

CHAPTER 13. HISTORIC PRESERVATION

11-13-1. Declaration of Policy and Purpose.

- (A) The council finds that the pressures of population growth and development may result in the destruction, impairment or drastic alteration of the buildings, structures and areas important to the City's social, cultural, historic and architectural heritage. It is further found that the prevention of such destruction and impairment and the attendant preservation of the City's social, cultural, historic and architectural heritage is essential to the public health, safety and welfare.
- (B) The purpose of this chapter is to promote the public health, safety and welfare through:
- (1) The protection, enhancement, perpetuation and use of buildings, structures, sites and areas that are reminders of past eras, events and persons important in local, state or national history, or that provide significant examples of architectural styles of the past, or that are unique and irreplaceable assets to the City and its neighborhoods, or that provide for this and future generations examples of the physical surroundings in which past generations lived;
 - (2) The development and maintenance of appropriate settings and environments for such buildings and structures, and in such sites and areas;
 - (3) The enhancement of property values, the stabilization of neighborhoods and areas of the City, the increase of economic and financial benefits to the City and its inhabitants, and the promotion of visitor trade and interest;
 - (4) The preservation and enhancement of a City of varied architectural styles, reflecting the distinct phases of its history: cultural, social, economic, political and architectural;
 - (5) The enrichment of human life in its spiritual, educational and cultural dimensions by fostering knowledge of the living heritage of the past; and
 - (6) The provision of educational opportunities and to increase the appreciation of local and state history.
- (C) The intent of this chapter is to create a reasonable balance between private property rights and the public interest in preserving Westminster's unique historic character and culture. It is also the intent of this chapter not to preserve every old building in the City, but rather to provide incentives to preserve historic and architecturally significant sites, buildings, structures, neighborhoods and districts by providing guidelines for the appropriate use of land and the moving, demolition, reconstruction, restoration or alteration of such buildings, sites and structures that comply with state and federal historic preservation laws, thereby making certain tax credits available to private property owners and making other benefits and incentives available for preservation projects.
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11-13-2. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise:

Alteration shall mean any act or process that changes either one or more of the exterior architectural features of a structure; or one or more of the physical features of a site or district, except color or paint.

Board shall mean the City's historic landmark board as created in this chapter.

Certificate of historic appropriateness shall mean a certificate issued by the City showing approval of plans for construction, demolition, moving, reconstruction, restoration or alteration of any structure in a historic landmark district or designated as a historic landmark.

Contributing structures shall mean those structures or physical features within a site or district that help to define the historic significance of that site or district.

Cultural landscape shall mean a geographic area (including both cultural and natural resources and the wildlife or domestic animals therein) associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.

Demolition shall mean any act or process that destroys, in part or in whole, any historic landmark.

Designated landmark or district shall mean a structure, site or district officially included in the State of Colorado or National Register of Historic Places, or designated pursuant to this chapter as a historic landmark.

Director shall mean the City's Director of Community Development or his or her designee.

Exterior, architectural features shall mean the architectural style and general arrangement of the exterior of the structure, including type and texture of the building materials, and including all windows, doors, siding, roofs, lights, signs and other fixtures appurtenant thereto, if such physical component is visible from a public way or adjoining properties.

Historic designation shall mean the formal recognition of a historic structure, site, or district by the City pursuant to this chapter.

Historic landmark shall mean any resources of this city, either public or private, including buildings, homes, replicas, structures, objects, properties, cultural landscapes or sites that have importance in the history, architecture, archeology, or culture of this City, state or nation, as determined by the board and having received a historic designation because of its significance and importance to the community.

Historic landmark board shall mean the City Council or a citizen committee appointed by the City Council to make recommendations to the council on the designation of historic landmarks and historic districts and to administer the city's historic landmark program, and hereinafter referred to as the "board." The board shall perform the various functions and duties provided for it in this chapter.

Historic landmark district shall mean a geographically definable area, including a concentration, linkage or continuity of subsurface sites, cultural landscapes, buildings, structures, and/or objects. A district is related by a pattern of either physical elements or social activities. The term "district" may include, but is not limited to, neighborhoods, agricultural or commercial districts.

Historic significance shall mean that which has a special historic or aesthetic interest or value as part of the development, heritage, cultural or historic character of the City, region, state or nation.

Historic site shall mean a landscape significant for its association with a historic event, activity or person.

Maintenance and repair shall mean any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration, decay of, or damage to a structure or any architecturally significant part thereof, and to restore or replace, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage, and which work does not effect a significant change in the external appearance of the structure.

