

CHAPTER 14.1 (ZONING)
ARTICLE 2 (LAND USE ZONING DISTRICTS)
PART 5 (OVERLAY ZONES)

SECTION 505: HP - HISTORIC PRESERVATION OVERLAY

A. Purpose And Declaration Of Policy.

It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation and use of structures and areas of historical, architectural, archaeological or geographic significance located within the city is a public necessity and is required in the interest of the prosperity, civic pride, and general welfare of the people.

The purpose of this part is to:

1. Designate, preserve, protect, enhance and perpetuate those structures and areas which reflect outstanding elements of the city's cultural, artistic, environmental, social, economic, political, architectural, historic or other heritage;
2. Foster civic pride in the beauty and accomplishments of the past;
3. Stabilize or improve the aesthetic and economic vitality and values of such structures and areas;
4. Protect and enhance the city's attraction to tourists and visitors;
5. Promote the use of outstanding historical or architectural structures or districts for the education, enjoyment and welfare of the people of the city;
6. Promote good urban and architectural design in new infill buildings and rehabilitation of existing buildings including the preservation of related private and public open spaces; and
7. Promote and encourage continued private ownership and utilization of buildings and other structures now so owned and used, to the extent that the objectives listed above can be attained under such a policy.

B. Standards for Designation of Area for Overlay Zoning

An area may be designated by Council for Historic Preservation Overlay Zoning if it is at least fifty (50) years old, or if not fifty (50) years old, exhibits exceptional importance and meets one (1) or more of the following criteria as set forth in the following two (2) categories:

1. Historical importance. The structure or area:
 - a. Has character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation;
 - b. Is the site of a historic event with an effect upon society;
 - c. Is identified with a person or group of persons who had significant influence on society; or
 - d. Exemplifies the cultural, political, economic, social or historic heritage of the community.

2. Architectural importance. The structure or area:

- a. Portrays the environment of a group of people in an era of history characterized by a historically important and distinctive architectural style;
- b. Embodies those distinguishing characteristics of an architecturally recognized detail;
- c. Is the work of an architect or master builder whose individual work has influenced the development of the City;
- d. Contains elements of architectural design, detail, materials or craftsmanship which represent a significant innovation; or
- e. Contains buildings which, although individually lacking distinction, collectively display distinguishing characteristics.

C. Surveys And Inventories:

Surveys and inventories of historic properties have been prepared for Downtown, Shooks Run, Old Colorado City, Mesa Springs, Knob Hill, and the Westside Neighborhood, and such are on file at the City Planning Division. These surveys and inventories as such are now completed or such surveys and inventories as may be completed in the future shall be a part of the City's Comprehensive Plan. Surveys which locate and describe historic structures and areas, and inventories which compile information about historic structures and areas shall be undertaken and updated as funds are budgeted and made available.

The City survey and inventory system shall be compatible with federal and state criteria and consistent with statewide comprehensive historic preservation planning.

D. Relief To Preserve Historic Resources:

The purpose of this Section is to provide flexibility in the application of development standards and parking requirements for use when strict application of regulations will result in adverse effects to designated historic resources. The City recognizes that historic resources contribute to the unique character of neighborhoods; that many resources exist as legal, non-conforming structures; and that the value of historic resources cannot be replicated once they are adversely altered, moved or demolished.

A. Application. A written request for relief shall be submitted. The request shall include a site plan and a parking lot plan which shows the location, exterior dimensions and height of all structures and objects, and the layout of parking spaces, aisles and access points and the location, size and species of the existing vegetation.

B. Findings Necessary to Recommend Relief. The Historic Preservation Board must make all of the following findings in order to recommend relief:

- 1. The strict application of development standards listed in the parent zone and/or parking requirements listed in Part 2 (Parking), Article 3 of this Zoning Code, will cause the removal, demolition or adverse alteration of an existing historic resource.
- 2. The Historic Preservation Board has determined that:
 - a. The historic resource meets the criteria for designation of HP - Historic Preservation Overlay as identified in Subsection B above; and
 - b. The historic resource is worth saving; and

c. The relief is necessary to preserve the historic resource.

3. If the request for relief involves parking requirements, the Traffic Engineer has determined that the surrounding properties will not be adversely impacted by the reduction of the number of required off-street parking spaces.

