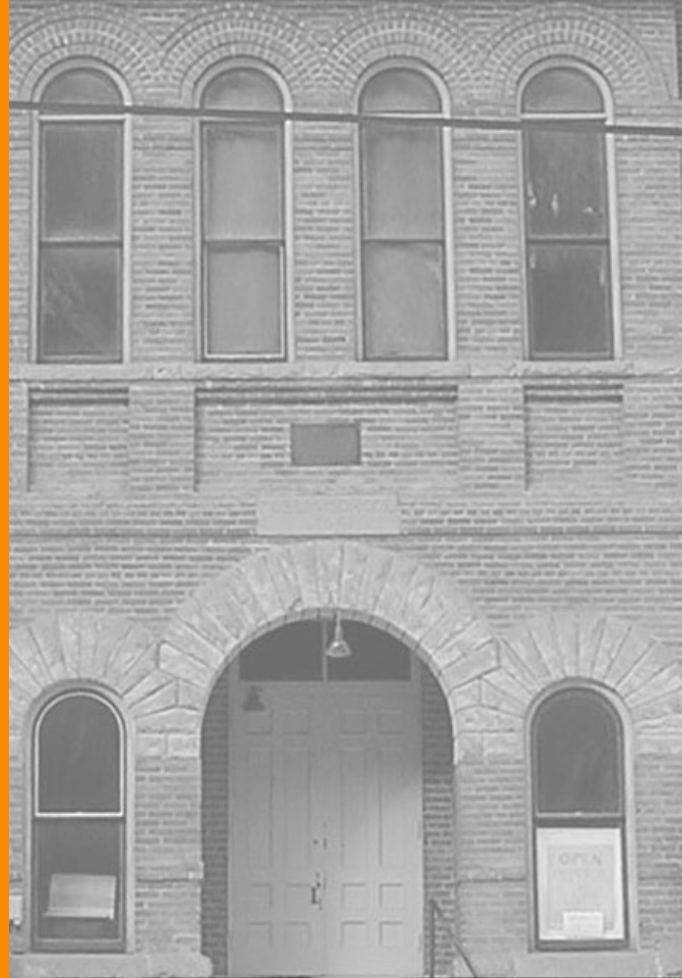


**COLORADO  
CERTIFIED LOCAL  
GOVERNMENT  
PRESERVATION  
ORDINANCE GUIDE  
2019**



HISTORY *Colorado*

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## 1. Introduction

In 1966, Congress passed the National Historic Preservation Act (NHPA), which established preservation as a national priority and created programs that encourage preservation, including formation of State Historic Preservation Offices (SHPOs). These federally mandated offices are administered by State Historic Preservation Officers and are partially funded by the Department of the Interior through the National Park Service. In Colorado, the state program is administered through History Colorado's Office of Archaeology and Historic Preservation.

In 1980, encouraged by the success of the partnership between the Federal Government and SHPOs throughout the nation and desiring an avenue to bring local governments into this partnership, Congress created a program for local governments interested in historic preservation and willing to comply with federal and state preservation standards. Because both the SHPO and the National Park Service must certify local governments prior to participation in the program, these entities were named Certified Local Governments (CLGs).

### 1.1 Federal CLG Requirements

As detailed through federal regulation (36 CFR 61.6),<sup>1</sup> local governments are certified when the SHPO and the Secretary of the Interior (who has delegated this authority to the National Park Service (NPS)) attest that the local government has agreed to:

1. Enforce Appropriate State or Local Legislation for the Designation and Protection of Historic Properties.
2. Establish an Adequate and Qualified Historic Preservation Review Commission by State or Local Legislation.
3. Maintain a System for the Survey and Inventory of Properties that Furthers the Purposes of the Act.
4. Provide for Adequate Public Participation in the Local Historic Preservation Program.
5. Satisfactorily Perform the Responsibilities Delegated to it Under the Act.

### 1.2 State Enabling Legislation

In order for counties or municipalities to enact an ordinance, the ability to do so must be delegated by the State. The ability for local governments to designate and regulate historic properties in Colorado is provided by the following state laws:

- **Municipalities:** "Local Government Land Use Control Enabling Act of 1974" (HB 74-1034) CRS 29-20-104: "(1) Each local government within its respective jurisdiction has the authority to plan for and regulate the use of land by: ... (c) Preserving areas of historical and archaeological importance."
- **Counties:** "Concerning County Ordinance Authority" – 1990 (HB 90-1104) CRS 30-11-107: "Powers of the board. bb) To provide for the preservation of the cultural, historic, and architectural history within the county by ordinance or resolution; to delegate the power to designate historic landmarks and historic districts to an historic preservation advisory board; to accept dedicated or deeded easements or other historic property and to expend moneys for the maintenance of such deeded historic land, facilities, and structures; and to receive contributions, gifts, or other support from public and private entities to defray the maintenance costs of such historic land, facilities, and structures; and to receive contributions, gifts, or other support from public and private entities to defray the maintenance costs of such historic land, facilities, and structures;"

While Federal and State laws provide the authority and general framework for local preservation ordinances, each Colorado community has the latitude to tailor its ordinance to its specific community and its civic plans

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<sup>1</sup>The full text of 36 CFR 61.6 - Certified local government programs is provided in Appendix 1.

and goals. The following sections discuss each recommended and/or optional section of a historic preservation ordinance, providing language to assist each local community in developing an ordinance that aligns with its unique vision and desired outcomes. Many sections include a pros and cons analysis to further aid local communities in understanding and weighing in on certain components of an ordinance. A base ordinance is presented with two additional examples of how that ordinance may be modified to allow for differing levels of program management. These examples are just that – examples – and each community should adjust these models to fit the culture of their county or municipality.

## ***Why would a community choose to have an ordinance?***

<i>Pros</i>	<i>Cons</i>
❖ <b><i>An ordinance provides a clear and concise framework for the protection and preservation of a community’s historic resources.</i></b>	❖ <b><i>An ordinance places obligations and regulations on property owners.</i></b>
❖ <b><i>An ordinance allows for a process of survey and inventory yielding practical information for comprehensive planning.</i></b>	❖ <b><i>An ordinance requires a commitment of staff time and resources.</i></b>
❖ <b><i>An ordinance defines a structure for community input and public participation.</i></b>	
❖ <b><i>An ordinance offers tools for identification, preservation and rehabilitation of historic resources.</i></b>	
❖ <b><i>An ordinance provides access to incentives for property maintenance and rehabilitation.</i></b>	

## **Developing an Ordinance (Sections 2 – 10)**

### **2. General (Purpose, Intent, and Terms Used)**

#### **2.1 Purpose**

The Tenth Amendment to the U.S. Constitution states, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” The Tenth Amendment therefore, provides the States with the power to make laws governing safety, health, welfare, and morals - the so-called “police powers.” All States delegate portions of this power to local governments. Colorado details these in part through CRS 29-20-104<sup>2</sup> and CRS 30-11-107.<sup>3</sup>

Therefore, when defining the purpose of a historic preservation ordinance, each local government must state how the ordinance will “promote public health, safety and welfare.”

<sup>2</sup> Colorado Revised Statutes Title 29 Government Local § 29-20-104 Powers of local governments, <https://leg.colorado.gov/sites/default/files/images/olls/crs2017-title-29.pdf>.

<sup>3</sup> Colorado Revised Statutes Title 30 Government County § 30-11-107 Powers of the board, <https://leg.colorado.gov/sites/default/files/images/olls/crs2016-title-30.pdf>.



While certainly other reasons exist, a sample purpose might include items such as:

- Protection and preservation of the City's<sup>4</sup> architecture, culture, and heritage as embodied in historic buildings, structures, sites, objects and districts, by appropriate regulations and incentives;
- Enhancement of property values and the stabilization of historic neighborhoods;
- Establishment of the City's Historic Register;
- Civic pride in the art, architecture, and accomplishments of the past;
- Encouragement of continued utilization of historic properties;
- Promotion of thoughtful community planning and design;
- Economic and financial benefits through heritage tourism; and/or
- Educational opportunities based on the City's unique heritage.

A shorter version may include just the first three items.

## **2.2 Intent**

An intent statement can also help clarify the purpose and need for the ordinance. Such a statement may address the need to balance private property rights and the desire to promote and protect the unique heritage of the region.

## **2.3 Terms Used**

While not mandatory, the inclusion of definitions in an ordinance can help ensure that the terms used are interpreted by the public, and potentially in a court of law, as intended.

Two of the model ordinances presented in this document include a list of terms and definitions commonly used in the field of preservation. Any terms defined in this section should appear elsewhere in the ordinance.

# **3. Historic Preservation Commission**

While many items in your preservation ordinance can be determined locally, the Federal Government through 36 CFR 61.6 requires the establishment of a Historic Preservation Commission (Commission). The code further states that "All Commission members must have a demonstrated interest, competence, or knowledge in historic preservation" and that "The State procedures must encourage certified local governments to include individuals who meet "the Secretary's (Historic Preservation) Professional Qualifications Standards" among the membership of the Commission, to the extent that such individuals are available in the community." Therefore, to meet CLG requirements a local preservation ordinance must establish a Commission and the qualification standards for Commission members. The name of that Commission may vary, such as Historic Preservation Advisory Board, Historic Landmark Commission, Historic Review Board, Design Review Committee, etc., corresponding to the style and desires of each local government.

## **3.1 Formation and Appointments**

Items related to the Commission that should be addressed in the ordinance include:

- Number of Members – The State of Colorado requires a minimum of five members.<sup>5</sup>
- Qualifications – The State of Colorado requires that forty percent (40%) of Commission members be professionals with experience in history, architecture, landscape architecture, architectural history, prehistoric or historic archaeology, planning,

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<sup>4</sup> City is used throughout the document, but should be replaced with "Town" or "County" as appropriate.

<sup>5</sup> Colorado Certified Local Government Handbook (April 2016),  
<https://www.historycolorado.org/sites/default/files/media/document/2017/1416.pdf>.

American studies, American civilization, cultural geography, cultural anthropology, or related disciplines such as building trades, real estate, or law. (Note that smaller communities may meet this requirement by demonstrating a reasonable effort to locate and appoint members with such qualifications if they are unable to do so.)<sup>6</sup>

- Appointment Procedures – The Federal Government through 36 CFR 61.6 states “Unless State or local legislation provides for a different method of appointment, the chief elected local official must appoint all Commission members.”
- Terms of Appointment – Three year terms are typical. Terms should be staggered so that the Commission does not completely turn over at one time.
- Election of Officers – Election of a Chair, Vice-Chair and Secretary for one year terms is common.
- Quorum and Voting – In most instances, a quorum is 51% of the members. Votes are typically by roll call with a tie vote resulting in a defeat of the motion under consideration.
- Compensation – Commission members are not typically compensated, but may be reimbursed for expenses such as training and travel or provided with a small stipend.
- Vacancies – The ordinance should define a process for filling positions when vacancies occur prior to the end of a member’s term.
- Removals – The ordinance should also contain a description of why and how to remove a member of the Commission.

### **3.2 Meetings**

A consistent meeting schedule should be established. The State of Colorado requires that Commissions meet at least quarterly. Many Commissions schedule monthly meetings with the option to cancel if there is no business to consider (still making sure to meet at least quarterly). Establishing a regular meeting schedule, as opposed to scheduling meetings only when needed, provides citizens with a clear timeline and reliable meeting date.

### **3.3 Powers and Duties**

The following powers and duties are required by the Federal Government through 36 CFR 61.6 (e) and must be expressed in an ordinance:

- Mandate to survey and inventory properties within the local jurisdiction.
- Authorization to designate historic properties within the local jurisdiction.
- Directive to review actions on listed properties.
- Provision for adequate public participation in the local historic preservation program.
- Participation in review of National Register of Historic Places nominations.

Additional items to consider may include:

- Advise City Council on preservation issues;
- Assist property owners with preservation;
- Develop historic preservation educational programs;
- Pursue financial opportunities for preservation projects;
- Create promotional materials for heritage tourism;
- Participate in Federal Section 106 Review as requested by Council or staff.
- Propose local incentive programs and manage as directed; and/or
- Develop by-laws for Commission procedures.

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<sup>6</sup> Colorado Certified Local Government Handbook (April 2016),  
<https://www.historycolorado.org/sites/default/files/media/document/2017/1416.pdf>.

## 4. Local Register and Designation Criteria

### 4.1 Local Register

Through 36 CFR 61.6 (e)(1)(i), the Federal Government requires that CLGs establish a system for “registration” of “significant historic and pre-historic resources within the local jurisdiction.” Therefore, the ordinance must establish a Local Register.

#### 4.1.1 Intergovernmental Agreements

Should a local government desire to designate buildings, structures, sites, or objects located within its borders, but within or owned by another political subdivision, CRS 29-1-203<sup>7</sup> and CRS 29-20-105<sup>8</sup> require the local government to enter into an intergovernmental agreement with that political subdivision.

As an example, for a county to be able to designate properties within an incorporated municipal boundary, the county must have an intergovernmental agreement with that municipality. Likewise, an intergovernmental agreement is required for properties owned by political subdivisions such as school, transportation, or recreation districts. Intergovernmental agreements between counties and municipalities should allow for designation of any qualified properties except those controlled by other political subdivisions within the incorporated municipal boundary; intergovernmental agreements between local governments and other subdivisions may include all qualified properties or specific properties identified in the agreement. A model intergovernmental agreement can be found in Section 11.4.

### ***Should municipal governments, through intergovernmental agreements, adhere to county preservation ordinances and designations in lieu of developing and managing separate ordinances and independent designations?***

<i>Pros</i>	<i>Cons</i>
<i>❖ Allows governments to share resources such as staff and Commission members.</i>	<i>❖ City and County may have differing needs and goals for historic preservation.</i>
<i>❖ Eliminates duplication of services.</i>	<i>❖ City may be uncomfortable with aspects of the County ordinance.</i>
<i>❖ Establishes a unified approach to historic preservation.</i>	<i>❖ Inserts County influence in certain aspects of City planning.</i>
<i>❖ Creates clarity and consistency countywide.</i>	<i>❖ May cause delays in City permitting processes.</i>
<i>❖ Provides an avenue for collaborative comprehensive planning.</i>	
<i>❖ Promotes cooperation between City and County.</i>	

<sup>7</sup> Colorado Revised Statutes Title 29 Government Local § 29-1-203 Government may cooperate or contract – contents, <https://leg.colorado.gov/sites/default/files/images/olls/crs2016-title-29.pdf>.

<sup>8</sup> Colorado Revised Statutes Title 29 Government Local § 29-20-105 Intergovernmental cooperation, <https://leg.colorado.gov/sites/default/files/images/olls/crs2016-title-29.pdf>.

## 4.2 Designation Criteria

When establishing a Local Register, criteria must be developed for assessing which properties might qualify for listing. Properties eligible for listing may be:

- Buildings;
- Structures such as bridges, water towers, mining headframes, etc.;
- Sites such as archaeological deposits/ruins, parks, cemeteries, etc.;
- Objects such as monuments, statues, signs, etc.; and
- Districts, which include more than one of any of the above that are contiguous and related by history or design.

To decide which properties are actually eligible, three principles must be considered and criteria developed – age, historic significance, and integrity.

1. Age – The National Register of Historic Places sets the minimum age for a property to be considered historic at 50 years old, with allowances for properties of “exceptional merit.” Colorado’s State Register of Historic Properties sets no minimum age. However, the Colorado State Register Review Board has adopted 30 years as its standard. Each local community may determine the minimum age that best meets the needs of their community.

2. Historic Significance – is defined as the meaning or value ascribed to a building, structure, object, site, or district based on the evaluation criteria defined by an established designation program. More basically, it is why the property is important historically.

The Federal Government, through 36 CFR 60.4, lists the criteria for evaluation of properties for listing in the National Register of Historic Places. These criteria provide a good base for local listings as well:

Per 36 CFR 60.4, significance in American history, architecture, archeology, engineering, and culture is present in buildings, structures, sites, objects, and districts that possess integrity and

- a) that are associated with events that have made a significant contribution to the broad patterns of our history; or
- b) that are associated with the lives of persons significant in our past; or
- c) that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- d) that have yielded, or may be likely to yield, information important in prehistory or history.

The State of Colorado, through the State Register Act (CRS 24-80.1-101 et.seq.), sets criteria for the State Register of Historic Properties. These criteria, though worded slightly differently, mirror the historic significance criteria for listing in the National Register with one addition—the geographic importance of the property. The State Register wording is slightly more concise, which may be helpful if used in a local ordinance:

- a) The association of such property with events that have made a significant contribution to history;
- b) The connection of such property with persons significant in history;
- c) The apparent distinctive characteristics of a type, period, method of construction, or artisan;
- d) The geographic importance of the property;
- e) The possibility of important discoveries related to prehistory or history.

Some local governments may wish to further define each historic significance criterion and/or include additional criteria to provide clearer direction for citizens and staff.

3. Integrity – is defined as the ability of a property to convey its significance through its physical features or characteristics. The Federal Government, through 36 CFR 60.4, identifies seven aspects that must be considered when evaluating integrity: location, design, setting, materials, workmanship, feeling, and association. These can be defined as follows:
  - a) Location – the place where the historic property was constructed or the place where the historic event occurred.
  - b) Design – the combination of elements that create the form, plan, space, structure, and style of a property.
  - c) Setting – the physical environment of a historic property.
  - d) Materials – the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.
  - e) Workmanship – the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
  - f) Feeling – a property's expression of the aesthetic or historic sense of a particular period of time.
  - g) Association – the direct link between an important historic event or person and a historic property.

