REDLINE

COUNCIL BILL NO. 14-11

ORDINANCE NO. 14-11

AN ORDINANCE REPEALING CHAPTER 2 OF TITLE 64 OF THE BUTTE-SILVER BOW MUNICIPAL CODE ENTITLED "BUTTE-SILVER BOW HISTORIC PRESERVATION COMMISSION" AND REPLACING IT WITH A NEW CHAPTER 64 TO BE ENTITLED "BUTTE-SILVER BOW HISTORIC PRESERVATION PROGRAM", ESTABLISHING THE PRESERVATION, PROTECTION, AND PROMOTION OF HISTORIC PROPERTIES, ESTABLISHING THE APPOINTMENT, QUALIFICATION, DUTIES AND RESPONSIBILITES OF MEMBERS OF HISTORIC PRESERVATION COMMISSION, ESTABLISHING THE DUTIES OF THE LOCAL HISTORIC PRESERVATION OFFICER; CREATION OF A LOCAL REGISTER PROGRAM; CREATION OF DESIGN REVIEW CERTIFICATE OF APPROPRIATENESS (COA) PROGRAM; CREATION OF DEMOLITION REQUEST REVIEW PROGRAM; DEVELOPMENT OF PROCESS REGARDING REVIEW OF GOVERNMENTAL UNDERTAKINGS; APPEALS PROCESS; ENFORCEMENT OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE HEREIN.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF COMMISSIONERS OF THE CITY AND COUNTY OF BUTTE-SILVER BOW, STATE OF MONTANA:

SECTION 1: 2.64.010 Purpose and Intent. The City-County of Butte-Silver Bow (City-County) hereby recognizes that the Butte-Anaconda National Historic

Landmark is nationally known and significant for its extensive mining and labor history and supporting collection of buildings and sites. As a matter of public policy, the City-County aims to preserve, enhance and perpetuate those aspects of the City-County that have cultural, architectural and/or archeological merit. Such historic preservation activities will promote and protect the health, safety, prosperity, education and general welfare of the people living in and visiting Butte-Silver Bow. More specifically, this preservation ordinance is designed to achieve the following goals:

A. Create a local historic preservation program that will:

1. Recognize the uniqueness and visual character of the area by encouraging historic preservation activities;

2. Promote public appreciation and education by encouraging greater knowledge, awareness and understanding of the area's

cultural history;

3. Promote heritage tourism as a benefit to the local economy by identifying and protecting the area's significant historical and cultural values;

4. Encourage the integration of historic preservation into private, local, state and federal decision-making processes having the potential to affect prehistoric and historic properties within the jurisdiction of the City-County;

5. Strengthen civic pride and cultural stability through preservation in neighborhoods and commercial areas;

6. Stabilize and enhance the economy of the City-County through the continued use, preservation and revitalization of historic resources;

7. Support the City-County's commitment to historic preservation by participating in the Certified Local Government Program, (established

1 by Section 101(c) of the National Preservation
2 Act, as amended, (16 USC 470 et seq.) and
3 Montana Code Annotated 76-2-301 and 321).
4 B. Establish a Historic Preservation
5 Commission, comprised of local residents and
6 citizens, to advise the local government in the
7 development of preservation programs and
8 policies.
9 C. Establish the position of local Historic
10 Preservation Officer, and describe the
11 qualifications, duties and responsibilities of
12 the position."
13 SECTION 2: "2.24.020 Objective. The objective of this
14 chapter is to establish a local historic
15 preservation program to promote the preservation
16 of historic preservation of historic resources
17 at the local level and describe the duties and
18 responsibilities of the Historic Preservation
19 Commission (HPC) and the Historic Preservation
20 office (HPO). The historic preservation program
21 will include the identification, evaluation and

1 protection of historic and prehistoric resources
2 within the City-County, including the Town of
3 Walkerville, as well as providing general
4 information and education about these
5 resources."
6 SECTION 3: "2.64.030 Scope. The HPC will serve in an
7 advisory capacity to the general public and the
8 Council of Commissioners, planning board, zoning
9 board and other pertinent bodies or
10 organizations. The HPO is responsible for day-
11 to-day implementation of the historic
12 preservation programs and policies described
13 within this chapter. The HPC is responsible for
14 setting policy and administering the provisions
15 of this chapter, ensuring that preservation
16 concerns are considered at all levels of
17 planning and incorporated as goals of other
18 local, state and federal projects, assisting the
19 local government to develop preservation-
20 planning goals and standards, and providing the
21 local government with reviews and

recommendations on proposed actions which could affect historic properties in the City-County and provide guidance on the historic preservation program in general. All actions of the HPO and HPC are subject to appeal to the Council of Commissioners."