4. The intent of this Zoning Chapter is preserved.

C. Relief That May Be Recommended. In order to provide greater flexibility in satisfying development standards and/or parking requirements to save historic resources, the following relief may be recommended:

1. Reduction of required front, rear or side yard setbacks.

a. The parent zone regulations regarding front, rear or side yard setbacks may be waived upon demonstration that a neighborhood standard exists which is less restrictive than the requirements of the parent zone.

b. A recommended waiver of parent zone setback requirements shall be no less restrictive than the identified neighborhood standard.

2. Waiver/Reduction of Parking Design Guidelines and/or Provision of On-site, Off-street Parking Requirements as Listed in Part 2 (Parking) Article 3 of this Zoning Code.

a. The ordinance prohibition against backing across a property line may be waived for those parking spaces accessed from an alley if the unparking vehicle is clearly visible from both alley directions.

b. The ordinance prohibition against off-site parking spaces may be waived for those parking spaces located within 300 feet of the property containing the subject historic resource, provided that the off-site parking spaces are not located across an arterial street, expressway or freeway. A guaranteed access agreement will be required as evidence of secured off-site parking, and it shall be filed with the County Clerk and Recorder if such a waiver is issued.

c. One hundred (100%) percent of all required off-street parking spaces may be compact spaces. Compact space dimensions are shown in Figure 1 of Part 2, Article 3, of this Zoning Code.

d. The prohibition against tandem parking spaces fulfilling on-site, off-street parking requirements may be waived.

e. If relief allowed under Subsections 1), 2), 3), and 4) above is insufficient to preserve the subject historic resource, a reduction of up to fifty (50%) percent of the minimum number of off-street parking spaces required by Section 203A Part 2, Article 3 may be recommended if determined necessary by the Board to preserve a historic resource.

3. Waiver of Height of Building Limitation.

a. The parent zone regulations regarding height of building limitations may be waived upon demonstration that a neighborhood standard exists which is less restrictive than the height of building limitations of the parent zone.

b. A recommended waiver of parent zone height of building limitation may be no less restrictive than the neighborhood standard.

4. Issuance of Relief. Relief to preserve historic resources may be approved by the City Council when accompanying an overlay zone change request. Relief to preserve historic resources may be approved by the Hearing Officer when submitted as a variance request..

E. Applicability:

No structure may be erected, reconstructed, structurally altered or demolished on land which is designated Historic Preservation Overlay unless such structure is in compliance with the provisions of this Zoning Code.

**CHAPTER 14.1 (ZONING)
ARTICLE 4 (ADMINISTRATION AND PROCEDURES)
PART 17: (HISTORIC PRESERVATION BOARD)**

SECTION 1701: HISTORIC PRESERVATION BOARD:

A. Creation

There shall be and hereby is created a Historic Preservation Board, hereafter called the "Board."

B. Purpose

The Board shall among the other responsibilities provided for in this Part:

1. Survey, inventory and identify historically and architecturally significant structures and areas within the City;
2. Recommend to Council designation of historic structures and areas for Historic Preservation Zoning;
3. Review and take action on applications for rehabilitation, alteration or demolition of historic buildings, or construction of new buildings and other structures including signs in historic preservation zones.
4. Make recommendations regarding zoning amendments and comment on the comprehensive plan;
5. Undertake educational programs and activities;
6. Make recommendations regarding City Code provisions pertaining to historic preservation; and
7. Develop and adopt design standards to identify characteristics of resources worthy of preservation and identify policies which will assist in the preservation and enhancement of those resources.
8. Prepare a historic preservation plan.
9. Make recommendations to the Planning Commission on Relief to Preserve Historic Resources as set out in Section 14.1-2-505.D;.

10. Develop and recommend for Council adoption design standards to establish criteria for use by the Board in the consideration of an application for a Report of Acceptability for properties with Historic Preservation (HP) Overlay zoning.

C. Composition

The Board shall consist of seven (7) members. Initial appointments shall be staggered so that no more than three (3) members' terms expire in the same year. Thereafter, appointments shall be for three-year terms, with no more than one (1) reappointment, after which there must be a one (1) year absence before another appointment.

D. Appointments

1. All appointments shall be made by the City Council. In making appointments to the Board, the City Council shall give due consideration to maintaining a balance of interests and skills in the composition of the Board and to the individual qualifications of the candidates, including but not limited to their training, experience, knowledge or proven interest in any one or more of the following fields: landscape architecture; architecture; history; archeology; general contracting; building trades; urban planning; mortgage lending; real estate; urban design; fine arts; law; business; economics; and engineering.

2. The City Council may advertise for candidates for the Board for the purpose of making appointments and filling vacancies which occur from time to time.