While local criteria may be somewhat different from those used to evaluate the eligibility of properties for listing in the National or State Register, the principles and process used to evaluate eligibility should be consistent with National Park Service recommendations. More information on the National Register criteria and how to evaluate a property's eligibility for listing can be found in *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation*.<sup>9</sup>

## 5. Designation Procedure

### 5.1 Owner Consent

One of the most discussed items in developing a historic preservation ordinance is the issue of owner consent. A community must decide whether a property may be listed if the owner objects. This decision is left to each local government to determine what best fits their community. While many are concerned that allowing listing without owner consent will empower the local government to list properties en masse, the reality is that those local governments that allow for listing without owner consent, by and large, do so judiciously. Only properties that are exceptionally important to the community as a whole are typically considered for non-consensual designation and only after a rigorous public process.

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<sup>9</sup> National Park Service, *National Register Bulletin 15: How to Apply the National Register Criteria for Evaluation*, Revised for Internet 2002, <https://www.nps.gov/nr/publications/bulletins/nrb15/>.



# Should a CLG allow a property to be listed if the owner objects?

Pros	Cons
❖ <i>Allowing a property to be listed despite owner objection gives the local government the ability to consider the best interest of the entire community, not just the desires of one owner.</i>	❖ <i>Listing will place obligations and regulations on property owners.</i>
❖ <i>Listing a property without owner consent is typically done judiciously and only in exceptional cases.</i>	❖ <i>Property owners may be particularly unreceptive and uncooperative to ordinance obligations and regulations if they objected to the property being listed.</i>

## 5.2 Application Submittal and Process

Applications can typically be submitted by property owners, the Commission itself, or by the City Council. Some jurisdictions also allow for submission by other residents, business owners, or non-profit organizations located within the jurisdiction. In any of these cases, actual listing of the property may or may not require owner consent.

Applications for designation should be submitted to the Commission for review at a public meeting. While notification of a public hearing is required by state law, cities may align this notification requirement with those of existing zoning and land use codes.

Approved applications, along with the Commission’s recommendation, should be forwarded to the City for official designation through an ordinance or resolution. If the application is not approved by the Commission or approved over objection, an appeals process (usually to the City Council) should be provided.

The ordinance should define the designation and appeal processes. A reasonable timeline should also be established for each step in the process so that an applicant will know the length of time required from submission to official designation.

Historic properties may be listed or eligible for listing in the National Register of Historic Places of the State Register of Historic Properties. Typically, these properties are also eligible for listing in the local register. However, as criteria, application procedures and design review obligations will differ, properties listed in these registers should not automatically be listed in the local register without following the application and submittal process as outlined in the local ordinance.

## 5.3 Historic Districts

The National Park Service defines historic districts as “A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.”

A preservation ordinance should detail how a historic district may be defined and approved. Applications can typically be submitted by property owners within the proposed district; a neighborhood, homeowners’, business, or property owners’ association representing property with the proposed district; the Commission itself; or by the City Council. Some jurisdictions also allow for submission by other residents, business owners, or non-profit organizations outside of the proposed district, but located within the City jurisdiction.

Of utmost importance is determining the percentage of property owners that must approve or object to such a designation. Each jurisdiction makes this decision based on what best fits their community. If 100% owner consent is required, 100% of the property owners within the district boundary must approve of a district. Some jurisdictions require a simple majority (51%), but a relatively low threshold may make designation controversial. Depending on the community, a more feasible percentage may be 75%.

The district designation process should always require that all property owners of record within the proposed district boundary be notified of any application submission for a historic district. To determine if the required percentage of owner consent has been reached, the local government may:

- provide property owners with a ballot;
- require applicants to submit a signature petition demonstrating consent; and/or
- define a period of time for owners to register an objection.

The State of Colorado does not allow for “opt in” or “opt out” districts. Therefore, all properties within the district boundaries must be included in the designation. Buildings that are non-contributing (those constructed outside the period of historic significance or lacking sufficient integrity) may or may not be required to follow established guidelines for the district as determined by the local government and outlined in the ordinance.<sup>10</sup>

### ***Should 100% property owner consent be required to create a historic district?***

<i>Pros</i>	<i>Cons</i>
❖ <i>Makes certain that every property owner has received notice and supports the designation.</i>	❖ <i>Extremely difficult to achieve.</i>
	❖ <i>A single unsupportive owner can block the district designation.</i>

### ***Should a simple majority (51%) be required to create a historic district?***

<i>Pros</i>	<i>Cons</i>
❖ <i>Easier to achieve.</i>	❖ <i>Such a low threshold can make the designation controversial.</i>

### ***Or, should a super majority (75%) be required to create a historic district?***

<i>Pros</i>	<i>Cons</i>
❖ <i>Ensures the historic district is widely supported.</i>	❖ <i>Owners who do not support the dsitric may be unreceptive and uncooperative to ordinance obligations and regulations.</i>

<sup>10</sup> Colorado Certified Local Government Handbook (April 2016)  
<https://www.historycolorado.org/sites/default/files/media/document/2017/1416.pdf>.

#### 5.4 Recordation

In order to ensure that future property owners are aware of any historic designation at time of purchase, all designations should be recorded with the respective County Clerk and Recorder's Office.

#### 5.5 Amendment and Revocation

All ordinances should provide procedures for amending and revoking designations. Revocations should only be allowed if the property has been altered to such a degree that it no longer retains sufficient historic integrity to convey the significance for which it was originally designated.

## 6. Design Review of Listed Properties and Districts

The Federal Government through 36 CFR 61.6 (e)(1)(ii) requires that all CLGs perform design review for all designated properties, including those contributing to a historic district. While all CLGs must complete a review, each local government decides through their ordinance the level of compliance required with the results of that review. Some CLGs have strict penalties for non-compliance, while in others, compliance is voluntary. In either case, building permits for designated properties may not be issued until the review is complete.

### *Should compliance with design review be voluntary?*

<i>Pros</i>	<i>Cons</i>
<i>❖ Voluntary compliance with design review does not place additional and unwanted burden on the property owner.</i>	<i>❖ If a property owner does not comply with design review recommendations, the historic integrity of the property may be irrevocably compromised.</i>
<i>❖ Voluntary Compliance spares the local government from the time and effort of enforcement.</i>	<i>❖ Voluntary compliance weakens the intent of the design review required by the Federal Government.</i>

#### 6.1 Alteration

##### 6.1.1 Alteration Review

Review of alterations to designated properties, including those contributing to a historic district, is required by the Federal Government through 36 CFR 61.6.

##### 6.1.2 Alteration Review Criteria

Chapter 9, Section I of the *Historic Preservation Fund Manual* (2007 Edition)<sup>11</sup> issued by NPS requires local criteria for review of alterations to designated historic properties be consistent with the *Secretary of the Interior's Standards for the Treatment of Historic Properties*. Therefore, these *Standards* are typically used as the review criteria, with the majority of projects reviewed under the *Secretary of the Interior's Standards for Rehabilitation*<sup>12</sup>. In addition to the guidelines defined in its ordinance, CLGs may adopt design guidelines to more clearly detail how the *Standards* are applied within their jurisdiction or within a specific historic district. The guidelines themselves should be adopted separately and simply referenced in the ordinance to allow for more flexibility to clarify and/or modify the guidelines from time to time.

<sup>11</sup> National Park Service *Historic Preservation Fund Grants Manual*, [https://www.nps.gov/preservation-grants/HPF\\_Manual.pdf](https://www.nps.gov/preservation-grants/HPF_Manual.pdf).

<sup>12</sup> The text of the *Secretary of the Interior's Standards for Rehabilitation* is provided in Appendix 2.

### 6.1.3 Alteration Review Process

The Commission should generally review and decide upon alteration proposals in a public meeting. However, maintenance, minor repair, and projects such as replacement of damaged features using in-kind materials may be approved by City staff or a subcommittee of the Commission without a public hearing. While the ordinance might allow for “administrative” review, the details of what is allowable should be clearly identified in by-laws, not the ordinance, to allow more flexibility when from time to time, clarification or modification is needed. Like full Commission reviews, administrative reviews must be consistent with the *Secretary of the Interior’s Standards for the Treatment of Historic Properties*. If a property owner disagrees with the outcome of an administrative review, that owner may appeal to the Commission. The final decision of any review heard by the Commission as to whether or not a proposed alteration meets the *Standards* should rest with the Commission in order to allow for the City Council to hear appeals. An appeal process should be clearly stated in the ordinance.

A reasonable timeline should be established for each step in the process so that an applicant will know the length of time required from submission to approval or denial of an alteration application.

## **6.2 Relocation**

### 6.2.1 Relocation Review

Review of relocation of historic buildings is required by the Federal Government through 36 CFR 61.6. Relocation should never be encouraged as it diminishes the integrity of the building, structure, site, or object and is not consistent with the *Secretary of the Interior’s Standards for the Treatment of Historic Properties*. The National Register of Historic Places and the State Register of Historic Properties rarely permit relocated resources to be listed. Many local governments do not allow for relocation of designated properties.

### 6.2.2 Relocation Review Criteria

In rare cases, relocation may be the last resort to protect and save a historic resource. If your local government wishes to consider relocation as an option, strict guidance should be included in the ordinance that clearly defines the circumstances under which relocation can be considered and the conditions that must be met for approval. Approval should be based on a thorough examination that concludes that no other feasible alternative is available.

### 6.2.3 Relocation Review Process

Relocation review should take place in front of the Commission in a public meeting. The decision as to whether or not a relocation is allowable should rest with the Commission in order to allow for the City Council to hear appeals. An appeal process should be clearly stated in the ordinance. A reasonable timeline should be established for each step in the process so that an applicant will know the length of time required from submission to approval or denial of a relocation application.

## ***Should relocation of a historic resource be permissible?***

<i>Pros</i>	<i>Cons</i>
❖ <b><i>Relocation may be the only option to protect and save a historic resource.</i></b>	❖ <b><i>Relocation diminishes the integrity of the historic resource.</i></b>
❖ <b><i>Ordinances can be written to allow relocation only in extreme circumstances.</i></b>	❖ <b><i>A moved property may not be able to retain its designation.</i></b>
	❖ <b><i>Those who are considering moving and listing a non-designated property may not realize that the local register may not allow a relocated historic resource to be listed.</i></b>
	❖ <b><i>Relocated properties are not typically eligible for listing on the National or State Registers.</i></b>

### **6.3 Demolition**

#### 6.3.1 Demolition Review

Review of demolition of historic buildings is required by the Federal Government through 36 CFR 61.6. Demolition never meets the *Secretary of the Interior’s Standards for the Treatment of Historic Properties*. Therefore, many local governments do not allow for demolition of designated properties unless the property has been determined conclusively to be a threat to public health and safety that cannot be mitigated through any other action.

#### 6.3.2 Demolition Review Criteria

Some local governments, in the name of economic and community development, choose to maintain demolition as a potential outcome. In these cases, strict guidance should be included in the ordinance that clearly defines the circumstances under which demolition can be considered and the conditions that must be met for approval. Demolition approval should be based on a thorough examination that concludes that no other feasible alternative is available.

Another option is to provide for a stay of demolition for a stated amount of time. This period allows the owners, Commission, and other interested parties to seek alternatives up to and including sale to a new owner who wishes to preserve the property.

#### 6.3.3 Demolition Review Process

Demolition review should take place in front of the Commission in a public meeting. The decision as to whether or not a demolition is allowable or a stay of demolition is appropriate should rest with the Commission in order to allow for the City Council to hear appeals. An appeal process should be clearly stated in the ordinance. A reasonable timeline should be established for each step in the process so that an applicant will know the length of time required from submission to approval or denial of a demolition application.



# Should demolition of a historic resource be permissible?

Pros	Cons
❖ <i>Demolition may be necessary if the historic resource has been determined conclusively to be a threat to public health and safety that cannot otherwise be mitigated.</i>	❖ <i>Demolition never meets the Secretary of the Interior's Standards for the Treatment of Historic Properties.</i>
❖ <i>Ordinances can be written to allow demolition only in extreme circumstances.</i>	❖ <i>Demolition is permanent.</i>
❖ <i>Ordinances can also provide for a stay of demolition to allow parties time to come up with an alternative.</i>	❖ <i>Demolition of one property may infer to property owners that demolition is a viable option.</i>

## 6.4 Exemption

### 6.4.1 Exemption Review

Any Commission enforcing design review should have a process of exemption. However, no exemption should be allowed until an application for alteration, relocation, or demolition has been heard and denied.

### 6.4.2 Exemption Criteria

Exemptions from compliance on alteration, relocation, or demolition should be based on the following:

- Structural soundness
- Economic feasibility
- Potential rate of return
- Potential use

However, consideration of these items should not be based on the owner's preferred use, but on any and all reasonable use of the property. In addition, previous or current actions of the owner that lessen value, increase costs, or decrease re-use potential of the property should not be allowed to provide the basis of a hardship exemption.

### 6.4.3 Exemption Review Process

Exemption review should generally take place in front of the Commission in a public meeting. The decision as to whether or not an exemption is granted should rest with the Commission in order to allow for the City Council to hear appeals. An appeal process should be clearly stated in the ordinance. A reasonable timeline should also be established for each step in the process so that an applicant will know the length of time required from submission to approval or denial of an exemption application.

## 6.5 Non-Designated Properties Greater than 50 Years Old

As historic resource surveys take time to complete, owners may propose actions on properties that have not been researched or evaluated to determine if that property may be eligible for designation. In order to protect properties of unknown status, some Commissions require that an owner seeking a permit for alteration, relocation, or demolition of a property that is over 50 years old and has not previously been reviewed for eligibility, be reviewed for eligibility before a permit is issued. Should the property be determined eligible for listing and the proposed action does not meet the *Secretary of the Interior's*

*Standards for the Treatment of Historic Properties*, a stay will be placed on that action for a specified period in order to allow a nomination to be put forward by any interested parties or to assist the property owner in determining alternatives to the proposed action.

## ***Should an owner seeking a permit for alteration, relocation, or demolition of a never reviewed 50+ year old property be required to submit the property for eligibility review before a permit is issued?***

<i>Pros</i>	<i>Cons</i>
❖ <i>Protects properties of unknown status.</i>	❖ <i>Places additional, and perhaps unwanted, burden on the property owner.</i>
❖ <i>Gives the local government and the owner the time to consider what is best for the entire community.</i>	❖ <i>Property owners may be particularly unreceptive and uncooperative to ordinance obligations and regulations if property is designated over their objection.</i>
❖ <i>Allows Commission, Staff, and other interested parties to research alternatives and discuss with owner.</i>	❖ <i>Volume may create an unwieldy burden on Commission and Staff.</i>

## **7. Maintenance**

At one time or another, most local governments will experience a situation where an owner either unintentionally or intentionally lets a historic property deteriorate over time. This issue may exist because of a lack of understanding of needed repairs or an inability to complete the repairs. In other cases, the issue arises because the owner wants the condition of the property to decline in order to lose integrity and/or become eligible for an exemption for an alteration or demolition certificate.

To discourage demolition by neglect, an ordinance may include a minimum maintenance clause. Such language should be reasonable as to address only significant deterioration. Enforcement can take the form of fines, orders to repair, repair by City with cost billed to owner, or action taken in court of law. If such a clause is included, the local government must not be allowed to take any remedial actions before providing the owner both notification and a reasonable amount of time to correct the issue of concern.

## ***Should an ordinance include a minimum maintenance clause?***

<i>Pros</i>	<i>Cons</i>
❖ <i>Prevents intentional and unintentional deterioration of a historic property.</i>	❖ <i>Places additional, and perhaps</i>
❖ <i>Provides for education of the property owner on treatment options such as information provided through National Park Service Preservation Briefs.<sup>13</sup></i>	❖ <i>Additional governmental resources required to monitor and enforce.</i>
❖ <i>Ordinances will provide for notification and time for the property owner to correct any issue.</i>	

<sup>13</sup> The National Park Service's Preservation Briefs recommend methods and approaches for rehabilitating historic buildings that are consistent with their historic character. The briefs are available online at <https://www.nps.gov/tps/how-to-preserve/briefs.htm>

## 8. Unsafe or Dangerous Conditions

Ordinances should include a statement clarifying that none of the processes provided in the ordinance shall prevent any immediate actions by a property owner determined necessary by City building officials to correct any unsafe or dangerous condition(s).

## 9. Enforcement and Penalties

Each local government must determine what level of enforcement is appropriate in their jurisdiction. In many cases, municipal or county code may include a general enforcement and penalty section that details notification procedures, maximum fine amounts, delinquency policies, and judicial actions. In such cases, a preservation ordinance may reference and adhere to the terms of that code. If such a code does not exist and this category of penalties is desired, they should be included in this section.

In cases involving property, placement of liens may be included. If other land use codes do not include lien procedures, such language, if desired, should be included in this section.

## 10. Incentives

Local governments should consider the potential of providing incentives for historic preservation in addition to those provided by the State and Federal Governments. For those that do, some choose to include them in the preservation ordinance while others prefer to simply include a statement that allows for incentives to be developed at any time by separate ordinance.

Type of incentives may include:

- Property tax rebates
- Permit fee rebates
- Building code for existing buildings
- Code variances
- Revolving loan funds
- Rehabilitation grant programs

## 11. Model Documents

### 11.1 Introduction to Models

While Federal and State laws provide the authority and general framework for local preservation ordinances, each Colorado community has the latitude to tailor its ordinance to its specific community and its civic plans and goals. Three model ordinances are provided to assist each community in developing an ordinance that aligns with its unique vision and desired outcomes. A basic ordinance is followed by two additional examples demonstrating how this model may be modified to allow for differing levels of program management. Also included are an example of Commission By-laws and an Intergovernmental Agreement. These examples are just that – examples – and each community should adjust these models to fit the culture of their county or municipality.

