

ORDINANCE NO. 29

Series of 1999

AN ORDINANCE OF THE CITY OF GLENWOOD SPRINGS, COLORADO, AMENDING THE MUNICIPAL CODE BY PROVIDING FOR THE DESIGNATION OF HISTORIC SITES, LANDMARKS, AND DISTRICTS; REGULATING CONSTRUCTION, ALTERATION, REMOVAL, OR DEMOLITION OF LANDMARK SITES OR BUILDINGS WITHIN DESIGNATED HISTORIC DISTRICTS; PROVIDING FOR THE ADOPTION OF HISTORICAL PRESERVATION STANDARDS AND GUIDELINES; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, City Council finds that the protection, enhancement, perpetuation and use of sites, improvements and objects of historical, cultural, architectural, and geographic significance located within the City are important to the prosperity, civic pride and general welfare of its citizens, and the economics, culture, and aesthetics of Glenwood Springs cannot be maintained or enhanced by disregarding the City's heritage and by allowing the unnecessary destruction or defacement of such assets; and

WHEREAS, City Council has authority under Section 29-20-104(c) of the Colorado Revised Statutes to adopt an ordinance regulating land use and preserving areas of historical and archaeological importance.

NOW, THEREFORE, IT IS ORDAINED BY THE CITY COUNCIL OF THE CITY OF GLENWOOD SPRINGS, COLORADO, THAT:

Section 1: The Municipal Code of the City of Glenwood Springs is hereby amended by the addition of a new Article to read as follows:

"Article 070.120. Historic Preservation.

070.120.005. Purpose.

The purpose of this Article is to promote public health, safety, and welfare through:

- (a) The protection, preservation and perpetuity of the City's historic and cultural heritage, including, but not limited to, the designation of historic landmarks and districts, by appropriate regulations;
- (b) The enhancement of property values and the stabilization of historic neighborhoods;
- (c) The increase of economic and financial benefits, including, but not limited to, City attractions;
- (d) The provision of educational opportunities to increase public appreciation of Glenwood Springs' unique heritage;
- (e) The providing of information related to the historic preservation of resources in Glenwood Springs to the City and its citizens; and

- (f) Maintaining a balance between the public interest in preserving historic character and the owner's right to reasonable use of his/her property.
- (g) Conducting surveys and inventories to determine properties of historic significance.

070.120.010. Designation of Landmarks and Historic Districts.

- (a) Pursuant to the procedures set forth in this Article, City Council may:
 - 1. Designate as a landmark an individual structure or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value, as well as designate a landmark site for each landmark.
 - 2. Designate as a historic district an area containing a number of structures having a special historical or architectural value.

(b) Procedures for designating landmarks and historic districts for preservation.

1. *Nomination Application.* A nomination for designation may be made by the Glenwood Springs Historic Preservation Commission ("GSHPC"), City Council, the property owner(s), or any organization with a recognized interest in historic preservation by obtaining and filing the application with the City's Community Development Department. District nominations shall include a petition supporting the nomination and signed by the owners of at least fifty (50) percent of the land area proposed to be included within the district.

2. *Initiation of Procedure.*

a. All owners and/or lessees of a nominated property shall receive notice from the Community Development Department by certified mail, return receipt requested. Such notice shall reference the privileges, obligations and restrictions which apply to historic properties, along with a request for their response.

b. The owners and/or lessees shall have thirty (30) days from the date shown on the return receipt to submit a written response to the Community Development Department indicating their consent or objection to the nomination. If no response is received within the 30-day period, it shall be deemed that the owner, lessee and/or occupant has no objections to the designation.

3. *Community Development Review.*

a. The Community Development Department shall ensure the application is complete within ten (10) days. The Community Development Department shall determine whether an application is complete, and, if the application is incomplete, the additional information required. A determination that the application is

complete is not a determination that the application is vested.

b. The Department staff shall review the proposed designation with respect to:

(1) Its relationship to the City's code, goals and policies; the Comprehensive Plan of the City; and the criteria set forth herein; and

(2) The effect of the designation upon the surrounding neighborhood.

c. The Community Development Department shall make a recommendation to the Historic Preservation Commission regarding the proposed designation, which shall include the basis for its recommendation.