E. Officers and Rules

The Board shall elect a Chairman and such other officers other than a Secretary as it may require. The Board shall make and adopt rules for governing its work, and it shall conduct its business in accordance with its own rules, and if none are adopted then the Rules of Council shall constitute the Board's rules.

F. Meetings

The Board shall conduct business at regular meetings or at any special meeting as called by the Chairman. The schedule for regular meetings shall be established at the annual meeting held every June. The bylaws shall specify the time for said annual meeting.

G. Quorum; Action

No official business of the Board shall be conducted unless a quorum of not less than four (4) members is present. The concurring vote of at least a simple majority of the quorum is necessary to constitute an official act of the Board.

H. Compensation

Members of the Board shall serve without compensation. To the extent authorized by the City Council, members may be reimbursed for expenses necessarily incurred incidental to their duties for the Board.

I. Rules and Regulations

The Board shall have the power to make whatever rules, including but not limited to design standards as are necessary for the execution of its duties as set forth in this Zoning Code. All such rules shall be approved by the City Council by resolution before becoming effective.

J. Staff

The staff of the Planning, Development and Finance Department shall provide support to the Board as necessary.

K. Conflict of Interest

No member of the Board or staff shall participate in any matter before the Board in which he or she has a direct or indirect financial interest.

SECTION 1702: DEFINITIONS

For the purposes of this Part and Section 14.1-2-505 of this Zoning Code, the following terms shall have the meanings indicated:

ACQUISITION - Means the act or process of acquiring fee title or interest other than fee title of real property (including the acquisition of development rights or remainder interest).

ALTERATION - Any act or process which changes one (1) or more of the exterior architectural features of a structure in a historic preservation zone.

DEMOLITION - Any act or process that destroys in part or in whole a structure in a historic preservation zone.

DESIGN GUIDELINES - Written statements, explanatory material, graphic renderings and/or photographs which are intended to inform property owners and the public of historic characteristics suitable for preservation, and techniques and materials appropriate to achieve that goal.

DESIGN STANDARDS - Written statements adopted by City Council resolution as criteria for use by the Board in consideration of an application for a Report of Acceptability for properties with Historic Preservation (HP) Overlay Zoning.

HISTORIC, HISTORIC AREA, LANDMARK OR DISTRICT - Any Council designated site, structure, object or improvement and its surrounding environs or a group of sites, structures, objects or improvements, or both, and their surrounding environs:

1. Which has a special character or special historic or aesthetic interest or value as part of the development, heritage or cultural characteristics of the city, state or nation.
2. Wherein any event of major historic significance with a measurable effect upon society took place.
3. Which is closely identified with a person or group of persons who have had some measurable influence on society.
4. Wherein the broad cultural, political, economic or social heritage of the community is exemplified.
5. Which faithfully portrays the environment of a group of people in an era of history characterized by a distinctive architectural style or which embodies those distinguishing characteristics of an architecturally recognized detail or which is the work of an architect or master builder whose individual work has influenced the development of the city.

6. Which, because of being a part of or related to a square, park or other distinctive area, should be developed or preserved according to plan based upon a historic, cultural or architectural significance.

7. Which, due to unique location or singular physical characteristic, represents an established, familiar and significant visual feature of the neighborhood, community or city.

8. Which is officially zoned Historic Preservation Overlay pursuant to the provisions of this Zoning Code.

MAJOR WORK - Major work is any work that will alter any distinctive feature or improvement of the historic structure.

MINOR WORK - Minor work is any work that will not alter any distinctive feature or improvement of the historic structure.

NATIONAL HISTORIC LANDMARK - Means buildings, historic districts, structures, sites and objects which possess exceptional value or quality in illustrating or interpreting the heritage of the United States and as such is maintained by the Secretary of the Interior.

NATIONAL REGISTER - Means the National Register of Historic Places. It is a register of districts, sites, buildings, structures, and objects of national, State, or local significance in American history, architecture, archeology, and culture that is expanded and maintained by the Secretary of the Interior under authority of Section 2(b) of the Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461) and Section 101(a) (1) of the National Historic Preservation Act implemented through 36 CFR Part 60. The National Register is published in its entirety in the Federal Register each year in February. Addenda are usually published on the first Tuesday of each month.

PRESERVATION - Means the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of site. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials.

PROTECTION - Means the act or process of applying measures designed to affect the physical condition of a property by defending or guarding it from deterioration, loss, or attack, or to cover or shield the property from danger or injury. In the case of buildings and structures, such treatment is generally of a temporary nature and anticipates future historic preservation treatment; in the case of archeological sites, the protective measure may be temporary or permanent.

