

Chapter 16.60

Historic Preservation

16.60.010 Statement of purpose.

(a) The intention of this Chapter is to designate, preserve, protect, enhance and perpetuate those sites, structures, objects and districts which reflect outstanding elements of the City's cultural, artistic, social, ethnic, economic, political, architectural, historic, technological, institutional or other heritage; and it is also the intention of this Chapter to establish a method to draw a reasonable balance between the protection of private property rights and the public's interest in preserving the City's unique historic character by creating a quasi-judicial Commission to review and approve or deny any proposed demolition of, moving of or alteration to properties of historic value. In cases of historic districts or non-owner nominated properties for historic designation, and changes to an existing District Designation plan, decisions of the Commission are forwarded to the City Council for approval under 16.60.085. All other actions by the Commission are considered final actions and may be appealed to City Council under 16.60.170. The findings and determinations of the Commission may be reviewed, modified, affirmed or reversed by a simple majority vote of the elected members of the City Council, as provided in Section 16.60.170.

(b) Foster civic pride in the beauty and accomplishments of the past;

(c) Stabilize or improve aesthetic and economic vitality and values of such sites, neighborhoods, structures, objects and districts;

(d) Protect and enhance the City's attraction to tourists and visitors, increase the quality of life for the citizens and enhance future economic development;

(e) Promote the use of outstanding historical or architectural sites, structures, objects and districts for the education, stimulation and welfare of the people of the City;

(f) Promote good urban design;

(g) Promote and encourage continued private ownership and utilization of such sites, structures, objects or districts;

(h) Integrate historic preservation with the City's comprehensive development plan. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.020 Definitions.

The following words, terms and phrases, when used in this Chapter, shall have the meanings defined as follows:

Alterations means any act or process requiring a building permit, moving permit, demolition permit or sign permit for the reconstruction, moving, improvement or demolition of any designated property or district; or any other action in which a review by either the Historic Preservation Commission or the City's Historic Preservation Specialist is necessary under Chapter 16 and/or the District Designation Plan.

Burden of Proof under this chapter shall be a preponderance of the evidence.

Certificate of approval means a certificate issued by the Commission to indicate its approval of a building permit, moving permit, demolition permit, sign permit, or any other alteration in which a review is necessary by either the Historic Preservation Commission or the City's Historic Preservation Specialist to authorize the construction, alteration or demolition or property and improvements designated under this chapter.

Commission means the Historic Preservation Commission as created in Section 16.60.030 of this Chapter.

Contributing buildings, sites and structures means historic properties within the proposed district which have been designated for inclusion on the City's Historic

Register. Additional properties within the proposed district may be designated or may remain as contributing nondesignated properties. Nondesignated properties contribute to the historic district by their shared and unique architectural, historical or geographic characteristics. Contributing properties, designated or not, are subject to all Historic Preservation Design Review Guidelines applicable to individually designated properties as well as design review guidelines applicable to designated and contributing properties within the specific historic district.

Designated property means an historic property individually listed on the City's Historic Register through the procedural requirements in Sections 16.60.070 and 16.60.080 and which meets the criteria set forth in Section 16.60.060. Designated properties are subject to the restrictions in Section 16.60.100; and the economic incentives are available to designated properties as set forth in Section 16.60.090.

District designation plan is a plan generated by the historic district residents/owners. This plan shall incorporate elements such as, but not limited to, building height, setback, building envelope and new construction. The plan shall address all properties; contributing, noncontributing and properties individually listed on the City's Historic Register. If a provision of the district designation plan conflicts with Chapter 16.60 then the district designation plan approved by Council under 16.60.085(b) shall prevail unless doing so would negatively affect the City's certification standing regarding historic preservation.

Emergency means an unexpected and sudden event that must be dealt with urgently that deals with a property in order to preserve the structure.

Front Yard means the area of property from the front of the house (main entrance of property) to the edge of property leading away from the front of the house. This area would include sides of the house to the street either from a fence line or the mid line along the side of the house. In cases where a house is on a corner and there is not a fence, the yard from the side would also be included under "front yard."

Historic district means a geographically definable area with a significant concentration of buildings, structures, sites, spaces or objects unified by past events, physical development, design, setting, materials, workmanship, sense of cohesiveness or related historical and aesthetic associations. The significance of a district may be recognized through listing in a local, state or national landmarks register.