4. *GSHPC Hearing.*

a. *Public Hearing.* The GSHPC shall hold a public hearing on the proposal not more than sixty (60) days after the filing of the application. Notice of the time, date, place and subject matter of the hearing shall be given pursuant to Section 070.010.030 of the Municipal Code.

b. *Action.* The GSHPC shall review the application for conformance with the established criteria for designation. Within thirty (30) days after the conclusion of the public hearing, unless otherwise mutually agreed by the GSHPC and the applicant, the GSHPC shall take one of the following actions:

1. Recommend that City Council approve the application for a landmark or historic district designation; or
2. Recommend that City Council deny the application for a landmark or historic district designation; or
3. Continue the hearing to a future GSHPC meeting with a request for additional information necessary to make a decision to approve or deny.

070.120.015. City Council Procedures.

A. *Notice of Public Hearing.* Within thirty (30) days after the date of any referral from the GSHPC, City Council shall hold a public hearing on the application. Notice of the time, date, place and subject matter of the hearing shall be given pursuant to Section 070.010.030 of this title.

B. *Review Application.* The City Council shall review both the application for conformance with the established criteria set forth in this article and all referral documents submitted by the GSHPC.

C. *Action.* Within thirty (30) days after the conclusion of the public hearing, but in

no event more than sixty (60) days after the hearing was first noticed, unless otherwise mutually agreed by the City Council, the applicant, and the owner or owners other than the applicant, the City Council shall approve, modify and approve, or disapprove the proposal at a public meeting.

D. *Notification.* When a landmark or historic district has been designated by City Council, the Community Development Department shall:

1. Send the owner(s) and/or lessee(s) of each property so designated, by certified mail, a letter outlining the reasons for such designation, the obligations and restrictions created by such designation, and the procedures for appeal. The letter shall also contain a requirement that the owner and his/her successors or assigns notify the GSHPC prior to:
 - a. Preparation of plans for the reconstruction or alteration of the exterior of improvements located on such property; or
 - b. Preparation of plans for the construction, relocation or demolition of exterior improvements on such property.
2. Record the ordinance designating the property as a historic site or historic district and listing the individual properties included therein with the Garfield County Clerk's office within fifteen (15) days after its effective date. Each designating ordinance shall include a description of the characteristics of the landmark or historic district which justify its designation, a description of the particular features that should be preserved, and a legal description of the location and boundaries of the district.

070.120.120. Revocation of landmark designation.

If a building or special feature on a designated landmark site has been lawfully removed or demolished, the owner may apply to the GSHPC for a revocation of the respective landmark designation. The revocation application shall be reviewed under same procedures described hereinabove.

The revocation of a landmark designation may be approved if there is a determination that, without the demolished building or feature, the site as a whole no longer meets the criteria for designation. The GSHPC shall make a recommendation to City Council to approve or deny the revocation of the landmark designation. Upon the City Council's decision to revoke a designation, an ordinance that includes the legal description of the affected property and stating reasons for the revocation shall be adopted and recorded with the Garfield County Clerk and Recorder. In addition, the department shall promptly notify the owners, lessees and occupants of the property by certified mail of the revocation.

070.120.125. Amendment of designation.

Designation of a landmark or historic district may be amended to add features or property to the site or district under the procedures set forth in Section 070.120.010 of this article. Whenever a designation has been amended, the department shall promptly

notify the owners of the property by certified mail and shall record a copy of the amending ordinance with the Garfield County Clerk and Recorder.

070.120.130. Limitation on Resubmission and Reconsideration of Proposed Landmark or Historic District Designation.

When City Council denies a historic district or landmark site designation application, no person shall submit an application that is the same or substantially the same for at least six (6) months from the date of the final action on the original proposal.

070.120.135. Criteria for Designation.

The GSHPC and City Council shall consider the following criteria in reviewing nominations of properties for designation:

I. Landmarks. Landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social, geographical, or environmental significance outlined below in this article. A landmark may be exempt from the age standard if it is found to be exceptionally important in other significant criteria.

A. Historic sites shall meet one (1) or more of the following criteria:

1. Architectural.

- (a) Site exemplifies specific elements of an architectural style or period.
- (b) Site is example of the work of an architect or builder who is recognized nationally, state-wide, regionally, or locally.
- (c) Site demonstrates superior craftsmanship or high artistic value.
- (d) Site presents an innovation in construction, materials or design.
- (e) Site's style is particularly associated with Glenwood Springs area.
- (f) Site represents an environment of a group of people in an era of history.
- (g) Site has pattern or grouping of elements representing at least one of the above criteria.
- (h) Significant historic remodel.

2. Social.

- (a) Site of historic event that had an effect upon society.
- (b) Site exemplifies cultural, political, economic or social heritage of the community.
- (c) Associated with a notable person(s) or the work of a notable

person(s).

