of the Commission may be reviewed by the Board as follows:
 - (a) Upon the Board's own motion made within 15 days of the date of decision; or
 - (b) By appeal of a person aggrieved by the order, who appeared in person or through an attorney at the Commission hearing and presented or submitted testimony related to the matter being appealed, filed with the director within 15 days of the date of decision.

- (3) An appeal under this section shall be on a form made available by the director and shall be accompanied by a filing fee as established by board order. The appeal shall identify the specific provision of this ordinance or the Comprehensive Plan that is alleged to have been violated by the director or Commission. Upon receipt of a complete appeal form or timely request for review from the Board on Commission, the director shall schedule a public hearing before the Board or Commission, as specified above, and provide public notice as specified in Section 8 of this ordinance.
- (4) In reviewing a decision of the director or Commission, the Board shall consider any record developed in the proceedings below. The record shall include:
- (a) All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the director or Commission as evidence;
 - (b) All materials submitted by the director with respect to the application;
 - (c) The transcript or tape of the public hearing of the Commission;
 - (d) The findings and action of the director or Commission and the notice of review; and
 - (e) Argument confined to the record by the parties or their legal representatives at the time of review before the Board.
- (5) The Board may admit additional testimony and evidence if it is satisfied that the evidence or other testimony could not have been presented upon initial hearing and action. In deciding whether to admit additional evidence or testimony, the Board shall consider:
- (a) Prejudice to the parties;
 - (b) Convenience of locating the evidence at the time of initial hearing;
 - (c) Surprise to opposing parties;
 - (d) When notice was given to other parties as to the attempt to admit; and
 - (e) The competency, relevancy and materiality of the proposed testimony and other evidence.

- (6) The Board may affirm, modify, or reverse all or part of the action of the director or Commission, or may remand the matter to the decision-maker for additional review. In all cases the Board shall make findings to justify its action. The findings shall be based on the record before the Board and any additional testimony or other evidence admitted into the record by the Board.

Section 10. Violations.

- (1) No person shall violate this ordinance, contribute to, permit or maintain a violation, or refuse or fail to obey an order issued pursuant to this ordinance.
- (2) All state, county, and city officials, employees, departments, and agencies vested with authority to issue permits, certificates or licenses shall adhere to and require conformance with this ordinance and any order issued under this ordinance.
- (3) This ordinance shall be enforceable under the Yamhill County Citation Ordinance 448. Neither the imposition of a penalty under the citation ordinance nor any provision of this ordinance shall be construed to limit the right of a private citizen or governmental entity to enforce this ordinance or an order issued under this ordinance by means of any legal or equitable remedy available.

Section 11. Fees.

For the purpose of defraying expenses involved in processing applications, fees shall be paid to the director upon the filing of an application or appeal. Fee categories and amounts shall be established by order of the Board. All fees shall be nonrefundable except when an application is withdrawn or deferred prior to the preparation, publication, and issuance of any public hearing notice. Refunds shall be made at the authorization of the Board. The Board may waive any filing fee for just cause, on its own motion or on recommendation of the director or Commission.

Section 12. Severability.

If any section, sentence, clause, or phrase of this ordinance is found to be invalid or unconstitutional by a court of competent jurisdiction, the decision shall not affect the validity of the remainder of this ordinance. Each section, sentence, clause, and phrase of this ordinance is severable.

Section 13. Emergency Clause.

This ordinance being necessary for the health, safety and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, shall become effective on passage.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk

Ted Lopuszynski
Chairman TED LOPUSZYNSKI

BY: *Elaine Pearcey*
Deputy ELAINE PEARCEY

Donald D. Porter
Commissioner DONALD D. PORTER

FORM APPROVED BY:
Timothy S. Sadlo
TIMOTHY S. SADLO
Assistant County Counsel

DAVE BISHOP
Commissioner DAVID E. BISHOP

Accepted by Yamhill County
Board of Commissioners on
8-3-88 by Board Order
88-443.