

ORDINANCE NO. 403

AN ORDINANCE AUTHORIZING THE CITY OF ELK POINT, SOUTH DAKOTA, TO ENGAGE IN A COMPREHENSIVE PROGRAM OF HISTORICAL PRESERVATION; TO CREATE A HISTORIC PRESERVATION COMMISSION, AND PROVIDING FOR THE POWERS AND DUTIES THEREOF.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF ELK POINT, SOUTH DAKOTA:

ARTICLE I. IN GENERAL

Section 1. Legislative Findings; Purpose of Chapter.

Whereas the legislature of the state has determined that the historical, architectural, archaeological, paleontological and cultural heritage of this state is among its most important assets, it is hereby declared to be the purpose of this chapter to authorize the City to engage in a comprehensive program of historic preservation, to promote the use and conservation of historic properties for the education, inspiration, pleasure and enrichment of the citizens of this City. The City adopts this chapter pursuant to the authority of SDCL Ch. 1-19B and by incorporating provisions therefrom in this chapter.

ARTICLE II. HISTORIC PRESERVATION COMMISSION

Section 2. Created.

Pursuant to authority granted to the City in SDCL 1-19B-2, there is hereby created a Historic Preservation Commission for the City. The Historic Preservation Commission will be referred to as the Elk Point Board of Historic Preservations, referred to in this article as the Board.

Section 3. Composition.

The Board shall consist of not less than five, nor more than ten, members who shall be appointed by the City Council with due regard to proper representation of such fields as history, architecture, urban planning, archaeology, and law. All the members of the Board must be able to attend meetings in the City of Elk Point and shall serve three-year terms. Each member shall be eligible for appointment for one additional term.

Section 4. Vacancies.

Any vacancy in the membership of the Board shall be filled for the unexpired term in the same manner as for appointment.

Section 5. Meetings.

The Board shall hold a regular meeting every three months. The Board shall keep a record of its resolutions, transactions, findings, and determinations, which shall be of public record.

Section 6. Powers and Authorities.

(A) Pursuant to SDCL Chapter 1-19B, the Board may exercise the following powers, duties, and responsibilities to:

- (1) Conduct a survey of local historic properties, complying with all applicable standards and criteria of the statewide survey undertaken by the office of history of the state department of education and cultural affairs;
- (2) Participate in the conduct of land use, urban renewal and other planning processes undertaken by the City;
- (3) Acquire fee and lesser interests in historic properties, including adjacent or associated lands, by purchase, bequest, or donation;
- (4) Preserve, restore, maintain, and operate historic properties under the ownership or control of the Board;
- (5) 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 properties within its jurisdiction;
- (6) Promote and conduct an educational and interpretive program on historic properties within its jurisdiction;
- (7) Recommend ordinance and otherwise provide information for the purposes of historic preservation to the City Council;
- (8) Establish and endowment fund for the purpose of providing low interest loans and grants to allow for the restoration and preservation of historic properties;
- (9) Recommend to the Board of Appeals exemptions from the building code relating to the exterior features of structures designated by the City Council as having historical or architectural significances;
- (10) Cooperate with the federal, state, and local governments in the pursuance of the objectives of historic preservation;

(11) Contract, with the approval of the City Council, with the state or the federal government, or any agency of either, or with any other organization.

(B) All lands, building, structures, sites, areas, or objects acquired by funds appropriated by the City shall be acquired in the name of the City unless otherwise provided by the City Council. If acquired by funds other than those appropriated by the City, the lands, buildings, or structures may be held in the name of the Board, the City, or both.

Section 7. Acquisition of Historic Easements.

The City may acquire by purchase, donation, or condemnation, historic easements in any area within its jurisdiction wherever and to the extent that the City Council determines that the acquisition will be in the public interest. For the purpose 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, archaeological, paleontological, or cultural significance.

ARTICLE III. ELK POINT REGISTER OF HISTORIC LANDMARKS

Section 8. Created.

Pursuant to SDCL 1-19B-53, the City hereby creates the Elk Point Register of Historic Landmarks, hereinafter referred to as the Register.

Section 9. Criteria for designation.

