

CHAPTER 22

Historic Preservation

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ARTICLE I

General

Sec. 22-1. Definitions.

For the purposes of this Chapter, the words and phrases set forth below shall have the meanings ascribed to them as follows:

Building Official. The City official charged with the responsibility of administering and enforcing the City's building codes.

Certificate of Appropriateness (COA). The official document issued by the Historic Preservation Review Commission or the City Council approving an application or permit for the erection, moving, demolition, alteration or addition to, or the external construction or external restoration of, any building or structure in the Historic District or any other designated site. A COA, once issued, will expire under the same conditions as its associated building permit.

Commission (H.P.R.C.). The Idaho Springs Historic Preservation Review Commission, as further defined in Chapter 5, Article III of this Code.

Contributing building. In general, a building that is at least fifty (50) years old or older or is associated with significant people or events. In the context of this Chapter, a *contributing building* is one of significance used for defining context and which retains a significant amount of its physical integrity and character-defining features.

District. The Historic Preservation District, as defined in Section 22-3 below.

Guidelines. The most recent version of any and all design guidelines approved and adopted by the City Council for application to properties in the District or any other designated site.

Landowner. The owner in fee of any undivided interest in a designated historic site or of any proposed designated historic site. If the mineral estate has been severed, the landowner is the owner in fee of an undivided interest in the surface estate and not the owner in fee of an undivided interest in the mineral estate.

Noncontributing buildings. Buildings, regardless of age, that have lost their integrity. These structures do retain value as residential or commercial properties, but do not possess the significance and/or physical integrity necessary to be listed as contributing.
(Ord. 8 §1, 2006)

Sec. 22-2. Regulations.

(A) The purposes of these regulations are to:

- (1) Foster civic pride in the beauty and accomplishments of the past and promote the use of the Historic District and other designated sites for the education and pleasure of the City's citizens.
- (2) Protect the unique scenic and historic atmosphere and character of the City and protect the architectural, cultural and aesthetic heritage of the City.
- (3) Strengthen the City's economy by protecting and enhancing the City's attractions for visitors.
- (4) Preserve and protect the continued existence of historic structures and sites within the Historic District and other designated sites.
- (5) Draw a reasonable balance between the desires of property owners and the preservation of the City's heritage, while avoiding the imposition of an unreasonable economic hardship.
- (6) Prevent the use of materials or design in the repair, construction, reconstruction or remodeling of structures which:
 - (a) Adversely affect the desirability of the district or other designated site for business and residential purposes; or

(b) Are hazardous or incompatible with the historic character of the District or other designated site.

(B) These historic preservation regulations shall be amended by ordinance of the City Council after a public hearing.

(C) These historic preservation regulations shall apply within the Historic Preservation District and designated historic sites, in addition to the City's zoning, building, subdivision and other ordinances and regulations. In all cases of conflict, the regulations which are more restrictive or limiting shall apply.

(D) These regulations shall be interpreted and administered to promote the spirit of these regulations, to promote public health, safety and welfare and to achieve substantial justice.

(E) Demolition of historic structures.

(1) No historic building or structure located within the District or otherwise designated as a historic building or structure may hereafter be demolished, in whole or in part, except in conformity with the requirements of this Chapter.

(2) No person shall demolish a historic building or structure located within the District, or otherwise designated as a historic building or structure, without first obtaining a COA therefor from the Commission and the appropriate permit from the Building Official. Any requests for such demolition permits must be submitted to the Commission and shall be considered by the Commission at its next regularly scheduled meeting, but in any event, within thirty (30) days of submittal. Any application not considered by the Commission within thirty (30) days of submittal shall be deemed approved.

(3) Nothing contained herein shall prevent the demolition of any building or structure which the Building Official shall certify, in writing, to the Commission is required for the public health, safety or welfare because of an unsafe or dangerous condition.

(Ord. 8 §1, 2006)

Sec. 22-3. Designation of Historic Preservation District.