#### Basic Preservation Ordinance

The Basic Preservation Ordinance provides a structured system that forms a strong, concise basis for a local preservation program. This version includes all the items required by the CLG program plus a few items that strengthen the ordinance and expand the preservation program. These items include definitions of terms used, expanded Commission requirements, non-owner designation, mandatory compliance with alteration, relocation and demolition reviews, hardship exemptions, minimum maintenance, enforcement, and potential for local incentives.

#### Limited Preservation Ordinance

The Limited Preservation Ordinance includes only the minimum items required by the CLG program. This version allows for designation of historic resources with limited protection and oversight.

#### Expanded Preservation Ordinance

The Expanded Preservation Ordinance offers a number of additional items to make a local program more comprehensive. These include a heritage tourism duty and Section 106 participation by the Commission, expanded descriptions of eligibility and integrity criteria, comprehensive criteria for exemption certificates, review of alterations of non-designated properties greater than 50 years old, ability for the City to mitigate maintenance issues, detailed enforcement program, and structured incentive programs.

#### By-Laws

By-laws are an important tool for an effectively operating Commission. Many operational items are not appropriate for an ordinance but need definition for both the commissioners and the public at large. By-laws should address items such as format for officer election, meeting schedule, agendas and minutes, structure for public hearings, committees, and allowance of administrative review.

#### Intergovernmental Agreements

Many opportunities arise where an intergovernmental agreement allows for the Commission to accomplish its goals. While it may be used for a cooperative county/municipal Commission, it may also allow for cooperation with a school, water, recreation, library, or other special district. While some measure of authority is being transferred, participation by both parties in future actions is essential. The details are extremely important to ensure that action undertaken through such an agreement is clear and structured to avoid conflict and ensure that all parties benefit from such agreement.

## 11.2. Model Ordinances

### 11.2.1 History Colorado Model CLG Preservation Ordinance – Basic

#### Section 1. General

1. Purpose. The purpose of this ordinance is to enhance our community's local resources and to promote the public health, safety, and welfare through:
  - a. The protection and preservation of the City's architecture, culture, and heritage as embodied in Historic Properties and Historic Districts, by appropriate regulations and incentives;
  - b. The enhancement of Property values and the stabilization of historic neighborhoods;
  - c. The establishment of the City's Historic Register listing Historic Properties and Historic Districts;
  - d. The cultivation of civic pride in the art, architecture, and accomplishments of the past;
  - e. The encouragement of continued private ownership and utilization of such Historic Properties or Historic Districts now so owned and used;
  - f. The promotion of thoughtful community planning and design;
  - g. The maintenance and improvement of economic and financial benefits through the protection of attractions that bring tourists and visitors to the City; and
  - h. The provision of educational opportunities to increase public appreciation of the City's unique heritage.
2. Intent. The intention of this ordinance is to create a reasonable balance between private property rights and the public interest in preserving the City's unique historic character through the nomination of Buildings, Structures, Sites, Objects, and districts for preservation.
3. Definitions. For purposes of this ordinance, the following terms are to be defined as follows:
  - a. **Alteration or Alter** – Any act or process that changes one (1) or more of the exterior architectural or landscape features of a Building, Structure, Site, Object, or district.
  - b. **Applicant** – Person or persons submitting nomination or Alteration paperwork.
  - c. **Building** – A shelter or enclosure Constructed for persons, animals, or chattels.
  - d. **Building Code** – The [Building Code].
  - e. **Building Official** – The officer or other designated authority charged with the administration and enforcement of the Building Code, or that person's authorized representative.
  - f. **Certificate of Appropriateness** – Certificate issued by the Commission authorizing any proposed repair, restoration, Alteration, Construction, Relocation, or Demolition of a Historic Property or element within a Historic District pursuant to this ordinance.
  - g. **Certificate of Economic Hardship** – A certificate issued by the Commission authorizing the repair, restoration, Alteration, Construction, Relocation, or Demolition of a designated Building, Structure, Object, Site, or element within a designated Historic District in accordance with the provisions of this ordinance, even though a Certificate of Appropriateness has previously been denied.
  - h. **City** – City of [\_\_\_\_\_].
  - i. **City Council** – The council of the City.
  - j. **City's Historic Register** – The register established pursuant to Section 3 of this ordinance.
  - k. **Code** – The [City Code/Municipal Code].
  - l. **Colorado State Register of Historic Properties** – The official listing of state designated cultural resources.
  - m. **Commission** – The Historic Preservation Commission established pursuant to Section 2 of this ordinance.
  - n. **Compatible or Compatibility** – Consistent or harmonious with location, design, setting, materials, workmanship, feeling, or association of an individual Building, Structure, Object, or Site or of surrounding Properties.



- o. **Construction or Construct** – Act of erecting an addition to an existing Building, Structure, or Object or the erection of a new principal or accessory Building, Structure, or Object on a lot or Property.
- p. **Contributing Property** – A Building, Structure, Site, or Object that reflects the historic or architectural character within a Historic District.
- q. **Demolition or Demolish** – Any act or process that destroys in part or in whole a Building, Structure, Object, or Site.
- r. **Design Guidelines** – A standard of appropriate activity that will preserve the historic and architectural character of a Historic Property, Property, or Historic District.
- s. **Historic District** – Meaning as set forth in Section 3 of this ordinance.
- t. **Historic Property** – A Building, Structure, Site, or Object which is designated by the City Council pursuant to this ordinance.
- u. **Historic Significance** – The meaning or value ascribed to a Building, Structure, Object, Site, or district based on criteria for evaluation as defined by Section 3 below.
- v. **Infill** – Construction on vacant or under-used parcels within existing areas that are largely developed.
- w. **Integrity** – The ability of a property to convey its Historic Significance through its physical features.
- x. **Inventory** – Catalog of Buildings, Structures, Objects, and Sites within the City, listed, eligible for listing, or non-eligible for listing in the City’s Historic Register.
- y. **Maintenance** – All activities necessary to prolong the useful life and aesthetic appearance of a Property.
- z. **National Register of Historic Places** – The list of significant Buildings, Structures, Sites, Objects, or districts in American history, architecture, archaeology, engineering, or culture maintained by the U.S. Secretary of the Interior.
- aa. **Non-Contributing Property** – A Building, Structure, Object, or Site that does not reflect the historic or architectural character within a Historic District because of age or lack of Integrity.
- bb. **Object** – A material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
- cc. **Period of Significance** – Span of time during which significant events and activities occurred.
- dd. **Owner** – The person, corporation, government, or other legal entity who owns or who has any legal or equitable interest in Property and who is so listed as Owner on the records of the [County Name] County Assessor's Office.
- ee. **Property** – A Building, Structure, Site, or Object.
- ff. **Relocation or Relocate** – Moving a Building, Structure, or Object to a different location, either temporarily or permanently.
- gg. **Secretary** – The secretary of the Commission.
- hh. **Secretary of the Interior’s Standards for the Treatment of Historic Properties** – The preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior.
- ii. **Section 106 Review** – Process required of federal agencies under 54 U.S.C. 306108 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.
- jj. **Site** – Location of a significant event; a prehistoric or historic occupation or activity; or a Building, Structure, or Object, whether standing or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing Building, Structure, or Object.
- kk. **Structure** – A Construction for purposes other than shelter for humans, animals, or chattel (such as a road, bridge, canal, or fence).

## **Section 2. Historic Preservation Commission**

1. Creation. There is hereby established a Historic Preservation Commission, which shall be appointed by the City Council, and hereinafter referred to as the "Commission."
2. Composition
  - a. The Commission shall be composed of five voting members, all of whom have demonstrated interest in, competence with or knowledge of preservation.
  - b. At least 60% of the members shall be residents of the City.
  - c. At least 40% of the members shall be professionals or shall have extensive expertise in a preservation-related discipline, including but not limited to History, Architecture, Landscape Architecture, American Studies, American Civilization, Cultural Geography, Cultural Anthropology, Planning, or Archaeology.
3. Term of Office
  - a. Members shall serve three year staggered terms from the date of their appointment; provided, however, that the initial appointment to the Commission shall consist of one appointment of a term of one year, two appointments of a term of two years, and two appointments of a term of three years.
  - b. Members may continue to serve until their successors have been appointed.
4. Officers. The Commission shall, by majority vote, elect one of its members to serve as chairperson to preside over the Commission's meetings, one member to serve as the vice-chairperson and one member to serve as Secretary. The members so designated shall serve in these capacities for terms of one year.
5. Quorum and Voting. A quorum for the Commission shall consist of a majority or 51% of the members. A quorum is necessary for the Commission to conduct business, including holding a public hearing. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed a denial of the motion or recommended action.
6. Compensation. All members of the Commission shall serve without compensation except for such amounts determined appropriate, in advance, by the City Council to offset expenses incurred in the performance of their duties.
7. Powers and Duties. The Commission shall:
  - a. Conduct surveys and create Inventories of Properties and areas for the purpose of defining those of Historic Significance.
  - b. Review and determine qualifications of Buildings, Structures, Objects, Sites, and districts nominated for designation and recommend that the City Council designate by ordinance such Buildings, Structures, Objects, Sites, or districts qualifying for such designation.
  - c. Recommend to the City Council the establishment of Construction and Design Guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to Alter, Relocate, or Demolish Historic Properties.
  - d. Review and make recommendations on any application for Alteration, Relocation, or Demolition of a Historic Property or Historic District or planning and design project that may affect the character or Integrity of the Historic Property or Historic District.
  - e. Participate in review of National Register of Historic Places nominations.
  - f. Advise and assist Owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the City's Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
  - g. Develop and assist in public education programs on history, archaeology, and historic preservation.
  - h. Advise the City Council on matters related to preserving the historic character and substance of the City and recommend easements, covenants, licenses, and other methods which will implement the completion of the purposes of this ordinance.
  - i. Participate in Federal Section 106 Review as requested by City Council or Staff.
  - j. Actively pursue financial assistance for preservation-related programs.

- k. Draft and recommend for adoption by the City Council such by-laws, operating policies and other rules of procedure as the Commission may deem appropriate.
- 8. Meetings
  - a. The Commission shall establish a regular meeting schedule with no less than four scheduled meetings per fiscal year.
  - b. Minutes shall be kept of all Commission proceedings.
  - c. All meetings of the Commission shall be open to the public.
- 9. Vacancies. Appointments to fill vacancies on the Commission shall be made by the City Council in the same manner as regular appointments.
- 10. Removal. Members of the Commission may be removed by the City Council with just cause.

**Section 3. Establishment of City Register and Designation Criteria**

- 1. The City Council hereby establishes [Name of Municipality or County] Register of Historic Places (the "City's Historic Register").
  - a. Properties or districts may be listed in the City's Historic Register only if such Property or district has been so designated pursuant to this ordinance.
  - b. All Properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the City's Historic Register but are not designated until approval, pursuant to this ordinance, is obtained.
- 2. Eligibility Criteria
  - a. Properties or districts shall be at least fifty years old and meet one or more of the following criteria in order to be considered for designation:
    - i. Association with events that have made a significant contribution to history;
    - ii. Connection with persons significant in history;
    - iii. Distinctive characteristics of a type, period, method of Construction, or artisan;
    - iv. Geographic importance; and/or
    - v. Possibility to yield important information related to prehistory or history.
  - b. A Property or district may be exempted from the age standard if the City Council finds it to be exceptionally important in other criteria.
- 3. Integrity Criteria
 

All Properties and districts shall be evaluated for their physical Integrity using the following criteria:

  - a. Location
  - b. Design
  - c. Setting
  - d. Materials
  - e. Workmanship
  - f. Feeling
  - g. Association
- 4. Historic Districts
  - a. A "Historic District" is a geographically definable area including a concentration, linkage, or continuity of Properties within a specified Period of Significance and may include within its geographic boundaries one or more Contributing Properties, which has been designated by the City Council pursuant to this ordinance.
  - b. A Historic District is related by a pattern of either physical elements or social activities. Historic Significance is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).
  - c. Historic District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in Property type, density, or Integrity.
  - d. Properties that do not contribute to the Historic Significance of the Historic District may be included within its boundaries.

#### **Section 4. Designation Procedure**

##### **1. Nomination and Application**

- a. Applications shall be submitted to the [Community Development Department, Planning Department, City Clerk] for consideration on a form provided by the Commission.
- b. A nomination for listing in the City's Historic Register may be made:
  - i. By the Owner or Owners of the Property or Properties to be designated;
  - ii. By a member or members of the Commission;
  - iii. By a member or members of City Council; and/or
  - iv. By non-Owners of the Property or Properties to be designated, in which case the Applicant must be a resident or Owner of Property in the City, or have a place of business in the City.
- c. Where nominated by someone other than the Property Owner or less than all of the Property Owners in a district nominated for designation, the City or at least one member of the Commission shall contact the Owner or Owners of such Property or Properties nominated for designation in writing, outlining the reasons and effects of listing in the City's Historic Register within 30 days of receipt of nomination.
- d. Applications determined incomplete shall be returned to the Applicant within 30 days with a request for additional information.
- e. Applications for a district nomination shall not be complete if more than 25% of the Property Owners within the proposed district oppose the nomination in writing or through ballot prepared and administered by the City.

##### **2. Designation Hearing**

- a. Within 45 days after an application is determined complete, or within a time frame agreed upon by the Applicant and the City, a public hearing shall be held by the Commission.
  - i. The Secretary shall provide notice of the date, time, and location of the public hearing to the Applicant, the Owner or Owners of record, the Owners of adjacent properties and, if known, to other persons having a legal or equitable interest in the Properties or district nominated for designation at least 10 days prior to the hearing.
  - ii. A legal notice indicating the nature of the hearing, the Property involved, and the time, date, and place of the scheduled public hearing, shall be published in the City's publication of record at least 10 days prior to the hearing.
  - iii. The notice shall be posted at the Property's physical location at least 10 days prior to the hearing.
- b. A hearing may be continued. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case shall a hearing be continued more than 30 days without the express consent of the Applicant.
- c. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation. However, nothing contained in this ordinance shall be construed to prevent the Commission from establishing reasonable rules to govern the proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.
- d. Transcripts of the hearings are not required; however, the Commission's records shall include the name and address of each speaker; the organization or person the speaker represents, if any; whether or not the speaker is an Owner or holder of some interest in the Property or district nominated for designation, or represents such Owner or holder; and a summary of the relevant portions of each statement. Written reports and presentations shall be incorporated into the record of the hearing.

3. Commission Review

- a. The Commission shall review the application for conformance with the established criteria for designation and with the purposes of this ordinance.
- b. The Commission shall recommend:
  - i. Approval;
  - ii. Approval with conditions; or
  - iii. Denial of the application.

The Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.

- c. If the Commission approves an application or approves an application with conditions, the Commission shall forward the application with a copy of its report and findings of approval to the City Council.
- d. If the Commission denies the application, the Commission must notify, in writing, the City Council and the Applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
- e. The Commission may issue an order continuing the nomination process if the Commission finds that additional information is necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the Applicant.

4. City Council Proceedings

- a. Within 30 days after receipt of the Commission's approval of an application, the City Council shall hold a public hearing to consider adopting by ordinance those properties qualifying for designation. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities assigned therein to the Secretary.
  - b. The City Council shall review the application for conformance with this ordinance.
  - c. The City Council shall, by ordinance, approve, approve with conditions, or deny the proposed application and shall issue written findings based on the Commission's recommendations.
  - d. The City shall provide a copy of the results of the City Council's final action to the Applicant/Applicants, all Owners of record, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same.
5. Recording of Designation. Within 30 days of the effective date of an ordinance designating a Historic Property or Historic District for preservation, the City shall record the ordinance with the clerk and recorder of [name of county] County.
6. Records. The City shall maintain a current record of all Historic Properties and Historic Districts and pending designations.
7. Limitation on Resubmission and Reconsideration of Proposed Designation. Whenever the Commission or the City Council denies a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the denied application unless the Commission or City Council has denied based on a request for additional information.
8. Appeal of Commission's Denial of Application
- a. Applicant(s) and/or Owner(s) shall have the right to appeal such decision to the City Council by filing a written notice within 15 days after the date of receipt of the Commission's denial. Such written notice shall specify the factual and legal basis for the appeal.
  - b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the Applicant(s) and/or Owner(s) and the City, a public hearing shall be held by the City Council.



- c. Notice of the City Council’s consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities of the Secretary.
  - d. The City Council may consider only the notice of appeal, the Commission’s reasons for denial of the application, and the comments related thereto made during the Commission hearing.
  - e. If the City Council finds the Commission’s denial of the application was based on incorrect information, or there is shown to be newly discovered information not available at the time the application was submitted to the Commission, and if the correct or newly discovered information could, in the opinion of the City Council, change the Commission’s denial of said application, then the entire matter shall be remanded by the City Council to the Commission for its consideration.
  - f. The decision of the City Council shall be final.
9. Amendment of Designation
- a. Designation of a Historic Property or Historic District may be amended to add features or Properties to such Historic Property or Historic District under the procedures prescribed hereinabove.
  - b. Upon the Commission’s decision to amend a designation, the Commission shall promptly notify the Owners of the Historic Property and the City shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the amendment, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.
10. Revocation of Designation
- a. If a Historic Property or Historic District has been Altered to a degree that it no longer retains its historic Integrity, the Owner may apply to the Commission for a revocation of the designation or the Commission shall recommend revocation of the designation to the City Council in the absence of the Owner’s application to do so. The revocation application shall be reviewed under the same procedures described hereinabove.
  - b. Upon the Commission’s decision to revoke a designation, the Commission shall promptly notify the Owners of the Historic Property or Historic District and the City shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the revocation, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.