SECTION 4: "2.64.040 Definitions.

The following definitions are provided for the sole purpose of proper interpretation and administration of this chapter:

A. "Alteration or change" means any modification, demolition, removal, major repair or construction involving a Local Register or historic property. Alterations and changes may include, but are not limited to, covering, removing, and replacing of original materials and features, the addition of new materials and the construction of new additions.

B. "Appeal" means an applicant may challenge an action of the HPO and HPC to the Council of Commissioners.

C. "Applicant" means the owner of record of a property, the lessee thereof with the approval of the owner of record in notarized form or a person holding a "bona fide" contract to purchase a property.

D. "Butte-Silver Bow" means and includes that territory within the jurisdictional limits of the City and County of Butte-Silver Bow, Montana.

E. "Certificate of Appropriateness (COA)" means a signed and dated document submitted by the applicant to the HPO or HPC for review of proposed alterations or changes to, or demolition of, a property, covered under this chapter.

F. "Certified local government" (CLG) means a local historic preservation program that has been certified by the state historic preservation office (SHPO) and National Park Service.

G. "City-County" means the local government of

the city and county of Butte-Silver Bow, State of Montana, and where applicable, includes its officers, employees, agencies, boards and commissions.

H. "City-County owned property" means property owned by the local government, or its associated departments or agencies.

I. "Council of Commissioners" hereinafter referred to as "Council" means the governing body of the local government of the City and County of Butte-Silver Bow, State of Montana.

J. "Demolition" means the complete or partial removal of any Local Register or historic property. This includes the removal of significant architectural and landscape features, and historic signage, including ghost signs.

K. "Demolition Alternatives" means alternatives to demolition that the applicant must consider before the HPC will approve the demolition request, including, but not limited to:

1. Adaptive Reuse and Rehabilitation The property owner agrees to work with the HPO and HPC to explore practical new uses for historic buildings or structures on their original sites of construction. These new uses shall consider the needs of the property owner, the historic integrity of the building or structure, and the opportunity for "economically viable" rehabilitation of the building or structure. The HPO will assist the property owner in identifying possible sources of funding to assist in rehabilitating the property. (Supporting documentation includes a realtor's estimate of fair market value of existing property and a contractor's estimated cost to rehabilitate the property, or equivalent information, and a declaration of "unreasonable economic hardship", if applicable.)

2. Transfer of Ownership or Operation - If a property owner does not have the financial resources to rehabilitate an otherwise useful,

"economically viable" building or structure, the owner will offer to sell or lease the property. The owner agrees to make a reasonable effort to advertise the property for sale or lease to a potential new owner or occupant. (Supporting documentation includes proof of advisement for sale, lease, or relocation (see Item 3 below) for a minimum of 90 days within a local newspaper, or local realtor, and an analysis of offers made, if applicable.

3. Relocation of Building or Structure - As a last resort, the property owner agrees to work with the HPO and HPC to explore opportunities to move or relocate the historic building or structure to a new historically compatible site. The owner agrees to consider all reasonable offers from another party to purchase the building or structure for relocation purposes. The owner of the building or structure agrees to submit a relocation plan identifying the proposed relocation site and affirming the

commitment and resources necessary to execute the move in a timely and complete fashion. (Supporting documentation, see Section K (2), above)

L. "Demolition Conditions" means actions that may apply to the conditional approval of a demolition request, including:

1. Documentation - The owner will allow the HPO a ~~minimum~~ maximum of ~~30~~ 45 calendar days to access the property and any buildings and structures on the property to document and record historic resources prior to demolition. The HPC shall determine if, and what type(s), of additional documentation efforts are warranted and require that the applicant pay for that independent, professional documentation effort.