Overwhelming historical significance shall mean:

- (1) Possessing such unusual or uncommon significance that any structure's potential demolition or major alteration would diminish the character and sense of place in the City; or
- (2) Possessing superior or outstanding examples of the architecture, social or geographic historic significance criteria outlined in the standards and criteria set forth in this chapter. The term "superior"

shall mean excellence of its kind and the term "outstanding" shall mean marked by eminence and distinction.

Owner shall mean the person or persons listed in the records of the County Clerk and Recorder or County Assessor as owner of a subject property.

Preservation shall mean the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic landmark.

Reconstruction shall mean the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

Rehabilitation shall mean the act or process of making a compatible use for a property through repair, alterations, and additions, while preserving those portions or features that convey its historic, cultural or architectural values.

Restoration shall mean the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from other periods in its history.

Significant change shall mean an alteration or modification in the external appearance that has or is likely to have influence or effect on the historic or architectural merit of a structure or site, including, but not limited to, all activities for which a building permit is required.

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11-13-3. Historic Landmark Board Created.

- (A) There is hereby created a Historic Landmark Board, which shall have the principal responsibility for matters involving historic landmarks as set forth in this chapter. The City Council may act as the board pursuant to this chapter until it appoints a qualified citizen board as provided herein.
- (B) The board shall consist of five to seven members, appointed by the city council, who have a demonstrated interest, competence or knowledge in historic preservation. The City Council may appoint up to two alternate members, who shall attend meetings and participate fully in the activities, programs, and duties of the board. An alternate shall serve as a voting member of the board in the absence of a regular member, including the abstention of a member due to a conflict of interest. The board shall be composed of both professional and lay members and at least 40 percent shall be professionals in preservation-related disciplines, such as architecture, landscape architecture, architectural history, archaeology, history, and planning, or related disciplines, such as building trades, real estate, law, cultural geography or cultural anthropology.
- (C) Initial appointments shall be made for one- and two-year terms, in order to stagger the expiration of terms, and thereafter members shall be appointed for two-year terms.
- (D) From among its regular members, the board shall select a chair and vice-chair at the first meeting of each calendar year.
- (E) The board shall meet at least quarterly, unless applications or other requests for action are pending, in which case, the board shall meet at least monthly. All board meetings shall be open to the public with exceptions for executive sessions, as provided for the City Council in this Code and as provided by any preservation-related state and federal law.
- (F) A majority of the number of currently appointed regular board members shall constitute a quorum. An alternate may substitute for a regular board member to create a quorum. If a quorum is not present, then

the Chair of the Board may set a new date for a special hearing or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date.

- (G) The board shall adopt bylaws and other administrative guidelines to govern the conduct of its meetings, which shall be made available to the public.

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11-13-4. Powers and Duties of the Historic Landmark Board.

Within available staff, volunteer and financial resources, the Historic Landmark Board shall:

- (A) Adopt criteria for review of historic resources and for review of proposals to alter, demolish, or move designated resources that are in addition to and consistent with the criteria set forth in this chapter.
- (B) Review properties nominated for designation as a historic landmark or a historic landmark district, and make recommendations to the City Council regarding historic designation.
- (C) Encourage owners of historic properties to maintain them in good repair, and advise and assist owners of historic properties concerning physical and financial aspects of preservation, renovation, rehabilitation, and restoration, including nomination to the National and State registers of Historic Places.
- (D) Develop and assist in public education programs, including, but not limited to, school programs, walking tours, brochures, a marker program for historic properties, interpretive sites and programs, lectures, and conferences about the history of the local and regional community, the value of preserving historic properties, and the materials and methods of preservation.
- (E) Review applications for and issue certificates of historic appropriateness pursuant to this chapter.
- (F) Conduct surveys of historic properties, structures and areas, in order to define those of historic significance for the purpose of creating a preservation plan of historic properties and districts.
- (G) Pursue financial assistance for preservation and history-related programs.
- (H) Maintain records and files on all board actions and provide documentation as necessary to the state historical fund.
- (I) Develop and modify as needed a checklist of activities critical to the maintenance of a historic landmark to be completed as a requirement for receiving a tax rebate.
- (J) Identify and implement other incentives for owners of historic properties.
- (K) Authorize and implement such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any historic landmark or historic landmark district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.
- (L) Pursue these duties and any others required by state and federal law, in order to qualify the City as a certified local government under applicable historic preservation laws.
- (M) Foster civic pride and awareness of the unique heritage of the City.