Historic property means the public and private resources in the City, including buildings, homes, replicas, structures, objects, properties, parks and sites that have importance in the history, architecture, archeology or culture of the City, State or nation, as determined by the Commission.

House moving, new construction, demolition means any act or process which destroys, in part or in whole, any designated property.

Nomination means the process of filing an application for designation. For a property to be nominated it is not necessary that all research and paperwork be completed. For a district or non-owner application for designation all paperwork for application must be completed as per the rules promulgated by the Commission. Non-owner or historic districts must be approved by the City Council under 16.60.085.

Noncontributing buildings, sites and structures are those properties which do not share the architectural, historic or geographical characteristics of the historic district except for their physical presence within the district. These properties are not individually eligible for designation and do not contribute to the historic district's characteristics. Inclusion of these properties within an historic district subjects these properties to those design review standards and guidelines applicable to noncontributing properties established during the creation of the historic district, unless specifically excluded under the District Designation Plan. All pertinent

municipal zoning and building codes are applicable. New construction shall be considered a *noncontributing structure*.

Preservation plan means a survey of the historic properties in the City that the Commission has an interest, consistent with its stated purpose, in placing on the local register.

Public comment means any notation, observation, remark or recommendation made during a hearing by a member of the public in response to a proposed Commission action.

Register means a locally maintained list of properties designated as historic.

Replica means any reconstruction or recreation of any buildings, structures or other resources deemed to be of historic importance by the Commission.

Secretary of the Interior Standards means a document which was originally published in 1977 and revised in 1990. The standards compose one (1) section in the Secretary of the Interior's Standards for Historic Preservation Projects and appear in Title 36 of the Code of Federal Regulations, Part 68, which governs alterations to buildings listed in the National Register of Historic Places. The standards, which pertain to the exterior and interior of historic buildings, deal with design, methods of construction and materials. This reference shall always refer to the current standards, as amended.

Streetscaping means rehabilitation, preservation and beautification of those exterior elements of a designated property which are visible from a street.

Unreasonable economic hardship means severe economic impact to the property as determined on a case-by-case basis by the Commission. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.030 Commission created.

(a) Commission established. There is hereby created an Historic Preservation Commission, hereinafter in this Chapter referred to as the *Commission*, which shall have principal responsibility for matters of historical preservation.

(b) Membership. The Commission shall consist of seven (7) members providing a balanced, communitywide representation, and all shall have an interest in historic preservation. The Commission shall have at least one (1) design professional, one (1) historian, one (1) licensed real estate broker and four (4) citizens at-large.

(c) Appointment of a Historic Preservation Specialist. There shall be a Historic Preservation Specialist appointed by the City Manager to serve as a link between the City staff and the Commission. The Historic Preservation Specialist shall not be a member of the Commission. (Ord. 70, 2002 §1; Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.050 Powers, duties and rulemaking authority.

The Commission shall act in a quasi-judicial manner, and shall draw a reasonable balance between the protection of private property rights and the public's interest in preserving the City's unique historic character. It shall have the following powers, duties and rulemaking authority, subject to approval by City Council under 16.60.085 for historic districts and non-owner nominations:

(1) Recommend criteria for approval by City Council by which the Commission shall conduct its review of historic properties and review proposals to alter, demolish or move designated properties. The Commission shall recommend or designate those properties or districts which meet the applicable criteria by placing them on the local register under the rules and procedures under this Chapter.

(2) Conduct surveys for the purpose of creating a preservation plan of historic properties and districts. Such inventory is for the purpose of informing citizens who own such properties that the Commission expects these properties may meet the criteria for designation.

