

**BILL NO. 4
ORDINANCE NO. 2724**

AN ORDINANCE AMENDING SECTION 02-17-01 THROUGH SECTION 02-17-33 OF THE CALDWELL CITY CODE CONCERNING THE CALDWELL HISTORIC PRESERVATION COMMISSION; PROVIDING FOR AN EFFECTIVE DATE; PROVIDING FOR SEVERABILITY; AND REPEALING ALL ORDINANCES, RESOLUTIONS, ORDERS, AND PARTS THEREOF IN CONFLICT HEREWITH.

BE IT ORDAINED by the Mayor and Council of the City of Caldwell, County of Canyon, State of Idaho:

Section 1. Existing Sections 02-17-01 through 02-17-33 of the Caldwell City Code, concerning the Caldwell Historic Preservation Commission, is hereby amended as follows:

02-17-01: SUMMARY:

There exist within the City of Caldwell residential and commercial buildings having historical and architectural value. These contribute to the cultural and economic welfare of its citizens. It is important that an awareness of this heritage be developed and that an effort to preserve these environmental assets ~~be~~ is perpetuated by the duly appointed CALDWELL HISTORIC PRESERVATION COMMISSION.

02-17-03: PURPOSE:

The purpose of the Commission is to engage in a program of Historic Preservation, to encourage protection and preservation of historic buildings and sites, to establish districts and neighborhoods which serve as visible reminders of the historical, archeological, architectural, educational and cultural heritage of Caldwell. Its further purposes are:

- (1) To encourage harmony in the planning of new buildings and developments with existing historic buildings in the proximity.
- (2) To preserve and enhance the environmental quality of neighborhoods.
- (3) To promote the creation of historic districts.
- (4) To strengthen the City's economic base by the stimulation of conservation and reuse.

02-17-05: MEMBERSHIP:

- (1) The Commission shall consist of not less than five (5) and not more than ten (10) members, who shall be appointed by the ~~governing body of the City, Mayor and confirmed by a majority vote of the City Council.~~ Two (2) alternates may also be appointed. The alternate may substitute for a full member in his/her absence, and may act on all items of business. In addition there shall be one nonvoting liaison member from the City Council.
- (2) Appointments shall be made with due regard to proper representation of such fields as history, architecture, urban planning, archeology and law. In addition there shall be one nonvoting liaison member from the City Council. An appointed member of the Commission must live or work in the City and continue to do so during his/her service on the Commission, except that one member may be from the Area of City Impact.

- (3) Terms of the membership shall be staggered ~~as of the January 1981 regular meeting, and members shall be assigned terms of one, two (2), or three (3) years by drawing. Appointments thereafter will be for three (3) years unless for filling out a term there is an unexpired term, in which case they the term will be for the length remaining. in the unexpired term.~~ Members shall be eligible for reappointment as specified by the governing body of the City Council. Vacancies occurring otherwise than through the expiration of terms shall be filled in the same manner as the original appointment.
- (4) Unless otherwise determined by the Commission, absence by a member from four (4) consecutive meetings will mean that the Commission, at its discretion, may recommend ~~replacement~~ to the Mayor that the member be replaced.
- (5) The Commission may employ such qualified staff personnel as it deems necessary with the consent of the Planning and Zoning Director or City Council.

02-17-07: MEETINGS:

- (1) There shall be regular monthly meetings held on a day and time established by the Commission the first third Wednesday of each month. for not less than nine (9) months of the year. unless there is no business to be brought before the Commission for its consideration.
- (2) A special meeting may be called by the Chair of the Commission whenever he/she deems such meeting necessary. Such special meeting shall be held at the time and place specified in the call for such a meeting and each member of the Commission shall be notified of the time and place of special meetings.
- (3) In case there shall be no quorum present on the day fixed for a regular or special meeting, the Commission members present may adjourn to a date until a quorum is obtained.