The following area, which has been designated as an Historic District on the National Register of Historic Places, is hereby designated as the Historic Preservation District of the City:

All of Blocks 7, 8, 15, 16, 20, 22, 25, 28 and 33; the West 1 foot of Lot 9, all of Lots 10, 11 and 12, Block 9; and the South 40 feet of Lots 1 and 2, Block 17; all within the City of Idaho Springs, County of Clear Creek, Colorado.

(Ord. 8 §1, 2006)

Sec. 22-4. Review procedure for building permits.

(A) In addition to the other requirements of City ordinances and regulations, every application for a building permit within the District or at designated historic sites shall first be submitted to the Commission. Such application shall be accompanied by all of the following:

(1) A drawing, picture or scale model which shows the exterior surfaces of the structure as proposed to be constructed, repaired, reconstructed or remodeled, in sufficient detail to depict the finished appearance of the structure;

(2) A site plan showing the structure's relation to and location on its building site;

(3) A detailed list of the type of exterior materials and finishes proposed to be used; and

(4) A review fee as set forth in the City's fee schedule.

(B) No application may be considered by the Commission unless it is complete in accordance with Subsection (A) above.

(C) The Commission shall either approve or deny the application, based on the criteria set forth in Section 22-5 below. It may also conditionally approve the application, with the agreement of the applicant to comply with such conditions. Such conditions shall become conditions of the COA and the building permit.

(D) If the Commission determines that the criteria in Section 22-5 below are met and no additional conditions need to be required, it shall issue the COA and forward a copy of it to the Building Official. The building permit may then be processed as usual by the Building Official.

(E) An application for a building permit denied a COA by the Commission may be appealed to the City Council for review for compliance with the criteria of Section 22-5 below. The burden shall be upon the applicant in all cases to prove that the applicable criteria have been met for approval.

(F) Only upon request for appeal by the applicant, the application shall be referred to the City Council at its next regular meeting for review. The City Council may continue its consideration from time to time, as it deems appropriate; however, if the City Council fails to render a decision on the application within forty-five (45) days of the first regular meeting at which the matter is presented, the COA shall be deemed denied, unless the applicant consents to a further extension of time.

(G) The City Council shall either approve or deny the application, based upon the criteria of Section 22-5 below. It may also conditionally approve the application, with the agreement of the applicant to comply with such conditions. Such conditions shall become conditions of the COA and the building permit.

(H) The City Council may, but need not, issue written findings in support of its decision.

(I) Following approval of the application and issuance of a COA, the Building Official may issue the building permit, provided that all other applicable requirements of the City building code and other regulations and ordinances are met. If the application is appealed to the City Council, no building permit shall be issued unless and until the City Council has approved the application and issued a COA.
(Ord. 8 §1, 2006)

Sec. 22-5. Criteria for approval.

(A) In order for the Commission or the City Council to grant a COA for any application for a building permit, the Commission or the City Council shall determine that the application meets the following criteria:

- (1) The proposed work is consistent with and promotes the purposes of these regulations, as set out in Subsection 22-2(A) above.
- (2) With respect to an existing structure, the proposed work will not adversely materially affect its historic quality.
- (3) The proposed work will have no adverse material effect on the historic atmosphere and character of the District as a whole or of other designated sites, including state and national designations.
- (4) The proposed work is in compliance with all current, applicable design guidelines.

(B) In determining compliance with the criteria of this Section with regard to contributing buildings, the Commission or the City Council shall consider the following:

- (1) The effect upon the general historic and architectural character of the structure.
- (2) The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation and compatibility with other structures in the District and other designated sites, including state and national designations.
- (3) 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.
- (4) The effects of the proposed work upon the protection, enhancement and perpetuation of the structure.
- (5) The condition of existing improvements and whether or not they are a hazard to public health and safety.

- (6) The compatibility of accessory structures and fences with the main structure on the site, with other structures and with the character of the District or designated site.
- (7) Substantial compliance with the Secretary of the Interior's "Standards for Historic Preservation Projects" as they apply to building exteriors only, except those relating to paint color, which shall not apply.

