

SUBCHAPTER 59: HISTORIC PRESERVATION

59.10 Purpose

The City of Independence establishes this Historic Preservation Code to identify, recognize, and preserve significant properties that showcase the community's history; encourage the rehabilitation and ongoing upkeep of historic resources; strengthen public support for historic preservation efforts; and foster civic pride.

59.20 Applicability

- A. Applicable. This subchapter applies to properties listed on the Independence Local Historic Register.

- B. Exemptions. The standards do not apply to:
 - 1. The ordinary repair and maintenance of historic Resources when such action does not involve a change in design, materials, or appearance.
 - 2. Interior alterations which do not impact the exterior of a Resource.
 - 3. The application of an exterior paint color, unless the exterior paint color is specifically noted in a Resource's Record of Designation or the application seeks to paint currently unpainted masonry on a historic Contributing or Noncontributing Resource.
 - 4. The alteration of a landscape feature that is not specifically identified as historically significant in a Resource's Record of Designation or on the Independence Historic Tree List.

59.30 Relation to Other Codes

The Historic Preservation Code supplements the regulations in the underlying zoning district. Where the regulations and permitted uses for a zoning district conflict with those of the Historic Preservation Code, the more restrictive standards apply.

59.40 Definitions

Words, phrases and terms used in this subchapter shall have the following meanings:

"Contributing Resource" means a building, Site, or object, originally constructed within the applicable Period of Significance that retains and exhibits significant integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties strengthen the historic integrity of an existing or potential historic district, as indicated on the Local Historic Register.

“Demolition” means the intentional destruction of all or a part of a building or structure.

“District” means an area designated pursuant to this Chapter which includes buildings, properties or sites of historical or architectural significance. National Historic District means a District listed on the National Register of Historic Places. Local Historic District means a District listed on the Local Historic Register. Certain Resources may be designated within both Local and National Historic Districts.

“Height” means the height of a Building, as defined in Independence Development Code (IDC) Subchapter 13. Height includes foundation walls, porch roofs, and main roofs.

“Historic Preservation Commission” means the body of appointed officials established in Independence Municipal Code (IMC) Section 2-260. For purposes of review procedures under this Subchapter, the Historic Preservation Commission replaces the Planning Commission as the initial review body.

“Historic Preservation Officer” means the city official responsible for the administration of this code.

“Historic Residential Overlay” means a portion of a historic district, defined on a map that has been adopted by the City of Independence which is typified by residential dwellings. The residential standards for new construction apply to the area, even if a commercial use or multifamily dwelling is proposed within the structure.

“Independence National Historic District” means the District designated on the National Register of Historic Places through the 1989 Record of Designation, as shown on City of Independence official zoning map.

“Listed Resource” means an individual historic resource, which has not been designated as part of a larger district, which has been placed on the Local Historic Register.

“Local Historic Register” means the list of historic Resources officially recognized by the City of Independence as important in its history and afforded protection under this subchapter.

“National Register of Historic Places” or “National Register” means the nation’s official list of buildings, Sites, objects, and districts that are important for the nation’s history and maintained by the National Park Service in Washington, D.C. The list includes “national register resources” as designated by OAR 660-023-0200(8).

“Noncontributing Resource” means a building, Site, or object that does not retain or exhibit sufficient integrity (location, design, setting, materials, workmanship, feeling and association) to contribute to an existing or potential historic District in its current condition. Noncontributing Resources may include “historic Noncontributing Resources,” which are historic, and “out-of-period Noncontributing Resources,” which are not considered historic. By virtue of their location within a historic district, Noncontributing Resources are nonetheless subject to the requirements of this subchapter.

“Period of Significance” means the span of time when a Resource or District attained its significance to meet the local or National Register Criteria.

“Record of Designation” means the official document that describes how a resource meets the criteria for listing in the Independence Local Historic Register. For properties listed in the Independence National Historic District, the Record of Designation includes the 1989 designation document for the district, and subsequent updates to the designations approved by the State Historic Preservation Office and the National Park Service.

“Relocation” means the movement of a Resource from its current location.

“Resource” means a building, Site, object, or district that is listed in the Local Historic Register. A Resource may also be called a “Landmark.”

“Site” means the location of a significant event, prehistoric or historic occupation or activity, or a building, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of any existing building or object.