02-17-09: PROCEDURES:

- (1) All meetings shall be open to the public and shall be called to order by the Chair or in his/her absence by the vice Chair ~~or second vice Chair.~~
- (2) The Chair of the Commission shall vote on all matters and shall have equal privileges as a Commission member including the right to surrender the chair for purposes of making motions or introducing resolutions.
- (3) A majority of the total voting membership of the Commission shall constitute a quorum for the purpose of doing business. A vote of the majority of a quorum shall be sufficient for final Commission action.
- (4) In the course of conduct of meetings of the Commission, the following rules shall apply:
 - A. Voting: The Chair or any member of the Commission may call for a roll call vote or qualified ballot vote. Unless such vote is called for, action may be taken by voice vote. In which event, unless a Commission member expresses that he/she is abstaining from voting or voices a dissenting vote, he/she will be presumed and recorded. Ex-officio members shall not have voting privileges.
 - B. Procedure: Except as herein provided, unless waived by the Commission, Robert's rules of order shall be followed, and their application may be demanded by any Commission member at any time. Unless such application of Robert's rules of order is demanded by a Commission member, the waiving thereof shall be presumed by all Commission members present.

C. Protest: Failure to protest the minutes of a previous meeting at the time these minutes are presented and approved shall preclude any Commission member of challenging the correctness of the minutes or any vote indicated therein.

- (5) ~~The secretary of the Commission shall keep~~ A record of those Commission members present and those absent at all official meetings of the Commission and an official record of all proceedings and actions of the Commission, including the action of each individual member, shall be kept. The minutes of preceding Commission meetings shall be approved by the Commission before any further distribution of such minutes is made. A copy of the minutes of each meeting shall be kept on file at City Hall.

02-17-11: OFFICERS AND ELECTIONS:

- (1) The officers of the Commission shall be a Chair, a ~~first~~ vice chair, a ~~second vice Chair~~ and a secretary/~~treasurer~~ to be elected from among the membership.
- (2) Officers of the Commission shall be elected at the first regular meeting of the Commission in each calendar year. At least two-thirds (2/3) of the total voting membership shall be in attendance at the time of the election of officers.
- (3) Officers of the Commission shall assume the duties and obligations of their office at the next regular meeting following the election of officers.
- (4) In the event that any office of the Commission becomes vacant prior to the annual election of officers, an election to fill such office shall be held at the next regular meeting of the Commission that is attended by two-thirds (2/3) of the voting membership of the Commission.

02-17-13: DUTIES AND OBLIGATIONS OF ELECTED OFFICERS:

- (1) Chair: The Chair of the Commission shall preside at all meetings of the Commission at which he/she is present. He/she shall conduct public hearings and other public and official meetings held by the Commission. The Chair shall exercise general guidance and supervision over business and operation of the Commission and shall present to the Commission such matters as, in his/her judgment, require the attention of the Commission. The Chair shall execute all formal documents on behalf of the Commission and shall, at all times, represent the Commission in the absence of a duly appointed alternate.
- (2) Committees: The Chair of the Commission shall appoint such committees as the Commission may direct. He/she may appoint such additional committees as he/she deems necessary to accomplish the work of the Commission.
- (3) Vice Chair: In the absence of the Chair of the Commission, the Vice Chair of the Commission, or in his/her absence a commissioner elected by a quorum of the Commission, shall accede to the duties and obligations of the office of Chair of the Commission.
- (4) Secretary/~~Treasurer~~: The secretary/~~treasurer~~ shall perform the duties that may be prescribed by the Commission for such office. ~~The secretary/treasurer shall keep a complete and true record of the proceedings of the Commission.~~ The secretary/~~treasurer~~ shall have charge of all records, documents, papers, books and other evidence pertinent thereto.

02-17-15: DEFINITIONS:

CALDWELL HISTORIC PRESERVATION COMMISSION: Also referred to as the "Commission". Established and appointed by the mayor and the City Council January 1979. The Commission shall consist of not less than five (5) and not more than ten (10) members with due regard to proper representation of such fields as history, architecture, urban planning, archaeology and law. In addition, there shall be at least one nonvoting liaison person, a member of the City Council.