**Section 5. Alterations to Listed Properties and Historic Districts**

1. Requirements
- a. Before carrying out any new Construction, Alteration, Relocation, or Demolition involving the exterior of any Historic Property or Property within a Historic District (including Non-Contributing Properties) such Owner(s) must first submit the proposed work to the Commission under this Section, as well as apply for any other permits required by Code.
  - b. The City shall review any building permit application received to determine whether the Property is a listed Historic Property or located in a Historic District and if so, if the Applicant has completed review by the Commission as required by this Section. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the City shall process it without further action. If no Certificate of Appropriateness has been issued or if the City determines that the permit application does not conform to such, the City shall not approve the permit application and shall not issue a permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto.
  - c. No person shall receive a building permit to Construct, Alter, remove, or Demolish any Building, Structure, Object, or other feature on a Site or element of a district nominated for designation after an application has been filed to initiate the designation of such Property or district. No such building permit shall be approved while proceedings are pending on such designation.

2. Application
  - a. A request for Alteration shall be initiated by the Owner(s). Such application shall be submitted to the City for consideration on a form provided by the Commission. The application shall include anything the City deems necessary, including, without limitation and as applicable, a description of the type of work proposed and its effect or impact upon the Historic Property or Historic District and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail.
  - b. If the City determines the application is complete, the City shall promptly refer the application to the Commission. If the City determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal.
3. Alteration Hearing. Within 45 days after an application is determined complete by the City, or within a time frame agreed upon by the Applicant and the City, a public hearing shall be held by the Commission. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a) – (d).
4. Review Criteria
  - a. Compliance with any Design Guidelines adopted by the City and the Secretary of the Interior’s Standards for the Treatment of Historic Properties.
  - b. For Non-Contributing Properties within a Historic District:
    - i. Compatibility with the Property’s current design, materials, features, size, scale and proportion, and massing; or
    - ii. Compatibility with the Historic District’s design, materials, features, size, scale and proportion, and massing.
  - c. Infill Construction within Historic Districts shall be differentiated from the Historic Properties but be Compatible with the historic materials, features, size, scale and proportion, and massing to protect the Integrity of the Historic District and its environment.
5. Commission Review
  - a. The Commission shall:
    - i. Approve;
    - ii. Approve with conditions; or
    - iii. Deny the application.

The Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.
  - b. If the Commission approves or approves the application with conditions, the Commission shall issue and send a Certificate of Appropriateness to the Applicant, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days. If approved with conditions, such conditions shall be stated in writing in the Certificate of Appropriateness.
  - c. If the Commission denies the application, the Commission shall deny a Certificate of Appropriateness and notify, in writing, the Applicant, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
  - d. The Commission may issue an order continuing the Alteration application process if the Commission finds that additional information is necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the Applicant.
  - e. The Applicant may resubmit an amended application or reapply for a building permit that takes into consideration the recommendations of the Commission, or appeal the denial to the City Council.

- f. If an application for a Certificate of Appropriateness is denied, no person may submit a subsequent application for the same Alteration or Construction within one year from the date of the final action upon the earlier application.
6. Appeal of Denial of Certificate of Appropriateness
- a. If a Certificate of Appropriateness is denied by the Commission, the Applicant may appeal the denial to the City Council by filing a written notice with the City Clerk within 15 days after receipt of the Commission's denial.
  - b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the Applicant and the City, a public hearing shall be held by the City Council.
  - c. Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities of the Secretary.
  - d. The City Council shall consider the notice of appeal, the Commission's reasons for denial of the application, the comments related thereto made during the Commission hearing, and any evidence (including new evidence) it deems relevant to the application.
  - e. The City Council shall apply the criteria in Section 5, Subsection 4 in making its decision.
  - f. The decision of the City Council shall be final.

**Section 6. Relocation of Listed Properties**

1. General
- a. In addition to the criteria and procedures in Section 5, the Commission will use the criteria of this Section in considering applications for Relocating a Historic Property or Contributing Property in a Historic District within or outside of a designated Site or Historic District or Relocating a Property onto a designated Site or Historic District.
  - b. Applicants for Relocation shall provide:
    - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation on site, and of Relocation and rehabilitation;
    - ii. An engineer's or architect's report as to structural soundness;
    - iii. A professionally prepared estimate of the Property's market value in its current location and current condition, of the market value of the Property rehabbed on its current site, and of the site after Relocation of the Property; and
    - iv. Professionally prepared site plan and construction documents for the current site.
2. Review Criteria
- a. For consideration of the original Property and site, the Commission will review for the following criteria:
    - i. The Property cannot be preserved, restored, rehabbed or reused on its current site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
    - ii. And
      - 1. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the Building, Structure, or Object proposed for Relocation;
      - 2. If the Property can be Relocated without significant damage to its physical Integrity; and
      - 3. Whether plans are specifically defined for the site to be vacated, and have been determined to meet all other City codes and ordinances.
  - b. For consideration of the new location, the Commission will review for compliance with all of the following criteria:
    - i. Whether the Building, Structure, or Object is Compatible with its proposed site and adjacent Properties; and if the receiving site is Compatible in nature with the Building, Structure, or Object proposed to be moved;

- ii. The Building, Structure, or Object’s architectural Integrity and its consistency with the character of the neighborhood of the receiving site;
- iii. Whether the Relocation of the Building, Structure, or Object will diminish the Integrity or character of the neighborhood of the receiving site; and
- iv. If a Relocation plan has been submitted and approved by the City, including posting a bond, to ensure the safe Relocation, preservation, and repair (if required) of the Property and site preparation and infrastructure connections as described in the Code.

**Section 7. Demolition of Listed Properties**

1. General

- a. In addition to the criteria and procedures in Section 5, the Commission will use the criteria of this Section in considering applications for Demolition of Historic Properties and Contributing Properties in a Historic District.
- b. Applicants for Demolition shall provide:
  - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation, and of Demolition;
  - ii. An engineer’s or architect’s report as to structural soundness; and
  - iii. Professionally prepared estimates of the Property’s market value in its current condition, as rehabbed and after Demolition.
- c. If a Demolition approval is granted on any basis other than that of an imminent hazard or economic hardship (See Section 8), a Certificate of Appropriateness will not be issued until a replacement/reuse plan for the Property has been approved by the City.

2. Review Criteria for Total Demolition. Applicants requesting a Certificate of Appropriateness for total Demolition must provide data to clearly demonstrate all of the following criteria:

- a. The Property proposed for Demolition is not structurally sound, despite evidence of the Owner’s efforts to properly maintain said Building, Structure, or Object;
- b. The Property cannot be preserved, restored, rehabbed, or reused on site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property’s site or adjacent Properties;
- c. The Property cannot be practically moved to another site in the City; and
- d. The Applicant demonstrates that the proposal mitigates, to the greatest extent practical, all the following:
  - i. Any impacts that occur to the visual character of the neighborhood where Demolition is proposed to occur;
  - ii. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties;
  - iii. Any impact to the Integrity of Buildings, Structures, or Objects located on the Property and adjacent Properties; and
  - iv. Any impact to archaeological deposits or ruins or the potential to access such resources and whether information can be recovered as part of the Demolition process.

3. Review Criteria for Partial Demolition. Applicants requesting a Certificate of Appropriateness for partial Demolition must provide data to clearly demonstrate all of the following criteria:

- a. The partial Demolition is required for the preservation, restoration, or rehabilitation of the Property; and
- b. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
  - i. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties; and
  - ii. Any impact on the Integrity of the Buildings, Structures, or Objects located on the Property and adjacent Properties.

## **Section 8. Alteration Exemptions**

### **1. General**

- a. If an application for a Certificate of Appropriateness is denied, the Applicant may request an exemption from such certificate requirement pursuant to this Section.
- b. A request for exemption shall be initiated by the Owner(s). Such application shall be submitted to the City for consideration on a form provided by the Commission. The Applicant shall have the burden of proof to establish hardship.
- c. The Commission may request additional information from the Applicant as necessary to make informed decisions according to the applicable criteria for decision-making.
- d. If the City determines the application is complete, the City shall promptly refer the application to the Commission. If the City determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal.
- e. Certificate of Appropriateness exemptions are granted only to the specific Owner and are not transferable.

### **2. Criteria for Exemption**

- a. **Economic Hardship.** The following factors, evidence, and testimony are to be considered:
  - i. The structural soundness of any Buildings or Structures on the Property and their potential for rehabilitation.
  - ii. The economic feasibility of rehabilitation or reuse of the existing Property in the case of a proposed Demolition.
  - iii. For investment or income producing Properties, the ability to obtain a reasonable rate of return on the Property in its present condition, or in a rehabbed condition pursuant to the requirements of this ordinance.
  - iv. For non-income producing Properties consisting of owner-occupied single-family dwellings and/or non-income producing institutional Properties not solely operating for profit, the ability to maintain or to convert the Property to a reasonable residential or institutional use in its present condition or in a rehabbed condition pursuant to the requirements of this ordinance or the ability to transfer the Property for a reasonable rate of return.
  - v. The consideration for economic hardship shall not include any of the following:
    1. Willful or negligent acts by the Owner;
    2. Purchase of the Property for substantially more than its market value;
    3. Failure to perform normal Maintenance and repairs;
    4. Failure to diligently solicit and retain tenants;
    5. Failure to prescribe a rental amount which is reasonable; or
    6. Failure to provide normal tenant improvements.
- b. **Undue Hardship.** An Applicant requesting an exemption based on undue hardship must show that the application of the criteria creates a situation that is substantially inadequate to meet the Applicant's needs because of specific health and/or safety issues.

### **3. Decision**

- a. If the Commission deems the criteria of this Section are met, the Commission shall issue an order of exemption and send a Certificate of Economic Hardship to the City within 30 days.
- b. If the Commission deems the criteria of this Section are not met, the Commission shall deny the exemption request and notify, in writing, the City and the Applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
- c. The Commission may issue an order continuing the exemption process for a period of not to exceed 90 days from the date of the application if the Commission would like additional information necessary to make a decision.

- d. The Applicant may resubmit an amended application, reapply for an exemption that takes into consideration the recommendations of the Commission, or appeal the denial to the City Council.
  - e. If an application for an exemption is denied, no person may submit a subsequent application within one year for the same from the date of the final action upon the earlier application.
4. Appeal for Denial of Exemption
- a. If an exemption is denied by the Commission, the Applicant may appeal the denial to the City Council by filing a written notice with the City within 15 days of the date of the receipt of the Commission's denial.
  - b. Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities of the Secretary.
  - c. The City Council shall hold a public hearing to consider the appeal, and consider any evidence (including new evidence) it deems relevant to the application.
  - d. The City Council shall apply the criteria in this Section in making its decision.
  - e. The decision of the City Council shall be final.

**Section 9. Maintenance**

- 1. The City Council intends to preserve from deliberate or inadvertent neglect the exterior portions of Historic Properties or Historic Districts and all interior portions thereof whose Maintenance is necessary to prevent deterioration of any exterior portion. No Owner, lessee, or occupant of any Historic Property or Contributing Property within a Historic District shall fail to prevent significant deterioration of the exterior of the Building, Structure, Object, or special feature beyond the condition of such Historic Property or Contributing Property within a Historic District on the effective date of the designating ordinance.
- 2. No Owner, lessee, or occupant of any Historic Property or Contributing Property within a Historic District shall fail to comply with all applicable provisions of this ordinance and other ordinances of the City regulating Maintenance.
- 3. Before the City's attorney files a complaint in municipal court for failure to maintain the Historic Property or Contributing Property within a Historic District, the City shall notify the Owner, lessee or occupant of the need to repair, maintain, or restore such Property; shall assist the Owner, lessee, or occupant in determining how to preserve such Property; and shall give the Owner, lessee, or occupant a reasonable time to perform such work.

**Section 10. Unsafe or Dangerous Conditions Exempted**

Nothing in this ordinance shall be construed to prevent any measures of Construction, Alteration, removal, or Demolition necessary to correct the unsafe or dangerous condition of any Property, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City and where the proposed measures have been declared necessary by the City to correct the condition, as long as only such work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a Certificate of Appropriateness under this ordinance, but a certificate is required for permanent Construction, Alteration, removal, or Demolition.

**Section 11. Enforcement and Penalties**

- 1. No person shall violate or permit to be violated any of the requirements of this ordinance or the terms of a certificate issued pursuant to this ordinance.
- 2. Violations of this ordinance are punishable as provided in the Code and may be subject to the following additional penalties:
  - a. If any Historic Property or Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this ordinance the Commission may order any such Property to be returned to its condition prior to such unlawful Construction, reconstruction, exterior Alteration, addition, Relocation, or Demolition. This may specifically

include ordering the reconstruction of a Property that was Demolished to replicate as closely as possible the original Property.

- b. If any Building, Structure, or Object is erected or Constructed on a Historic Property or Property within a Historic District, the Commission may order any such Building, Structure, or Object to be removed or deconstructed.
- c. Alterations to a Historic Property or Historic District without an approved Certificate of Appropriateness will result in a one-year moratorium on all building permits for the subject Property.
- d. Relocating or Demolishing a Historic Property or Property within a Historic District without an approved Certificate of Appropriateness will result in a five-year moratorium on all relocation, Demolition, or building permits for such Property and/or its original location.

**Section 12. Incentives**

1. Any Owner of a Historic Property or Contributing Property within a Historic District under this ordinance may be eligible for economic incentives for the restoration or rehabilitation of that Property as provided by the State of Colorado and such additional incentives as may be developed by the Commission or the City Council.
2. The Commission shall identify and advise the City Council regarding the implementation of economic incentives for Historic Properties. The Commission shall notify the Owners of Historic Properties of economic incentive opportunities available.
3. The Commission shall make the determination for each request regarding economic incentives.

## **11.2.2 History Colorado Model CLG Preservation Ordinance – Limited**

### **Section 1. General**

1. Purpose. The purpose of this ordinance is to enhance our community's local resources and to promote public health, safety, and welfare of the city of [ ] (City) through:
  - a. The protection and preservation of the City's architecture, culture, and heritage as embodied in designated buildings, structures, sites, objects, and districts, by appropriate regulations and incentives;
  - b. The enhancement of property values and the stabilization of historic neighborhoods; and
  - c. The establishment of the City's Historic Register listing designated buildings, structures, sites, objects, and districts.
2. Intent. The intention of this ordinance is to create a reasonable balance between private property rights and the public interest in preserving the City's unique historic character through the nomination of buildings, structures, sites, objects, and districts for preservation.

### **Section 2. Historic Preservation Commission**

1. Creation. There is hereby established a Historic Preservation Commission, which shall be appointed by the council of the city (City Council), and hereinafter referred to as the "Commission."
2. Composition. The Commission shall be composed of five voting members, all of whom have demonstrated interest in, competence with or knowledge of preservation.
3. Term of Office
  - a. Members shall serve three year staggered terms from the date of their appointment; provided, however, that the initial appointment to the Commission shall consist of one appointment of a term of one year, two appointments of a term of two years, and two appointments of a term of three years.
  - b. Members may continue to serve until their successors have been appointed.
4. Officers. The Commission shall, by majority vote, elect one of its members to serve as chairperson to preside over the Commission's meetings, one member to serve as the vice-chairperson and one member to serve as Secretary. The members so designated shall serve in these capacities for terms of one year.
5. Quorum and Voting. A quorum for the Commission shall consist of a majority or 51% of the members. A quorum is necessary for the Commission to conduct business, including holding a public hearing. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed a denial of the motion or recommended action.
6. Compensation. All members of the Commission shall serve without compensation except for such amounts determined appropriate, in advance, by the City Council to offset expenses incurred in the performance of their duties.
7. Powers and Duties. The Commission shall:
  - a. Conduct surveys and create inventories of historic sites, properties, and areas for the purpose of defining those of Historic Significance.
  - b. Review and determine qualifications of buildings, structures, sites, objects, and districts nominated for designation and recommend that the City Council designate by ordinance such buildings, structures, sites, objects, or districts qualifying for such designation.
  - c. Recommend to the City Council the establishment of construction and Design Guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to alter, relocate, or demolish designated buildings, structures, sites, objects, or districts.
  - d. Review and make recommendations on any application for alteration, relocation, or demolition of a designated building, structure, site, object, or district or planning and design project that may affect the character or integrity of the designated property or district.
  - e. Participate in review of National Register of Historic Places nominations.



- f. Advise and assist owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the City’s Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
  - g. Develop and assist in public education programs on history, archaeology, and historic preservation.
  - h. Advise the City Council on matters related to preserving the historic character of the City.
  - i. Actively pursue financial assistance for preservation-related programs.
  - j. Draft and recommend for adoption by the City Council such by-laws, operating policies, and other rules of procedure as the Commission may deem appropriate.
8. Meetings
- a. The Commission shall establish a regular meeting schedule with no less than four scheduled meetings per fiscal year.
  - b. Minutes shall be kept of all Commission proceedings.
  - c. All meetings of the Commission shall be open to the public.
9. Vacancies. Appointments to fill vacancies on the Commission shall be made by the City Council in the same manner as regular appointments.
10. Removal. Members of the Commission may be removed by the City Council with just cause.

