

RULES OF PRACTICE
FOR THE
CHEYENNE HISTORIC PRESERVATION BOARD

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Staff:

City of Cheyenne Planning Office
2101 O'Neil Avenue
Cheyenne, Wyoming 82001

(307) 637-6286

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CHAPTER I
APPOINTMENT OF MEMBERS
AND
DUTIES AND SELECTION OF OFFICERS

Section 1. Creation of Board: The Cheyenne Historic Preservation Board is created by the Cheyenne Historic Preservation Ordinance, City Code Section 2-64-010et seq.

Section 2. Board Membership: The Board shall consist of a minimum of five (5) members and no more than eleven (11) with demonstrated interest, knowledge or experience in historic preservation. At least two of the members shall be knowledgeable in historic preservation, architecture, anthropology, or related fields.

Section 3. Terms and Appointment: Members of the Board shall have staggered three (3) year terms, as described in the Historic Preservation Ordinance. Members shall be appointed by the Mayor, subject to approval by a majority of the City Council.

a. Any member may resign at any time by giving written notice to the Mayor. Any such resignation shall take effect at the date of the receipt of such notice unless otherwise specified therein. The acceptance of such resignation shall not be necessary to make it effective.

Section 4: Vacancies: A vacancy because of death, resignation, removal, disqualification or otherwise shall be filled within sixty (60) days following standard appointment procedure. Appointees will fill the remainder of the vacated term and be eligible for a new three (3) year term following the standard appointment procedure.

a. Absence by a member from four (4) consecutive regular Board meetings without being excused by the Board Chair shall result in the Secretary sending such Member a reminder that four (4) consecutive regular meetings have been missed without excuse and that a fifth (5) missed meeting shall be taken as a resignation from the Board. After the fifth (5) consecutive meeting missed, such member shall be deemed to have resigned from the Board and notice will be sent by the Secretary to the Mayor

b. No reduction in the authorized number of members shall have the effect of removing any member prior to the expiration of the member's term of appointment.

Section 5. Removal: Any member may be removed by the Mayor. The Board may make recommendations to the Mayor concerning removal of members.

Section 6. Officers:

a. Nomination and election of officers for the upcoming year will be held no later than the January meeting or at the first meeting of the calendar year.

b. The officers of the Board shall consist of a Chair, Vice Chair and Secretary.

c. The Chair shall be responsible for presiding over and calling to order all regular and special meetings, announcing business to be conducted, providing for swift, orderly and pertinent discussion of questions arising during proceedings and putting them to a vote. The Chair shall also announce the result of the votes and authenticate, by her or his signature when necessary, all acts, orders and proceedings of the Board.

d. Upon the absence of the Chair, the Vice Chair shall automatically become the presiding officer of the Board. The Vice Chair shall also be able to sign any documents for the Board in the absence of the Chair or Secretary.

e. The Secretary shall be responsible for signing documents appropriate to the office of Secretary; and such other duties as may be assigned by the Board. In the absence of Chair and Vice Chair the Secretary may also preside over a meeting provided a quorum is present.

f. Elections of officers shall be by secret ballot. A candidate receiving a majority vote of the entire membership of the Board shall be declared elected (absentee voting is not authorized).

g. Each elected officer shall serve for one (1) year, or until a successor takes office. All officers shall be eligible for reelection in the same officer position for a maximum of three (3) consecutive terms.

h. Any officer elected or appointed by the Board may be removed by the Board whenever, in its judgment, the best interests of the Board may so require.

i. Should an officer position be vacated, at the next regularly scheduled meeting nominations shall be opened and voting shall be by secret ballot. Whomever is elected shall fill the unexpired term of the officer position until all new officer positions are re-elected at the first meeting of the calendar year.

CHAPTER II

MEETINGS

Section 1. Open Meetings: All meetings and hearings shall be open to the general public.

Section 2. Regular Meetings: Regular Board meetings shall be held on the second Tuesday of each month, at time(s) and in location(s) designated by the Chair. The dates and times of the meetings may be changed, or regular meetings may be canceled, upon direction of the Chair, as long as all members of the Board have been notified either by telephone or in writing, to include electronic communication, of the change prior to the meeting.