3. Geographic/environmental.

(a) Enhances sense of identity of the community.

(b) An established and familiar natural setting or visual feature of the community.

B. Prehistoric and historic archaeological sites shall meet one (1) or more of the following:

1. Architectural.

(a) Exhibits distinctive characteristics of a type, period or manner of construction.

(b) A unique example of structure.

2. Social.

(a) Potential to make an important contribution to the knowledge of the area's history or prehistory.

(b) An association with an important event in the area's development.

(c) An association with a notable person(s) or the work of a notable person(s).

(d) A typical example/association with a particular ethnic group.

(e) A unique example of an event in Glenwood Springs' history.

3. Geographic/environmental.

(a) Geographically or regionally important.

4. Buried human remains will be handled in as culturally sensitive and appropriate manner as possible.

C. All properties will be evaluated for their physical integrity using the following criteria (a property need not meet all of the following criteria):

1. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state, or nation.

2. Retains original design features, materials and/or character.

3. Original location or same historic context after having been moved.

4. Has been accurately reconstructed based on documentation.

II. Districts. For the purposes of this section, a district is a geographically definable area including a concentration, linkage or continuity of subsurface sites, buildings, structures

and/or objects. The district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria to the pattern(s) and unifying elements. Properties that do not contribute to the significance of the historic district may be included within the boundaries, as long as the non-contributing elements do not noticeably detract from the district's sense of time, place and historical development. Non-contributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, and/or information potential.

District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or site density as established through testing or survey.

In addition to meeting at least one (1) of the criteria outlined hereinabove, the area to be included in the district must contain within definable geographic boundaries one or more landmarks or object or site_ at least fifty (50) years old. The area may be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria.

A. Historic districts shall meet one (1) or more of the following criteria:

1. *Architectural.*

- (a) Exemplifies specific elements of an architectural period or style.
- (b) Example of the work of an architect or builder who is recognized nationally, state-wide, regionally or locally.
- (c) Demonstrates superior craftsmanship or high artistic value.
- (d) Represents an innovation in construction, materials, or design.
- (e) Style particularly associated with Glenwood Springs area.
- (f) Represents an environment of a group of people in an era of history.
- (g) Pattern or grouping of elements representing at least one of the above criteria.
- (h) Significant historic remodel.

2. *Social.*

- (a) Site of historic event that had an effect upon society.
- (b) Exemplifies cultural, political, economic or social heritage of the community.
- (c) Associated with a notable person(s) or the work of a notable person(s).

3. *Geographic/environmental.*

- (a) Enhances sense of identity of the community.
- (b) An established and familiar natural setting or visual feature of the community.

4. *Archaeology/subsurface.*

- (a) Potential to make an important contribution to the area's history or prehistory.
- (b) Associated with an important event in the area's development.
- (c) Associated with a notable person(s) or the work of a notable person(s).
- (d) Distinctive characteristics of a type, period or manner of construction.
- (e) Geographical importance.
- (f) A typical example/association with a particular ethnic group.
- (g) A typical example/association with a local cultural or economic activity.
- (h) A unique example of an event or structure.

070.120.135. Landmark Alteration Certificate Required.

No person shall carry out or permit to be carried out on a designated landmark site or in a designated historic district any new construction, alteration, relocation, or demolition of a building or other designated feature without first obtaining a Landmark Alteration Certificate for the proposed work under this section, as well as any other permits required by this article or any other Municipal Code provision.

The Community Development Department shall maintain a current record of all designated landmark sites and historic districts and any pending designations. The Community Development Department shall review any building permit application received to determine whether a Landmark Alteration Certificate for the work proposed in the application has been issued and whether the permit application conforms to the Certificate. If a Certificate has been issued on the permit application and the proposed work conforms thereto, the department shall process it without further action. If no certificate has been issued, or if the Community Development Department determines the permit application does not conform to the certificate, the Department shall not approve the permit application and shall not issue it until a certificate has been issued and the permit application conforms thereto.

070.120.140. Interim Control.

No person shall receive a building permit to construct, alter, remove, or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after an application has been filed to initiate the designation of such landmark site or district. No such building permit shall be approved while proceedings are pending on

such designation, such period time not to exceed 60 days.

070.120.145. Landmark Alteration Certificate Application.

An owner of property designated as a landmark, located in an historic district or a proposed landmark, or located in a proposed historic district may apply for a Landmark Alteration Certificate. The application shall include all information that the Community Development Department deems necessary, including without limitation, plans and specifications showing the proposed exterior appearance, with texture, materials, samples of materials, and architectural design and detail, and the names and addresses of the abutting property owners within 200 feet.