59.50 Changing the Local Historic Register

A. Purpose. The City uses the Local Historic Register to formally recognize, rate and protect its historic and architectural resources. The register identifies buildings, Sites, objects and districts of historical importance or architectural significance that are considered exemplary of their time and style. The following resources are included on the Local Historic Register:

1. The Independence National Historic District.
2. The Independence Historic Tree List.
3. Other Resources as designated pursuant to this code.

B. Procedure. After review pursuant to the procedures identified below by the Historic Preservation Commission, the City Council will review and

make the final determination of designation or adopt any required legislative amendments to a historic District. For changes affecting Resources on the National Register of Historic Places or to the Independence National Historic District, approval by the State Historic Preservation Office, State Advisory Committee, and National Park Service are required.

1. Designation. Requests to designate historic Landmarks or districts are reviewed using the IDC Subchapter 11, Type III quasi-judicial or Type IV legislative procedures. The process is legislative when it affects a significant number of persons or properties.
 2. Amendment to Existing Historic Districts. Changes or additions to the Period of Significance, the property rating structure, or the boundaries of an existing historic district are reviewed under an IDC Subchapter 11, Type IV legislative procedure.
 3. Individual Property Re-Rating.
 - a. Re-designation or removal of an individual property from the Local Historic Register requires an IDC Subchapter 11, Type III approval. When a property is on the National Register of Historic Places, the Historic Preservation Officer shall consult the State about the appropriateness of the re-designation before the public hearing, and receive state and federal approval of the re-designation after City approval.
 - b. Re-designation of a demolished property. Demolition pursuant to IDC 59.100 also approves removal of the property from the Local Historic Register. Removal from the National Register due to Demolition requires submittal to and approval by the State Historic Preservation Office and the National Park Service.
- C. Decision. All decisions, whether to approve or deny a request, must specify the basis for the decision.

59.60 Designation

- A. Consent. A historic resource that is not currently designated on the Local Historic Register, may not be designated as a local historic resource without the written consent of the owner except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (per ORS 197.772).

B. Application Contents. In addition to complying with IDC 11.005, an application for the designation of a Resource must include the following information:

1. A written description of the boundaries of the proposed district or the location of the proposed landmark or property to be evaluated.
2. A map illustrating the boundaries of the proposed district or the location of the proposed landmark or the property to be evaluated.
3. A statement explaining the following:
 - a. The reason(s) why the proposed district, landmark or property should be designated.
 - b. The reason(s) why the proposed boundaries of the proposed district are appropriate for designation.
 - c. The potential impact, if any, that designation of the proposed district or landmark would have on the owners, surrounding residents or other property owners in the area.

C. Designation Review Criteria. In addition to being at least fifty years of age, one of the following criteria must be met to approve a proposed Resource or District:

1. The proposed Resource or District has historic significance because:
 - a. There is an association with the life or activities of a person, group, organization, or institution that has made a significant contribution to the city, county, state, or nation;
 - b. There is an association with an event that has made a significant contribution to the city, county, state, or nation; or
 - c. There is an association with broad patterns of political, economic, or industrial history in the city, county, state, or nation.
2. The proposed Resource or District has architectural significance because:
 - a. It is an example of a particular architectural style, building type and/or convention;
 - b. It has a high quality of composition, detailing and/or craftsmanship;
 - c. It is an example of a particular material and/or method of construction;
 - d. The resource retains its original design features, materials and/or character;

- e. It is the only remaining, or one of a few remaining resources of a particular style, building type, design, material, or method of construction; or
 - f. It is a visual landmark.
3. The proposed Resource or District is listed on the National Register of Historic Places.

59.70 Re-Rating or Removal Review

- A. Application Contents. In addition to complying with IDC 11.005, an application for re-rating or removal must include photos and documentation that demonstrates:
 1. The reason(s) why the District, Resource or property should be re-rated or removed.
 2. The reason(s) why the boundaries of the district are appropriate for re-rating or removal.
 3. The potential impact, if any, that re-rating or removal of the District or Resource would have on the owners, surrounding residents or other property owners in the area.
- B. Criteria. The review body must find that one of the following criteria is met in order to re-rate or remove a Resource from the Local Historic Registry:
 1. The inventory was in error.
 2. Additional research has uncovered an association with a person, group, organization, institution or events that have made a significant contribution to the city, county, state or nation or additional research has been compiled regarding the architectural significance of a structure or style.
 3. Alterations to the structure have caused it to more closely approximate the historical character, appearance, or material composition of the original structure.
 4. Alterations to the structure have removed distinguishing features or otherwise altered the exterior such that the existing rating is no longer justified.
 5. The reasons for designating the historic Resource no longer apply.