Section 3. Special Meetings: Special meetings may be called on the initiative of the Chair or presiding officer or after such a meeting has been requested by a majority of the Board. The Chair shall notify all members of the Board in advance either by telephone or in writing, to include electronic communication, of a special meeting.

Section 4. Minimum Number of Meetings: The Board shall hold meetings at least six (6) times per year.

CHAPTER III

TRANSACTION OF BUSINESS

Section 1. Quorum: A quorum is a simple majority (one greater than half) of the total current membership of the Board.

Section 2. Transaction of Business: To transact any official business, a quorum must be present. A vote of a majority of the membership of the Board present is required to approve any official business. The Chair shall vote as a member of the Board. Official business requiring a quorum shall only be conducted during an open meeting. No official business shall be conducted in any other manner or format.

Removed Previous Section 3 “Special Dispensation”

CHAPTER IV

CONFLICTS OF INTEREST

Section 1. Declaration of a Conflict of Interest: Any member of the Board who has a conflict of interest, on any question called to vote, shall notify the Board of such conflict and shall abstain from voting on the matter.

Section 2. Board Determination of a Conflict of Interest: Any Board member or any interested party may raise the question about whether any Board member has a conflict of interest. Conflict of interest questions will be limited to matters being considered by the Board. Questions concerning conflicts of interest may be raised at any regular or special meeting of the Board. Any person who may have a conflict is entitled to have the Board consider and vote on the question. A Board member shall abstain from voting on any matter before the Board if the Board determines that member does have a conflict of interest.

CHAPTER V

EMPLOYEES AND CONSULTANTS

Section 1. Staff: The City may assign a staff employee to the Board to assist the Secretary of the Board in the performance of her/his duties and to perform such other duties as may be assigned by the Chair or as directed by the Planning Director. The City may also assign additional staff to the Board as needed for the Board to perform its assigned duties and responsibilities. Staff may not vote as a part of the Board but may participate in meetings to provide administrative and technical advice and guidance.

Section 2. Consultants: The Board may obtain the services of consultants to assist the Board in carrying out the purposes of the Historic Preservation Ordinance or to advise the Board on matters in which members lack sufficient expertise.

CHAPTER VI

PUBLIC HEARINGS

Section 1. Designation: Public hearings shall be held when properties are considered for historic designation, design guideline appeal, or for demolition or moving permit review.

Section 2. Notice: Upon receipt of a petition for designation, design guideline appeal, or a permit for demolition or moving, the Board shall call a Public Hearing. Proper notice shall be served upon all parties of interest and property owners, as required. Notice shall also be published as required by City Code. All public hearings shall be free and open to the public.

Section 3. Record: A verbatim record shall be made of all Hearings. Such record may be kept by electronically recording or court reporter.

CHAPTER VII

SURVEYS AND STUDIES

Section 1. Requirement: The Board shall undertake historical surveys and studies as necessary to compile a list of properties and areas having historic character. The Board shall continually monitor and update this list.

Section 2. Maintaining a Historic Property Database: The Board, with the assistance of the Planning Office, shall maintain a complete listing of all properties within its jurisdiction that have been studied and/or surveyed, which shall be known as the Contributing Structures List. The listing will indicate whether a property is non-contributing or contributing, as would apply to listing on the National Register of Historic Places and whether or not it is listed individually or as a part of a district.

CHAPTER VIII
DESIGNATION OF NATIONAL AND LOCAL HISTORIC
BUILDINGS, DISTRICTS, SITES, STRUCTURES AND OBJECTS

Section 1. Responsibilities:

a. The Historic Preservation Board as the preservation advisory board to the Cheyenne Certified Local Government (CLG) is responsible for determining and recommending to the Governing Body those buildings, structures, objects, districts and landmarks which have historical significance to the community. Those areas to be designated must have local significance but do not meet the standards for national listing.

b. In accordance with the Code of Federal Regulations, National Register of Historic Places, Procedures for State, Tribal, and Local Governments, and the National Historic Preservation Act of 1966 Participation of certified local governments in National Register Nominations, the City of Cheyenne, through its Historic Preservation Board is required to review all nominations to the National Register for properties within its jurisdiction.