Landmark Alteration Certificates for alterations to buildings or special features shall be reviewed by a subcommittee of two designated GSHPC members and one Community Development Department staff person pursuant to Section 120.070.155.

Landmark Alteration Certificates for new construction, removal, or demolition of a designated landmark structure or a structure within a historic district shall be reviewed by the GSHPC pursuant to Section 120.070.160.

070.120.150. Landmark Alteration Certificate Pre-Application Conference.

The applicant shall first request a pre-application conference with the Community Development Department to discuss and review procedures and requirements as well as the City goals and policies.

The Community Development Department shall determine whether an application is complete, and, if the application is incomplete, the additional information required. A determination that the application is complete is not a determination that the application is vested.

070.120.155. Landmark Alteration Certificate Application and Staff Review.

A Community Development Department staff member and two (2) rotating members of the GSHPC shall review all applications for landmark alteration certificates for alterations to buildings or special features and shall determine within ten (10) business days after a complete application is filed whether or not the proposed work would have a significant impact upon or be potentially detrimental to a landmark site or historic district.

1. No significant impact.

If it is determined that there would be no significant impact or potential detriment, a Landmark Alteration Certificate will be issued to the applicant and the GSHPC shall be notified of such issuance.

2. GSHPC referral

If either the staff member or one of the GSHPC's sub-committee members determines that the proposed work would create a significant impact or potential

detriment, the application shall be referred to the GSHPC.

070.120.160. Landmark Alteration Certificate Meeting.

The GSHPC shall hold a public meeting to review Landmark Alteration Certificates referred by the GSHPC sub-committee within thirty (30) days after the completed application is filed. Notice of the time, date, place and subject matter of the hearing shall be given pursuant to Section 070.010.030.

The GSHPC shall take one of the following actions at the meeting:

1. Grant the Landmark Alteration Certificate upon a determination that the application meets the established criteria set forth in Sections 070.120.165, 070.120.170, 070.120.175, and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as set forth in Section 070.120.250. Within thirty (30) days after the first hearing date, unless otherwise mutually agreed upon by the GSHPC and applicant, the GSHPC shall adopt written findings and conclusions.
2. Deny the Landmark Alteration Certificate stating specific reasons for denial.
3. Continue the hearing to a future GSHPC meeting in the future with a request for additional information necessary to make a decision. The date of the meeting shall be set by the GSHPC upon recommendations from staff, the applicant, and members of the public in attendance. Nothing herein shall prohibit the GSHPC from continuing a matter more than once before making a recommendation decision to the City Council. In the event the applicant or a member of the public disagrees with the number of continuances granted by the GSHPC, or the overall length of review of a particular application, such person may appeal to the City Council. City Council shall have the authority to direct the GSHPC to change the review period. The GSHPC shall comply with the City Council directive.

When reviewing Landmark Alteration Certificate applications, the GSHPC may extend the review period up to thirty (30) additional days if the GSHPC finds the application does not meet the GSHPC's review standards and if additional information is necessary in order to make a determination.

070.120.165. Criteria for Review of a Landmark Alterations Certificate.

The GSHPC shall approve alterations for any proposed work on a designated historical site or district only if the GSHPC can determine that the proposed work would not detrimentally alter, destroy or adversely affect any architectural or landscape feature which contributes to its original historical designation. The GSHPC must find a proposed development is visually compatible with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is an historic district, the GSHPC must also find that the proposed development is visually compatible with development on adjacent properties.

The GSHPC will use the following criteria to determine compatibility:

1. The effect upon the general historical and architectural character of the structure and property.
2. The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation and compatibility with other structures.
3. The size of the structure, its setbacks, its site, location, and the appropriateness thereof, when compared to existing structures and the site.
4. The compatibility of accessory structures and fences with the main structure on the site, and with other structures.
5. The effects of the proposed work in creating, changing, destroying, or otherwise impacting the exterior architectural features of the structure upon which such work is done.
6. The condition of existing improvements and whether they are a hazard to public health and safety.
7. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.
8. Compliance with the Secretary of the Interior's Standards for Rehabilitation.