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11-13-5. Criteria for Designation.

The board will consider the following criteria in reviewing nominations of properties for designation:

- (A) Properties receiving historic designations shall be at least 50 years old, except as otherwise provided herein, and possess architectural, social, or geographical/environmental importance by meeting one or more of the following:
 - (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, statewide, regionally, or locally;
 - (3) Demonstrates superior craftsmanship or high artistic value;
 - (4) Represents an innovation in construction, materials or design;
 - (5) Represents a style particularly associated with the Westminster area;
 - (6) Represents a built environment of a group of people in an era of history;
 - (7) Represents a pattern or grouping of elements representing at least one of the above criteria;
 - (8) Has undergone significant historic remodel;
 - (9) Is the site of historic event that had an effect upon society;
 - (10) Exemplifies cultural, political, economic or social heritage of the community;
 - (11) Represents an association with a notable person or the work of a notable person;
 - (12) Represents a typical example/association with a particular ethnic group;
 - (13) Represents a unique example of an event in Westminster's history;
 - (14) Enhances sense of identity of the community;
 - (15) Is an established and familiar natural setting or visual feature of the community.
- (B) *Additional Criteria for Historic Landmark Districts:* A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria in this chapter to the patterns and unifying elements. District designations will not be considered unless the application contains written approval of all property owners within the district boundaries. Properties that do not contribute to the significance of the historic landmark district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historic development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or information potential.
- (C) Any site listed on the state or national register of historic places shall be deemed to qualify for local designation under this chapter, but shall not be locally designated until an application for designation is filed and processed pursuant to this chapter.

11-13-6. Procedures for Nomination of Historic Landmarks and Districts.

- (A) *Who May Nominate:* The board, City Council, or the Westminster Historical Society may nominate a property, area or structure for designation as a historic landmark or historic landmark district or a property owner may nominate his or her own property. If a nomination is received from a party other than the property owner, the nominating party shall contact the owner or owners of such historic property, outlining

the reasons for and the effects of designation as a historic property, and shall secure the consent of the owner or owners to such designation before the nomination is accepted as complete for review.

- (B) The nominating party shall file an application with the director on forms prescribed by the board, and shall include the names of all owners of property included in the proposed designation, and shall be accompanied by all information required by the board. The Director shall transmit copies of the application to relevant city departments and the Westminster Historical Society for comment. If the nominating party is not the property owner, the Director shall keep the owner informed of all steps in the designation proceedings and provide copies of documents that are filed with the city.
- (C) *Nomination Contents:* Each such nomination shall include a description of the characteristics of the proposed historic landmark that justify its designation pursuant to this chapter, a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the historic property. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this chapter.

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11-13-7. Procedures for Designation of Historic Landmarks and Districts.

(A) *Application:*

- (1) Any completed application for designation, once reviewed by the Director, shall be promptly referred to the board. The board shall hold a public hearing on the proposal, not less than 30 days nor more than 60 days after the filing of the application, to consider the adoption of the designation resolution. The hearing may be held less than 30 days after submission of the application, upon mutual consent of the applicant and the board.
 - (2) Notice of the public hearing shall be published and posted at least ten days prior to the hearing.
 - (3) The Director shall review the proposed designation with respect to: (a) its relationship to the comprehensive plan; (b) the effect of the designation on the surrounding neighborhood; (c) the criteria set forth in this chapter; and (d) such other planning considerations as may be relevant to the proposed designation. The director shall provide written comments and recommendations regarding the proposed designation to the board no less than seven days before the hearing.
- (B) Public hearings shall be conducted as quasi-judicial hearings, following procedures comparable to those used by City Council, unless specific procedures are provided by board bylaw.
- (C) The board recommendation to the City Council shall be made after the board has heard all interested parties and relevant evidence. With the consent of the nominating party, the board may continue the hearing from time to time as necessary to gather all relevant evidence to make its recommendation. The board shall consider the conformance or lack of conformance of the proposed designation with the purposes, standards and criteria of this chapter. The board shall either recommend approval, modification and approval, or disapproval of the proposal and shall promptly refer the proposal, with a copy of its report and recommendations, to the council. If the landowner is not satisfied with the recommendation to the council, the landowner may withdraw the application, or withdraw consent to the application made by another nominating party, prior to the council's action on the proposed designation.
- (D) *Proceedings Before the Council:*
- (1) Within 30 days after the date of any referral from the board, the council shall hold a public hearing on the proposed designation. Notice of the public hearing shall be published and posted at least four days prior to the hearing.