- (3) Review and make a decision on any application for altering, moving or demolishing any designated properties.
- (4) Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nomination to the National Register of Historic Places.
- (5) Develop and assist in public education programs, including but not limited to walking tours, brochures, a marker program for historic properties, lectures and conferences.
- (6) Advise the City Council on matters related to preserving the historic character of the City.
- (7) Assist in pursuing financial assistance for preservation-related programs.
- (8) Establish such rules, regulations and procedures relating to designation, nomination, preservation, relocation, demolition, exemptions, economic incentives, appeal of decisions or other processes relating to the powers and duties of the Commission.
- (9) Remove properties from the register for reasons the Commission deems appropriate including, but not limited to, acts of God, undue hardship and public health/safety concerns.
- (10) Cause to be issued by the appropriate City department such municipal citations as are appropriate for enforcement of this Chapter.
- (11) Establish and collect an application fee for applications made by citizens who are applying for historical designation or who are applying to alter, move or demolish an historically designated property or a property in a designated historic district. Additionally, the Commission shall have the authority to set formal policy regarding the implementation and waiver of the application fee. The Commission will also consider in setting the fee that the purpose of said fee is to partially recover costs the City will incur in providing applications. All fees and or costs promulgated by the Commission shall be reviewed by the City Manager or the Manager's designee on an annual basis. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 39, 1996 §1; Ord. 33, 1995 §1(part))

16.60.060 Criteria for designation.

- (a) A property shall be eligible for designation for historic preservation and eligible for economic incentives if it meets at least one (1) criterion in two (2) or more of the following categories:
- (1) Historical significance:
 - (i) The site, building or property has character, interest, integrity and reflects the heritage and cultural development of the City, State or nation;
 - (ii) Is associated with an important historical event;
 - (iii) Is associated with an important individual or group who contributed in a significant way to the political, social and/or cultural life of the community.
 - (2) Architectural significance:
 - (i) The property characterizes an architectural style associated with a particular era and/or ethnic group;
 - (ii) Is identified with a particular architect, master builder or craftsman;
 - (iii) Is architecturally unique or innovative;
 - (iv) Has a strong or unique relationship to other areas potentially eligible for preservation because of architectural significance;
 - (v) Has visual symbolic meaning or appeal for the community.
 - (3) Geographic significance:
 - (i) The property has proximity to a square, park or unique area deserving of preservation;
 - (ii) Is a visual feature identifying an area or neighborhood or consists of utilitarian and commercial structures historically and geographically associated with an area.

(b) A district shall be designated if the Historic Preservation Commission determines and recommends to City Council, pending approval, that the proposed district meets the definition of an historic district pursuant to Section 16.60.020 and meets two (2) or more of the following criteria:

- (1) An area which exemplifies or reflects the particular cultural, political, economic or social history of the community;
- (2) An area identified with historical personages, groups or which represents important events in national, state or local history;
- (3) An area which embodies distinguishing characteristics of an architectural type or style inherently valuable for the study of a period, method of construction or of indigenous materials of craftsmanship;
- (4) An area which, due to its unique location or singular characteristics, represents established and familiar visual features of the neighborhood, community or city; or
- (5) An area which is representative of the notable work of a master builder, designer or architect whose individual ability has been recognized. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

(c) A property or district may only be nominated once a year, unless such nomination is uncontested.

16.60.070 Procedure for nomination of historic properties and districts.

(a) Nomination procedures.

(1) Owner nominations. Any owner may nominate their property, area or structure for designation on the City's Historic Register.

(1.5) District nominations. Two (2) or more individuals may nominate a district within which they own property by attaching a petition with signatures of property owners within the district showing support of the nomination. Support of the nomination for a historic district requires:

- (i) A signed showing of support of no less than twenty (20) signatures or 20% of the number of properties or lots within the proposed area, whichever is less.
- (ii) Each property or lot is only able to sign once. Properties held in any type of joint ownership do not get split votes.
- (iii) The petition shall be considered final for purposes of accounting the 20% at the time of submission.

(2) Non-owner nominations. The Planning Commission, Greeley Urban Renewal Authority, Downtown Development Authority or any preservation organization including nonprofit historic preservation groups may nominate a property, district, area or structure for designation subject to all the rules and procedures of this entire Chapter.

Non-owner individual nominations are to be reviewed under stricter protections and must meet the following criteria of overwhelming historic importance to the entire community:

- (i) Possessing such unusual or uncommon significance that the structure's potential demolition or major alteration would diminish the character and sense of place in the community of Greeley; or
- (ii) Possessing superior or outstanding examples of architecture, social or geographic historic significance criteria outlined in the criteria for designation 16.60.060.

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

Persons or organizations wishing to initiate a nomination should contact the Historic Preservation Specialist for written policies and procedures for nomination.