**Section 3. Establishment of City Register and Designation Criteria**

1. The City Council hereby establishes [Name of Municipality or County] Register of Historic Places (the “City’s Historic Register”).
- a. Buildings, structures, sites, objects, hereinafter referred to as “property or properties,” or districts may be listed in the City’s Historic Register only if such property or district has been so designated pursuant to this ordinance.
  - b. All properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the City’s Historic Register but are not designated until approval, pursuant to this ordinance, is obtained.
2. Eligibility Criteria
- a. Properties or districts shall be at least fifty years old and meet one or more of the following criteria in order to be considered for designation:
    - i. Association with events that have made a significant contribution to history;
    - ii. Connection with persons significant in history;
    - iii. Distinctive characteristics of a type, period, method of construction, or artisan;
    - iv. Geographic importance; and/or
    - v. Possibility to yield important information related to prehistory or history.
  - b. A property or district may be exempted from the age standard if the City Council finds it to be exceptionally important in other criteria.
3. Integrity Criteria
- All properties and districts shall be evaluated for their physical Integrity using the following criteria:
- a. Location
  - b. Design
  - c. Setting
  - d. Materials
  - e. Workmanship
  - f. Feeling
  - g. Association
4. Historic Districts
- a. A district is a geographically definable area including a concentration, linkage, or continuity of properties within a specified period of significance. A district is related by a pattern of either physical elements or social activities. “Historic Significance” is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).

- b. District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in property type, density, or Integrity.
- c. Properties that do not contribute to the Historic Significance of the district may be included within the district boundaries.

**Section 4. Designation Procedure**

1. Nomination and Application

- a. Applications shall be submitted to the [Community Development Department, Planning Department, City Clerk] for consideration on a form provided by the Commission.
- b. A nomination for listing in the City's Historic Register may be made:
  - i. By the owner or owners of the property or properties to be designated;
  - ii. By a member or members of the Commission; and/or
  - iii. By a member or members of City Council.
- c. Where nominated by someone other than the property owner or less than all of the property owners in a district nominated for designation, the City or at least one member of the Commission shall contact the owner or owners of such property or properties nominated for designation in writing, outlining the reasons and effects of designation on the City's Historic Register within 30 days of receipt of nomination.
- d. Applications determined incomplete shall be returned to the applicant within 30 days with a request for additional information.
  - i. Applications for an individual property nomination shall not be complete without written consent of all owners of the property.
  - ii. Applications for a district nomination shall not be complete if more than 25% of the property owners within the proposed district oppose the nomination in writing or through ballot prepared and administered by the City.

2. Designation Hearing

- a. Within 45 days after an application is determined complete, or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the Commission.
  - i. The Secretary shall provide notice of the date, time, and location of the public hearing to the applicant, the owner or owners of record, the owners of adjacent properties and, if known, to other persons having a legal or equitable interest in the properties or district nominated for designation at least 10 days prior to the hearing.
  - ii. A legal notice indicating the nature of the hearing, the property involved, and the time, date, and place of the scheduled public hearing, shall be published in the City's publication of record at least 10 days prior to the hearing.
  - iii. The notice shall be posted at the property's physical location at least 10 days prior to the hearing.
- b. A hearing may be continued. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the applicant.
- c. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation.
- d. Transcripts of the hearings are not required; however, the Commission's records shall include the name and address of each speaker; the organization or person the speaker represents, if any; whether or not the speaker is an owner or holder of some interest in the property or district nominated for designation, or represents such owner or holder; and a summary of the relevant portions of each statement. Written reports and presentations shall be incorporated into the record of the hearing.

3. Commission Review

- a. The Commission shall review the application for conformance with the established criteria for designation and with the purposes of this ordinance.
- b. The Commission shall recommend:
  - i. Approval;
  - ii. Approval with conditions; or
  - iii. Denial of the application.

The Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.

- c. If the Commission approves an application or approves an application with conditions, the Commission shall forward the application with a copy of its report and findings of approval to the City Council.
  - d. If the Commission denies an application, the Commission must notify, in writing, the City Council and the applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
  - e. The Commission may issue an order continuing the nomination process if the Commission finds that additional information is necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the applicant.
4. City Council Proceedings
- a. Within 30 days after receipt of the Commission's approval of an application, the City Council shall hold a public hearing to consider adopting by ordinance those properties qualifying for designation. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities assigned therein to the Secretary.
  - b. The City Council shall review the application for conformance with this ordinance.
  - c. The City Council shall, by ordinance, approve, approve with conditions, or deny the proposed application and shall issue written findings based on the Commission's recommendations.
  - d. The City shall provide a copy of the results of the City Council's final action to the applicant/applicants, all owners of record, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same.
5. Recording of Designation. Within 30 days of the effective date of an ordinance designating a property or district for preservation, the City shall record the ordinance with the clerk and recorder of [name of county] County.
6. Records. The City shall maintain a current record of all designated properties and districts and pending designations.
7. Appeal of Commission's Denial of Application
- a. Applicant(s) and/or owner(s) shall have the right to appeal such decision to the City Council by filing a written notice within 15 days after the date of receipt of the Commission's denial. Such written notice shall specify the factual and legal basis for the appeal.
  - b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the Applicant(s) and/or owner(s) and the City, a public hearing shall be held by the City Council.
  - c. Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities of the Secretary.
  - d. The City Council may consider only the notice of appeal, the Commission's reasons for denial of the application, and the comments related thereto made during the Commission hearing.
  - e. If the City Council finds the Commission's denial of the application was based on incorrect information, or there is shown to be newly discovered information not available at the time the application was submitted to the Commission, and if the correct or newly discovered information

could, in the opinion of the City Council, change the Commission's denial of said application, then the entire matter shall be remanded by the City Council to the Commission for its consideration.

- f. The decision of the City Council shall be final.
8. Amendment of Designation
- a. Designation of a property or district may be amended to add features or properties to such property or district under the procedures prescribed hereinabove.
  - b. Upon the Commission's decision to amend a designation, the Commission shall promptly notify the owners of the property and the City shall cause to be prepared a resolution including the legal description of the affected property or district stating notice of the amendment, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.
9. Revocation of Designation
- a. If a designated property or district has been altered to a degree that it no longer retains its historic integrity, the owner may apply to the Commission for a revocation of the designation or the Commission shall recommend revocation of the designation to the City Council in the absence of the owner's application to do so. The revocation application shall be reviewed under the same procedures described hereinabove.
  - b. Upon the Commission's decision to revoke a designation, the Commission shall promptly notify the owners of the property and the City shall cause to be prepared a resolution including the legal description of the affected property stating notice of the revocation, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.

## **Section 5. Alteration, Relocation, or Demolition of Listed Properties and Districts**

1. Requirements
- a. Before carrying out any new construction, alteration, relocation, or demolition involving the exterior of any designated property or property within a district (including non-contributing properties), the property owner(s) must first submit the proposed work to the Commission under this Section, as well as apply for any other permits required by municipal code.
  - b. The City shall review any building permit application received to determine whether the property is a listed designated property or located in a designated district and if so, if the applicant has completed review by the Commission as required by this Section.
  - c. No person shall receive a building permit to construct, alter, remove or demolish any property or other feature on a site, or element of a district nominated for designation after an application has been filed to initiate the designation of such property or district. No such building permit shall be approved while proceedings are pending on such designation.
2. Application
- a. A request for alteration, relocation, or demolition shall be initiated by the property owner(s) or their representative. Such application shall be submitted to the City for consideration on a form provided by the Commission. The application should include without limitation and as applicable, a description of the type of work proposed and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail.
  - b. If the City determines the application is complete, the City shall refer the application to the Commission. If the City determines the application is incomplete, the applicant shall be advised of the reasons in writing within 30 days of submittal.
3. Alteration, Relocation, or Demolition Hearing. Within 45 days after an application is determined complete by the City, or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the Commission. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a) – (d).
4. Review Criteria. Compliance with any design guidelines adopted by the City and the *Secretary of the Interior's Standards for the Treatment of Historic Properties*.

5. Commission Review. The alteration, relocation, and demolition review process seeks to encourage maintenance, rehabilitation, additions, and construction in keeping with the *Standards* listed in Section 5, Subsection (4). However, the Commission shall only have the power to advise and make comments on the compliance of an application to these *Standards*. The Commission shall notify the applicant, the [Planning or Community Development] Director, the building official, and any other person who has requested in writing to receive the same within 30 days that the review has been satisfactorily completed.

## 11.2.3 History Colorado Model CLG Preservation Ordinance – Expanded

### Section 1. General

1. Purpose. The purpose of this ordinance is to enhance our community's local resources and to promote the public health, safety, and welfare through:
  - a. The protection and preservation of the City's architecture, culture, and heritage as embodied in Historic Properties and Historic Districts, by appropriate regulations and incentives;
  - b. The enhancement of Property values and the stabilization of historic neighborhoods;
  - c. The establishment of the City's Historic Register listing Historic Properties and Historic Districts;
  - d. The cultivation of civic pride in the art, architecture, and accomplishments of the past;
  - e. The encouragement of continued private ownership and utilization of such Historic Properties or Historic Districts now so owned and used;
  - f. The promotion of thoughtful community planning and design;
  - g. The maintenance and improvement of economic and financial benefits through the protection of attractions that bring tourists and visitors to the City; and
  - h. The provision of educational opportunities to increase public appreciation of the City's unique heritage.
2. Intent. The intention of this ordinance is to create a reasonable balance between private property rights and the public interest in preserving the City's unique historic character through the nomination of Buildings, Structures, Sites, Objects, and districts for preservation.
3. Definitions. For purposes of this ordinance, the following terms are to be defined as follows:
  - a. **Alteration or Alter** – Any act or process that changes one (1) or more of the exterior architectural or landscape features of a Building, Structure, Site, Object, or district.
  - b. **Applicant** – Person or persons submitting nomination or Alteration paperwork.
  - c. **Building** – A shelter or enclosure Constructed for persons, animals, or chattels.
  - d. **Building Code** – The [Building Code].
  - e. **Building Official** – The officer or other designated authority charged with the administration and enforcement of the Building Code, or that person's authorized representative.
  - f. **Certificate of Appropriateness** – Certificate issued by the Commission authorizing any proposed repair, restoration, Alteration, Construction, Relocation, or Demolition of a Historic Property or element within a Historic District pursuant to this ordinance.
  - g. **Certificate of Economic Hardship** – A certificate issued by the Commission authorizing the repair, restoration, Alteration, Construction, Relocation, or Demolition of a designated Building, Structure, Object, Site, or element within a designated Historic District in accordance with the provisions of this ordinance, even though a Certificate of Appropriateness has previously been denied.
  - h. **City** – City of [\_\_\_\_\_].
  - i. **City Council** – The council of the City.
  - j. **City's Historic Register** – The register established pursuant to Section 3 of this ordinance.
  - k. **Code** – The [City Code/Municipal Code].
  - l. **Colorado State Register of Historic Properties** – The official listing of state designated cultural resources.
  - m. **Commission** – The Historic Preservation Commission established pursuant to Section 2 of this ordinance.
  - n. **Compatible or Compatibility** – Consistent or harmonious with location, design, setting, materials, workmanship, feeling, or association of an individual Building, Structure, Object, or Site or of surrounding Properties.
  - o. **Construction or Construct** – Act of erecting an addition to an existing Building, Structure, or Object or the erection of a new principal or accessory Building, Structure, or Object on a lot or Property.

- p. **Contributing Property** – A Building, Structure, Site, or Object that reflects the historic or architectural character within a Historic District.
- q. **Demolition or Demolish** – Any act or process that destroys in part or in whole a Building, Structure, Object, or Site.
- r. **Design Guidelines** – A standard of appropriate activity that will preserve the historic and architectural character of a Historic Property, Property, or Historic District.
- s. **Historic District** – Meaning as set forth in Section 3 of this ordinance.
- t. **Historic Property** – A Building, Structure, Site, or Object which is designated by the City Council pursuant to this ordinance.
- u. **Historic Significance** – The meaning or value ascribed to a Building, Structure, Object, Site, or district based on criteria for evaluation as defined by Section 3 below.
- v. **Infill** – Construction on vacant or under-used parcels within existing areas that are largely developed.
- w. **Integrity** – The ability of a property to convey its Historic Significance through its physical features.
- x. **Inventory** – Catalog of Buildings, Structures, Objects, and Sites within the City, listed, eligible for listing, or non-eligible for listing in the City’s Historic Register.
- y. **Maintenance** – All activities necessary to prolong the useful life and aesthetic appearance of a Property.
- z. **National Register of Historic Places** – The list of significant Buildings, Structures, Sites, Objects, or districts in American history, architecture, archaeology, engineering, or culture maintained by the U.S. Secretary of the Interior.
- aa. **Non-Contributing Property** – A Building, Structure, Object, or Site that does not reflect the historic or architectural character within a Historic District because of age or lack of Integrity.
- bb. **Object** – A material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
- cc. **Period of Significance** – Span of time during which significant events and activities occurred.
- dd. **Owner** – The person, corporation, government, or other legal entity who owns or who has any legal or equitable interest in Property and who is so listed as Owner on the records of the [County Name] County Assessor's Office.
- ee. **Property** – A Building, Structure, Site, or Object.
- ff. **Relocation or Relocate** – Moving a Building, Structure, or Object to a different location, either temporarily or permanently.
- gg. **Secretary** – The secretary of the Commission.
- hh. **Secretary of the Interior’s Standards for the Treatment of Historic Properties** – The preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior.
- ii. **Section 106 Review** – Process required of federal agencies under 54 U.S.C. 306108 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.
- jj. **Site** – Location of a significant event; a prehistoric or historic occupation or activity; or a Building, Structure, or Object, whether standing or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing Building, Structure, or Object.
- kk. **Structure** – A Construction for purposes other than shelter for humans, animals, or chattel (such as a road, bridge, canal, fence).

**Section 2. Historic Preservation Commission**

1. Creation. There is hereby established a Historic Preservation Commission, which shall be appointed by the City Council, and hereinafter referred to as the “Commission.”

2. Composition
  - a. The Commission shall be composed of five voting members, all of whom have demonstrated interest in, competence with, or knowledge of preservation.
  - b. At least 60% of the members shall be residents of the City.
  - c. At least 40% of the members shall be professionals or shall have extensive expertise in a preservation-related discipline, including but not limited to History, Architecture, Landscape Architecture, American Studies, American Civilization, Cultural Geography, Cultural Anthropology, Planning, or Archaeology.
2. Term of Office
  - a. Members shall serve three year staggered terms from the date of their appointment; provided, however, that the initial appointment to the Commission shall consist of one appointment of a term of one year, two appointments of a term of two years, and two appointments of a term of three years.
  - b. Members may continue to serve until their successors have been appointed.
4. Officers. The Commission shall, by majority vote, elect one of its members to serve as chairperson to preside over the Commission's meetings, one member to serve as the vice-chairperson, and one member to serve as Secretary. The members so designated shall serve in these capacities for terms of one year.
5. Quorum and Voting. A quorum for the Commission shall consist of a majority or 51% of the members. A quorum is necessary for the Commission to conduct business, including holding a public hearing. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed a denial of the motion or recommended action.
6. Compensation. All members of the Commission shall serve without compensation except for such amounts determined appropriate, in advance, by the City Council to offset expenses incurred in the performance of their duties.
7. Powers and Duties. The Commission shall:
  - a. Conduct surveys and create inventories of Properties and areas for the purpose of defining those of Historic Significance.
  - b. Review and determine qualifications of Buildings, Structures, Objects, Sites, and districts nominated for designation and recommend that the City Council designate by ordinance such Buildings, Structures, Objects, Sites, or districts qualifying for such designation.
  - c. Recommend to the City Council the establishment of Construction and Design Guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to Alter, Relocate, or Demolish Historic Properties.
  - d. Review and make recommendations on any application for Alteration, Relocation, or Demolition of a Historic Property or Historic District or planning and design project that may affect the character or Integrity of the Historic Property or Historic District.
  - e. Participate in review of National Register of Historic Places nominations.
  - f. Advise and assist Owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the City's Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
  - g. Develop and assist in public education programs on history, archaeology, and historic preservation.
  - h. Advise the City Council on matters related to preserving the historic character and substance of the City and recommend easements, covenants, licenses, and other methods which will implement the completion of the purposes of this ordinance.
  - i. Participate in Federal Section 106 Review as requested by City Council or Staff.
  - j. Actively pursue financial assistance for preservation-related programs.
  - k. Draft and recommend for adoption by the City Council such by-laws, operating policies and other rules of procedure, as the Commission may deem appropriate.



8. Meetings
  - a. The Commission shall establish a regular meeting schedule with no less than four scheduled meetings per fiscal year.
  - b. Minutes shall be kept of all Commission proceedings.
  - c. All meetings of the Commission shall be open to the public.
9. Vacancies. Appointments to fill vacancies on the Commission shall be made by the City Council in the same manner as regular appointments.
10. Removal. Members of the Commission may be removed by the City Council with just cause.