(2) The council shall, by resolution, approve, modify and approve, or disapprove the proposed designation and shall issue written findings in accordance with and after considering the criteria as set forth for historic landmarks and historic landmark districts. Such designating resolution shall include a description of the characteristics of the site that justify its designation and a description of the features that should be preserved or enhanced, and shall include a legal description of the location and boundaries of the historic landmark. The designating resolution may also indicate alterations that would have a significant impact upon, or be potentially detrimental to, the historic landmark. The owner(s) of the property nominated shall be notified of council's decision. Once designated, the landmark shall be required to display appropriate signage as determined by the board, notifying the public of such designation.

(E) *Recording the Designation:*

(1) The historic designation resolution of the City Council shall be recorded within the real estate records of the county in which the property is located as soon as possible after the effective date of the resolution.

(2) Within 15 days after recording of the historic designation, the director shall send a copy of the resolution to the owner.

(F) A property designated as a historic landmark shall retain that designation in perpetuity, unless the property has lost its historic character as determined pursuant this chapter.

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11-13-8. Revocation of Designation.

(A) If a structure or physical feature on a designated historic landmark site was lawfully removed or demolished, the owner may apply to the board for revocation of designation. The board shall recommend revocation of a historic landmark designation if it determines that, without the demolished structure or physical feature, the site as a whole no longer meets the purposes and standards of this chapter and the board's review standards for designation.

(B) Upon the board's recommendation to revoke a designation, the Director shall cause to be prepared a resolution, including the legal description of the affected property, stating notice of the revocation, and schedule the item for City Council review. Upon adoption by the City Council, the resolution shall be recorded within the real estate records of the county in which the property is located.

(C) The City Council may revoke designation of a historic landmark, if the public benefits of alteration, removal or demolition of the landmark outweigh the public benefits of maintaining the designation.

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11-13-9. Special Duties and Obligations of Owners of Historic Properties.

(A) It shall be unlawful for owners of historic landmarks to allow:

(1) The deterioration of exterior walls or other vertical supports;

(2) The deterioration of roofs or other horizontal members;

(3) The deterioration of external chimneys;

(4) The deterioration or crumbling of exterior plasters, mortars, brick, stone or wood siding;

(5) The ineffective waterproofing of exterior walls, roof, and foundations, including windows and doors;

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- (6) The peeling of paint, rotting, holes and other forms of decay;
 - (7) The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping to produce a detrimental effect on a historic landmark;
 - (8) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.
- (B) Before an owner is cited for failure to maintain the historic landmark or structure in a historic landmark district, the board shall notify the property owner, lessee, or occupant of the need to repair or maintain, and shall assist the owner, lessee, or occupant in determining how to preserve the property, and shall give the owner a reasonable time to perform such work, which time shall not exceed 120 days. The board may grant extensions of the time period for good cause.

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11-13-10. Certificate of Historic Appropriateness.

- (A) A certificate of historic appropriateness shall be required for any work other than maintenance and repair on a property subject to a historic designation. It shall be unlawful for any person to perform any work, other than maintenance and repair, without having first obtained a certificate of historic appropriateness.
- (B) The Director shall maintain a current record of: (1) designated historic landmarks; (2) historic landmark districts; and (3) all pending proposed designations.
- (C) Upon any application for a permit to carry out any construction, alteration, removal or demolition of a building or other designated feature to a historic landmark or in a historic landmark district that would materially alter the exterior of such a building, site or structure, or that involves more than ordinary maintenance and repair, the department of community development shall not issue the requested permits until approved as provided herein, and shall promptly forward such application to the board.
- (D) The board shall review any permit applications so forwarded to it to determine whether a certificate of historic appropriateness for the work proposed should be issued.
- (E) Applications shall contain such information as is required by the board, so as to assure full presentation of pertinent facts for proper consideration of the application. The application shall be accompanied by plans and specifications showing the proposed exterior appearance, including color, texture of materials and architectural design and detail. Drawings or photographs showing the property in the context of its surroundings shall also be required. In addition, the applicant shall file with his/her application the names and addresses of abutting property owners, including properties across the street from the property.
- (F) An application shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than 30 days, nor more than 60 days, after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than 30 days after submission of the application, upon mutual consent of the applicant and the board.
- (G) Notice of the public hearing shall be published and posted at least ten days prior to the hearing.
- (H) In determining whether to issue a certificate of historic appropriateness, the board shall consider:
 - (1) The effect of the proposed change on the general architectural and/or historic character of the structure or district;
 - (2) The architectural style, arrangement, textures and materials used on existing and proposed structures and their relation to other structures in the district, if applicable;
 - (3) The uniqueness of the structure and how it ties in with the history of the area;