CERTIFICATE OF APPROPRIATENESS: A Certificate of Appropriateness is a document which must be obtained from the Caldwell Historic Preservation Commission or the Caldwell City Council through an appeal process before ~~any exterior feature or other structure or aboveground utility structure or any type of outdoor advertising sign shall be~~ any new buildings, improvements or structures are erected, altered, restored or moved or demolished on an historic property or an historic site or within an historic district. ~~A Certificate of Appropriateness shall be required to be issued by the Historic Preservation Commission prior to the issuance of a building permit or other permit granted for purposes of constructing or altering structures, or permits for in-home occupation or special use.~~

EXTERIOR FEATURES: Shall include the architectural style, general design and general arrangement of the exterior of a building or other structure, the kind and texture of the building and type and style of all windows, doors, light fixtures, signs and other appurtenant features and natural features such as trees and shrubberies. In the case of outdoor advertising signs, "exterior features" shall be construed to mean the style, material, size and location of such signs.

HISTORIC DISTRICT: Any residential neighborhood or business section determined by the City Council to encompass sites, buildings or structures of historical, cultural or architectural value worthy of recording on the local register of historic property.

HISTORIC PROPERTY: Any building, structure, area, or site determined by the City Council to be significant in the history, architecture, archaeology or culture within the City of Caldwell.

HISTORIC SITE: The area on which anything is or has been or is to be located, including archaeological areas.

LOCAL REGISTER OF HISTORIC PROPERTY: A file compiled and maintained by the Historic Preservation Commission in which pertinent information and locations of designated historic properties are recorded.

ACCESSORY BUILDING OR STRUCTURE: See Section 10-03-11 of the City Code.

USE, PRINCIPLE: See Section 10-03-11 of the City Code.

02-17-17: POWERS AND DUTIES:

(1) It is hereby designated that the Historic Preservation Commission be authorized to:

- A. Conduct a survey of local historic properties.
- B. Acquire fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequest or donation, but shall not be authorized to acquire historic properties by condemnation.

- C. Preserve, restore, maintain and operate historic properties under the ownership or control of the Historic Preservation Commission.
 - D. Lease, sell and otherwise transfer or dispose of historic properties subject to rights of public access and other covenants and in a manner that will preserve the property.
 - E. Contract, with the approval of the City Council, with the state or federal government, or any agency of either, or with any other organization.
 - F. Cooperate, with the federal, state, and local governments in the pursuance of the objectives of Historic Preservation.
 - G. Participate in the conduct of land use, urban renewal and other planning processes undertaken by the City of Caldwell.
 - H. Recommend ordinances and otherwise provide information for purposes of Historic Preservation to the City Council.
 - I. Promote and conduct an educational and interpretive program on historic properties within its jurisdiction.
 - J. Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Historic Preservation Commission may enter any private property, building or structure without the express consent of the owner or occupant thereof.
 - K. Prepare fact finding statements.
 - L. Hold public hearings.
 - M. Evaluate and present recommendations for declaring entry on the local register of historic property.
 - N. Notify City departments regarding designation of historic property.
 - O. Record and map all approved historic property.
 - P. Issue certificates of appropriateness.
- (2) Funding of Operations: For purposes of providing funds for the Historic Preservation Commission, the City Council may:
- A. Provide funds to the Commission from current revenues;
 - B. Receive and expend money from any other source; or
 - C. Use any combination of subsections (2) A and (2) B of this section.
- (3) Source of Funds: For purposes of providing funds for the Historic Preservation Commission, the City Council may provide funds to the Commission from current revenues in accordance with the provisions regarding county historical societies, as found in section 31-864, Idaho Code.

- (4) Accumulation of Funds: Any funds received by the Historic Preservation Commission may be accumulated from year to year and need not be expended during any one fiscal year, provided that the maximum accumulation of funds received from ad valorem taxes shall not exceed twice the amount of money authorized by the levy authorized by subsection (1) or (2) of this section.