(b) Nomination by survey. Designation may be on the basis of a survey subject to all the rules and procedures of this entire chapter. The Commission is authorized by this Chapter to order a community survey. The list of sites contained in this survey shall be maintained, reviewed and updated annually by the Commission.

(c) A property or structure may be nominated as part of the Commission's preservation plan.

(d) Moratorium. For a potential historic property or district which had been nominated but not yet designated, legal protection for the nominated property shall be afforded for one hundred twenty (120) days until its status is determined. Permits to alter or remodel the exterior of a property or to build, relocate, or raze shall not be issued during that 120 day period, except by written exemption by the Commission under the following criteria:

- (1) as necessary by law under Federal, State, or City ordinance; or
- (2) deemed to be an emergency; or
- (3) unreasonable economic hardship, or
- (4) improper nomination.

Owners requesting such exemption may seek an immediate hearing before the Commission by filing a request for an immediate hearing with the Historic Preservation Specialist. If at such hearing the Commission votes by a two-thirds (2/3) majority vote that the property is eligible for exemption, the moratorium or nomination shall be dropped in the entirety or with specific exclusions for that specific property.

(e) District designation plan required. In addition to Subsections (a) through (d) above owners of properties being nominated as part of a district must develop a district designation plan. Requirements under this plan will be drafted by the applicant and staff and approved by the Commission at the designation hearing pending approval by City Council.

(f) Neighborhood meeting required. If the nomination is for designation of an historic district, then a neighborhood meeting shall be held and all owners of property within the proposed district boundaries will be notified by mail of the time, date and location. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

(g) Historic district owner vote required. After the neighborhood meeting occurs but prior to the Commission's designation hearing a vote by property owners of the nominated district shall be cast. The vote shall be done through the mail and only one ballot per property can be voted upon as sent by the City Clerks Office which must be returned by the date specified on the ballot. Such ballots shall be sent by certified mail, return receipt, but voters may return their vote card either in person or by mail. Greater than 50% of returned votes must be in favor of historical designation or the nomination fails.

16.60.080 Procedure for designation of historic properties and districts.

(a) Notice and time requirements.

(1) All owners of a nominated property shall receive notice from the Commission by certified mail, return receipt, but the City shall receive notice by hand delivery for the nomination of City-owned property. Such notice shall reference the privileges, obligations and restrictions which apply to historic properties.

(2) The Commission shall call for a public hearing after which the decision to designate shall be put to the Commission. The designation resolution must be passed by a two-thirds (2/3) majority vote of the Commission, and the notice of designation resolution must include a detailed description of the property and reasons for nomination. Within 30 days of the Commission's recommendation for designation the City Council shall hold a hearing whether to approve, modify, or deny the designation for historic districts or non-owner individual nominations under 16.60.085 of this Code.

(3) All owners shall be given written notice at their last known address of the time, place and date of the hearing. Such notice shall be given no less than fifteen (15)

days prior to the scheduled hearing. The notice shall also be published in a newspaper of local circulation once a week for two (2) weeks prior to the hearing.

A notice of hearing for designation of property shall be mailed or delivered with a certificate of mailing or a certificate of delivery filled out. Notice shall also be posted, at the property, in a manner clearly visible from a public right-of-way. In the case of nominations for historic district, postings shall occur in the district in a manner clearly visible from public right-of-ways. The Commission shall create administrative rules regarding the procedure for the number and placing of posting notices, a copy of which shall be held by the Historic Preservation Specialist.

(b) The hearing.

(1) Quorum required. At least five (5) members must be present at a hearing in order to establish a quorum. If a quorum is missing due to attendance, then the chairperson of the Commission may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date. If a quorum is missing due to conflicts of interest, then the process in 16.60.082 shall be used.

(2) The hearing. The hearing shall be electronically recorded and minutes prepared. Hearings shall be of ample length to allow all concerned persons to address the Commission.

(c) Approval by the Commission. Approval shall be granted after the Commission has heard all interested parties and relevant evidence if the Commission votes in favor of historic designation by a two-thirds (2/3) majority of the quorum present for owner nominated property. At least five (5) commissioners must vote in favor of historic designation for approval of non-owner nominated property or historic districts, subject to approval by City Council under 16.60.085. If the owner disagrees with the decision of the Commission, the owner may appeal the decision pursuant to Section 16.60.170.