**Section 3. Establishment of City Register and Designation Criteria**

1. The City Council hereby establishes [Name of Municipality or County] Register of Historic Places (the "City's Historic Register").
  - a. Properties or districts may be listed in the City's Historic Register only if such Property or district has been so designated pursuant to this ordinance.
  - b. All Properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the City's Historic Register but are not designated until approval, pursuant to this ordinance, is obtained.
2. Eligibility Criteria
  - a. Properties or districts shall be at least fifty years old and meet one or more of the following criteria in order to be considered for designation:
    - i. Association with events that have made a significant contribution to history.
      1. Is a Site of a historic event that had an effect upon society; or
      2. Exemplifies cultural, political, economic, or ethnic heritage of the City.
    - ii. Connection with persons significant in history.
    - iii. Distinctive characteristics of a type, period, method of Construction, or artisan.
      1. Exemplifies specific elements of an architectural style or period;
      2. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
      3. Demonstrates superior craftsmanship or high artistic value;
      4. Represents a style that is particular to the City;
      5. Represents an innovation in Construction, materials, or design; or
      6. Represents a built environment of a group of people in an era of history.
    - iv. Geographic importance.
      1. Enhances the sense of identity of the City or community; or
      2. Is an established and familiar natural setting or visual feature of the City or community.
    - v. Possibility to yield important information related to prehistory or history.
      1. Addresses research questions or fills recognized data gaps;
      2. Embodies construction, development, or design adaptations; or
      3. Informs on the development of engineering systems.
  - b. A Property or district may be exempted from the age standard if the City Council finds it to be exceptionally important in other criteria.
3. Integrity Criteria
 

All Properties and districts shall be evaluated for their physical Integrity using the following criteria:

  - a. Location - the place where the Property was constructed or the place where the historic event occurred.
  - b. Design - the combination of elements that create the form, plan, space, structure, and style of a Property.
  - c. Setting -the physical environment of a Property.
  - d. Materials - the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a Property.

- e. Workmanship - the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
  - f. Feeling - a Property's expression of the aesthetic or historic sense of a particular period of time.
  - g. Association - the direct link between an important historic event or person and a Property.
4. Historic Districts
- a. A "Historic District" is a geographically definable area including a concentration, linkage, or continuity of Properties within a specified Period of Significance and may include within its geographic boundaries one or more Contributing Properties, which has been designated by the City Council pursuant to this ordinance.
  - b. A Historic District is related by a pattern of either physical elements or social activities. Historic Significance is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).
  - c. Historic District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in Property type, density, or Integrity.
  - d. Properties that do not contribute to the Historic Significance of the Historic District may be included within its boundaries.

**Section 4. Designation Procedure**

1. Nomination and Application
- a. Applications shall be submitted to the [Community Development Department, Planning Department, City Clerk] for consideration on a form provided by the Commission.
  - b. A nomination for listing in the City's Historic Register may be made:
    - i. By the Owner or Owners of the Property or Properties to be designated;
    - ii. By a member or members of the Commission;
    - iii. By a member or members of City Council; and/or
    - iv. By non-Owners of the Property or Properties to be designated, in which case the Applicant must be a resident or Owner of Property in the City, or have a place of business in the City.
  - c. Where nominated by someone other than the Property Owner or less than all of the Property Owners in a district nominated for designation, the City or at least one member of the Commission shall contact the Owner or Owners of such Property or Properties nominated for designation in writing, outlining the reasons and effects of listing in the City's Historic Register within 30 days of receipt of nomination.
  - d. Applications determined incomplete shall be returned to the Applicant within 30 days with a request for additional information.
  - e. Applications for a district nomination shall not be complete if more than 25% of the Property Owners within the proposed district oppose the nomination in writing or through ballot prepared and administered by the City.
2. Designation Hearing
- a. Within 45 days after an application is determined complete, or within a time frame agreed upon by the Applicant and the City, a public hearing shall be held by the Commission.
    - i. The Secretary shall provide notice of the date, time, and location of the public hearing to the Applicant, the Owner or Owners of record, the Owners of adjacent Properties and, if known, to other persons having a legal or equitable interest in the Properties or district nominated for designation at least 10 days prior to the hearing.
    - ii. A legal notice indicating the nature of the hearing, the Property involved, and the time, date, and place of the scheduled public hearing, shall be published in the City's publication of record at least 10 days prior to the hearing.
    - iii. The notice shall be posted at the Property's physical location at least 10 days prior to the hearing.

- b. A hearing may be continued. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case shall a hearing be continued more than 30 days without the express consent of the Applicant.
  - c. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation. However, nothing contained in this ordinance shall be construed to prevent the Commission from establishing reasonable rules to govern the proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.
  - d. Transcripts of the hearings are not required; however, the Commission's records shall include the name and address of each speaker; the organization or person the speaker represents, if any; whether or not the speaker is an Owner or holder of some interest in the Property or district nominated for designation, or represents such Owner or holder; and a summary of the relevant portions of each statement. Written reports and presentations shall be incorporated into the record of the hearing.
3. Commission Review
- a. The Commission shall review the application for conformance with the established criteria for designation and with the purposes of this ordinance.
  - b. The Commission shall recommend:
    - i. Approval;
    - ii. Approval with conditions; or
    - iii. Denial of the application.

The Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.
  - c. If the Commission approves an application or approves an application with conditions, the Commission shall forward the application with a copy of its report and findings of approval to the City Council.
  - d. If the Commission denies an application, the Commission must notify, in writing, the City Council and the Applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
  - e. The Commission may issue an order continuing the nomination process if the Commission finds that additional information is necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the Applicant.
4. City Council Proceedings
- a. Within 30 days after receipt of the Commission's approval of an application, the City Council shall hold a public hearing to consider adopting by ordinance those properties qualifying for designation. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities assigned therein to the Secretary.
  - b. The City Council shall review the application for conformance with this ordinance.
  - c. The City Council shall, by ordinance, approve, approve with conditions, or deny the proposed application and shall issue written findings based on the Commission's recommendations.
  - d. The City shall provide a copy of the results of the City Council's final action to the Applicant/Applicants, all Owners of record, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same.
5. Recording of Designation. Within 30 days of the effective date of an ordinance designating a Historic Property or Historic District for preservation, the City shall record the ordinance with the clerk and recorder of [name of county] County.

6. Records. The City shall maintain a current record of all Historic Properties and Historic Districts and pending designations.
7. Limitation on Resubmission and Reconsideration of Proposed Designation. Whenever the Commission or the City Council denies a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the denied application unless the Commission or City Council has denied based on a request for additional information.
8. Appeal of Commission's Denial of Application
  - a. Applicant(s) and/or Owner(s) shall have the right to appeal such decision to the City Council by filing a written notice within 15 days after the date of receipt of the Commission's denial. Such written notice shall specify the factual and legal basis for the appeal.
  - b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the Applicant(s) and/or Owner(s) and the City, a public hearing shall be held by the City Council.
  - c. Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities of the Secretary.
  - d. The City Council may consider only the notice of appeal, the Commission's reasons for denial of the application, and the comments related thereto made during the Commission hearing.
  - e. If the City Council finds the Commission's denial of the application was based on incorrect information, or there is shown to be newly discovered information not available at the time the application was submitted to the Commission, and if the correct or newly discovered information could, in the opinion of the City Council, change the Commission's denial of said application, then the entire matter shall be remanded by the City Council to the Commission for its consideration.
  - f. The decision of the City Council shall be final.
9. Amendment of Designation
  - a. Designation of a Historic Property or Historic District may be amended to add features or Properties to such Historic Property or Historic District under the procedures prescribed hereinabove.
  - b. Upon the Commission's decision to amend a designation, the Commission shall promptly notify the Owners of the Historic Property and the City shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the amendment, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.
10. Revocation of Designation
  - a. If a Historic Property or Historic District has been Altered to a degree that it no longer retains its historic Integrity, the Owner may apply to the Commission for a revocation of the designation or the Commission shall recommend revocation of the designation to the City Council in the absence of the Owner's application to do so. The revocation application shall be reviewed under the same procedures described hereinabove.
  - b. Upon the Commission's decision to revoke a designation, the Commission shall promptly notify the Owners of the Historic Property or Historic District and the City shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the revocation, and schedule the resolution for City Council review. Upon adoption by the City Council, the resolution shall be recorded.

**Section 5. Alterations to Listed Properties and Historic Districts**

1. Requirements
  - a. Before carrying out any new Construction, Alteration, Relocation, or Demolition involving the exterior of any Historic Property or Property within a Historic District (including Non-Contributing

Properties) such Owner(s) must first submit the proposed work to the Commission under this Section, as well as apply for any other permits required by the Code.

- b. The City shall review any building permit application received to determine whether the Property is a listed Historic Property or located in a Historic District and if so, if the Applicant has completed review by the Commission as required by this Section. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the City shall process it without further action. If no Certificate of Appropriateness has been issued or if the City determines that the permit application does not conform to such, the City shall not approve the permit application and shall not issue a permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto.
- c. No person shall receive a building permit to Construct, Alter, remove, or Demolish any Building, Structure, Object, or other feature on a Site, or element of a district nominated for designation after an application has been filed to initiate the designation of such Property or district. No such building permit shall be approved while proceedings are pending on such designation.

## 2. Application

- a. A request for Alteration shall be initiated by the Owner(s). Such application shall be submitted to the City for consideration on a form provided by the Commission. The application shall include anything the City deems necessary, including, without limitation and as applicable, a description of the type of work proposed and its effect or impact upon the Historic Property or Historic District and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail.
- b. If the City determines the application is complete, the City shall promptly refer the application to the Commission. If the City determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal.

## 3. Alteration Hearing. Within 45 days after an application is determined complete by the City, or within a time frame agreed upon by the Applicant and the City, a public hearing shall be held by the Commission. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a) – (d).

## 4. Review Criteria

- a. Compliance with any Design Guidelines adopted by the City.
- b. Compliance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties, including the Standards for Rehabilitation.
- c. For Non-Contributing Properties within a Historic District:
  - i. Compatibility with the Property’s current design, materials, features, size, scale and proportion, and massing; or
  - ii. Compatibility with the Historic District’s design, materials, features, size, scale and proportion, and massing.
- d. Infill Construction within Historic Districts shall be differentiated from the Historic Properties but be Compatible with the historic materials, features, size, scale and proportion, and massing to protect the Integrity of the Historic District and its environment.

## 5. Commission Review

- a. The Commission shall:
  - i. Approve;
  - ii. Approve with conditions; or
  - iii. Deny the application.

The Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.

- b. If the Commission approves or approves the application with conditions, the Commission shall issue and send a Certificate of Appropriateness to the Applicant, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing

to receive the same within 30 days. If approved with conditions, such conditions shall be stated in writing in the Certificate of Appropriateness.

- c. If the Commission denies the application, the Commission shall deny a Certificate of Appropriateness and notify, in writing, the Applicant, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
  - d. The Commission may issue an order continuing the Alteration application process if the Commission would like additional information necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the Applicant.
  - e. The Applicant may resubmit an amended application or reapply for a building permit that takes into consideration the recommendations of the Commission, or appeal the denial to the City Council.
  - f. If an application for a Certificate of Appropriateness is denied, no person may submit a subsequent application for the same Alteration or Construction within one year from the date of the final action upon the earlier application.
6. Appeal of Denial of Certificate of Appropriateness
- a. If a Certificate of Appropriateness is denied by the Commission, the Applicant may appeal the denial to the City Council by filing a written notice with the City Clerk within 15 days after receipt of the Commission's denial.
  - b. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the Applicant and the City, a public hearing shall be held by the City Council.
  - c. Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities of the Secretary.
  - d. The City Council shall consider the notice of appeal, the Commission's reasons for denial of the application, the comments related thereto made during the Commission hearing and any evidence (including new evidence) it deems relevant to the application.
  - e. The City Council shall apply the criteria in Section 5, Subsection 4 in making its decision.
  - f. The decision of the City Council shall be final.

## **Section 6. Relocation of Listed Properties**

### **1. General**

- a. In addition to the criteria and procedures in Section 5, the Commission will use the criteria of this Section in considering applications for Relocating a Historic Property or Contributing Property in a Historic District within or outside of a designated Site or district or Relocating a Property onto a designated Site or Historic District.
- b. Applicants for Relocation shall provide:
  - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation on site, and of Relocation and rehabilitation;
  - ii. An engineer's or architect's report as to structural soundness;
  - iii. A professionally prepared estimates of the Property's market value in its current location and current condition, of the market value of the Property rehabbed on its current site, and of the site after Relocation of the Property; and
  - iv. Professionally prepared site plan and construction documents for the current site.

### **2. Review Criteria**

- a. For consideration of the original Property and site, the Commission will review for the following criteria:

- i. The Property cannot be preserved, restored, rehabbed, or reused on its current site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
- ii. And
  - 1. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the Building, Structure, or Object proposed for Relocation;
  - 2. If the Property can be Relocated without significant damage to its physical Integrity; and
  - 3. Whether plans are specifically defined for the site to be vacated, and have been determined to meet all other City codes and ordinances.
- b. For consideration of the new location, the Commission will review for compliance with all of the following criteria:
  - i. Whether the Building, Structure, or Object is Compatible with its proposed site and adjacent Properties; and if the receiving site is Compatible in nature with the Building, Structure, or Object proposed to be moved;
  - ii. The Building, Structure, or Object's architectural Integrity and its consistency with the character of the neighborhood of the receiving site;
  - iii. Whether the Relocation of the Building, Structure, or Object will diminish the Integrity or character of the neighborhood of the receiving site; and
  - iv. If a Relocation plan has been submitted and approved by the City, including posting a bond, to ensure the safe Relocation, preservation, and repair (if required) of the Property and site preparation and infrastructure connections as described in the Code.

## **Section 7. Demolition of Listed Properties**

### **1. General**

- a. In addition to the criteria and procedures in Section 5, the Commission will use the criteria of this Section in considering applications for Demolition of Historic Properties and Contributing Properties in a Historic District.
  - b. Applicants for Demolition shall provide:
    - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation, and of Demolition;
    - ii. An engineer's or architect's report as to structural soundness; and
    - iii. Professionally prepared estimates of the Property's market value in its current condition, as rehabbed, and after Demolition.
  - c. If a Demolition approval is granted on any basis other than that of an imminent hazard or economic hardship (See Section 8), a Certificate of Appropriateness will not be issued until a replacement/reuse plan for the Property has been approved by the City.
- ### **2. Review Criteria for Total Demolition.** Applicants requesting a Certificate of Appropriateness for total Demolition must provide data to clearly demonstrate all of the following criteria:
- a. The Property proposed for Demolition is not structurally sound, despite evidence of the Owner's efforts to properly maintain said Building, Structure, or Object;
  - b. The Property cannot be preserved, restored, rehabbed, or reused on site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
  - c. The Property cannot be practically moved to another site in the City; and
  - d. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
    - i. Any impacts that occur to the visual character of the neighborhood where Demolition is proposed to occur;

- ii. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties;
  - iii. Any impact to the Integrity of Buildings, Structures, or Objects located on the Property and adjacent Properties; and
  - iv. Any impact to archaeological deposits or ruins or the potential to access such resources and whether information can be recovered as part of the Demolition process.
- 3. Review Criteria for Partial Demolition. Applicants requesting a Certificate of Appropriateness for partial Demolition must provide data to clearly demonstrate all of the following criteria:
  - a. The partial Demolition is required for the preservation, restoration, or rehabilitation of the Property; and
  - b. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
    - i. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties; and
    - ii. Any impact on the Integrity of the Buildings, Structures, or Objects located on the Property and adjacent Properties.

**Section 8. Alteration Exemptions**

- 1. General
  - a. If an application for a Certificate of Appropriateness is denied, the Applicant may request an exemption from such certificate requirement pursuant to this Section.
  - b. A request for exemption shall be initiated by the Owner(s). Such application shall be submitted to the City for consideration on a form provided by the Commission. The Applicant shall have the burden of proof to establish hardship.
  - c. The Commission may request additional information from the Applicant as necessary to make informed decisions according to the applicable criteria for decision-making.
  - d. If the City determines the application is complete, the City shall promptly refer the application to the Commission. If the City determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal.
  - e. Certificate of Appropriateness exemptions are granted only to the specific Owner and are not transferable.
- 2. Criteria for Exemption
  - a. Economic Hardship
    - i. The Commission may solicit expert testimony and require that the Applicant make submissions concerning any or all of the following information before it makes a determination:
      - 1. Estimate of the cost of the proposed Construction, Alteration, Demolition, or removal and an estimate of any additional cost that would be incurred to comply with the conditions of approval set out in Sections 5, 6 and 7 above.
      - 2. A report from a licensed engineer or architect with experience in rehabilitation of Historic Properties as to the structural soundness of any Buildings, Structures, or Objects on the Property and their suitability for rehabilitation.
      - 3. In the case of a proposed Alteration, the cost of the project proposed by the Applicant compared with the changes required by the Commission.
      - 4. In the case of a proposed Demolition, the estimated market value of the Property in its current condition, after rehabilitation, and after Demolition shall be compared, in addition to actual project costs.
      - 5. Amount paid for the Property, the date of purchase or acquisition, and the party from whom purchased, including a description of the relationship, if any, between the Owner of record or Applicant and the person from whom the Property was purchased.