RECONSTRUCTION - Means the act or process of reproducing by new construction the exact form and detail of a vanished building, structure, or object, or a part thereof, as it appeared at a specific period of time.

REHABILITATION - Means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

REPAIR AND MAINTENANCE - Work done on a structure or object in order to correct any deterioration, decay or damage to any part thereof in order to restore the same as nearly as practical to its condition prior to such deterioration, decay or damage.

RESTORATION - Means the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

STABILIZATION - Means the act or process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists at present.

STRUCTURE - That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

SECTION 1703: DESIGNATION PROCESS FOR HISTORIC PRESERVATION OVERLAY ZONING:

A. Initiation of Procedure

1. The owner of property seeking Historic Preservation Overlay for that property may initiate the procedure for zoning by filing application for zoning with the Board. The Board shall within a reasonable period of time act on the application filing by determining if the property is eligible for historic preservation zoning and if so it shall adopt a resolution recommending to the City Planning Commission and City Council Historic Preservation Zoning without the necessity of notice required by subsection (B) of this Section.
2. The Board may initiate procedures for Historic Preservation zoning when in the opinion of the Board the site, structure, object or area meets the criteria for Historic Preservation Overlay zoning. The Board shall contact the owner or owners of such property by first class mail, postage prepaid, outlining the reasons and effects of Historic Preservation Overlay zoning and, if possible, shall secure the owner's consent to such zoning. If the Board is unable to personally contact the owner, it shall be sufficient to send a written request for the consent to zoning of the property by registered mail, return receipt requested, addressed to the owner of the property as shown on the most recent records of the El Paso County Assessor at the address shown on such records.
3. If any owner after contact does not consent to Historic Preservation Overlay zoning of the property within thirty (30) days from the date of receipt of the request for consent to zoning, the Board, upon the affirmative vote of at least four (4) of its members, may proceed by officially adopting a resolution stating that the preliminary investigation by the Board indicates that the described property is eligible for Historic Preservation Overlay zoning. The resolution shall contain the reasons the Board feels that it should proceed without the consent of the owner to initiate the zoning. The resolution shall also direct scheduling a public hearing on the question of zoning at a specified time, date and place and directing that the notice of hearing be given as herein below described.
4. In the event the owner consents in writing to Historic Preservation Overlay zoning, the Board, upon the affirmative vote of a majority of the members present, shall adopt a resolution recommending to the City Planning Commission and City Council Historic Preservation Zoning without the necessity of notice required by subsection B of this Section.
5. All applications submitted in accordance with this Section shall include a description of the property proposed for zoning and a detailed outline of the reasons why such property should be designated and why the boundaries of said property should be determined as described in the application.
6. Whenever a change of zone has been finally disapproved by the Historic Preservation Board, Planning Commission or City Council, the Board, Commission or City Council shall not consider any further application for the same change in zone affecting the same property or a part thereof for a period of twelve (12) months from the final action of disapproval.

B. Notice of hearing. Notice of Board consideration of Historic Preservation Overlay zoning hearing shall be given as follows:

1. Written notice of the time, date, place and subject of the hearing shall be sent by registered or certified mail not less than twenty seven (27) days prior to the hearing to all owners of record on the date of the resolution who own the real property being proposed for inclusion within the Historic Preservation Overlay zone. Such notice shall be deemed delivered upon the passage of fifteen (15) days from the deposit of said notice in the mail.
2. A sign(s) indicating that Historic Preservation Overlay zoning is being considered by the Board shall be posted by the Board for a period of not less than fifteen (15) days immediately preceding the hearing.
 - a. Where an individual property is proposed for Historic Preservation Overlay zoning, such sign or signs shall be prominently displayed and easily readable from abutting public ways.
 - b. Where two (2) or more adjacent properties are being considered for Historic Preservation Overlay zoning, such sign or signs may be prominently displayed in the public ways entering the perimeter of the district comprising those properties, or each property within the district may be individually posted in accordance with Section 1703.B.2a, Part 17, Article 4 above at the Manager of Development Services' discretion.
3. A legal notice indicating the nature of the hearings, the property involved and the time, date and place of the scheduled public hearing shall be published in a newspaper of general circulation one (1) time at least fifteen (15) days prior to the hearing.

C. Interim Control

No building permit shall be issued by the Building Official for alteration, relocation, demolition or new construction on a site, or for a structure or object under consideration for Historic Preservation Overlay zoning from the date of the hearing of the Board at which zoning is first presented for consideration of any kind until final disposition of the zoning by the City Council unless such alteration, relocation, demolition or new construction is authorized in accordance with the provisions of Section 1705, Part 17, Article 4.