59.80 New Construction in Historic District

- A. Procedure. Requests for new construction in a Historic District are reviewed using an IDC Subchapter 11 Type II quasi-judicial procedure.
- B. Application Contents. In addition to complying with IDC 11.005, an application for new construction must include the following information:
 - 1. A site plan that shows:
 - a. The setbacks of the proposed structure and the neighboring buildings.
 - b. The proposed vehicular and pedestrian access to the building.
 - c. The outbuildings for the use.
 - 2. The proposed building elevations and how they relate to the scale of neighboring buildings.
 - 3. Details about the proposed building materials that will be used for the project.
- C. Criteria. To approve a request for new construction within a historic district, the Historic Preservation Commission must find that the request meets the following criteria as applicable:
 - 1. Within Residential Districts or the Historic Residential Overlay Zone, or for Single-Family Residential Development in the MUPC/Downtown Overlay Zone:
 - a. The development meets the Residential Design Standards in Subchapter 19.
 - b. The structure is of similar Mass, size and Scale of surrounding buildings.
 - i. Scale, Mass and Proportion
 - The building includes projections and building articulation that breaks the Mass of the building into smaller components.
 - If a proposal attempts to create a larger structure than is found within the surrounding residential area, the proposal creates distinct building Masses that are similar in Scale to the neighboring single-family homes.




ii. Height

- The primary building façade is within the range of the Height of existing buildings on the block. Additional Height, up to the allowed Height of the underlying zone may be allowed, if the Height is setback at least 10 feet from the primary building facade.
- Where a larger structure is proposed adjacent to a historic single-family home, the structure is stepped down in Height to the Height of the neighboring home.




iii. Yards

- New structures are set within the range of front and side yard setbacks for historic structures found on the same side of the block. If the historic range is less than the required setback for the underlying zone, the historic range of setbacks shall apply.
- If a proposal involves multiple parcels within the historic district, the development articulation must mirror the adjacent side yard setbacks to create the appearance of multiple single-family homes.

THIS

<p>Scale & Proportion</p>	<p>New buildings should relate in scale and proportion to adjacent historic buildings.</p> 
<p>Mass</p>	<p>Break up boxlike forms into smaller, varied masses using porches, windows, roof forms common on historic buildings.</p> 
<p>Height</p>	<p>Building height should be within the range of heights of area buildings. Step larger buildings down to smaller buildings.</p> 

NOT THIS

<p>Scale & Proportion</p>	<p>Avoid buildings that are too large or too small in scale or massing to adjacent buildings.</p> 
<p>Mass</p>	<p>Avoid single, monolithic forms that are not relieved by variations in mass.</p> 
<p>Height</p>	<p>Avoid construction that greatly varies in height from buildings in the same block.</p> 

- c. The development conforms to the existing neighborhood development patterns.
 - i. The front door of the building is oriented toward the street.
 - ii. Vehicular access points are oriented to the side or rear of the lot, unless:
 - No alley exists and the proposal does not occur on a corner lot, or
 - There is a compelling reason, as determined by the Historic Preservation Commission, why the access should not be located on the side or rear of the lot.
2. Within the Downtown Overlay Zone and Other Mixed-Use Pedestrian Friendly Commercial Zoning (Other than for Single-Family Homes):
- a. The development meets the Commercial Design Standards in Section 33.030 and the Downtown Overlay Design Standards and Guidelines in Section 33.040.
 - b. The development aligns horizontal elements on the structure with the horizontal elements of adjacent buildings. Horizontal elements may include the alignment of lintels or other portions of window frames, awnings, sign bands, roof lines, and the transitional band between the first floor and upper floors.
 - c. The development complements surrounding neighborhood development patterns:
 - i. The front door of the building is oriented toward the street.
 - ii. The building is set on the front property line and the side property lines, unless there is a compelling reason, as determined by the Historic Preservation Commission, to not allow the building to be sited in that location.
 - iii. Parking is not placed in front of the building on the project Site.