6. All appraisals obtained within the previous two (2) years by the Owner or Applicant in connection with the purchase, financing, or ownership of the Property.
  7. Any listing of the Property for sale or rent, price asked, and any written offers received within the previous two (2) years.
  8. The actual or market value of the land and improvements thereon according to the most recent assessment.
  9. Real estate taxes for the previous two (2) years.
  10. Any proposal for a replacement Building, Structure, or Object for the Property and financial proof of the ability to complete the replacement project.
  11. For income producing Property, the annual gross income from the Property for the previous two (2) years and itemized operating and Maintenance expenses for the previous two (2) years.
- ii. The following factors, evidence, and testimony are to be considered:
1. The structural soundness of any Buildings or Structures on the Property and their potential for rehabilitation.
  2. The economic feasibility of rehabilitation or reuse of the existing Property in the case of a proposed Demolition.
  3. For investment or income producing Properties, the ability to obtain a reasonable rate of return on the Property in its present condition, or in a rehabbed condition pursuant to the requirements of this ordinance.
  4. For non-income producing Properties consisting of owner-occupied single-family dwellings and/or non-income producing institutional Properties not solely operating for profit, the ability to maintain or to convert the Property to a reasonable residential or institutional use in its present condition or in a rehabbed condition pursuant to the requirements of this ordinance or the ability to transfer the Property for a reasonable rate of return.
  5. The consideration for economic hardship shall not include any of the following:
    - a. Willful or negligent acts by the Owner;
    - b. Purchase of the Property for substantially more than its market value;
    - c. Failure to perform normal Maintenance and repairs;
    - d. Failure to diligently solicit and retain tenants;
    - e. Failure to prescribe a rental amount which is reasonable; or
    - f. Failure to provide normal tenant improvements.
- b. Undue Hardship. An Applicant requesting an exemption based on undue hardship must show that the application of the criteria create a situation that is substantially inadequate to meet the Applicant's needs because of specific health and/or safety issues.
- c. Inability to Use
- i. Two years after denial of a Demolition permit approval, if no feasible use or ownership is found for the designed Site or Structure, the Owner may request a waiver of all or a part of the restraint of Demolition.
  - ii. The Commission may solicit expert testimony and require that the Applicant make submissions concerning any or all of the following information before it makes a determination:
    1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to make necessary repairs, to find an appropriate user or to find a purchaser for the Property.
    2. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to locate and obtain available assistance for making the Property functional without Demolition.

- iii. The following factors, evidence and testimony shall be considered:
  - 1. Efforts to locate and secure a potential user or purchaser for the Property.
  - 2. Efforts to locate and obtain available assistance for making the Property functional without Demolition.
  - 3. The consideration for inability to use shall not include any of the following:
    - a. Willful or negligent acts by the Owner;
    - b. Purchase of the Property for substantially more than its market value; or
    - c. Failure to perform normal Maintenance and repairs.

3. Decision

- a. If the Commission deems the criteria of this Section are met, the Commission shall issue an order of exemption and send a Certificate of Economic Hardship to the City within 30 days.
- b. If the Commission deems the criteria of this Section are not met, the Commission shall deny the exemption request and notify, in writing, the City and the Applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
- c. The Commission may issue an order continuing the exemption process for a period of not to exceed 90 days from the date of the application if the Commission would like additional information necessary to make a decision.
- d. The Applicant may resubmit an amended application, reapply for an exemption that takes into consideration the recommendations of the Commission, or appeal the denial to the City Council.
- e. If an application for an exemption is denied, no person may submit a subsequent application within one year for the same from the date of the final action upon the earlier application.

4. Appeal for Denial of Exemption

- a. If an exemption is denied by the Commission, the Applicant may appeal the denial to the City Council by filing a written notice with the City within 15 days of the date of the receipt of the Commission's denial.
- b. Notice of the City Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the City Clerk shall perform the responsibilities of the Secretary.
- c. The City Council shall hold a public hearing to consider the appeal, and consider any evidence (including new evidence) it deems relevant to the application.
- d. The City Council shall apply the criteria in this Section in making its decision.
- e. The decision of the City Council shall be final.

**Section 9. Alteration to Non-Designated Properties Greater Than 50 Years Old**

1. Requirements

- a. Any permit application for Alteration, Relocation, or Demolition of a non-designated Property greater than 50 years old shall be reviewed by the Commission to determine the eligibility of such Property for listing on the City Register.
- b. Permit applications for work on the interior of a Property, minor repair as determined by the Building Official, and/or replacement of materials in-kind are exempt from this requirement.
- c. In order to determine eligibility for listing on the City Register, the Applicant must submit a Determination of Eligibility Form requiring ownership, Construction and Alteration information, and photos of all facades of all Buildings, Structures, and Objects located on site.

2. Commission Review

- a. The Commission shall act officially on each application within 30 days after the hearing thereon.
- b. The Commission shall review the eligibility of the Property following the eligibility criteria and review procedure as outlined in Section 3.
- c. The Commission shall determine that the Property is:
  - i. Eligible for listing; or
  - ii. Not eligible for listing.

- d. If the Commission deems the Property eligible:
  - i. In the case of a permit application for Alteration, the Commission shall determine if the proposed Alteration will Alter the Property to a degree that it no longer retains its historic Integrity. If so, the Commission shall follow the process as outlined in this Section. If not, the Commission shall notify Applicant, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same, that the property is eligible, but all other permitting shall proceed in accordance with Code.
  - ii. The Commission shall notify the Applicant, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days.
  - iii. A Stay of Alteration, Relocation, or Demolition shall be placed on the Property which:
    - 1. Cannot exceed 180 days.
    - 2. Shall provide the Owner and the Commission the opportunity to take action consistent with this chapter to preserve the Property, including but not limited to:
      - a. Consulting with City staff, civic groups, public agencies, and interested citizens regarding feasible alternatives;
      - b. Exploring the possibility of relocating Buildings, Structures, or Objects that would otherwise be Demolished;
      - c. For applications of proposed Demolition, recommending acquisition of the Property by private or public bodies or agencies; and
      - d. Salvaging building materials.
  - iv. At the expiration of the Stay, should the Property not be nominated for listing on the City Register as set forth in Section 4, nor a Certificate of Appropriateness issued as set forth in Sections 5, 6 or 7, all other permitting shall proceed in accordance with Code.
- e. If the Commission deems the Property ineligible, the Commission shall notify, in writing, the Applicant, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days of such finding and all other permitting activities shall proceed in accordance with the Code.

**Section 10. Maintenance**

- 1. The City Council intends to preserve from deliberate or inadvertent neglect the exterior portions of Historic Properties or Historic Districts and all interior portions thereof whose Maintenance is necessary to prevent deterioration of any exterior portion. No Owner, lessee, or occupant of any Historic Property or Contributing Property within Historic District shall fail to prevent significant deterioration of the exterior of the Building, Structure, Object, or special feature beyond the condition of such Historic Property or Contributing Property within a Historic District on the effective date of the designating ordinance.
- 2. No Owner, lessee, or occupant of any Historic Property or Contributing Property within a Historic District shall fail to comply with all applicable provisions of this ordinance and other ordinances of the City regulating property Maintenance.
- 3. Before the City's attorney files a complaint in municipal court for failure to maintain the Historic Property or Contributing Property within a Historic District, the City shall notify the Owner, lessee, or occupant of the need to repair, maintain or restore such Property; shall assist the Owner, lessee, or occupant in determining how to preserve such Property; and shall give the Owner, lessee, or occupant a reasonable time to perform such work.
- 4. Should the condition of the Historic Property or Contributing Property within a Historic District require immediate repair or stabilization to mitigate unsafe or dangerous conditions and after notification, the Owner has not undertaken such repair or stabilization, the City may take such action and bill all expenses to the Owner. Should the Owner not remit such payment to the City, after ninety (90) days, the City shall record a notice with the [County] clerk and recorder of a lien against the Historic Property in violation.

The lien created hereby shall be automatically perfected and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and prior special assessments.

**Section 11. Unsafe or Dangerous Conditions Exempted**

Nothing in this ordinance shall be construed to prevent any measures of Construction, Alteration, removal, or Demolition necessary to correct the unsafe or dangerous condition of any Property, other feature, or parts thereof where such condition is declared unsafe or dangerous by the City and where the proposed measures have been declared necessary by the City to correct the condition, as long as only such work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a Certificate of Appropriateness under this ordinance, but a certificate is required for permanent Construction, Alteration, removal, or Demolition.

**Section 12. Enforcement and Penalties**

1. No person shall violate or permit to be violated any of the requirements of this ordinance or the terms of a certificate issued pursuant to this ordinance.
2. Violations of this ordinance are punishable as provided in the Code and may be subject to the following additional penalties:
  - a. If any Historic Property or Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this ordinance, the Commission may order any Property to be returned to its condition prior to such unlawful Construction, reconstruction, exterior Alteration, addition, or Demolition. This may specifically include ordering the reconstruction of a Property that was Demolished to replicate as closely as possible the original Property.
  - b. If any Building, Structure, or Object is erected or Constructed on a Historic Property or Property within a Historic District, the Commission may order any such Building, Structure, or Object to be removed or deconstructed.
  - c. Alterations to a Historic Property or Historic District without an approved Certificate of Appropriateness will result in a one-year moratorium on all building permits for the subject Property.
  - d. Relocating or Demolishing a Historic Property or Property within a Historic District without an approved Certificate of Appropriateness will result in a five-year moratorium on all relocation, Demolition, or building permits for such Property and/or its original location.
  - e. If any Historic Property or Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this ordinance or if any Building, Structure, or Object is erected or Constructed on a Historic Property or Property within a Historic District, the City may issue an administrative citation:
    - i. Administrative citations for violations of this ordinance shall be issued only after the responsible party has received notice of violation and time to comply, unless, because of the nature of the offense, immediate compliance is required; further, any appeal process shall be completed prior to issuance of an administrative citation.
    - ii. Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate citation may be issued. However, unless the City determines that continued violations will cause immediate peril to life or property or the offense is one that, because of the nature of the offense, requires immediate compliance, once a citation has been issued for a violation of this ordinance, no additional citation shall be issued for the same violation for ten (10) days or, if the responsible party appeals, until after the appeal has been heard and the responsible party has not complied with an order of the administrative hearing.
    - iii. If the responsible party fails to correct the violation cited, commits the same violation again, or fails to correct a violation as specified in accordance with an administrative enforcement order, subsequent administrative citations may be issued for violations of

the same Code section. The penalties assessed for each administrative citation issued for violations of the same Code section or sections shall not exceed the following amounts regardless of the number of violations per citation:

1. First administrative citation: one hundred and fifty dollars (\$150.00);
  2. Second administrative citation: five hundred dollars (\$500.00);
  3. Third and each subsequent administrative citation: nine hundred and ninety-nine dollars (\$999.00).
- iv. Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the City.
  - v. If an administrative hearing was held, the failure of any responsible party to pay the civil penalties assessed by an administrative citation within the time specified on the citation or administrative enforcement order may result in the imposition of a late fee of up to twenty-five dollars (\$25.00) and interest at a rate of ten (10) percent per annum.
  - vi. The City shall record a notice with the [County] clerk and recorder of a lien against the Property in violation. The lien created hereby shall be automatically perfected and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and prior special assessments.

### **Section 13. Incentives**

1. Any Owner of a Historic Property or Contributing Property within a Historic District under this ordinance may be eligible for the following economic incentives:
  - a. Property tax rebate. The Owner may apply for a refund of certain of ad valorem taxes (not to include special district taxes, if any) paid to the City upon any Historic Property listed on the City's Historic Register or Contributing Property within a Historic District listed on the City's Historic Register during the year of designation and any subsequent years that said Property is so designated provided that Maintenance and rehabilitation activities as required by the Commission are completed and the Property was and is maintained as required herein. The amount of the refund shall be computed by multiplying the mill levy imposed by the City for the current year by assessed valuation of said Property and by the percentage of refund as determined by City Council.
  - b. Building permit fee rebate. The Owner may apply for a refund of building permit fees paid to the City upon any Historic Property listed on the City's Historic Register or Contributing Property within a Historic District listed on the City's Historic Register for any preservation, rehabilitation, restoration, or reconstruction of said Property that is determined by the Commission to adhere to the Secretary of the Interior's Standards for the Treatment of Historic Properties and any Design Guidelines adopted by City Council. Additions and new Buildings or Structures shall not qualify for said rebate. The amount of the refund shall be computed by multiplying the building permit fee imposed by the City for the current year by the percentage of refund as determined by City Council.
  - c. Building Code application. [For those jurisdictions following the International Building Code] The City shall utilize and follow the "International Existing Building Code" for any review of code for any Historic Property listed on the City's Historic Register or Contributing Property within a Historic District listed on the City's Historic Register.
  - d. Code variances. The City, through its variance review process as provided in Section [add City code section] of the Land Use Code, shall allow for certain variances for any Historic Property listed on the City's Historic Register or Contributing Property within a Historic District listed on the City's Historic Register:
    - i. Allowable variances:
      1. Development in the side, rear and front setbacks;
      2. Development that does not meet the minimum distance requirements between Buildings;

3. Up to five percent (5%) additional site coverage; and
  4. Reduction of on-site parking requirements.
- ii. In order for a variance to be heard through the variance review process, the Commission must recommend said variance through written documentation documenting that said variance:
    1. Is similar to the pattern, features, and character of the Historic Property or Historic District; and
    2. Enhances, or mitigates an adverse impact to, the Historic Significance or architectural character of the Historic Property, an adjoining Historic Property or Historic District.
- f. Revolving loan fund. The City hereby establishes a historic rehabilitation loan program and finds that the program promotes a valid public purpose of increasing the quality, exterior Integrity, and permanence of the City's stock of Historic Properties for the enjoyment and benefit of present and future generations of citizens of the City:
- i. Availability. The City shall set aside funds for this loan program through its annual budgeting process. All funds placed in said loan program will remain in the fund as cash or loan agreement with qualified Owners.
  - ii. Qualifying projects:
    1. The subject Property must be a Historic Property listed on the City's Historic Register or Contributing Property within a Historic District listed on the City's Historic Register.
    2. Loan Applicants must provide matching funds in an amount equal to or greater than the amount of the loan.
    3. Loan and matching funds must be utilized only for the stabilization or exterior rehabilitation of the subject Property; the repair or replacement of electrical, heating, or plumbing systems; the repair or installation of fire sprinkling systems in commercial Properties; or the installation or reconfiguration to meet the minimum requirements of the Americans with Disability Act. Neither the loan nor the matching funds shall be used for the installation or rehabilitation of signage (unless such signage is historic and determined to be a character defining feature); interior rehabilitation or decoration; the addition of architectural or decorative elements which were never a part of the Historic Property; or the Construction of additions or new Buildings, Structures, or Objects.
    4. Overall project, including but not limited to, portion paid through loan and matching funds must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.
    5. In addition to items required in Section 5, Subsection 2 a., loan Applicant must submit cost estimates from qualified contractors including labor and materials.
  - iii. Loan Terms and Repayment:
    1. Applications for participation in the Loan Program shall be in the names of all Owners of title of the subject Property. Applications in the names of less than all Owners shall not be reviewed.
    2. Ownership and title to the subject Property, must be in "good" or marketable title with all taxes and loans current, liens paid, no foreclosure proceedings pending, all restrictions of record and encumbrances disclosed and approved by the Commission, and compliance to all zoning codes.
    3. No interest shall be charged on loan funds; however, the Commission may set a reasonable application fee.
    4. Loan must be repaid in equal installments not to exceed ten (10) years. The remaining principle balance shall be due in full upon sale or transfer of the property.

5. Forty-five (45) days after failure to make timely payment shall cause the entire principal balance to become a lien upon the Property, and shall have priority over all liens, except general taxes and prior special assessments.
  6. No loan funds shall be disbursed until after the recipient has completed the work, the work has been physically inspected and approved by the City, the disbursement of loan funds has been approved by the [City Manager], and the loan recipient has documented the cost of the work by submitting to the City copies of all bills, invoices, work orders and/or such other documentation showing, to the satisfaction of the City, that the funds requested are reasonable and are supported by actual proof of expense.
  7. All rehabilitation work shall be completed within one (1) year from the date upon which the loan was awarded; provided, however, that upon application and a showing of good cause as to why the project cannot be timely completed, the Commission may authorize an extension of up to one (1) additional year for completion of the work.
  8. Loan recipients shall, as a condition of the loan, prominently place a sign upon the property being rehabilitated stating that such rehabilitation has been funded, in part, through the City's loan program.
- iv. Loan Review Procedures. Review of loan shall follow the procedures set forth in Section 5., except the Commission shall present a written recommendation for approval or denial to be presented to the [City Manager] who shall have final approval authority, which must be awarded or denied within 30 days of the Commission's recommendation.
- g. Rehabilitation Grant Program. The City hereby establishes a historic rehabilitation grant program and finds that the program promotes a valid public purpose of increasing the quality, exterior Integrity, and permanence of the City's stock of Historic Properties for the enjoyment and benefit of present and future generations of citizens of the City:
- i. Availability. The City shall set aside funds for this grant program on an annual basis through its budgeting process. All funds placed in said grant program shall be awarded on an annual basis.
  - ii. Qualifying projects:
    1. The subject Property must be a Historic Property listed on the City's Historic Register or Contributing Property within a Historic District listed on the City's Historic Register.
    2. Grant Applicants must provide matching funds in an amount equal to or greater than the amount of the loan.
    3. Grant and matching funds must be utilized only for the stabilization or exterior rehabilitation of the subject Property; the repair or replacement of electrical, heating or plumbing systems; the repair or installation of fire sprinkling systems in commercial Properties; or the installation or reconfiguration to meet the minimum requirements of the Americans with Disability Act. Neither the grant nor the matching funds shall be used for the installation or rehabilitation of signage, unless such signage is historic and determined to be a character defining feature, interior rehabilitation or decoration, the addition of architectural or decorative elements which were never a part of the Historic Property, or the Construction of additions or new Buildings.
    4. Overall project, including but not limited to, portion paid through grant and matching funds must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.
    5. In addition to items required in Section 5, Subsection 2 a., grant Applicants must submit cost estimates from qualified contractors, including cost estimates for labor and materials.

iii. Grant Terms:

1. Applications for participation in the grant program shall be in the names of all Owners of title of the subject Property. Applications in the names of less than all Owners shall not be reviewed.
  2. Ownership and title to the subject Property must be in "good" or marketable title with all taxes and loans current, liens paid, no foreclosure proceedings pending, all restrictions of record and encumbrances disclosed and approved by the Commission, and compliance to all zoning codes.
  3. No grant funds shall be disbursed until after the recipient has completed the work, the work has been physically inspected and approved by the City, the disbursement of grant funds has been approved by the [City Manager] and the grant recipient has documented the cost of the work by submitting to the City copies of all bills, invoices, work orders, and/or such other documentation showing, to the satisfaction of the City, that the funds requested are reasonable and are supported by actual proof of expense.
  4. All rehabilitation work shall be completed within one (1) year from the date upon which the grant was awarded; provided, however, that upon application and a showing of good cause as to why the project cannot be timely completed, the Commission may authorize an extension of up to one (1) additional year for completion of the work.
  5. Grant recipients shall, as a condition of the grant, prominently place a sign upon the Property being rehabilitated stating that such rehabilitation has been funded, in part, through the City's grant program.
- h. Grant Review Procedures. Review of grant shall follow the procedures set forth in Section 5, except the Commission shall present a written recommendation for approval or denial to be presented to the [City Manager] who shall have final approval authority which must be awarded or denied within 30 days of the Commission's recommendation.
2. The Commission shall attempt to identify and advise the City Council regarding the implementation of other economic incentives for Historic Properties. The Commission shall notify the Owners of economic incentive opportunities available.
  3. The Commission shall make the determination for each request regarding economic incentives.