D. Hearing

The hearing shall be held within sixty-three (63) days after submission of a complete application or motion of the Board for initiation of the Historic Preservation Overlay Zone. Written presentations, including the report of the Development Services Division, shall be included in the record of the hearing. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed zoning. However, nothing contained herein shall be construed to prevent the Board from establishing reasonable rules to govern the proceedings of the hearings or from establishing reasonable limits on the length of individual presentations. If any hearing is continued, the time, date and place of the continuation shall be established and announced to those present when the current session is to be adjourned; and such information shall be promptly forwarded, by regular mail, to the owners of record as established and addressed pursuant to Subsection B(1) of this section.

E. Findings and Recommendations of the Board

1. The Board shall act officially on each proposed Historic Presentation Overlay zone at the conclusion of the hearing.

2. The Board 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.

3. As provided for in Section 505.D, Part 5, Article 2 the Board may recommend, upon demonstration of need, one or more of the following conditions of record:

a. reduction of front, side and rear yard setbacks to conform to neighborhood standards;

b. allowance of unparking vehicles across property lines for parking spaces accessed from an alley so long as such unparking vehicles are visible from both directions in the alley;

c. allowance of 100% of all required off-street parking spaces as compact spaces;

d. allowance of tandem parking spaces;

e. allowance of off-street parking spaces within three hundred feet (300') of the historic resource;

f. If relief allowed under Subsections a, b, c, d and e above is insufficient to preserve the subject historic resource, a reduction of up to fifty (50%) percent of the minimum number of off-street parking spaces required by Section 14.1-3-203:A may be recommended if determined necessary by the Board to preserve a historic resource.

g. Waiver of building height limitations to conform to neighborhood standards.

4. The Board shall set forth in its records the findings of fact which constitute the basis for its decision. If the Board fails to reach a decision, the designation shall be deemed to have been rejected and the designation procedure shall thereby be terminated, unless a continuance is agreed to by a majority of the members of the Board present and a majority of these property owners receiving notice as required by Section 1703:B., Part 17, Article 4 who are present at the hearing.

F. Transmittal to City Planning Commission

1. Within fifteen (15) days after reaching its decision, the Board shall transmit to the City Planning Commission through the Manager only recommendations to impose Historic Preservation Overlay zoning, including the description of the property involved, the findings upon which the recommendation is based, specific design standards addressing proposed alterations to the property, and any other appropriate conditions of record.

G. City Planning Commission Action

Upon receipt of the zoning recommendation of the Board such shall be scheduled for consideration by the Planning Commission.

H. City Council Action

Upon receipt of any recommendation of the City Planning Commission for Historic Preservation Overlay Zoning or an appeal, the City Council may after hearing, by ordinance designate the property Historic Preservation Overlay zone.

I. Final Notification to Owner

Within ten (10) days after the adoption of Historic Preservation Zoning ordinance, the City Clerk shall send to the owner of each property so zoned by registered or certified mail a letter outlining the reasons for such designation and the obligations and restrictions created by such zoning. The letter shall also contain a request that the owner or his successors or assigns notify the Board prior to:

1. Preparation of plans of the reconstruction or alteration of the exterior or improvements located on the property, or
2. Preparation of plans for the construction, alteration, relocation or demolition of improvements on the property.

J. Notification to Regional Building

Within ten (10) days after the adoption of Historic Preservation Overlay ordinance, the Secretary of the Board shall notify the Regional Building Department in writing and the Regional Building Department shall retain a record of such notification.

SECTION 1704: AMENDMENT OR RECISSION OF ZONING

A Historic Preservation Zone may be amended in the same manner as the original designation was made. A Historic Preservation Zone may be repealed by Council by ordinance adopted pursuant to Charter.

SECTION 1705: CONSTRUCTION, ALTERATION, DEMOLITION OR RELOCATION OF DESIGNATED RESOURCES

A. Work Requiring Building, Demolition, or Sign Permit

Action on an application for a building, demolition, or sign permit for properties with the Historic Preservation Overlay Zone shall be deferred by the Regional Building Official except as provided in Subsection H below, until the application is accompanied by a report of acceptability from the Board for the proposed work when the proposed work involves any of the following which are visible from a public right of way:

1. Alteration or reconstruction of or addition to the exterior of any structure including signs, or improvement which is within a Historic Preservation Overlay zone for which a building permit is required.
2. Demolition or relocation of any structure including signs of improvement or object which is within a Historic Preservation Overlay zone for which a permit is required.
3. Construction or erection of or addition to any structure including signs or improvement upon any land which is within a Historic Preservation Overlay zone for which a permit is required.