02-17-19: PROCEDURE FOR DESIGNATION OF LOCAL HISTORIC PROPERTIES:

- (1) The City Council of the City of Caldwell may adopt an ordinance designating one or more local historic properties on the following criteria: historical, architectural, archaeological and cultural significance; suitability for preservation or restoration; educational value; cost of acquisition, restoration, maintenance, operation or repair; possibilities for adaptive or alternative use of the property; appraised value; and the administrative and financial responsibility of any person or organization willing to underwrite all, or a portion of, such costs. In order for any historic property to be designated in an ordinance, it must in addition meet the criteria established for inclusion of the property in the National Register of Historic Places.
- (2) Prior to adoption of the ordinance establishing a local historic property, the Historic Preservation Commission shall make an investigation and prepare a report containing comments regarding the historical, architectural, archaeological or cultural significance of the property in question and shall submit their recommendation to the City Council for their consideration.
- (3) The City Council shall hold a public hearing on the proposed designation after giving written notice, postage prepaid, to the owners of the properties being considered as well as to the occupants of the property, if different from the owners.
- A. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction.
- B. Notice of shall also be mailed to property owners and residents within three hundred feet (300') of the land being considered and any additional area that may be substantially impacted as determined by the Historical Preservation Commission at least 15 days prior to the hearing.
- C. When notice is required to two hundred (200) or more property owners or residents, the public hearing notice in the official newspaper or newspaper of general circulation in the area two (2) consecutive times.
- (4) Following such public hearing, the City Council may adopt an ordinance establishing a local historic property as it regularly adopts ordinances pursuant to state law requirements.
- A. After the adoption of an ordinance establishing a local historic property by the City Council, the owners and occupants of each designated historic property shall be given written notification of such designation by the City Council. One copy of the ordinance shall be filed by the Planning and Zoning Department in the office of the Canyon County recorder. The Planning and Zoning Department shall give notice of such designation to the Canyon County tax assessor. The Planning and Zoning Department shall also notify the following City departments:

Building
Engineering
Fire
~~Planning and zoning~~

The notice shall state the facts of such designation, identify the location or boundaries and shall summarize the effect such designation will have.

- B. A file for each registered local historic property shall include such information as location, boundaries, historic information, style of architecture, pictures, dates, and names of all available previous and present owners. Location shall also be designated and a map showing both local and national registry.
- C. The file shall be maintained by the Historic Preservation Commission, kept current and made available to any interested person or agency.
- D. Each property designated as a local historic property may be marked with a suitable sign or marker on or near the property indicating that the property has been so designated.

02-17-21: PROCEDURE FOR DESIGNATION OF LOCAL HISTORIC DISTRICTS AND SITES:

- (1) The City of Caldwell may by ordinance establish one or more local historic districts or sites within the City of Caldwell.
- (2) Prior to the adoption of the ordinance, the Historic Preservation Commission shall make an investigation of the historical, architectural, archaeological and cultural significance of the buildings, structures, features, sites or surroundings included in any such proposed historic district. The Historic Preservation Commission shall then submit their recommendations to the Caldwell Planning and Zoning Department for their consideration and recommendation, to be forwarded to the Caldwell planning and zoning Commission for their consideration and recommendation.
- (3) No sooner than sixty (60) days after the receipt, the Planning and Zoning Commission shall hold a public hearing on the proposed designation or nomination after giving written notice, postage prepaid, to owners of the properties being considered. The Planning and Zoning Commission may also give notice to the occupants of the property, if different from the owners. Other interested persons shall be notified as follows:
 - A. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general jurisdiction.
 - B. Notice shall be mailed to property owners and residents within three hundred feet (300') of the land being considered and any additional area that may be substantially impacted as determined by the Commission at least 15 days prior to the hearing.
 - C. When notice is required to two hundred (200) or more property owners or residents, the public hearing notice shall be published in the official newspaper or newspaper of general circulation in the area two (2) consecutive times.
- (4) Following the public hearing, the Planning and Zoning Commission shall make written recommendations to the City Council within thirty (30) days of said public hearing.
- (5) Upon the receipt of a recommendation from the planning and zoning Commission, the City Council may adopt an ordinance establishing a local historic district or site in the usual manner pursuant to state law.
 - A. After the adoption by the City Council of an ordinance establishing a local historic district or site, the owners and occupants of each designated historic district or site shall be given written notification of such designation by the City Council. One copy of the ordinance shall be filed by the Planning and

Zoning Department in the office of the Canyon County recorder. The Planning and Zoning Department shall give notice of such designation to the Canyon County tax assessor. The Planning and Zoning Department shall also notify the following City departments:

Building
Engineering
Fire
~~Planning and zoning~~

The notice shall state the facts of such designation, identify the location or boundaries and shall summarize the effect such designation will have.