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- (4) The size of the structure, its setbacks, its site, location, and the appropriateness thereof, when compared to existing nearby structures and the site;
 - (5) The effects of the proposed work in creating, changing, destroying or otherwise affecting the exterior architectural features of the structure upon which such work is done;
 - (6) The effect of the proposed work on the protection, enhancement, perpetuation and use of the structure, area or district;
 - (7) The condition of existing improvements and whether they are a hazard to the public health or safety;
 - (8) The economic viability of maintaining the structure or area as is;
 - (9) Whether the property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment;
 - (10) Whether the historic character of a property is being retained and preserved; and
 - (11) Visual compatibility with designated historic structures located on the property, in terms of design, finish, material, scale, mass and height. When the subject site is within a historic landmark district, the board must also find that the proposed development is visually compatible with the development on adjacent properties. For the purposes of this chapter, the term "compatible" shall mean consistent with, harmonious with, and/or enhances the mixture of complementary architectural styles, either of the architecture of an individual structure or the character of the surrounding structures.
- (I) *Limitations on Alterations:* The following criteria shall apply to all alterations or changes:
- (1) Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - (2) The removal or alteration of any historical material or distinctive features shall be avoided when possible.
 - (3) Deteriorated historic features shall be repaired, rather than replaced, when possible. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
 - (4) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.
 - (5) Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - (6) New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property and shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic landmark and its environment would be unimpaired. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.
 - (7) All historic or contributing buildings, structures, and sites shall be recognized as products of their own time and place. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, site or environment. These changes may have acquired significance in their own right, and shall be retained and preserved. Alterations that have no historical basis and that seek to create an earlier or non-local appearance shall be discouraged.

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- (8) Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration to the defining characteristics, as identified in the application for designation, of the building, structure, or site and its environment, or to use the property for its originally intended purpose.
- (J) *Board Action:* The board shall approve or disapprove the application in whole or in part. Any decision of the board approving or disapproving a certificate of historic appropriateness shall be final in 30 days. The board shall issue a certificate of historic appropriateness for any proposed work on a designated historical landmark only if the board can determine that the proposed work would not detrimentally alter, destroy, or adversely affect any feature that was found by the board in the original designation to contribute to the designation of the property as a landmark.

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11-13-11. Relocation of a Historic Landmark.

It shall be unlawful for any person to relocate a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district without having first obtained a certificate of historic appropriateness. In addition to the alterations criteria in this chapter, the board shall apply the following criteria in considering applications for relocating a historic landmark; a contributing structure on a historic site; a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district:

- (A) With regard to the original site, the board will review for compliance with all of the following criteria:
- (1) Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;
 - (2) Whether the structure makes a substantial contribution to its present setting;
 - (3) Whether plans are specifically defined for the site to be vacated and have been approved by City staff;
 - (4) If the structure can be moved without significant damage to its physical integrity, and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;
 - (5) Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting; and
 - (6) Whether a structural report submitted by a licensed structural engineer experienced in preservation of structures adequately demonstrates the soundness of the structure proposed for relocation.
- (B) With regard to the new location, the board will review for compliance with all of the following criteria:
- (1) The building or structure must be compatible with its proposed site and adjacent properties, and if the receiving site is compatible in nature with the structure or structures proposed to be moved;
 - (2) The structure's architectural integrity is consistent with the character of the receiving neighborhood;
 - (3) The relocation of the historic structure would not diminish the integrity or character of the neighborhood of the receiving site; and
 - (4) A relocation plan has been submitted and approved by City staff, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the structure, site preparation and infrastructure connections.

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11-13-12. Demolition of a Historic Landmark.

It shall be unlawful for any historic landmark or property in a historic landmark district to be demolished without having first obtained a certificate for demolition. If a certificate for demolition is requested on any basis other than that of an imminent hazard or economic hardship, a certificate of demolition will not be issued until all criteria in subsection (A) of this section are met.