(C) With regard to determining compliance of noncontributing buildings, the Commission or the City Council shall consider the following:

- (1) Noncontributing structures should be as compatible with contributing structures as possible.
- (2) Noncontributing structures should not attempt to mimic or duplicate the historic features of contributing structures.
- (3) Contemporary designs that creatively draw upon the important characteristics of the Historic District are favored.
- (4) Substantial compliance with the "New Construction Guidelines," a copy of which is on file in the City Clerk's office.

(Ord. 8 §1, 2006)

Sec. 22-6. Exceptions.

(A) The Commission may authorize, upon request in specific cases, exceptions from the requirements of this Chapter and the guidelines implementing it.

(B) When the Commission finds that the strict application of any requirement enacted herein will result in unreasonable economic hardship to the property owner or that such exception is necessary in the public interest, an exception from the requirements of this Chapter and the guidelines implementing it may be authorized.

(C) The burden of proof shall be upon the property owner to show that the existing use is economically unfeasible, and that sale, rental or rehabilitation of the property is not possible.

(D) If the property owner meets this burden of proof, demolition, alteration or subdivision may be allowed.

(E) The term *public interest* is defined to allow construction of special projects of special merit, having significant benefits to the City by virtue of exemplary architecture, special features of land planning or social or other benefits having a high priority for community services.

(F) The Commission shall hold a public hearing on all applications for exceptions with the following conditions required:

- (1) Notice of said hearing shall be mailed by the City, at least seven (7) days prior to the hearing date, to the applicant and to owners of property within one hundred (100) feet of the property in question. The applicant shall provide stamped, addressed envelopes to the City for that purpose. Failure to mail such notice to every property owner due to clerical omissions shall not affect the validity of any hearing or determination of the Commission. The applicant is, however, obligated to make a good faith effort to provide all required names and addresses.
- (2) The City shall notify the applicant and the Building Official of the Commission's decision. The decision of the Commission may be appealed to the City Council as described in Section 22-4(F) above.

(Ord. 8 §1, 2006)

Sec. 22-7. Power and duties of City Council.

The City Council shall have the following powers and perform the following duties in the administration of these regulations, in addition to any other powers and duties granted or required by law:

- (1) The City Council shall appoint five (5) persons to serve at the City Council's pleasure as the Historic Preservation Review Commission, as described in Chapter 5, Article III of this Code.

- (2) The City Council shall review applications appealed from the Commission and issue its decisions on COAs and variances.
 - (3) The City Council shall monitor, review and supervise the Commission's performance of its responsibilities pursuant to this Chapter.
 - (4) The City Council may promulgate, amend and delete guidelines and adopt additional regulations, as necessary and appropriate, for the interpretation, administration and enforcement of these regulations as they may be helpful to builders and property owners.
- (Ord. 8 §1, 2006)

Sec. 22-8. Enforcement.

(A) It is unlawful for any person to violate any of the provisions of this Chapter or any of the conditions included upon a building permit or COA issued pursuant to this Chapter.

(B) The City may maintain an action in a court of competent jurisdiction for an injunction, or otherwise to enforce compliance with this Chapter or any conditions issued hereunder.

(C) No building permit will be given, granted or issued by the City with respect to any structure or property in violation of any of the provisions of these regulations.

(D) The City shall have recourse to any other remedies provided by law.

(Ord. 8 §1, 2006)

Sec. 22-9—22-20. Reserved.

ARTICLE II

Designation of Sites

Sec. 22-21. Initiation of procedure.

(A) Landowners owning any proposed site to be designated for preservation, or within any proposed district, may subscribe to a petition requesting formation of a district or for a site designation. The landowners shall request the designation in writing. In petitioning for formation of a district, the owners of properties within the proposed district shall be entitled to one (1) petition request per property owned, regardless of the number of owners per property. The owners of a specific property must determine among themselves whether to join the petition request, and if any owner in fee of an undivided interest in the surface estate of a property indicates a positive petition request, it shall be deemed such for the referenced property, so long as any other owner in fee of an undivided interest in the surface estate of the same area of land does not object in writing to the City within fourteen (14) days after the filing of the petition for designation, and shows the City why the landowner requesting the designation lacks legal authority to make such request.