070.120.170. Criteria for Reviewing Structure Relocation

In addition to the alterations criteria in Section 070.120.165, the GSHPC will use the following criteria in considering alteration certificate applications for relocating a landmark, a structure on a landmark site, a building or structure within a historic district; a structure onto a landmark site; or a structure onto property in an historic district:

(a) For consideration of the original site, the GSHPC will review for compliance with all of the following criteria:

1. Documentation showing the structure cannot be rehabilitated or reused on its original site for any reasonable beneficial use of the property.
2. The contribution the structure makes 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.
6. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

(b) For consideration of the new location, the GSHPC will review for compliance with all of the following criteria:

1. Whether the building or structure is 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 and its consistency with the character of the neighborhood.
3. Whether the relocation of the structure would diminish the integrity or character of the neighborhood receiving site.
4. If a relocation plan has been submitted and approved by the City staff, including posting a bond, to ensure safe relocation, preservation and repair, if required, of the structure.

070.120.175. Criteria for Reviewing Structure Demolition

(a) *Review criteria for total demolition* Applicants requesting a Landmark Alteration Certificate must provide data to clearly demonstrate that the situation meets ~~all of~~ the following four 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 in Glenwood Springs; 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 structure or structures located on the property and adjacent properties.
 - c. Any impact to the architectural integrity of the structure or structures located on the property and adjacent properties.
- (5) In the case of archaeological 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 has mitigated, to the greatest extent possible:
 - a. Impacts on the historic importance of the structure or structures located on the property; and
 - b. Impacts on the architectural integrity of the structure or structures located on the property.

070.120.180. Denial of Landmark Alteration Certificate

A denial of a Landmark Alteration Certificate shall be accompanied by a statement of the reasons for the denial and the procedures for appeal to City Council. The GSHPC may make recommendations to the applicant concerning changes to the proposal. The applicant may resubmit an amended application, reapply for a building or demolition permit that takes into consideration the recommendations of the GSHPC, or appeal said denial to City Council.

Subsequent submittals. If an application for a Landmark Alteration Certificate is denied, no person may submit a subsequent application for the same construction, alteration, removal, or demolition within six (6) months from the date of the final action upon the earlier application.

070.120.185. Issuance of Landmark Alteration Certificate

The department shall issue a Landmark Alteration Certificate if an application has been approved by the GSHPC subcommittee, GSHPC or City Council.

(a) Time limit. Upon approval an application for a Landmark Alteration Certificate, the applicant must apply for a building permit conforming to the certificate within 180 days thereafter.

(b) Record of Demolished and Moved Properties Prior to the issuance of a permit for demolition, moving, or removal, the City may require the applicant to provide information about the building, including, without limitation, the date of original construction, significant events and occupants, architectural features, and a description of the building through photographs, plans, and maps.

070.120.190. Exemptions from a Landmark Alterations Certificate

If a Landmark Alteration Certificate is denied, the applicant may request an exemption from the certificate requirements from the GSHPC. The applicant must provide adequate documentation and/or testimony to establish qualification for one (1) of the listed exemptions. The data provided by the applicant must be substantiated by either professionals in an applicable field or by thorough documentation of how the information was obtained. The owner shall have the burden of proof to establish hardship. The GSHPC may request additional information from the applicant as necessary to make informed decisions. Exemptions are granted only to the specific owner and use and are not transferable.

(a) Economic hardship exemption.

In considering economic hardship, the following standards that describe factors, evidence, and testimony are to be considered in making its determination.

1. The applicant's knowledge of the property's historical significance at the time of acquisition, or of its status subsequent to acquisition.
2. The structural soundness of the building, or any structures on the property and their suitability for rehabilitation.
3. The economic feasibility of rehabilitation or reuse of the existing property in the case of a proposed demolition.

4. The current level of economic return on the property as considered in relation to the following:

- a. Amount paid for the property, the date of purchase, and 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.
- b. A substantial decrease in the fair market value of the property as a result of the denial of the Certificate of Alteration.
- c. The fair market value of the property at the time the application was filed.
- d. Real estate taxes for the previous three (3) years.
- e. Annual gross and net income, if any, from the property for the previous (3) three years; itemized operating and maintenance expenses for the previous three (3) years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three (3) years.
- f. Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three (3) years.
- g. All appraisals obtained within the previous three (3) years by the owner(s) or applicant in connection with the purchase, financing or ownership of the property,
- h. Any state or federal income tax returns on or relating to the property for the previous three (3) years.

5. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and the price asked and offers received, if any, within the previous two (2) years. This determination can include testimony and relevant documents regarding:

- a. Any real estate broker or firm engaged to sell or lease the property,
- b. Reasonableness of the price or rent sought by the applicant and
- c. Any advertisements placed for the sale or rent of the property by the owner or applicant.