Section 2. Designation Criteria: The Board shall use the following criteria for designation of local historic buildings, structures, objects districts, and landmarks. These criteria include the basic National Register's Criteria for Eligibility, which are:

“The quality of significance in history, architecture, archaeology and culture is present in districts, sites, buildings, structures and objects that possess integrity of location, design, setting, material, and the physical characteristics of workmanship, feeling and association.”

In addition to the above broad criteria, the Board shall also consider the following to be significant factors for consideration of an historic buildings, structures, objects, districts, or landmarks that:

- a.** are associated with events that have made a significant contribution to the broad patterns of Cheyenne's history; or
- b.** are associated with the lives of persons significant in Cheyenne's past; or
- c.** embody the distinctive characteristics of a type, period or method of construction, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d.** have yielded or may be likely to yield information important in Cheyenne history.

Section 3: Procedures:

a. The Board shall follow all procedures outlined in Section 2.64.070 of the City of Cheyenne Municipal Code in addition to the following:

(1) The petition shall contain specific and understandable boundaries for area(s) and property(ies) under consideration. The petition shall include a physical and architectural description of the property, its historical significance to Cheyenne, and a statement concerning its integrity of location, design, setting, material, physical characteristics, workmanship, feeling and association. As with National Register listings, individual property owners must approve in writing having their property designated. Fifty percent (50%) of all owners within a proposed district must also approve of the designation before the petition will be considered.

(2) Once a petition is received, a public hearing shall be held, usually at the next regularly scheduled meeting.

(3) A notice of the intent to consider the property in question for designation shall be sent by *Certified Mail* to the property owner(s) of record fifteen (15) days prior to consideration.

(4) A verbatim record will be kept of the information presented at the hearing. Such record may be kept by electronically recording or court reporter.

(5) If designation is approved by the Board then a City Resolution so designating the building, object, site, structure, district or landmark will be drafted for Governing Body action. The Council will then act upon the criteria for that designation by resolution. Once approved by the City Council,

the building, object, site, structure, district or landmark will be added to the City's Contributing Structures List as maintained by the Planning Office. If disapproved then the action is terminated.

CHAPTER IX

NATIONAL REGISTER OF HISTORIC PLACES

Section 1. Opinions: The Board may review and provide a written opinion on proposed alterations, relocations, demolitions and new construction for buildings within historic districts or upon properties eligible for listing on the National Register. If an opinion is provided, it shall be served upon the party making the request and to the State Historic Preservation Office (SHPO).

Section 2. Review of Nominations: The Board shall review all National Register nominations for properties within its jurisdiction. Such nominations should first be submitted to the SHPO. The SHPO shall transmit the nomination to the Board within thirty (30) days of its receipt, along with SHPO recommendations regarding the form, content and merit of the nomination. After allowing reasonable opportunity for public comment, the Board shall prepare a report as to whether or not the property meets the criteria of the National Register. City Staff shall transmit the report of the Board and their own recommendation to the SHPO. The Board shall notify property owners and the preparer of the nomination of its decision.

Section 3. Notice: The SHPO is required by National Register Federal Program Regulations to notify all property owners of record.

Section 4. Expert Advice: In reviewing nominations, the Board may seek appropriate expertise to consider a nomination, if such expertise is not represented on the Board and is needed to adequately evaluate the nomination.

CHAPTER X

DEMOLITION AND MOVING PERMIT REVIEW

Section 1. Responsibilities: In accordance with the Code of the City of Cheyenne, Chapter 2.64, Historic Preservation Board, Section 2.64.090, the Board is responsible for review of and approval of all demolition and moving permit applications for structures listed in the Contributing Structures List as maintained by the Planning Department and all structures within the Historic Governors' Mansion Protective Area as described in Section 15.50.030 shall be forwarded to the Cheyenne Historic Preservation Board for review and approval. This section applies to buildings and structures constructed fifty (50) years or more before the date an application for a demolition or moving permit is submitted to the city's Chief Building Official.