2. Salvage - The owner will work with the HPO to identify salvageable materials, along with potential buyers or recipients of those materials. If historically significant salvageable materials are identified, the owner

will allow a ~~minimum~~ maximum of ~~30~~ 45 calendar days for removal prior to demolition of the building or structure.

3. Site Redevelopment Plan - The owner will be required to submit to the HPC a Design Review Certificate of Appropriateness for any new buildings or structures proposed for construction on the site.

M. "Demolition review certificate of appropriateness (COA) program" means a procedure designed to review applications for demolition permits to prevent or mitigate the loss of Local Register and historic properties through demolition.

N. "Design review certificate of appropriateness (COA) program" means a procedure designed to review the historic compatibility of proposed changes to the exterior of Local Register and historic properties, beyond ordinary maintenance and repair, including ghost signs and the design of infill development

1 within historic districts.

2 O. "Economically viable" means the ability of
3 an owner to obtain a reasonable return on a
4 reasonable beneficial use of a property.

5 P. "Ghost sign" means advertising signage of
6 a historic nature typically painted directly
7 onto the side of a building.

8 Q. "Historic integrity" means the ability of a
9 property to convey its significance via its
10 location, design, setting, materials,
11 workmanship, feeling and association.

12 R. "Historic preservation" means
13 identification, evaluation, recordation,
14 documentation, curation, acquisition,
15 protection, management, rehabilitation,
16 restoration, stabilization, maintenance,
17 research, interpretation, conservation,
18 education and training regarding these
19 activities or any combination.

20 S. "Historic preservation commission" means
21 the body created by this chapter and appointed

by the Chief Executive and confirmed by the Council, and that is responsible for advising the City-County in the implementation of the local historic preservation program.

T. "Historic preservation officer" (HPO) means the person employed by the local government who shall be responsible for coordinating the daily activities of the historic preservation program and serving as advisor to the local government, historic preservation commission, and the general public on historic preservation matters.

U. "Historic property" means any prehistoric or historic district, site, landscape, building, structure, object, or traditional cultural property included in, or eligible for, the National Register of Historic Places. Properties classified as contributing resources within a national historic landmark district are automatically listed on the National Register.

V. "Historic Property Assessment Form (HPAF)" in the absence of existing data, the HPO will

prepare a HPAF. The HPAF is a standardized form, approved by the HPC designed to document and assess the significance of a property, and its eligibility for listing on the National Register of Historic Places

W. "Historic significance" means a property that is important for historic, architectural, archeological, engineering or cultural values.

X. "Infill development" means, solely for this chapter, new buildings or structures constructed within a local historic district.

Y. "Jurisdiction" refers to "Butte-Silver Bow".

Z. "Local public incentives" means public funds (grant or loan), tax abatements, land or property offered to a project by the City-County, Urban Revitalization Agencies ("URA"), or their equivalent.

aa. "Local register property" means an historic property that has been designated by the HPC to the "local register".

1 bb. "Local register" means a special
2 designation, in addition to the National
3 Register of Historic Places and National
4 Historic Landmark programs, which shall apply to
5 historic properties.

6 cc. "National Register of Historic Places"
7 means the official list of the nation's historic
8 places worthy of preservation. Authorized by
9 the National Historic Preservation Act of 1966,
10 the National Park Service's National Register of
11 Historic Places is part of a national program to
12 coordinate and support public and private
13 efforts to identify, evaluate, and protect
14 America's historic and archeological resources.

15 dd. "National Historic Landmark District" means
16 those properties within the City-County of
17 Butte-Silver Bow, which have been officially
18 recognized by the Secretary of the United States
19 Department of the Interior as nationally
20 significant by contributing to the understanding

1 of national, state and local history.