6. The lack of feasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:

- a. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings/structures on the property and their suitability for rehabilitation.
- b. At least three (3) estimates indicating the cost of the proposed construction, alteration, relocation or demolition and estimates of any additional cost that would be incurred to comply with the recommendations of the GSHPC or City Council for changes necessary for the

issuance of a certificate of appropriateness.

- c. Testimony from a licensed engineer or architect with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of existing buildings/structures on the property.

7. Studies and evaluations conducted at the owner's expense that shall identify impact of economic incentives and/or funding available to the applicant through federal, state, City or private programs in relation to a five (5) year pro forma of projected revenues and expenses of the reasonable uses or revenues that takes into consideration the utilization of incentives programs available.

8. Any community organizations, preservation groups, other associations and private citizens that wish to comment on a submission made under the financial hardship provision.

Conduct to be excluded from review - Demonstration of economic hardship by the owner shall not be based on conditions caused by or resulting from the following:

1. Willful or negligent acts by the owner;
2. Purchasing the property for substantially more than 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 create a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

(c) Inability to use. One (1) year after denial of a demolition permit approval, 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 GSHPC 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.

070.120.190. Appeals.

Anyone aggrieved by any decision of the GSHPC may file an appeal with City Council within 30 days of the GSHPC decision, pursuant to the procedures set forth in Section 070.010.050 of this Code. An aggrieved person, for purposes of this Article, shall be the applicant, any person testifying before the GSHPC, any adjacent landowner, any landowner within a designated historic district, and the City.

070.120.195. Unsafe or Dangerous Conditions Exempted

Nothing in this Section shall be construed to prevent any measures of construction, alteration, removal, or demolition necessary to correct the unsafe or dangerous condition of any structure, feature, or parts thereof when such condition is declared unsafe or dangerous by the Community Development Department or Fire Department and where the proposed measures have been declared necessary by the City Manager or his designee 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 Landmark Alteration Certificate under this Article, but a Certificate is required for permanent alteration, removal, or demolition.

070.120.200. Property Maintenance Required

The City Council intends to preserve from deliberate or inadvertent neglect the exterior portions of designated landmarks and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. No owner, lessee, or occupant of any landmark shall fail to prevent significant deterioration of the exterior of the structure or special feature beyond the condition of the structure on the effective date of the designating ordinance.

Compliance with City codes. No owner and/or lessee of any landmark or structure in an historic district shall fail to comply with all applicable provisions of this section and other ordinances of the City regulating property maintenance.

Owner notification. Before the City Attorney or his/her designee files a complaint in municipal court for failure to maintain the property on the landmark site or historic district, the City shall notify the property owner and/or lessee of the need to repair, maintain, or restore the property, shall assist the owner or lessee in determining how to preserve the property, and shall give the owner forty-five (45) days in which to commence the tasks. In the event a building permit is required, work shall commence forty-five (45) days after issuance of a building permit.

070.120.205. Non-historic Structures.

- A. The construction of a new building or structure and the moving, reconstruction, alteration, major maintenance or repair affecting the external appearance of any non-historic building, structures, or appurtenance within the historic district must be of a design such that the height, setbacks, roof lines, and similar characteristics are compatible with other buildings within the historic district. The process for determining compatibility shall be as set forth in Section 070.120.155 of this article.
- B. It is not the intent of this section to limit or discourage new construction nor to limit it to any one period or architectural style, but rather to encourage the integrity of the historic district.

070.120.210. Recognition of Structures of Merit

The GSHPC may approve a list of structures of historical or architectural merit that have not been designated as landmarks and are not situated in designated historic districts to which the GSHPC may add from time to time in order to recognize and encourage the protection, enhancement, and use of such structures. Nothing in this

Section shall be construed to impose any regulations or controls upon, or to provide incentives or awards to, structures of merit solely because they are included on the list.

The GSHPC may recommend, with City Council approval, such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any listed structure or of any designated landmark or any structure in a designated historic district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.

070.120.215. Violations and Penalties.

No person shall violate or permit to be violated any of the requirements of this Article or the terms of a Landmark Alteration Certificate. No municipal summons or complaint may be issued charging a violation of this Article or the terms of a Landmark Alteration Certificate unless the alleged violation has not been corrected within thirty days after the City has delivered notice thereof personally or by regular mail to the last address of the owner of the property listed in the records of the Garfield County Assessor.