- B. A file of each designated local district or site shall include such information as location, boundaries, historic information, style of architecture, pictures, dates and names of all available previous and present owners. Location shall also be designated on a map.
- C. The file shall be maintained by the Historic Preservation Commission, kept current and made available to any interested person or agency.

02-17-23: PROCEDURE FOR ALTERATIONS FOR LOCAL REGISTERED HISTORIC PLACES:

- (1) ~~Exterior: After the designation by ordinance of a local historic property or local historic district, no exterior feature of any building or other structure which is a part of such a property or district shall be altered or restored nor shall it be moved or demolished until after application for a certificate of appropriateness is submitted to and approved by the Caldwell historic preservation commission. Restrictions also apply to appurtenant features of the building such as aboveground utility structures, outdoor advertising signs, walls. Purpose: The purpose of this section is to support the long term significance of buildings and sites in a designated historic district through the preservation of building forms, materials, and features. It is assumed that some repair and rehabilitation will be needed through time; however changes should not damage or destroy form, materials, features or finishes that are important in defining a building's historic character.~~

A. Application:

- 1. After the designation by ordinance of a local historic property or local historic district, no exterior feature of any building or other structure which is a part of such a property or district shall be altered or restored nor shall it be moved or demolished until after application for a Certificate of Appropriateness is submitted to and approved by the Caldwell Historic Preservation Commission. Restrictions also apply to appurtenant features of the building such as aboveground utility structures, outdoor advertising signs, walls.
 - 2. A Certificate of Appropriateness shall be required regardless of any other permit, including a building permit, that is required by the City.
 - 3. Wherever there may be conflicts of this Title with other provisions of the City Code, the provisions of this Title shall apply.
- (2) ~~Certificate of Appropriateness In order to preserve the integrity of historic buildings and structures within a designated local historic district, and to ensure that any new buildings, signs, or structures constructed within a designated local historic district shall be compatible within such district, no exterior portion or feature of any building, site, structure or object within the district shall be demolished, restored or altered, no new construction shall be undertaken, and no outdoor sign shall be erected without~~

~~a certificate of appropriateness, to be issued by the historic preservation commission prior to the community development department accepting application for a building permit.~~

~~A. The application shall be made directly to the historic preservation commission. In order to preserve the integrity of historic buildings, structures and sites within a designated local historic district, and to ensure that any new buildings, improvements or structures constructed within a designated local historic district shall be compatible within such district, no exterior portion or feature of any building, site, structure or object within the district shall be demolished, restored or altered; no new construction shall be undertaken; and no site improvement made without first obtaining a Certificate of Appropriateness.~~

~~B. The historic preservation commission shall promptly acknowledge to the applicant the date of the complete application and shall act within a period of thirty (30) days thereafter. Prior to issuance or denial of a certificate of appropriateness, said commission shall take such action as may reasonably be required to inform the owners of any property likely to be materially affected by the application, and shall give the applicant and such owners an opportunity to be heard. In cases where said commission deems it necessary, a public hearing concerning the application may be held. If the commission determines the proposed construction, reconstruction, alteration, moving or demolition is appropriate, it shall approve such application and shall issue that applicant a certificate of appropriateness. The Certificate of Appropriateness shall to be issued by the Historic Preservation Commission, unless the Commission has formally delegated the authority to a City Official, or Commission member(s). This delegation may be withdrawn by a majority vote of the Commission.~~

~~C. The historic preservation commission through the community development department shall publish the agenda of the commission meetings regarding applications for certificates of appropriateness prior to commission meetings in the local paper. For improvement or changes that require a building permit, the Certificate of Appropriateness must be granted prior to the Planning and Zoning Department approving an application for a building permit.~~