(d) Recording the designation after approval.

(1) Recording of the designation with the County Clerk and Recorder for:

(i) Owner nominated properties must take place within five (5) days after the thirty day appeal delay pursuant to Section 16.60.170 if no appeal is filed, or within five (5) days after a final Council decision.

(ii) Non owner nominated or historic districts must take place thirty five (35) days after approval by City Council pursuant to 16.60.085.

Recording fees shall be paid by the nominating party.

(2) Within fifteen (15) days after recording of the historic designation, the Commission shall send a registered notice to the owner outlining reasons for designation.

(e) Signage of designated property. The Commission shall supply and pay for uniform signs for designated properties subject to availability of funds. Such signs shall conform to City ordinances governing other signs in the City. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.081 Procedure for modification of district designation plans.

(a) District designation plans may be modified by property owners within the district. The procedure to modify a district designation plan shall follow the same rules and procedures as outlined in 16.60.070 and 16.60.080 except no moratorium shall be placed upon the district.

16.60.082 Use of Alternates in Designations

(a) In cases where a conflict of interest arises to the attention of the Commission during the designation of a historic property or district, use of Alternates is permissible to replace conflicted members. Alternates shall be selected from a pool of former Historic Preservation Commission Members that would meet the minimum City Board and Commission standards necessary, except for term limits, at the time

of the appointment and the vote. Best efforts will be made to replace any and all conflicted members, but if a quorum of five (5) is attainable the Designation Hearing may proceed.

(b) A pool of Alternates shall be appointed by the City Council. The total number of potential Alternates shall be between two (2) to twelve (12) people. The selection of the Alternates to fill the role of any conflicted Commission Members shall be at random. The Historic Preservation Specialist shall draw names through some random process, e.g. draw names from a hat. The selection shall be done during a special session or meeting of the Commission where public notice has been given. The selection shall be done prior to the actual Historic Designation Hearing to allow the Alternates a chance to review any changes to the City's Municipal Code or procedures.

(c) The Alternate may only act upon the matter that a Commission Member has a conflict.

(d) If a quorum is unattainable through the Use of Alternates in Designations as provided for in this Section, then the Historic Designation Hearing will be directly heard before the City Council, by a special hearing, for a designation vote using the same guidelines as mandated by the Historic Preservation Commission under this Chapter, except that such Council vote shall be carried by a simple majority of the quorum present.

16.60.083 Illustrative flow chart

(a) A process flow chart for illustrative purposes only shall be added as an exhibit to the code following this ordinance.

16.60.085 Approval of Commission's decision by City Council

(a) All recommendations for designation made by the Historic Preservation Commission regarding historic designation of districts or non-owner nominated properties or modification of District Designation Plans must be submitted to City Council, through the City Clerks Office, for approval. Notification of the public meeting regarding approval of historic designation shall be given by posting signage around the historical district boundaries and publishing a notice in the newspaper.

(b) Upon presentation of a district designation plan to the City Council that has additional terms and conditions not stated or is in conflict with the Chapter 16.60, the City Council is hereby granted the authority, in its sole discretion, to approve the district designation plan with these terms and conditions, notwithstanding any of the limiting terms and conditions stated in this Chapter 16.60 unless doing so would negatively affect the City's certification standing regarding historic preservation.

(c) The City Council shall take action within 30 days of the Commission's decision. This decision is a deemed a final action by the City.

16.60.090 Economic incentives for historic restoration and/or rehabilitation

(a) An owner of a property that has been designated as historic or an owner of a contributing property in a historic district may apply for the following economic incentives for the restoration or rehabilitation of that property, and such additional incentives as may be developed by the Commission pursuant to its rules and regulations:

(1) Matching funds for streetscaping on designated property.

(2) Refund of City building permit fees for interior and exterior restoration, preservation and rehabilitation. The Commission shall develop a format for establishing projected costs, rules of the restoration, preservation or rehabilitation in order that such refund of fees is equitable.

(3) The low interest loan pool created by the City pursuant to Chapter 16.61 of this Code.

(4) Applicable state and federal income tax credits.

(b) The Commission shall attempt to identify and implement other economic incentives for historic properties. The Commission shall notify the owners of historic properties of economic incentive opportunities available.