59.90 Alteration or Addition to Structures

A. Application Contents. In addition to complying with IDC 11.005, every application for an exterior alteration or addition approval shall include information such as a site plan, building elevations, and photos of the existing structure which clearly show the intended alteration and resulting change to the appearance of the structure.

B. IDC Subchapter 11, Type I Alterations.

1. Applicability. This section applies to alterations to out-of-period structures or non-historic features of Noncontributing Resources within a historic district, so long as the alterations do not include an addition to the structure.
2. Criteria. To approve an alteration to a historic or out-of-period Noncontributing Resource, the Historic Preservation Officer shall find that the proposal meets the following criteria:
 - a. Subject to the exception set forth below in 59.90.B.2.b, the modified exterior of the Noncontributing Resources meets the applicable commercial or residential design standards.
 - b. If an applicant seeks to better reflect the structure's historical design and materials, and the historic design and materials conflict with an otherwise applicable residential or commercial design standard, the conflicting design standard may be waived.
3. Historic Preservation Review Required. Additions to a historic Noncontributing Resource or modifications that change a historic element of a Historic Non-Contributing Resource require Type II Historic Preservation Commission review under IDC 59.90.C.1. b. and d.

C. IDC Subchapter 11, Type II Alterations and Additions:

1. Applicability. This section applies to:
 - a. Alterations to a Contributing Resource.
 - b. Alterations to historic features of a Noncontributing Resource.
 - c. Additions to individually Listed Resources.
 - d. Additions to Resources within a historic District.
2. Criteria. To approve an application subject to this section, the Historic Preservation Commission must find that one of the following criteria has been met:
 - a. The proposed alteration or addition will cause the Resource to more closely approximate the historical character, appearance or material composition of the original structure than the existing structure, or
 - b. The proposed alteration or addition is compatible with the historic characteristics of the area and with the existing structure in Massing, size, Scale, materials and architectural features. New

additions that are visible from the front of a building shall meet the applicable standards for new construction listed in IDC 59.80.

3. Guidelines for Decision. The Secretary of the Interior's Standards of Rehabilitation, set forth below, shall be applied to rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.
 - a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
 - b. The historic character of a property shall be retained and preserved. The removal of historic material or alteration of features and spaces that characterize a property shall be avoided.
 - c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
 - d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
 - e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
 - f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - g. Chemical or physical treatments, such as sandblasting, that cause damage to historic material shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

59.100 Demolition or Relocation of a Listed Resource, or a Resource that is More than 75 Years Old in a Historic District

- A. Procedure. Requests for the Demolition or Relocation of a Listed Resource or a resource older than 75 years in a historic district are reviewed using IDC Subchapter 11 Type II quasi-judicial procedures.
- B. Application Contents. An application for the Demolition or Relocation of a Listed Resource or a Resource older than 75 years in a historic district must contain the following information:
1. A description of the previous and existing uses of the structure and the intended future use of the property.
 2. A drawing showing the location of the building on the property and any other buildings on the property.
 3. The overall Height of the building and the general type of construction.
 4. A written statement addressing the review criteria and providing findings of fact in support of the request.
- C. Criteria. To approve the Demolition or Relocation of the Resource, the Historic Preservation Commission must find that the request meets the following applicable criteria:
1. The proposal meets one of the following conditions:
 - a. No prudent or feasible alternative to the Demolition or Relocation of the building exists.
 - b. The building or structure is deteriorated beyond repair and cannot be rehabilitated on the Site to provide a reasonable economic return compared to other structures in the general area.
 - c. There is a demonstrated public need for the proposed new use or development on the Site that outweighs any public benefit that might be gained by preserving the subject building(s).
 2. If a development is proposed on a lot where the Relocation or Demolition will occur, details about the proposed development shall be submitted. The proposed development shall be compatible with the surrounding area and the standards for new construction in a historic District per IDC 59.80.