2 ee. "Ordinary maintenance and repairs" means
3 work to prevent deterioration of a property or
4 any part thereof by returning the property as
5 nearly as practical to its original condition.
6 ff. "Property owner" means the current owner of
7 record of a property.
8 dd. "State historic preservation office,"
9 hereinafter referred to as "SHPO," means the
10 Montana State Historic Preservation Office, a
11 department of the Montana Historical Society.
12 gg. "Unreasonable economic hardship" means the
13 inability of an owner to obtain a reasonable
14 return on a reasonable beneficial use from a
15 historic property as required by the United
16 States Supreme Court in Penn Central
17 Transportation Company vs. New York City, 438 US
18 104 (1978) and subsequent decisions.
19 hh. "Urban Revitalization Agencies" ("URA") means
20 any special economic development agencies
21 created by the City-County, including the

existing URA and Rural Revitalization Agency ("RRA") programs, or equivalent."

SECTION 5: "2.64.050 Historic preservation commission (HPC) established. In compliance with the Montana Certified Local Government (CLG) Program, the City-County shall appoint a local Historic Preservation Commission (HPC). The HPC shall consist of seven (7) residents of the City and County of Butte-Silver Bow with a demonstrated interest, competence, or knowledge in historic preservation and, inasmuch as possible, shall consist of the following mix:

A. Three members with professional expertise in the disciplines of history, planning, archaeology, architecture, architectural history, historic archaeology or other historic preservation related disciplines such as cultural geography or cultural anthropology to the extent that such professional expertise is available in the community.

B. Four members, among whom may include an owner of property within a local historic district, and a realtor licensed in the State of Montana.

C. When the HPC considers any action that will affect or potentially affect a property that is normally evaluated by a professional in a specific discipline, and that discipline is not represented on the HPC, the Commission shall seek expertise in this area before formulating its recommendation."

SECTION 6: "2.64.060 Officers-appointment-terms-vacancy.

A. Terms of office for the HPC members shall be staggered and shall be three years in duration. For the initial term, upon enactment of this chapter, two members shall be appointed for one year, three members shall be appointed for two years and two members shall be appointed for three years. The number of consecutive terms served by any one member will not be limited.

B. Vacancies on the HPC shall be filled within sixty days by appointment by the Chief Executive and are subject to the confirmation of the Council for the unexpired portion of the term.

C. The commission shall elect from its membership a Chairperson and Vice Chairperson at its first regularly scheduled meeting of each year. The Chairperson shall preside at all meetings and hearings of the commission and shall have duties normally conferred by parliamentary usage on such officers. The Chairperson shall be a regular voting member of the commission. In the absence of the Chairperson, the Vice Chairperson shall preside over meetings and hearings."

SECTION 7: "2.64.070 Duties of the historic preservation commission (HPC). The HPC shall advise the local government on ways to integrate historic preservation goals and objectives into local, state, and federal planning and decision-making processes, including:

A. Participate directly in the protection of prehistoric and historic resources and implementation of historic preservation values and objectives in the City-County.

B. Ensure historic preservation concerns are considered at all levels of local government planning and are incorporated as goals of other local, state, and federal projects.

C. Administer all provisions of this chapter and the overall direction and administration of the historic preservation program.

D. Review and comment on land use proposals and planning programs related to historic and prehistoric resources.

E. Participate in the development of and comment upon the Butte-Silver Bow comprehensive growth plans and other local planning initiatives in the City-County.

F. Participate in, promote and conduct public information, educational and interpretive programs pertaining to historic preservation,

including, but not limited to, local, state, national incentives, awards, regulations and grants, when available.

G. Participate in a design review consultation program based on local design review standards for alterations to Local Register properties, City-County owned historic properties, and historic properties receiving local public incentives. The Secretary of the Interior's Standards for the Treatment of Historic Properties will serve as the basis for the local design review standards.

H. Participate in a demolition permit application review program that shall apply countywide, to Local Register, and National Register of Historic Places-listed or eligible properties, aka historic properties. The demolition review program will entail working with property owners to ensure that all viable "Demolition Alternatives" are considered prior to issuance of a demolition permit or that

appropriate "Demolition Conditions" to mitigate the effects of demolitions proposed for approval are determined in advance of demolition.

I. Review and comment on federal, state, and local undertakings involving local historic and prehistoric properties where such actions are subject to provisions of authorities such as, but not limited to, the National Historic Preservation Act (16 U.S.C. 470 et seq.).; National Environmental Policy Act (42 USC 4321); Montana Environmental Policy Act (75-1-101, et seq., MCA), Montana Major Facilities Siting Act (Title 85, Chapter 20, MCA) or similar authorities.