- (A) *Review Criteria for Total Demolition:* Applicants requesting a certificate of demolition must provide data to clearly demonstrate that the situation meets all of the following criteria:
- (1) The structure proposed for demolition is not structurally sound, despite evidence of the owner's efforts to properly maintain the structure; and
 - (2) The structure cannot be rehabilitated or reused on-site to provide for any reasonable beneficial use of the property; and
 - (3) The structure cannot be practically moved to another site; and
 - (4) The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:
 - (a) Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur.
 - (b) Any impact on the historic importance of the remaining structure(s) located on the property and adjacent properties.
 - (c) Any impact to the architectural integrity of the remaining structure(s) located on the property and adjacent properties.
 - (5) In the case of archeological sites, consideration will be given to whether information can be recovered as part of the demolition process.
- (B) *Review Criteria for Partial Demolition:*
- (1) The partial demolition is required for the renovation, restoration or rehabilitation of the structure; and
 - (2) The applicant must mitigate, to the greatest extent possible:
 - (a) Impacts on the historic importance of the structure(s) located on the property.
 - (b) Impacts on the architectural integrity of the structure(s) located on the property.

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11-13-13. Action of Board Upon Denial of Certificate of Historic Appropriateness.

- (A) If the proposed certificate of historic appropriateness to alter, relocate or demolish is denied, the board, acting with all due diligence, shall explore with the applicant available means for substantially preserving the historic landmark that was affected by the determination. These investigations may include, by way of example and not of limitation:
- (1) Feasibility of modification of plans.
 - (2) Feasibility of any alternative use of the structures that would substantially preserve the original character.

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- (B) One year after denial of a certificate of historic appropriateness for demolition, if no feasible use or ownership is found for the structure, the owner may request a waiver of all or a part of the restraint of demolition. The board will include the following factors in their consideration of the request:
- (1) Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the property owner to make necessary repairs, to find an appropriate user, or to find a purchaser for the property; and
 - (2) The adequacy of the property owner's efforts to locate available assistance for making the property functional without demolition.

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11-13-14. Hardship Exemption.

The board may exempt a property from the requirement of obtaining a certificate of historic appropriateness, if the board finds that the property owner has shown the historic designation creates or would create an undue hardship.

- (A) An exemption based on non-economic hardship may be found by the board when designation creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.
- (B) An exemption based on economic hardship may be found by the board applying the following standards:
 - (1) The applicant's knowledge of the designation at the time of acquisition, or whether the property was designated subsequent to acquisition;
 - (2) The current level of economic return on the property, as considered in relation to the following:
 - (a) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two years.
 - (b) The infeasibility or feasibility of alternative uses that can earn a reasonable economic return for the property.
 - (c) Economic incentives and/or funding available to the applicant through federal, state, city, or private programs.
- (C) *Board Determination of Economic Hardship:* The board shall hold a public hearing as soon as practical, after notice, to take final action on the application.
 - (1) *Finding of Economic Hardship.* If, after reviewing all of the evidence, the historic preservation board finds that the application of the standards set forth in subsection (B) of this section results in economic hardship, then the board shall issue a certificate of demolition.
 - (2) *Denial of Economic Hardship.* If the board finds that the application of the standards set forth in subsection (B) of this section does not result in economic hardship, then the certificate of demolition shall be denied.
- (D) *Willful or Negligent Acts:* Economic hardship does not include self-created hardships, willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

(3015)

11-13-15. Unsafe or Dangerous Conditions Exempted.

Nothing in this chapter shall be construed to prevent any measures of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure, 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 chief building official to correct the condition, as long as only such work that is necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a certificate of historic appropriateness under this chapter, but a certificate is required for permanent alteration, removal, or demolition.

(3015)

11-13-16. Enforcement and Penalties.

(A) It shall be unlawful for any person to violate a provision of this chapter or the terms of a certificate of historic appropriateness. Any person, either as owner, lessee, occupant, or otherwise, who violates any of the provisions of this title, or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this title, shall be subject to the fines provided by Section 1-8-1, W.M.C.

(B) *In Addition:*

- (1) Alterations to a designated historic landmark or historic landmark district without an approved certificate of historic appropriateness will result in a one-year moratorium on all building permits for the subject property.
- (2) Moving or demolishing or allowing demolition by neglect of a designated structure without an approved certificate of historic appropriateness will result in a five-year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location.
- (3) In addition to the other remedies provided in this chapter, the City Attorney may commence an action at law or equity in any court of competent jurisdiction to enforce the provisions of this chapter.

(3015)

11-13-17. City Council Review of Designation, Alteration, Removal and Demolition.

Nothing in this chapter shall prevent the City Council from revoking a historic landmark designation in order to carry out specified public purposes with benefits to the public that outweigh the benefits of maintaining the historic landmark designation.

(3015)