(B) Whenever, in the opinion of the City Council, the petitioning requirement has been met and the site or district generally meets the criteria for preservation as defined herein, the application shall be referred to the Commission, which shall consider the matter at its next regular meeting and submit its opinion or recommendation to the City Council.

(C) Upon receipt of the Commission's input, the City Council may proceed by officially adopting a motion or resolution:

- (1) Stating that a preliminary investigation by the City Council indicates that the described site or district is eligible for designation for preservation;
- (2) Stating either that the City Council has received the landowner's written opinion of the designation, or why the City Council believes that it should proceed without such information;
- (3) Scheduling a public hearing by the City Council on the question of designation, hereinafter called a *designation hearing*, at a specific time, date and place; and

(4) Directing that the notice of the hearing be given as described in Section 22-23(A) below.
(Ord. 8 §1, 2006)

Sec. 22-22. Criteria for designation.

(A) A property may be designated if it:

- (1) Is associated with events that have made a significant contribution to the broad patterns of the City's history;
- (2) Is associated with the lives of persons significant in the City's past;
- (3) Embodies the distinctive characteristics of a type, period or method of construction;
- (4) Represents the work of a master;
- (5) Possesses high artistic values;
- (6) Represents a significant and distinguishable entity whose components may lack individual distinction; or
- (7) Has yielded, or may be likely to yield, information important in prehistory or history.

(B) The following criteria considerations are partial exceptions to, or limitations on, the eligibility of properties for historic designation, and shall be given due consideration by the City Council during its review of an application for designation:

- (1) A religious property is not eligible for historic designation unless it derives primary significance from architectural or artistic distinction or historic importance. Thus, a church may not be registered unless it has architectural or artistic value, or is associated with historically important events or processes. The site of a religious rite cannot be designated unless the site, the rite or both are associated with broader cultural patterns of historic significance.
- (2) A building or structure removed from its original location is not eligible for historic designation unless it is significant primarily for its architectural value or it is the surviving structure most importantly associated with a historic person, era or event. This consideration recognizes that the original locations of most historic properties contribute to their significance, so that their relocation may effectively sever them from their significant associations. A structure significant for its architecture without reference to its surroundings may be eligible for historic designation even if it has been moved, however, if there is no other building to represent a particularly important event or person.
- (3) A birthplace or grave is not eligible for historic designation unless it is that of a historic figure of outstanding importance and there is no other appropriate site or building directly associated with his or her productive life. Thus, the birthplace or grave of a community's founder is ordinarily not eligible; but if there is no other place where the founder can be remembered, the birthplace or grave may be designated.
- (4) Cemeteries are not eligible for historic designation unless they derive their primary significance from persons of transcendent importance, from age, from distinctive design features or from association with historic events. A cemetery containing the remains of many historically important people may be designated, as may one whose tombstones or mortuary architecture are particularly distinctive or one where particular historic events have occurred. Prehistoric and early historic cemeteries may be eligible because of their age and their association with events reflective of important historic processes.
- (5) A reconstructed building is not eligible for designation except under certain exceptional circumstances. A reconstructed building can be designated if the reconstruction is historically accurate, if the building is presented in a dignified manner as part of a restoration master plan and if no other original building or structure survives that has the same association. In other words, "stage set" reconstructions of historic places, such as ghost towns, created out of whole cloth where no historic town ever existed, cannot be designated, but buildings or structures can be designated if they are the only properties representing a particular event, person, period or type of construction.

- (6) Properties that are primarily commemorative in intent cannot be designated unless design, age, tradition or symbolic value invest such properties with their own historic significance. Thus, the statue of a town's founder cannot be designated unless it is an extremely good example of an artistic or architectural tradition or associated with traditions or events that give it its own significance apart from that of the founder.
 - (7) Designation of properties achieving significance within the past fifty (50) years is forbidden unless such properties are of exceptional importance. Fifty (50) years is a general estimate of the period of time necessary for the development of the historic perspective necessary to evaluate significance.
- (Ord. 8 §1, 2006)

Sec. 22-23. Hearing procedures.