J. Participate in the development of local historic preservation incentives in cooperation with the Council of Commissioners, Montana Department of Revenue Appraisal/Assessment Office, Urban Renewal Agencies, or other pertinent local agencies.

K. Participate in the continuing study and survey of historic resources within the City-County, and encourage nominations to Local Register and the National Register.

L. Participate in on-going maintenance of a detailed inventory of historic properties within the City-County.

M. Participate in the review of all proposed Local Register and National Register of Historic Places nominations within the City-County.

N. Participate in the development and review of an Annual CLG Report for submission to the Montana SHPO and the Council of Commissioners.

O. Review and authorize the Annual CLG Grant Application for submission to the Montana SHPO and the Council of Commissioners.

P. Encourage that at least one HPC member attend a training session each year, and provide to all HPC members for review any orientation materials provided by the state historic preservation office.

1 Q. Develop and publish by-laws, and standards
2 to implement this chapter. The HPO shall
3 assist the HPC to develop and implement these
4 bylaws, and standards.

5 R. Review local zoning regulations for their
6 applicability to the preservation of historic or
7 local register properties and make appropriate
8 recommendations to the Butte-Silver Bow zoning
9 board or other units of local government
10 concerning amendments to the zoning regulations
11 or zoning district boundaries

12 S. The HPC may delegate, via the HPC by-laws,
13 certain duties or tasks associated with those
14 listed above to the HPO."

15 SECTION 8: "2.64.080 Qualifications and duties of the
16 historic preservation officer (HPO). In
17 compliance with the Montana Certified Local
18 Government (CLG) Program the City County shall
19 employ a local Historic Preservation Officer.

20 A. The HPO must have a demonstrated interest,
21 competence or knowledge in historic preservation

with professional expertise in history, planning, archaeology, architecture, architectural history, historic archaeology or a closely related field to the extent that such professional expertise is available to the community. The HPO must be accessible to the general public through regular office hours.

B. Duties of the HPO include:

1. Serve as the primary point of contact to the general public for the local historic preservation program.

2. Coordinate the daily activities of the historic preservation program.

3. Provide historic preservation technical support and assistance to the HPC, government agencies and the general public.

4. Assist the HPC and local government in fulfilling their duties per this Chapter and the Montana Certified Local Government Program."

SECTION 9: "2.64.090 Commission meetings and hearings.

A. The HPC shall conduct a minimum of one regularly scheduled meeting each month, except that the chairperson may cancel any meeting if there are no matters to be considered or schedule special meetings when such meetings are necessary to carry out the provisions of this ordinance. A schedule of regular meetings will be posted annually.

B. Meeting agenda and project review materials will be distributed electronically to the HPC and posted on the BSB website no later than 48 hours (2 business days) prior to the meeting. Hardcopy information is available upon request from the HPO.

C. All meetings shall be held in public and in accordance with the Montana open meeting law.

D. Public hearings may be held at the request of the chairperson and conducted per the by-laws.

E. Commission members must avoid conflicts of interest (real and apparent) and declare such

conflicts and avoid discussion or vote on the subject, pursuant to the Montana Certified Local Government Program Manual and the BSB Municipal Code Chapter 2.02 - Code of Ethics."

SECTION 10: "2.64.100 Local register program.

A. Designation Criteria:

1. A designated property shall have documented evidence of significance for its history or historical patterns, association with a person(s) who is significant at the local, state or national level, architectural, landscaping or engineering merits, masterwork of an architect, landscape architect or engineer, has yielded or is likely to yield information about history or pre-history;

2. A designated property shall have documented evidence of its integrity;

3. A designated property shall have documented evidence that it is at least forty years old. A property that is less than forty years old may be designated only if there is

1 documented evidence of exceptional significance;

2 B. The property owner must request the
3 designation in writing from the HPC.

4 C. The property owner must record the
5 designation on the property deed. The HPO will
6 assist in this effort. The designation will
7 remain with the property in perpetuity or until
8 such time that the property has lost its
9 integrity, and the HPC has approved removing the
10 designation.