B. Application for Report of Acceptability

1. Minor Work. Minor work is any work that will not alter any distinctive feature or any improvement of the historic structure. In order to obtain a report of acceptability for minor work, the applicant shall submit with the application for a building permit such documentation as determined necessary by the Board. A Minor Work Subcommittee of the Board, consisting of three (3) members of the Board, shall review the application for a report of acceptability for minor work within eighteen (18) working days after its receipt.

If the Minor Work Subcommittee, by majority vote, finds that the proposed minor work is of a nature which will not erode the authenticity of or destroy any distinctive exterior feature of the structure or improvement and is compatible with the distinctive characteristics of the Historic Preservation Overlay zone and with the spirit and purpose of the Zoning Code, Minor Work Subcommittee shall so advise the applicant in writing by issuing a Report of Acceptability and shall affix the Board's seal to the Plans and specification for the proposed work.

2. Major Work. Major work is any work referred to the board by the Minor work Subcommittee upon finding the proposed work will alter any distinctive feature or any improvement of the historic structure. The Board shall act on the application for a report of acceptability within twenty-eight (28) working days after its receipt by the Board.

C. Board Approval of Proposed Work

If upon receipt of an application for a report of acceptability pursuant to Subsection B above, the Board finds that the proposed work is of a nature which will not erode the authenticity of or destroy any distinctive exterior feature of the structure or improvement and is compatible with the distinctive characteristics of the Historic Preservation Overlay zone and with the spirit and purpose of the Zoning Code, the Board shall so advise the applicant in writing by issuing a report of acceptability and shall affix its seal to the plans and specifications for the approved work. Upon receipt of the Board's report of acceptability and plans and specifications, the Regional Building Official may proceed with the review of the application for a building permit. No change which would defeat the purpose of the Zoning Code shall be made in an application for a building permit or the plans and specifications for the proposed work approved by the Board without resubmittal to the Board and approval of such changes in the same manner as the original application. In determining the decision to be made concerning the issuance of a report of acceptability, the Board shall consider the following criteria:

1. The effect of the proposed work upon the general historical and/or architectural character of the Historic Preservation Overlay zone.
2. The architectural style, arrangement, texture and materials of existing and proposed structures, and their relation to the structures in the Historic Preservation Overlay zone .
3. The effects of the proposed work in creating, changing or destroying the exterior architectural features of the structure upon which such work is to be done.
4. The effect of the proposed work upon the protection, enhancement, perpetuation and use of the Historic Preservation Overlay zone.

D. Action of the Board on Unacceptable Work on Property Other Than on the National Register of Historic Places

If the proposed work is not found acceptable, the Board shall explore with the applicant all means for substantially preserving the improvement which would have been affected by the required permit. The decision to investigate other ways to preserve a designated resource is immediately appealable to City Council in the manner set out in Section 1008.B, Part 10, Article 4 of this Zoning Code. These investigations may include, by way of example and not of limitation:

1. Feasibility of modification of the plans.
2. Feasibility of any alternative private use of the structure or structures which would substantially preserve the original character thereof.
3. Possibility of public acquisition for a public purpose of the structure or structures involved.

If the Board and applicant, after a period of ninety (90) days from the date of receipt of application by the Board regarding the appropriateness of the desired change are unable to develop either alternate plans or an appropriate public or private use for the structure, the Board shall affirmatively act to set out reasons for the inability of the Board and applicant to agree, and the applicant may obtain the appropriate permit from the Regional Building Official to do as the applicant desires as long as such is in accord with all other City Codes.

E. Action of the Board on Unacceptable Work on Property Listed in the National Register of Historic Places

If the proposed work is not found acceptable, the Board shall explore with the applicant all means for substantially preserving the improvement which would have been affected by the required permit. No demolition or alteration of property listed in the National Register of Historic Places, except as provided in Section 1705(C), Part 17, Article 4 shall be permitted unless the Board first finds that an unreasonable economic or non economic hardship will result to the owner if not allowed to demolish or otherwise alter. If the proposed work is not approved by the Board, the applicant shall be so advised, and no building permit shall be issued unless a Certificate of Hardship has been issued. No reapplication shall be submitted pursuant to this part under the plans and specifications found unacceptable by the Board except a showing of changed circumstances sufficient to justify the reapplication as determined by the Board.