Section 2. Board Requirements:

a. The Board review shall be conducted and decision rendered within sixty (60) days of receipt of the referral to the Planning Department or at the Board's next regularly scheduled meeting, whichever occurs first;

b. If the Board lacks a quorum upon the date and time that the public hearing is scheduled to take place, the Board shall have no further jurisdiction and the Chief Building Official will process the pending demolition or moving permit application in accordance with City Code.

c. The review shall consist of a Public Hearing at which all interested parties, including the applicant, may submit oral or written comments or other information of relevancy to the Board's decision or as requested by the Board.

d. If the Board fails to act within the time specified, the permit shall be deemed approved for issuance.

Section 3. Procedures:

a. The Board shall follow all procedures outlined in Section 2.64.090 and 15.44 of the City of Cheyenne Municipal Code.

CHAPTER XI

DESIGN GUIDELINE APPEAL

Section 1. Requirement: In accordance with the Code of the City of Cheyenne, Chapter 15.50, Historic Design Guideline (Ordinance No. 3601); Section 15.50.070, Appeal; the Cheyenne Historic Preservation Board is required to convene a Contested Case Hearing pursuant to the Wyoming Administrative Procedure Act, Wyoming Statute § 16-3-101, et seq.

Section 2. Procedures:

a. A property owner or designated representative, whose request for a Certificate of Appropriateness as required for any building permit within the Historic Governors' Mansion Protective Area has been denied by the Planning Office, may appeal that decision to the Historic Preservation Board.

b. The appeal must be filed within fourteen (14) days of notification of denial, must be in writing, and must address the applicant's concerns and reasons why he/she feels the proposed design meets the stated requirements of the City's Code.

c. The Board will then convene a Contested Case Hearing. Affected property owners will be notified by mail and the Planning Office will also cause a Public Notice to be placed in a local publication at least fifteen (15) days prior to the hearing.

d. A verbatim record shall be kept of the information presented at the hearing. The Chair or designated Presiding Officer is authorized to swear witnesses. Sworn testimony will be required and evidence may be provided as deemed appropriate. The Board and petitioner (affected parties) may question witnesses. Interested parties, other than the owner or designated representative, may also address issues pertinent to the Board's decision but must do so through the Chair or Presiding Officer.

e. The Board will render its decision at the conclusion of presentation of arguments or within five (5) working days of the closing of the hearing.

Section 3. Findings of Fact: The Board shall make findings of fact conclusions of law and enter an order concerning the proposed Design Guideline Appeal. Finding in favor of the applicant will cause a Certificate of Appropriateness to be issued and the project may continue. Finding against the applicant further denies the desired permit and the owner may then either seek further remedy through the judicial system pursuant to Wyoming Statute § 16-3-114 or modify the project to meet the required standards and reapply for the needed permits.

CHAPTER XII

ANNUAL REPORT

Section 1. Requirement: The Board shall prepare an annual report by December of each year which shall cover the time period aligning with Federal fiscal year. The report should summarize the Board's actions on designations and National Register nomination reviews; describe changes to historic districts and landmarks; describe any significant Board activities such as surveys and public education; any board training; provide resumes for new Board members and updated information for continuing Board members; a list of staff and volunteer hours, and other items as required by the SHPO. The report shall also attach an updated Strategic Plan, attendance record of the Board members throughout the year, and all meeting minutes from the year.

Section 2. Submission: The annual report shall be submitted to the SHPO by December 31st of each year.

CHAPTER XIII

ADDITIONAL POWERS AND DUTIES

Section 1. Amendments: The Board may amend these rules of practice. Before voting may occur, the rules must be publicly noticed as well as open for a 45-day comment period. The vote on the proposed amendment(s) shall be taken at a regular Board meeting.

Section 2. Committees: Committees may be established by the Chair to examine specific questions or projects and submit findings to the Board as a whole.

Section 3. Reconsideration: The Board may vote to reconsider any designation decision previously made. A matter may be reconsidered by the Board only once. When the Board votes to reconsider a designation, hearing and notice procedures shall be the same as those required for the original designation decision.

AUTHORITY

PRESENTED, READ AND ADOPTED THIS _____ DAY OF _____, 2018.

Chair

Attest: _____
Secretary