11 D. The HPC shall serve as a review body with
12 the authority to approve or deny designation.

13 E. Owner(s) of local register property must
14 maintain the property in a manner to retain its
15 integrity, i.e., its ability to convey its
16 significance.

17 F. Owner(s) of local register properties must
18 apply for and receive an approved Design Review
19 Certificate of Appropriateness (COA) from the
20 HPC prior to undertaking any exterior changes to

the property, except for ordinary maintenance and repairs.

G. In cooperation with the Building Offical, the HPO will create and maintain a list of Local Register properties to facilitate tracking and monitoring of building permit requests.

SECTION 11: "2.64.110 Design review certificate of appropriateness program. The Design Review Certificate of Appropriateness (COA) Program applies countywide to "Local Register" properties, City-County owned "historic properties" and to historic or local register properties receiving "local public incentives", including in-fill development within a historic district.

A. None of these properties shall be altered without a Design Review Certificate of Appropriateness (COA) approved by the HPC.

B. The intent of the Design Review Program is to avoid, minimize, or mitigate adverse effects to the "historic integrity" of the exterior of

these properties.

C. This review process does not apply to "ordinary maintenance and repair" activities.

D. Evaluation of the historic compatibility of the proposed work will be based on information provided by the applicant in a Certificate of Appropriateness (COA) application and the local Design Review Standards. The Standards were developed by the HPC in accord with the Secretary of the Interior's Standards for the Treatment of Historic Properties.

E. The HPO is responsible for the intial review of these projects.

F. The COA will be forwarded to the HPC for review at their next meeting. The applicant, or a representative, is required to attend the HPC meeting.

G. Failure by the HPC to render a decision, recommending either approval, denial or approval with conditions, and notify the applicant in writing within 30 days of submission of a

complete COA application, shall constitute approval of the COA, unless the applicant has agreed to a delay beyond 30 days."

SECTION 12: "2.64.120 Demolition request review program.

The Demolition Request Review Program applies countywide, to demolition permit requests (applications) that impact Local Register or "historic properties".

A. Except in the case of a clearly established and documented public health and safety concern, a Local Register or historic property cannot be demolished without review and recommendations submitted to the local government by the HPC. (Refer to Section 2.64.140 Public Safety Exclusion for additional information.)

B. The intent of the Demolition Request Review Program is to ensure that all viable "demolition alternatives" are considered before the Building Official may issue a demolition permit, and that "demolition conditions"

1 necessary to mitigate the effects of approved
2 demolitions are developed.

3 C. The HPO, in cooperation with the
4 Building Official, will review and investigate
5 all requests (applications) for demolition
6 permits.

7 D. The HPO is responsible for preliminary
8 review of these requests, including determining
9 the status of the property in regard to its
10 inclusion in the Local Register, National
11 Register listing, or whether it has been
12 previously evaluated for its eligibility to the
13 National Register.

14 E. If a Local Register, historic
15 property, or previously unevaluated property is
16 impacted by the request, the HPO will work with
17 the property owner to post the property, a
18 minimum of one week prior to the HPC meeting,
19 with a notice of the demolition request and
20 prepare a Demolition Review Certificate of
21 Appropriateness (COA) and Historic Property

Assessment Form (HPAF), if needed, for presentation to the HPC.

F. The COA must describe the applicant's efforts to explore "demolition alternatives" and provide relevant supporting documentation. The applicant, or a representative, is required to attend the HPC meeting.

G. The HPC will review the information provided, and if determined adequate, render a recommendation to either approve, deny or approve the demolition request, with or without "demolition conditions", to the local government and applicant in writing within 30-days of submission of a complete COA application.

H. The HPC is authorized to invoke a ~~90-~~ 45 day demolition delay to allow more time for "demolition alternatives" to be explored, or to conduct additional relevant research regarding the request. The HPC will notify the applicant in writing of the demolition delay and request additional actions to be taken or information to

be provided by the applicant.

I. Failure by the HPC to render a recommendation within ~~90~~ 45-days of imposing the demolition delay shall be taken to constitute approval of the demolition request."

SECTION 13: "2.64.130 Review of governmental undertakings.