F. Determination of Economic Hardship

If the Board denies approval of an application for acceptability, it may, upon application or on its own motion, consider issuing a Certificate of Economic Hardship.

1. Upon application or motion for a Certificate of Economic Hardship, the Board shall schedule a public hearing on that application or motion, and shall provide notice in the same manner as in Section 1703.D, Part 17, Article 4.
2. Data to be provided by the applicant. The Board may solicit expert testimony or require that the applicant for a Certificate of Economic Hardship make submissions of information before rendering its decision.
3. Determination of economic hardship: The Board shall review all of the evidence and information required of an applicant for a Certificate of Economic Hardship and if the Board finds that without approval of the proposed work the property owner cannot obtain any reasonable economic return, not just profit, on the property, the Board shall:
 - a. Make a finding that denial of approval of the proposed work would impose an economic hardship on the property owner; and
 - b. Immediately issue a Certificate of Economic Hardship and proceed as in this section.
 - c. At its discretion, postpone the issuance of the Certificate of Economic Hardship.
 - (i) This suspension period shall not exceed thirty (30) days unless otherwise agreed to by the applicant. During this suspension period, the Board shall investigate plans and make recommendations to the City Council to allow the property owner a reasonable economic return from the property, or to otherwise preserve the subject property. Such plans and recommendations may include, but are not limited to: a relaxation of the provisions of this Part 17, Article 4 of this Zoning Code, financial assistance, building code modifications and/or changes in zoning regulations.

(ii) The Board may request an extension of the suspension period by the City Council. If the City Council determines that there is a program or project underway which could result in public or private acquisition of the building or structure and the preservation or restoration of such building or structure, and that there are reasonable grounds to believe that the program or project may be successful, the Council may extend the suspension period for an additional period, not to exceed ninety (90) days from the date of application for a regulated permit.

(iii) If at the end of the suspension period,

(aa) The Board finds that, after review of all of the alternatives, without authorization of the proposed work or demolition, the property owner still cannot obtain any reasonable economic return from the property; and

(bb) The applicant has not withdrawn his/ her application for a building permit; and

(cc) The applicant otherwise complies with the Codes of the City,

(dd) Then the Board shall issue a Certificate of Economic Hardship authorizing the work or demolition.

(ee) If the Board finds otherwise, it shall deny the application or motion for a Certificate of Economic Hardship.

G. Determination of Non-Economic Hardship

After the Board denies approval of an application for a report of acceptability submitted by an applicant acting in a religious, charitable or otherwise not-for-profit tax-exempt capacity, it may, upon application or on its own motion, consider issuing a Certificate of Non economic Hardship.

1. Upon application or motion for a Certificate of Non economic Hardship, the Board shall schedule a public hearing on that application or motion, and shall provide notice in the same manner as in Section 14.1-4-1703.D of this Part.

2. Data to be provided by the applicant. The Board may solicit expert testimony or require that the applicant for a Certificate of Non economic Hardship make submissions of information before rendering its decision.

3. Determination of Non economic hardship: The Board shall review all of the evidence and information required of an applicant for a Certificate of Non economic Hardship and if the Board finds that without approval of the proposed work the property is either substantially inadequate for the owner'(s) legitimate needs, or either physically and/or financially prevents or seriously interferes with the owner'(s) religious, charitable or otherwise not-for-profit purpose, the Board shall:

a. Make a finding that denial of approval of the proposed work would impose a non-economic hardship on the property owner; and

b. Immediately issue a Certificate of Non economic Hardship and proceed as in this Section.

c. At its discretion, postpone the issuance of the Certificate of Non economic Hardship.

(i) This suspension period shall not exceed thirty (30) days unless otherwise agreed to by the applicant. During this suspension period, the Board shall investigate plans and make recommendations to the City Council to render the property adequate for the owner'(s)

legitimate needs, or remove serious physical or financial interference with the owner'(s) religious, charitable or otherwise not-for-profit purpose, or to otherwise preserve the subject property. Such plans and recommendations may include, but are not limited to: a relaxation of the provisions of this Part 17, Article 4 of this Zoning Code, financial assistance, building code modifications and/or changes in zoning regulations.

(ii) The Board may request an extension of the suspension period by the City Council. If the City Council determines that there is a program or project underway which could result in public or private acquisition of the building or structure and the preservation or restoration of such building or structure, and that there are reasonable grounds to believe that the program or project may be successful, the Council may extend the suspension period for an additional period, for a total suspension period of not more than ninety (90) days from the date of application for a regulated permit.