## **11.3 History Colorado Model Historic Preservation Commission By-laws**

### **Section 1. Election of Officers**

1. The Commission shall hold an election of officers at the regular meeting in [month] of each calendar year.
2. The Commission shall elect a Chairperson, a Vice-Chairperson and a recording Secretary who shall hold office for one year or until their successors are selected and qualified. All officers may serve any number of terms.
3. The Chairperson shall preside at all meetings and shall be responsible for the conduct of such meetings in accordance with Roberts' Rules of Order, Newly Revised.
4. The Vice-Chairperson shall perform the duties of the Chairperson in the event of the Chairperson's absence. In the event the Chairperson and Vice Chairperson are both absent, the remaining members shall vote for a Chairperson Pro-Tem, who shall chair only that meeting, and only so long as the Chairperson and Vice-Chairperson remain absent.
5. The Recording Secretary shall record the minutes of the meeting and file such minutes along with documents presented at the meeting, with the City within fifteen days following the approval of such minutes.
6. Should the office of Chairperson, Vice-Chairperson or recording Secretary become vacant, the Commission shall elect a successor from its membership at the next meeting to fill the unexpired term of said office.

### **Section 2 – Meetings of the Commission**

1. Regular meetings of the Commission shall be held [date and time]. Special meetings may be held as needed, subject to concurrence of a majority of Commission members. The Commission shall act officially only at meetings of which not less than five days' written notice has been given; provided, however, that emergency meetings of the Commission may be called by the Chairperson upon two days' written notice. The Commission must meet at least four times annually. Notice of all regular and special meetings shall be posted at [the office of the Commission].
2. The Chairperson, absent objection by any member, may cancel meetings (except those held for the purpose of conducting a public hearing) for cause, including absence of a quorum, lack of business to conduct or other unforeseeable circumstances. Notice of such cancellation shall be given to the members at least 24 hours in advance of the time of the meeting, if possible. Cancelled meetings do not count towards the Commission's minimum annual meeting requirement.
3. The Chairperson shall have the agenda prepared for each regular meeting. This agenda shall constitute written notice as specified above in this Section.
4. The recording Secretary shall prepare and make available minutes of each meeting no more than fifteen days following each meeting to each member.
5. On any matter not quasi-judicial in nature, proxy voting may be done by any member who is unable to attend a meeting, providing the matter to be voted upon is specific and the proxy vote is either in the affirmative or negative and presented to the Chairperson prior to the meeting.
6. No official business of the Commission shall be conducted unless a quorum is present. The concurring vote of a quorum is necessary to constitute an official act of the Commission.

### **Section 3 – Public Hearings**

1. Each regular meeting of the Commission shall provide for an opportunity for the public to speak on any topic not included on the agenda for that meeting. Each person will have three minutes to present unless time allotment is changed by vote of the Commission for all presenters at said regular meeting.
2. First opportunity to be heard for any public hearing on the agenda shall be a ten-minute period afforded to any and all persons submitting a proposal, and their representatives. This includes time for the applicant and applicant representatives to speak.

3. Second opportunity to be heard for any public hearing on the agenda shall be a ten-minute period afforded to any and all persons having a legal interest in the subject property, including their representatives, provided that those having a legal interest in the subject property did not submit the proposal and speak in accordance with Subsection 1 under this Section. Exception: For proposed historic district designation public hearings, any owner of property that may be included in the historic designation, other than owner(s) submitting a proposal, shall speak in accordance with Subsection 4 under this section.
4. Third opportunity to be heard for any public hearing on the agenda shall be given to any associated neighborhood and/or historic preservation organizations. Presentations shall be limited to three minutes, but the majority of the Commission members present may vote to extend or shorten this time. This includes all representatives of that organization. Organizations may not give their time to other organizations or speakers.
5. Other interested parties shall then be given the opportunity to be heard for any public hearings on the agenda. Individual presentations shall be limited to three minutes, but the majority of the Commission members present may vote to extend or shorten this time. Speakers may not give their time to other speakers.
6. All persons wishing to speak shall register with the Chairperson prior to the Chairperson opening the public hearing.
7. The Chairperson shall determine the order of speakers in accordance with the order presented in Subsections 2 through 5 above.
8. Exceptions to time limits above: A speaker may answer questions from Commission members outside of the time limits delineated in items 2 through 5 above.

#### **Section 4 – Committees and Subcommittees**

1. The Chairperson is empowered to appoint working committees and subcommittees as may be necessary to carry out the work of the Commission. Such appointments shall be subject to approval by the Commission as a whole.
2. A committee shall be an ad hoc committee of Commission members only, appointed to perform specified tasks.
3. A subcommittee shall be an ad hoc committee consisting of persons who may or may not be Commission members. Subcommittees shall be appointed to perform specified tasks.

#### **Section 5 – [Administrative or Subcommittee] Action in Design Review**

1. [City staff or the Design Review Committee] is hereby authorized to approve design review applications which clearly meet the Design Guidelines, the Commission’s interpretations of those guidelines and the Secretary of the Interior’s Standards for the Treatment of Historic Properties.
2. [City staff or the Design Review Committee] may request additional information in the Commission’s name where such information is necessary for a complete application for design review, designation or demolition.

#### **Section 6 – Amendments**

These by-laws may be amended (consistent with the terms of the ordinance creating the Commission) at any regular Commission meeting by the concurring vote of a quorum, provided that written notice of such amendments shall be given at least five days prior to such meeting.

## **11.4 History Colorado Model CLG Intergovernmental Agreement**

**INTERGOVERNMENTAL AGREEMENT BETWEEN  
THE TOWN/CITY OF \_\_\_\_\_, COLORADO AND THE COUNTY OF \_\_\_\_\_, COLORADO  
FOR THE PURPOSE OF THE DESIGNATION OF BUILDINGS, STRUCTURES, SITES, OBJECTS AND DISTRICTS  
WITHIN THE INCORPORATED LIMITS OF THE TOWN/CITY OF \_\_\_\_\_  
AS \_\_\_\_\_ COUNTY HISTORIC LANDMARKS**

**THIS INTERGOVERNMENTAL AGREEMENT is made and entered into between the Board of County Commissioners for the County of \_\_\_\_\_, Colorado, hereinafter referred to as the “County” and the Town/City of \_\_\_\_\_, Colorado, hereinafter referred to as the “City.” The County and the City are referred to herein as the “Parties.” All capitalized terms not otherwise defined herein shall have the meaning ascribed to same in [Ordinance \_\_\_\_].**

**WITNESSETH:**

**WHEREAS**, the Parties are authorized to enter into this Intergovernmental Agreement, hereinafter “Agreement,” pursuant to Articles 1 and 20 of Title 29, Colorado Revised Statutes (C.R.S.); and

**WHEREAS**, C.R.S. 30-11-107 (1) (bb) gives the board of county commissioners the authority, “to provide for the preservation of the cultural, historic, and architectural history within the county by ordinance or resolution; to delegate the power to designate historic landmarks and historic districts to an historic preservation advisory board,” among other powers related to historic preservation; and

**WHEREAS**, C.R.S. 29-20-104 (1) (c) gives municipalities “the authority to plan for and regulate the use of land by preserving areas of historical and archaeological importance;” and

**WHEREAS**, the County has adopted \_\_\_\_\_ County Resolution No. \_\_\_\_\_, establishing the \_\_\_\_\_ County Register of Historic Places and the \_\_\_\_\_ County Historic Preservation Commission for the “protection and preservation of the County’s architectural, culture and heritage;” and

**WHEREAS**, the City desires to adopt the County’s historic preservation regulations within its jurisdiction pursuant to this Agreement;

**NOW, THEREFORE**, for and in consideration of the above preambles and the mutual covenants and agreements set forth herein, the County and the City agree as follows:

1. The County shall support the efforts by the City to establish a (Town/City Name) Preservation Program pursuant to this Agreement. The County shall provide technical support as appropriate and shall support City efforts to obtain funding for purposes of historic preservation.
2. Buildings, structures, sites, objects and districts within the incorporated limits of City may be nominated to the \_\_\_\_\_ County Register of Historic Places and be designated thereto pursuant to \_\_\_\_\_ County Resolution \_\_\_\_\_.
3. Designated buildings, structures, sites, objects and districts within the incorporated limits of City are subject to all terms of \_\_\_\_\_ County Resolution \_\_\_\_\_, including, but not limited to, terms of amendment and rescission of designation, alteration, relocation, demolition, and maintenance.

4. The County shall promptly notify the City of any proposed changes or amendments to its historic preservation regulations.
5. Upon receiving any nomination for designation of a property within the City's incorporated limits, the County shall promptly notify the City of such nomination and request a recommendation for designation, designation with conditions, or denial of designation. The County shall not designate any property within the City's incorporated limits without a recommendation for designation or designation with conditions from the City. Should the City not respond within 45 days of notification of the application, the County shall rule non-response a recommendation for designation
6. The County has the authority to deny a nomination supported by the City if the County determines the building, structure, site, object or district does not meet the requirements for designation pursuant to \_\_\_\_\_ County Resolution \_\_\_\_\_.
7. Upon receiving any application for alteration, relocation or demolition of a designated property within the City's incorporated limits, the County shall promptly notify the City of such application and request a recommendation for approval, approval with conditions, or denial. The County shall not issue a Certificate of Appropriateness for any property within the City's incorporated limits without a recommendation for approval or approval with conditions from the City. Should the City not respond within 45 days of notification of the application, the County shall rule non-response as concurrence with the County recommendation.
8. The County has the authority to deny a Certificate of Appropriateness supported by the City if the County determines the building, structure, site, object or district does not meet the requirements for approval pursuant to \_\_\_\_\_ County Resolution \_\_\_\_\_.
9. Termination of this agreement may be initiated by either the County or the City. However, the terminating party must give a minimum of sixty (60) day notice to the Chair of the Board of County Commissioners or the Mayor of the City, as the case may be, prior to finalizing termination.
10. Upon termination of this agreement, any designated buildings, structures, sites, objects or districts shall become designated properties of the City and subject to any guidelines established by ordinance of City.
11. This agreement may be amended by the parties at any time during its term, provided that any such amendment is agreed to in writing and signed by authorized representatives of both Parties.
12. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado.

**NOW THEREFORE**, the Parties enter into this Agreement to be effective as of \_\_\_\_\_.

## Code of Federal Regulations

## § 61.6 Certified local government programs.

(a) Each approved State program must provide a mechanism for certification (by the State Historic Preservation Officer and the Secretary) of local governments to carry out the purposes of the Act.

(b) Each State Historic Preservation Officer (SHPO) must follow procedures that the Secretary approves for the certification of local governments. Each SHPO also must follow procedures for removal of certified local government (CLG) status for cause. A SHPO must submit any proposed amendment to its procedures to the Secretary for approval. The Secretary will act on each proposal in a timely fashion generally within 45 days of receipt.

(c) When a SHPO approves a local government certification request in accordance with the State program's National Park Service (NPS)-approved certification process, the SHPO must prepare a written certification agreement between the SHPO and the local government. The certification agreement must list the specific responsibilities of the local government when certified. The SHPO must submit to the Secretary the written certification agreement and any additional information as is necessary for the Secretary to certify the local government pursuant to the Act and this part. If the Secretary does not disapprove the proposed certification within 15 working days of receipt, the Secretary has certified the local government.

d) Beyond the minimum responsibilities set out in the Act for all CLGs, the SHPO may make additional delegations of responsibility to individual CLGs. However, these delegations may not include the SHPO's overall responsibility derived from the Act or where law or regulation specifies.

(e) The SHPO must ensure that each local government satisfies the following minimum requirements as conditions for certification. Each CLG must:

(1) Enforce appropriate State or local legislation for the designation and protection of historic properties. The State procedures must define what constitutes appropriate legislation, as long as:

(i) Designation provisions in such legislation include the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of the local government;

(ii) Protection provisions in such legislation include a local review process under State or local law for proposed demolitions of, changes to, or other action that may affect historic properties as paragraph (e)(1)(i) of this section describes; and

(iii) The legislation otherwise is consistent with the Act.

(2) Establish by State or local law and maintain an adequate and qualified historic preservation review commission (Commission). All Commission members must have a demonstrated interest, competence, or knowledge in historic preservation. Unless State or local legislation provides for a different method of appointment, the chief elected local official must appoint all Commission members.

(i) The State procedures must encourage certified local governments to include individuals who meet "the Secretary's (Historic Preservation) Professional Qualifications Standards" among the membership of the Commission, to the extent that such individuals are available in the community.

(ii) The State procedures may specify the minimum number of Commission members who must meet “the Secretary’s (Historic Preservation) Professional Qualifications Standards.” The State procedures may also specify which, if any, disciplines the Commission’s membership must include from among those disciplines that the Standards describe. Membership requirements set by the State procedures for Commissions must be cognizant of the needs and functions of Commissions in the State and subject to the availability of such professionals in the community concerned.

(iii) Provided that the Commission is otherwise adequate and qualified to carry out the responsibilities delegated to it, the SHPO may certify a local government without the minimum number or types of disciplines established in State procedures, if the local government can demonstrate that it has made a reasonable effort to fill those positions, or that an alternative composition of the Commission best meets the needs of the Commission and of the local government.

(iv) The SHPO must make available to each Commission orientation materials and training designed to provide a working knowledge of the roles and operations of Federal, State, and local historic preservation programs, and historic preservation in general.

(3) Maintain a system for the survey and inventory of historic properties. The SHPO must ensure that such systems and the data that they produce are capable of integration into and are compatible with statewide inventories and (when and as appropriate) with State and local planning processes.

(4) Provide for adequate public participation in the local historic preservation program as a whole. The SHPO must provide each CLG with appropriate guidance on mechanisms to ensure adequate public participation in the local historic preservation program including the process for evaluating properties for nomination to the National Register of Historic Places.

(5) Satisfactorily perform the responsibilities delegated to it under the Act. The SHPO must monitor and evaluate the performance of each CLG according to written standards and procedures that the SHPO establishes. If a SHPO’s evaluation of a CLG’s performance indicates that such performance is inadequate, the SHPO must suggest in writing ways to improve performance. If, after a period of time that the SHPO stipulates, the SHPO determines that the CLG has not improved its performance sufficiently, the SHPO may recommend that the Secretary decertify the local government. If the Secretary does not object within 30 working days of receipt, the Secretary has approved the decertification.

(f) Effects of certification include:

(1) Inclusion in the process of nominating properties to the National Register of Historic Places in accordance with sections 101 (c)(2)(A) and (c)(2)(B) of the Act. The SHPO may delegate to a CLG any of the responsibilities of the SHPO and the Review Board in processing National Register nominations as specified in 36 CFR part 60 (see also § 61.4(b)(3)), except for the authority to nominate properties directly to the National Register. A CLG may make nominations directly to NPS only when the State does not have an approved program pursuant to § 61.4.

(2) Eligibility to apply for a portion of the State’s annual Historic Preservation Fund (HPF) grant award. Each State must transfer at least 10 percent of its annual HPF grant award to CLGs for historic preservation projects and programs in accordance with the Act and as § 61.7 specifies.

(g) The District of Columbia is exempt from the requirements of this section because there are no subordinated local governments in the District. If any other jurisdiction that section 301(2) of the Act defines as a State believes that its political subdivisions lack authorities similar to those of local governments in other States, and hence cannot satisfy the requirements for local government certification, it may apply to the Secretary for exemption from the requirements of this section.

(h) Procedures for direct certification by the Secretary where there is no approved State program pursuant to § 61.4. To the extent feasible, the Secretary will ensure that there is consistency and continuity in the CLG program of a State that does not have an approved State program.

- (1) Where there is no approved State program, a local government wishing to become certified must apply directly to the Secretary.
- (2) The application must demonstrate that the local government meets the specifications for certification set forth in paragraph (e) of this section.
- (3) The Secretary will review certification applications under this paragraph (h) and take action in a timely fashion generally within 90 days of receipt.

## Secretary of the Interior's Standards for Rehabilitation

1. A property will be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces and spatial relationships that characterize a property will be avoided.
3. Each property will 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 elements from other historic properties, will not be undertaken.
4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If such resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations or related new construction will not destroy historic materials, features and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will 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.



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