Person(s) causing such violations shall, upon conviction, be guilty and punishable in accordance with Section 010.020.080. of the Municipal Code, *General Penalty for Violations of Code; Continuing Violations.*

The City of Glenwood Springs may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article.

Any person(s) violating any provision of this ordinance shall be liable to the City of Glenwood Springs for any expense, loss or damage, including reasonable attorney's fees, occasioned by reason of such violation.

The remedies provided by this Article are cumulative and not exclusive and are in addition to any other remedies provided by law.

Any action shall be brought by the City Attorney or his/her designee.

070.120.220. Stop Work Order.

Whenever an action for which a Landmark Alteration Certificate is required has been initiated, or is about to be initiated, the City shall make every reasonable effort to contact the property owner(s), lessee(s) and/or occupant(s) to notify them of the application for Landmark Alteration Certificate process. If the Community Development Department determines that a stop work order is necessary to halt an action that requires a Landmark Alterations Certificate, the City shall deliver or send a copy of the stop work order by certified mail, return receipt requested, to the last known address of the property owner(s) and notify them of the Certificate process.

070.120.225. Economic Incentives.

All City authorities, including City Council, to the extent that they have the legal authority to do so, may take such action as may be necessary to grant economic incentives and may make any such action or grant conditional upon the subsequent enactment of a designating ordinance.

070.120.230. Assistance.

The City shall, subject to the approval of the City Manager, provide the GSHPC with such staff assistance as is reasonably necessary to enable it to perform its duties and powers.

070.120.235. Gifts, Grants and Funding.

The Historic Preservation Commission may, subject to appropriations by the City Council or other income, employ clerical and technical assistants or consultants, and may apply for and accept grants, money gifts, or gifts of services, and may hold or expend the same for all or any of the purposes of historic preservation in the City. A non-lapsing fund for gifts and grants shall be established by the City. Appropriations from the City Council shall be managed in accordance with city policies and shall lapse each year if unexpended.

070.120.240. Severability.

It is hereby declared to be the legislative intent that the several provisions of this Article shall be severable in accordance with the provisions set forth below.

(a) If any provision of this Article is declared to be invalid by a decision of any court of competent jurisdiction, it hereby declared to be the legislative intent that the effect of such decision shall be limited to that provision which is expressly stated in the decision to be invalid. Such decision shall not affect, impair or nullify this Article as a whole or any other part, but the rest of this Article shall continue in full force and effect;

(b) If the application of any provision of this Article to any lot, building or a other structure or a tract of land is declared to be invalid by a decision of any court of competent jurisdiction, it is hereby declared to be the legislative intent that the effect of such decision shall be limited to that lot, building or other structure of tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered. Such decision shall not affect, impair or nullify this Article as a whole or the application of any provision to any other lot, building or other structure or tract of land.

070.120.245. Limitations.

This Article shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other ordinance, law, or regulation. Where this Article imposes a higher and/or stricter standard, the provisions of this Article shall prevail. The GSHPC shall not review permit applications for alterations to interior spaces, so long as the proposed work neither has an effect on the exterior appearance of the building nor compromises the structural integrity of the building.

070.120.250. Adoption of the Secretary of the Interior's Standards for Historic Preservation Projects

The Standards for Rehabilitation and Guidelines of Rehabilitating Historic Buildings, a section of the Secretary of the Interior Standards for Historic Preservation Projects, revised in 1990 as part of Department of the Interior Regulations (36 CFR Part 67, Historic Preservation Certifications) shall be hereby adopted for the City of

Glenwood Springs as it relates to the rehabilitation of historic buildings.

The Standards for Rehabilitation, a section of the Secretary's Standards for Historic Preservation Projects, address rehabilitation. Rehabilitation is defined as the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use, while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

The Standards that follow pertain to historic buildings of all materials, construction types, sizes, and occupancy and encompass the exterior and the interior (as it affects the exterior) of historic buildings. The Standards also encompass related landscape features and the building's site and environment as well as attached, adjacent or related new construction. The Standards are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining exterior characteristics of the building, its site and environment.
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
7. 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.
8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

11. Certain treatments, if improperly applied, or certain materials, by their physical properties, may cause or accelerate physical deterioration of historic buildings. Inappropriate physical treatments include, but are not limited to, improper repainting techniques; improper exterior masonry cleaning methods; or improper introduction of insulation where damage to historic fabric would result. In almost all situations, use of these materials and treatments will result in denial of certification. In addition, every effort should be made to ensure that the new materials and workmanship are compatible with the materials and workmanship of the historic property.