3. If a building or structure is proposed to be moved, the movement of the building to a Site within the historic district shall be preferred to the Relocation of the structure outside of the district.
- D. Conditions. In approving an application for the Demolition of a Contributing Resource, the Commission may impose the following conditions:
1. Photographic, video or drawn recordation of the property to be demolished be submitted to the City.
 2. Salvage and curation of significant elements occur.
 3. Other reasonable mitigation measures.
- E. Decisions/Appeals. Following a public hearing, the Commission may either approve the request or invoke a stay to the demolition. During the stay, the Commission will notify the owner of potential rehabilitation programs and benefits and encourage public or private acquisition and restoration of the landmark. The length of the stay will be no more than 180 days from the date of the decision. All decisions to approve, approve with conditions, or stay shall specify the basis for the decision. Decisions of the Commission can be appealed to the City Council.

59.110 Removal of Historic Tree

The City of Independence Historic Tree List has designated historic trees within the community. The location of the trees are mapped, adopted as part of this Code, and available upon request at the Independence Community Development Department.

To approve the removal of a historic tree in the City of Independence via an IDC Subchapter 11 Type II procedure, the Historic Preservation Commission must find that:

- A. A certified arborist has shown that the tree is a hazard, or the tree is causing damage to a commercial or residential structure; or
- B. The proposed removal is necessary for the construction of roads, structures, or other site improvements and the applicant has demonstrated that there are no feasible and reasonable location alternatives and/or design options which would better preserve the tree on the Site, while providing the same overall level of design functionality.

59.120 Demolition by Neglect

- A. Purpose. No owner of a Resource shall keep such building or Resource in a manner that promotes or allows deterioration, dilapidation and decay of any portion of the Resource, or that allows entry by unauthorized persons, in the manner described in B of this Subsection.
- B. Standards. An owner violates the standards for the upkeep and preservation of Resources if the owner promotes or allows any of the following to occur to, or exist in, a Resource:
1. Faults, defects, or other conditions which render the building or Resource structurally unsafe or not properly watertight.
 2. Deterioration of walls or support members due to failure to paint or otherwise maintain the building or Resource.
 3. Failure to maintain parts of the Resource securely attached so as to not fall or injure persons or property.
 4. Deterioration of the foundation.
 5. Deterioration of floor supports so that they cannot safely carry imposed loads.
 6. Deterioration of members of walls, or other vertical supports so that they split, lean, list, buckle, or become incapable of safely carrying imposed loads.
 7. Deterioration of members of the ceiling, roofs, ceiling and roof supports, or other horizontal beams to the extent that they sag, split, buckle or otherwise become insufficient to safely carry imposed loads.
 8. Deterioration of fireplaces or chimneys so that they list, bulge, or settle.
- C. Abatement.
1. In addition to enforcement under IDC subchapter 100, violation of this subsection is hereby declared to be a public nuisance which may be abated and penalized as provided under IMC Chapter 14, Article II, Divisions 7 and 8, and IMC Chapter 6, Articles III and IV.
 2. Nothing in this Section shall be construed to prevent the alteration, Demolition or Relocation of all or part of a Resource, if the Resource is in an unsafe or dangerous condition that constitutes an eminent and serious threat to public safety, and the Building Official certifies such action is required for public safety.

59.130 Economic Hardship

The Commission shall approve an application for a Relocation, Demolition, or alteration, if the applicant can demonstrate that complying with the provisions of

this subchapter creates an economic hardship that deprives the Owner of all economical viable use of the subject property.

- A. Separate standards for demonstrating an economic hardship are established for investment or income-producing and non-income-producing properties:
 - 1. Economic hardship for an income-producing property shall be found when the property owner demonstrates that a reasonable rate of return cannot be obtained from the Resource if it retains its historic features, buildings, or structures in either its present condition or if it is rehabilitated.
 - 2. Economic hardship for a non-income-producing property shall be found when the property owner demonstrates that the Resource has no economically beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.
- B. Property owners seeking application approval due to economic hardship must provide sufficient information, as determined by the Historic Preservation Officer, to meet the above standards. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:
 - 1. Willful or negligent acts by the owner;
 - 2. Purchase of the property for substantially more than market value;
 - 3. Failure to perform normal maintenance and repairs;
 - 4. Failure to diligently solicit and retain tenants; or
 - 5. Failure to provide normal tenant improvements.

59.140 Enforcement

Violations of this Code may be enforced and abated pursuant to one or more of the following:

- A. IMC Chapter 14, Article II;
- B. IDC Subchapter 100; and
- C. Any applicable remedy available under the City's Building and Construction Code, set forth at IMC Chapter 6.