A. Section 106 of the National Historic Preservation Act (NHPA) provides the general public the opportunity to comment when a project involving a federal undertaking, including approval, license or funding may affect properties that qualify for the National Register of Historic Places. Per the Montana Certified Local Government Program, the local Historic Preservation Commission may provide comment as a consulting party to the Section 106 process.

1. Upon notification of a federal undertaking the HPO will contact the Montana State Historic Preservation Office (SHPO) and the applicable federal agency to request confirmation of the project, and further

information.

2. The HPO will present information relating to the undertaking to the HPC for review.

3. The HPC shall provide written comment to the SHPO, involved federal agency and the applicant(s) as to the presence of historic resources, potential impacts of the federal undertaking on these resources, and mitigation strategies.

B. The HPC may consult with local, state and federal agencies on all local, state or federal actions regarding the potential for effects to historic properties in the City-County. If the HPC chooses to comment on such actions, those comments shall be provided to the Council of Commissioners, the local, state or federal agency, the Montana State Historic Preservation Officer and the applicant(s). The HPC shall also encourage participation in the review of such actions by the general public."

1 SECTION 14: "2.64.140 Appeals.

2 A. An applicant who desires to appeal a
3 recommendation of the HPC shall file an appeal
4 with the Council of Commissioners within thirty
5 days of the HPC's written response to the
6 applicant.

7 B. The council shall consider the purposes of
8 this chapter in rendering its decision."

9 SECTION 15: "2.64.150 Public safety exclusion. None of the
10 provisions of this chapter shall be construed to
11 prevent any action of construction, alteration
12 or demolition necessary to address, correct or
13 abate the unsafe or dangerous condition(s) of
14 any historic property, or part thereof, when the
15 building official, and/or the fire department
16 and/or the health department has submitted
17 evidence, in writing, to the Council of
18 Commissioners that such historic property, or
19 part thereof is unsafe or dangerous and where
20 the proposed actions have been declared
21 necessary by such authorities to correct the

said condition. In the event any historic property shall be damaged by fire or other calamity to such an extent that it cannot be reasonably repaired and restored, as determined by the building official or fire department, it may be removed in conformity with normal permit procedures and applicable laws."

SECTION 16: "2.64.160 Enforcement and penalties. The following civil and criminal penalties may be imposed upon those persons, firms or corporations found to have violated requirements or prohibitions contained within this chapter.

A. Civil Penalty:

1. Any person who constructs, alters, relocates or demolishes any historic property in violation of this chapter or who causes any historic property to be constructed, altered, relocated or demolished in violation of this chapter shall be required to return the historic property to its appearance or setting prior to the violation. Any action to enforce this

provision shall be brought by the City-County. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution and penalty.

2. If demolition of a historic property occurs in violation of this chapter then any permits on subject property, with the exception of a permit to restore the historic property as set forth above, will be denied for a period of three years.

B. Criminal Penalty:

1. Any person or entity who constructs, alters, relocates or demolishes any historic property in violation of this chapter or who causes any historic property to be constructed, altered, relocated or demolished in violation of this chapter shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate violation for each day during which any violation hereof is committed. Upon conviction, each violation shall be punishable by a fine not

to exceed one thousand dollars.

SECTION 17: "2.64.170 Severability clause. If any section, subsection, sentence, clause, phrase or word of this chapter is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter and the remainder of this chapter will remain in force and effect."

SECTION 18: Repealer: All ordinances and resolutions in conflict herewith are repealed.

SECTION 19: Effective Date. This Ordinance shall be in full force and effect from and after thirty (30) days after its passage and approval.

PASSED this _____ day of _____,2014.

_____

CINDI SHAW
CHAIRMAN OF THE COUNCIL OF COMMISSIONERS

APPROVED this _____ day of _____,2014.

_____

MATT VINCENT
CHIEF EXECUTIVE

ATTEST:

SALLY J. HOLLIS
CLERK AND RECORDER

_____
BY_____
ITS_____

APPROVED AS TO FORM:

_____
EILEEN JOYCE
COUNTY ATTORNEY

_____
WILLIAM O.ANDERSEN
CHAIRMAN, JUDICIARY COMMITTEE