The Board of Historic Preservation shall, upon such investigation as it deems necessary, make a determination as to whether a nominated historic property, structure, or area meets one or more of the following criteria:

- (1) It is associated with events that have made a significant contribution to the Board patterns of City history;
- (2) Its identification with a person who significantly contributed to the development of the community, county, state, or country;
- (3) Its embodiment of distinctive characteristics of a type, period, or method of construction;
- (4) It represents the work of a master or possesses high artistic values;
- (5) It represents a significant and distinguishable entity whose components may lack individual distinction; or

- (6) It has yielded or may be likely to yield information important in prehistory or history.

Section 10. Nomination of Structures and Districts to the Register.

Nominations for inclusion on the Register of Historic Places shall be made to the Board of Historic Preservation on a form prepared by the Board and may be submitted by a member of the Board, owner, of record of the nominated property or structure, the City Council, or any other person or organization.

Section 11. Notification of Nomination.

The Board of Historic Preservation shall notify the owners of all property nominated to the local Register of Historic Places of the date on which the Board will hear the nomination. Notification will be at least 14 days prior to the meeting. The City shall also publish a notice of the time and place of the meeting in the official newspaper of the City at least one week prior to the meeting.

Section 12. Determination of the Board.

The Board of Historic Preservation shall adopt by resolution a recommendation that the structure, property, or district nominated for inclusion on the Register of Historic Places does or does not meet the criteria for designation specified in Section 9. The resolution will be accompanied by a report to the City Council containing and explanation of the significance of the nominated structure, property, or district as it relates to the criteria for designation.

Section 13. Notification of Determination.

A Notice of Determination shall be sent by regular mail to the owner of record of all property nominated to the local Register of Historic Places. The notice shall include a copy of the report sent to the City Council concerning the nomination and shall be sent within seven days of the Board's adoption of a resolution. If the decision is that the nominated property does meet the criteria for designation, a copy of the report and resolution shall be sent to the City Council for official designation by ordinance.

Section 14. Appeal

A determination by the Board of Historic Preservation that the nominated property does or does not meet the criteria for designation on the Register of Historic Places shall be a final decision unless the applicant files a written appeal to the City Council with the City Finance Officer within 20 days of the postmarked date of the Notice of Determination.

Section 15. Action by City Council.

The City Council shall either reject the recommendation or written appeal or they shall designate the property on the Register of Historic Places by ordinance within 60 days after receiving the resolution from the Board of Historic Preservation or the appeal from the owner. The Council's action shall occur at the regular City Council meeting at least one week after a notice has been published in the official newspaper state the time and place of the meeting.

Section 16. Demolition and House Moving.

Every application for demolition permit or a house moving permit for a property listed on the local Register of Historic Places shall be forwarded to the Board of Historic Preservation within seven days following receipt of the application by the City.

Section 17. Notice of Intent to Demolish or Move.

The owner of any structure on the local Register of Historic Places, upon application for a demolition or house moving permit, shall be required to post four signs on the property stating the intent to demolish or move the structure. The signs shall be provided by the City and shall be placed on the four corners of the property. The signs must be posted within seven days of the date of application and must remain posted for a minimum of 90 days unless the Board of Historic Preservation approves the demolition or removal prior to the expiration of the 90-day period.

Section 18. Delay of Demolition or House Moving.

A permit to demolish or move a structure which is on the local Register of Historic Places may not be obtained for a period of 90 days from the date the application is received by the City unless approval for removal or demolition is given by the Board of Historic Preservation at an earlier date. During this period, the Board may attempt to preserve the property by exercising the powers and authorities given to the Board in Section 6.

Section 19. Moving Structures into a Historic District.

Before a structure can be moved into a historic district, the procedure described in Sections 16 and 17 must be followed. If the structure proposed for the district does not meet the approval of the Board of Historic Preservation, a permit will not be issued for 90 days from the date the application is received by the City. During this period, the Board may negotiate with the property owner to attempt to find a reasonable alternative for the proposed structure.

Section 20. Burning of Structures.

Any person who demolishes or removes a structure listed on the local Register of Historic Places without following the provisions of this article shall be guilty of an ordinance violation. Each and every day, up to 90 days, such demolition and removal activity continues after notification shall constitute a separate offense.

CITY OF ELK POINT, SOUTH DAKOTA

By: DeB McCreary
Mayor

ATTEST:

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Finance Officer

(SEAL)

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