070.120.255. Definitions.

Unless specifically defined below, words or phrases in this Article shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Article its most reasonable application.

Alteration - Any act or process that changes one or more of the exterior architectural features of a structure, including, but not limited to, the erection, construction, reconstruction, or removal of any structure.

Applicant - A delegate appointed by the record owner of the site and/or buildings.

Building - Any structure, place, or any other construction built for the shelter or enclosure of persons, animals, or chattels, or any part of such structure when subdivided by division, walls or party walls extending to or above the roof and with openings in such separate walls.

Compatible or Compatibility - 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. The delicate historic character and scale of District(s) may be overwhelmed and disrupted by buildings out of proportion to those surrounding structures or styles which do not respect the existing historic neighborhood.

Construction or Construct - The act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.

Contributing Building, Structure, Site/Area, or Object - A building, structure, site/area, or object that reflects the historical or architectural character of the district as defined GSHPC designation.

Demolition or Demolish - Any act or process that destroys in part or in whole a landmark or a structure within a historic district.

Demolition by Neglect - Neglect in the maintenance of any building resulting in any one or more of the following:

1. The deterioration of a building(s) to the extent that it creates or permits a hazardous or unsafe condition as determined

- by the Building Department.
2. The deterioration of a building(s) characterized by one or more of the following:
 - a. Those buildings which have parts thereof which are so attached that they may fall and injure members of the public or property.
 - b. Deteriorated or inadequate foundation.
 - c. Defective or deteriorated floor supports or floor supports insufficient to carry imposed loads with safety.
 - d. Members of walls, or other vertical supports that are insufficient to carry imposed loads with safety.
 - e. Members of ceiling, roof, ceilings and roof supports, or other horizontal members which sag, split, buckle due to defective material or deterioration.
 - f. Fireplaces or chimneys which list, bulge, or settle due to defective material or deterioration.
 - g. Any fault, defect, or condition in the building which renders the same structurally unsafe or not properly watertight.

Design Guidelines - A standard of appropriate activity that will preserve the historic and architectural character of a structure or area.

Exterior Architectural Appearance - The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design, and character of all windows, doors, light fixtures, signs and appurtenant elements.

GSHPC - Glenwood Springs Historic Preservation Commission.

Historic District - An area designated as a "historic district" by ordinance of the City Council and which may contain within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties, improvements, or structures that, while not of such historic and/ or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics of the landmark or landmarks located within the historic district.

Historic Building, Improvement, Structure, Site or Object - A building, structure, site or object which is designated by the City Council pursuant to this Article.

Landmark - A property or structure designated as a "landmark" by ordinance of the City Council, pursuant to procedures prescribed herein, that is worthy of rehabilitation, restoration, and preservation because of its historic and/ or architectural significance to the City of Glenwood Springs, CO.

Landmark Alteration Certificate - A certificate issued after approval of plans for alteration, construction, removal, or demolition of a landmark or of a structure within an historic district.

Ordinary Repairs and Maintenance - Work done on a building in order to correct any deterioration, decay of, or damage to a building or any part thereof in order to restore same as nearly as practical to its condition prior to such deterioration, decay or damage.

Owner of Record - The person, corporation, or other legal entity

listed as owner on the records of the Garfield County Recorder of Deeds.

Relocation - Any relocation of a structure on its site or to another site.

Repair - Any change that is not construction, removal, or alteration.

Significance - The value placed on a building relating to its architectural or historical importance, as defined by this Article.

Structure - Anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, advertising signs, billboards, radio and television antennae, including supporting towers, and swimming pools."

Section 2. If any ordinance or parts of ordinances are in conflict herewith, they are hereby repealed to the extent of such conflict only.

INTRODUCED, READ AND PASSED ON FIRST READING, ORDERED PUBLISHED IN FULL THIS _____ DAY OF _____, 1999.

CITY OF GLENWOOD SPRINGS, COLORADO

Jon Tripp, Mayor Pro Tem

ATTEST:

Kathy Trauger, Deputy City Clerk

INTRODUCED, READ ON SECOND READING, APPROVED, AND ORDERED PUBLISHED BY TITLE ONLY TO BE EFFECTIVE TEN DAYS FOLLOWING THE DATE OF SECOND PUBLICATION THIS _____ DAY OF _____, 1999.

CITY OF GLENWOOD SPRINGS, COLORADO

Sam Skramstad, Mayor

ATTEST:

Robin S. Clemons, City Clerk