(iii) If at the end of the suspension period,

(aa) The Board finds that, after review of all of the alternatives, without authorization of the proposed work or demolition, the property owner still cannot adequately use the property for legitimate needs, or is either physically and/or financially prevented or seriously hindered from advancing religious, charitable or otherwise not-for-profit purposes; and

(bb) The applicant has not withdrawn his/ her application for a building permit; and

(cc) The applicant otherwise complies with the Codes of the City,

(dd) Then the Board shall issue a Certificate of Non economic Hardship authorizing the work or demolition.

(ee) If the Board finds otherwise, it shall deny the application or motion for a Certificate of Non economic Hardship.

H. Remedying of Dangerous Conditions

In any case where the Regional Building Official, the Fire Department, or any other public authority having the power to do so orders or directs the construction, reconstruction, alteration, repair, relocation or demolition of any structure in a Historic Preservation zone for the purpose of remedying conditions determined by that official, department or authority to be imminently dangerous to life, health or property, nothing contained herein shall be construed as making it unlawful for any person to comply with such order. Any such official, department or authority shall take immediate steps to notify the Board of the issuance of any such order or directive and may include in such order or directive any timely received requirements or recommendations of the Board.

I. Waiver of Conditions

Upon a showing of substantial hardship or to protect against an arbitrary result, or both, the Board may waive such conditions and requirements as are set forth in this Zoning Code, provided that the spirit and purpose of this Zoning Code are not significantly eroded.

J. Appeal of Decisions

Decisions of the Board regarding the acceptability of applications for building permits under Subsection D of this Section shall be considered "final decisions" within the meaning of The City Code, and such decisions shall be subject to the right of appeal to the City Council and shall be

appealed in the same manner and in accord with the same procedures contained in Section 1008.C, Part 10, Article 4 of this Zoning Code.

SECTION 1705: NORMAL MAINTENANCE AND REPAIR

Nothing in this Zoning Code shall be construed to prohibit the accomplishment of any work on structure in a Historic Preservation Overlay zone which will neither change the exterior appearance nor the exterior architectural features of improvements or structures, nor the character or appearance of the land itself, and which is considered necessary as a part of normal maintenance and repair.

SECTION 1706: NOTIFICATION OF STATE OR NATIONAL DESIGNATION

The Manager shall promptly notify the Board of any known National or State designations of landmark structures or landmark districts within the City.

SECTION 1707: ENFORCEMENT

Enforcement of this Part shall be a matter of zoning enforcement. Appeals from notices and orders alleging violations of the provisions of this Part shall be heard by the Hearing Officer and if appealed, the City Council in accordance with Section 1008.C, Part 10, Article 4 of this Zoning Code. The Hearing Officer, and City Council on appeal, shall have the power after hearing, to order restoration of the building, structure, site or object to its appearance or setting prior to the violation. In addition, if any violation of the provisions of this article are by persons licensed or registered under the Building Code (Chapter 16) suspension or revocation proceedings may be commenced under the provisions of Section 109, Article 16, Chapter 16 of the City Code.

SECTION 1708: FAILURE TO COMPLY WITH ORDER TO RESTORE

A. It shall be unlawful for any person to fail or refuse to comply with any order issued to him pursuant to this Article.

B. In the event that any order issued pursuant to this Article is not complied with at such reasonable time as is specified therein, the Manager of Development Services, after notice to the owner, or agent of the owner or occupant may direct restoration through private contact. The procedures outlined in the City Code for the collection of the cost and expenses thereof shall apply independently and in addition to the penalty provided by the City Code for violation of any provisions of this Zoning Code.

SECTION 1709: LIEN ASSESSMENT

In the event that the owner or agent of the owner shall fail within thirty (30) days after billing to pay the cost and expenses for the restoration, a lien may be assessed against the property for such cost in accordance with the City Code.

If the application of any provision of this Article to any lot, building or 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 or tract of land immediately involved in the controversy, action or proceeding in which the judgment or decree of invalidity was rendered, and such decision shall not affect, impair or nullify this Article as a whole or the application of any provision thereof to any other lot, building or other structure or tract of land.

See Section 103, Article 1, Chapter 16 of the City Code which provides as to historic buildings that the Regional Building Official may authorize repairs, alterations or additions necessary for preservation that are not in conformance with requirements of technical codes.

See Section 1011, Article 5, Chapter 16 of the City Code et seq. The Dangerous Building Code which provides for a just, equitable and practical method for dealing with dangerous buildings.