~~D. During this period the historic preservation commission may negotiate with the owner or any other person interested in an effort to find a means of preserving the registered property, site or property within a district. The historic preservation commission shall have the discretionary authority to: For improvements or changes that do not require a building permit, a Certificate of Appropriateness must be granted prior to construction of the improvement or change.~~

- ~~1. Reduce the waiting period of thirty (30) days if the owner or persons in charge would suffer extreme hardship or loss of profit unless a reduction in the required waiting period were allowed; and~~
- ~~2. Waive all or any portion of the required waiting period subject to conditions agreed upon by the commission.~~
- ~~3. Whenever a building or district has been altered until it is no longer of historic value, then its local registry may be rescinded.~~

~~E. If the historic preservation commission issues a certificate of appropriateness, the certificate shall be included in the application to the community development department if any further action is required by the Caldwell zoning ordinance.~~

~~F. If the historic preservation commission determines that a certificate of appropriateness should be denied, it shall place upon its written records the reason for such determination and shall within ten (10) days notify in writing the applicant and the community development department of such determination.~~

G. Any applicant aggrieved by a determination of the historic preservation commission may appeal to the city council within fifteen (15) days of date of decision. An appeal from the city council may be taken to a court of competent jurisdiction.

(3) ~~Change In Use: No change in the use of any structure or property within a designated local historic district shall be permitted until after an application for a certificate of appropriateness has been submitted to and approved by the historic preservation commission. The city of Caldwell shall require such a certificate to be issued by the historic preservation commission prior to the approval of any change of zoning classification within the historic district. (Ord. 2422, 7-1-2002)~~ Application: The requirement for a Certificate of Appropriateness shall apply to the following structure and site improvements:

A. All changes and improvements visible from any public right-of-way, including but not limited to the following:

1. Decks or porches;
2. Change in the number, size, style, materials or location of any exterior doors or windows;
3. Painting of any brick or masonry surface not previously painted;
4. Roofing repair and replacement;
5. New or replacement awnings and canopies;
6. Fenestration and fascia modifications, including decorative trim;
7. Fencing adjacent to a public street (rod iron and picket fencing is exempt);
8. New siding which is not a replacement of the original materials or consistent with the original building profile.
9. Walls;
10. Step or riser improvements.
11. Non-exempt radio towers.

B. Signs

C. Construction of any new building or structure visible from any public right-of-way.

D. Landscaping that block views of the principle building or structure from any public right-of-way.

E. Demolition, removal or relocation of any residence, building or structure.

(4) Non-application: The requirement for a Certificate of Appropriateness shall not apply to the following structure and site improvements:

A. Any minor alteration as follows:

1. Decks or porches not visible from the public right-of-way;
2. Exterior doors with no change in size, location, material or style;
3. Garage doors and hardware not visible from the public right-of-way;
4. Maintenance and ordinary repair of exterior features with no change in appearance or materials;
5. Light fixtures;
6. Hot tubs and swimming pools;
7. Fountains;
8. Barbecues;
9. Fireplaces;
10. Playground equipment, including tree houses;
11. Sidewalks, or pavement;
12. Animal enclosures; and,
13. Statuary.

- B. New buildings or accessory structures not visible from the public right-of-way regardless of size.
- C. Site improvements not visible from the public right-of-way.
- D. Landscaping that does not block views of the principle building or structure from the public-right-way; and
- E. Painting of exterior structures without a brick or masonry surface.

(5) Filing of an application:

- A. The filing of an application shall be made upon forms approved by the Commission.
- B. Applicants are encouraged to meet with the Commission prior to filing an application at which time the Commission can advise the applicant on the request.
- C. The applicant shall be solely responsible for submitting a complete application at least fourteen (14) days before the meeting.
- D. A public hearing is required for all new construction, demolitions, relocations, and additions to a primary or accessory structure visible from the public right-of-way. At the expense of the applicant, the City shall provide public notification of the Commission Meeting to adjoining property owners as follows:
 - 1. Mail a copy of the public notice as prepared by the City to all property owners within three hundred (300) feet of the site at least seven (7) days prior to the meeting; and
 - 2. The City shall post the property at least seven (7) days before the meeting. This posting must be clearly visible from the street(s) on the applicant's property. If located on a corner lot, two (2) signs will be provided for posting on each street. The applicant shall be responsible for maintaining the posting on the site and for removing the posting after the meeting has been held.
- E. Application shall be submitted to a regular meeting of the Commission at which meeting the Commission shall determine whether the application is complete.
 - 1. If the application is not complete, the applicant shall be asked to complete the application before the submittal at the next regularly scheduled Commission meeting.
 - 2. If the Commission deems the application complete, the Commission shall establish the meeting date as the "application date" and take action on the Certificate of Appropriateness.
 - 3. The property owner(s) or property owner's representative shall be present at the meeting, for the Commission to take action on the application.
- F. The Historic Preservation Commission through the Planning and Zoning Department shall publish the agenda of the Commission meetings regarding applications for certificates of appropriateness prior to Commission meetings in the local paper.
- G. The Historic Preservation Commission shall have the discretionary authority to:

1. Negotiate with the owner or any other person interested in an effort to find a means of preserving the registered property, site or property within a district.
2. Reduce the waiting period of thirty (30) days if the owner or persons in charge would suffer extreme hardship or loss of profit unless a reduction in the required waiting period were allowed; and
3. Waive all or any portion of the required waiting period subject to conditions agreed upon by the Commission.
4. Whenever a building or district has been altered until it is no longer of historic value, then its local registry may be rescinded.

(6) Public Hearing:

A. The Commission shall convene and the Chair of the Commission shall preside over the public hearing or meeting.

B. The procedures followed in the meeting shall be as follows:

1. The Chair shall explain the hearing process to all those in attendance.
2. All those who attend to speak should be required to sign in prior to commencement of the hearing itself.
3. All those wishing to give testimony should be sworn in prior to commencing their testimony.
4. The applicant should speak first and last. In general those in favor of the application should speak after the applicant with those opposed to the application speaking after those in favor. Requests for rebuttal shall be granted; however, the applicant should always be granted the opportunity to speak last.
5. Exhibits or written testimony shall be accepted and marked with identifying numbers for inclusion in the record.
6. Once all the testimony and exhibits have been offered, the public testimony should be closed by motion of the Commission. No additional testimony should be admitted and no additional exhibits received after the testimony portion of the hearing is closed.

(7) Action of the Commission: After the public testimony portion of the hearing has been closed by motion of the Commission, the Commission shall deliberate among themselves toward a decision on the merits of the application. Certificates of Appropriateness shall be issued where the evidence and testimony demonstrates that the proposed construction, alteration, restoration, relocation, or demolition perpetuates and protects the affected historical buildings or sites so that they continue to serve as visible reminders of the historical, archeological, architectural, educational, and cultural heritage of the historic property or local historic district. In rendering its decision, the Commission shall establish a record, adopt findings of fact, conclusions of law, and issue an order of decision.

A. The record shall include the application, the sign-up sheets, and any exhibits or written testimony submitted by any individual at or prior to the public hearing/meeting.

B. In each case, the Commission shall issue findings of fact, factual determinations that support the decision on the application, as follows:

1. The subject property is a local historic property or is located within a local historic district;
2. The applicant proposes to construct, alter, move, or demolish an exterior feature on the property;
3. The Commission received a complete application from the applicant on the “application date.”
4. These findings of fact, conclusions of law and order of decision are issued within thirty (30) days of the “application date.”
5. The applicant and owners of any property likely to be materially affected by the issuance of a Certificate of Appropriateness have been given notice and provided an opportunity to be heard.
6. The agenda of the Commission regarding this application was published through the Planning and Zoning Department of the City of Caldwell.
7. The proposed construction, alteration, relocation, or demolition is/is not appropriate based upon the applicable standards.

C. In each case the Commission shall make the following conclusions of law:

1. The Historic Preservation Commission has the authority to hear this application for a Certificate of Appropriateness and either grant or deny the certificate.
2. The notice requirements for all meetings and hearings have been met.
3. The hearing was conducted in conformance with the laws of the State of Idaho and the requirements of the Caldwell City Code.