(A) Notice of hearing.

- (1) Notice of the designation hearing shall be given as follows: written notice of the time, date, place and subject of the hearing shall be sent by certified mail, not less than seven (7) days prior to the hearing, to all property owners of record as of the date of the City Council's resolution, who own or have significant legal or equitable interest in the real property being proposed for designation for preservation.
- (2) Signs indicating the proposed action and the time, date and place of the hearing shall be posted by the City for a period of not less than seven (7) days immediately preceding the hearing on all sites or districts proposed for designation for preservation. Such signs will be prominently displayed and easily readable from abutting public ways.
- (3) 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 once in the official newspaper of the City not less than seven (7) days prior to the hearing.
- (4) Written notice of the proposed designation, including the identification of the site or district, the basis for the designation procedure and the time, date and place of the hearing, shall be given to the Building Official not less than seven (7) days prior to the public hearing.

(B) Hearing process.

- (1) A quorum of the City Council shall conduct the hearing. If a quorum is not present, the hearing shall be cancelled and rescheduled at that time. A hearing may be continued if the time, date and place shall be established and announced to those present when the current session is adjourned.
- (2) Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation. However, nothing contained herein shall be construed to prevent the City Council from establishing reasonable rules to govern proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.
- (3) Hearings shall include records of the name and address of each speaker and the organization or person he or she represents, if any; and whether or not he or she is an owner or holder of some interest in an affected property or represents such owner or holder. A summary of the relevant portions of each statement and all written presentations shall be incorporated into the record of the hearing. All records of hearings for historic preservation designation will be held in the City Clerk's central files.
- (4) The City Council shall review the proposed designation with respect to:
 - (a) Its relationship to the City's zoning regulations and other adopted planning documents;
 - (b) The effect of the designation upon the surrounding neighborhood; and
 - (c) Such other planning considerations as may be relevant to the proposed designation.

(C) Findings and action of City Council.

- (1) The City Council shall act officially on each proposed designation within thirty (30) days of the hearing thereon. The City Council may approve, reject or modify any proposal, but no proposal may be extended

beyond the boundaries of the land described in the original resolution unless the initiation and hearing procedure is repeated for the enlarged boundaries. The City Council shall set forth in its records the findings of fact which constitute the basis for its decisions, and due consideration shall be given to the written or oral views of owners of affected property. If the City Council fails to act within the thirty-day period, the designation shall be deemed to have been denied by the City Council.

- (2) If more than one (1) property is involved in the designation procedure, the City Council may approve in part and terminate in part. Each part shall then be treated as a separate action. In no event may any property be added to the area described in the City Council's initiation resolution without instituting a new designation procedure.
- (3) Any designation of a site or district for preservation shall be made by ordinance of the City Council. The City Council is required to act on the designation within forty-five (45) days after receiving the decision of the Commission.
- (4) With the exception of the District described in Section 22-3 of this Chapter, no site or additional district shall be designated for historic preservation without the express written consent of the landowner owning the proposed site or additional district.

(D) Recording of designation. Within fifteen (15) days of the effective date of an ordinance designating property as a site for preservation, the City Council shall notify the Building Official of the official designation and a copy of the ordinance shall be recorded in the real estate records of the County Clerk and Recorder.

(E) Notification. Within ten (10) days after the recording of the ordinance of historic designation of any property, the City Clerk shall send to the owner of each property so designated, by certified mail, a letter outlining the reasons for such designation and the obligations or restrictions created by such designation.

(F) Procedure to amend or rescind designation of sites for preservation. A site or district for preservation may be amended or rescinded in the same manner as the original designation was made.
(Ord. 8 §1, 2006)

Sec. 22-24—22-30. Reserved.