D. The applicant shall be notified of the Commission’s action in writing within ten (10) working days. If the Historic Preservation Commission issues a Certificate of Appropriateness, the certificate shall be included in the application to the Planning and Zoning Department if any further action is required by the Caldwell zoning ordinance.

E. Any applicant aggrieved by a determination of the Historic Preservation Commission may appeal to the City Council within fifteen (15) days of date of decision. An appeal from the City Council may be taken to a court of competent jurisdiction.

(8) A Certificate of Appropriateness is valid for a period of one year from the date of the Commission’s action, or may be extended through the issuance of a valid building permit.

(9) Change In Use/Zone: No change in the use of any structure or property within a designated local historic district shall be permitted until after an application for a Certificate of Appropriateness has been submitted to and approved by the Historic Preservation Commission for that specific change in use. The City of Caldwell shall also require such a certificate to be issued by the Historic Preservation Commission prior to the approval of any change of zoning classification within the historic district.

(10)Demolition: No demolition of any structure within a designated local historic district shall be permitted until a Certificate of Appropriateness is approved by the Historic Preservation Commission.

(1)Structure Moving: No primary or accessory structure within a designated local historic district shall be moved without first obtaining a Certificate of Appropriateness.

02-17-25: ORDINARY REPAIRS; PUBLIC SAFETY; WILFUL NEGLECT:

- (1) Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior feature of any building or structure in an historic district or of any historic property or site which does not involve a change in design, material, or outer appearances thereof, nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature of a structure, building or landmark when the building official shall certify it is required for the public safety because of any unsafe or dangerous condition.
- (2) Neither the owner nor the person in charge of historic property shall permit it to fall into a state of disrepair which may result in the deterioration of any exterior appurtenance or architectural feature so as to produce or tend to produce, in the judgment of the Commission, a detrimental effect upon its historic character, including, but not limited to, the deterioration of exterior walls, foundation, vertical supports, roofs, exterior chimneys, crumbling of exterior stucco, plaster or mortar, wood siding, broken windows, doors or any feature so as to create or permit hazardous or unsafe conditions.

02-17-27: EXEMPTION FROM FIRE, HEALTH OR BUILDING CODES:

The Council, in order to promote the preservation and restoration of any historic properties may, upon the recommendation of the Historic Preservation Commission, exempt an historic property from the application of the City fire and building, and planning codes upon finding that non-exemption would prevent or seriously hinder the preservation or restoration of said historic property. Upon rescission of an historic designation, any code exemption herein granted shall be revoked effective the date of rescission.

02-17-29: HISTORIC EASEMENTS:

The City of Caldwell may acquire, by purchase, or donation, historic easements in any area within its respective jurisdiction wherever and to the extent that the City Council determines that the acquisition will be in the public interest. For purposes of this section, "historic easement" means any easement, restriction, covenant or condition running with the land, designated to preserve, maintain, or enhance all or part of the existing state of places of historical, architectural or cultural significance.

02-17-31: VIOLATION AND PENALTY:

Any person or corporation, whether owner, lessee, principle agent, employee or otherwise, who violates any of the provisions of this article or permits any such violation or fails to comply with any of the requirements approved under this article shall be guilty of a misdemeanor statute contained in section 18-113, Idaho Code. Each day's continued violation shall constitute a separate additional violation.

02-17-33: SEVERABILITY:

If any provisions of this article or the application thereof to any persons or circumstances are held invalid, the remainder of this article or the application of provisions to other persons or circumstances shall not be affected thereby.

Section 2. This ordinance shall be in full force and effect from and after its passage, approval, and publication, according to law.

Section 3. This ordinance is hereby declared to be severable. If any portion of this ordinance is declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purposes of the ordinance before the declaration of partial invalidity.

Section 4. All ordinances, resolutions, orders, and parts thereof in conflict herewith are repealed.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF CALDWELL, IDAHO,
this _____ day of _____, 2008.

APPROVED BY THE MAYOR OF THE CITY OF CALDWELL, IDAHO,
this _____ day of _____, 2008.

ATTEST:

Garret Nancolas, Mayor

Debbie Geyer, City Clerk