(c) The Commission shall make the determination for each request regarding economic incentives. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.100 Special duties, privileges and obligations.

(a) Owners of designated properties shall be eligible to apply for those economic incentives as contained within this Chapter and/or established and developed by the Commission pursuant to its rules and regulations.

(b) Owners intending to reconstruct, improve, demolish or in any way significantly alter or change a designated property, or a property in an historic district, must first submit their plan for review to the appropriate City departments as to compliance with all City codes and ordinances.

(c) After consultation with the City's development departments, the owner shall submit a plan for review by the Commission, and the Commission shall grant a certificate of approval to properties that the Commission feels can be altered without diminishing the historic character of the property or district.

(d) If a certificate of approval is granted by the Commission, the applicant must obtain all necessary permits required by the City ordinances.

(e) Maintenance shall be required by the owner of a designated property and owners of properties in an historic district. *Maintenance* means that owners:

(1) Shall not permit a structure to deteriorate so badly as to produce a detrimental effect on a designated property; and

(2) Shall reasonably maintain the surrounding environment, e.g., fences, gates, sidewalks, steps, signs, accessory structures and landscaping. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.110 Criteria and standards for altering designated properties or contributing properties in a district.

The criteria and standards for alterations to a designated property or a property in an historic district are determined as follows:

(a) Criteria.

(1) The effect of the alteration or construction upon the general historical or architectural character of the designated property.

(2) The architectural style, arrangement, texture and materials of existing and proposed construction, and their relationship to the other buildings.

(3) The effects of the proposed work in creating, changing or destroying the exterior architectural features and details of the structure upon which the work shall be done.

(4) The compatibility of accessory structures and fences with the main structure on the site and with adjoining structures.

(5) The effect of the proposed work upon the protection, enhancement, perpetuation and use of the landmark or landmark district.

(6) Compliance with the Secretary of the Interior's current standards for rehabilitation of historic properties as defined in Section 16.60.020.

(b) Standards.

(1) Attempts shall be made to use the property in a manner consistent with its original use or a compatible purpose, so long as such use does not violate any current City ordinances.

(2) The historic character of the property shall be retained by avoiding the removal of, or alteration of, features and spaces important to the character.

(3) Each property shall be recognized as a physical record of its time. The use of original materials shall be encouraged. Distinctive and unique features, finishes, materials and examples of craftsmanship should be retained and preserved. If

deteriorated, they should be repaired. Repairs and replacement of such features should match the original in color, shape, texture and design. Replacements should be fully documented with pictorial or physical evidence and a copy of such evidence filed with the Commission.

(4) Most properties change over time. Some of those changes acquire their own historical or architectural significance and should be retained. The Commission shall decide what changes are of historic importance and subject to this Chapter.

(5) New additions and expansions shall, where possible, be differentiated from the existing building to protect its historic integrity. New additions and constructions shall also be undertaken in such a manner that their removal in the future would not destroy the form or integrity of the original property.

(6) If property is a noncontributing property in an historic district, then alterations will be in accordance with the district designation plan as approved by the Commission and the approval by City Council,

(7) Other requirements for alterations of a designated property or contributing property in a district as are required by the Procedures and Bylaws established by the Commission. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.120 Criteria for relocation of a designated property or contributing properties in a district.

In all cases it shall be the preference of the Commission to keep structures at their original sites. The Commission shall consider the following criteria in addition to those described for alterations:

(a) Original site.

(1) Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property.

(2) The significance of the structure as it relates to its present setting.

(3) When a governmental entity exercises power of eminent domain, the Commission should first consider relocating before demolishing.

(4) Whether 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 resiting.

(6) Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

(b) New location.

(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) Whether the structure's architectural integrity and its consistency are with the character of the neighborhood.

(3) Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site.

(4) Whether the proposed relocation is in compliance with all City ordinances. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.130 Criteria for demolition of a designated property or contributing properties in a district.

Permits for demolition shall be issued if the applicant can clearly demonstrate that the designated property meets the criteria for demolition as set forth under this statute by balancing the criteria of (1) through (4) versus (5). Not all of the criteria

must be met for the Commission to recommend demolition. Appeals of the decision shall be done under 16.60.170.

- (1) The structure must be demolished because it presents an imminent hazard.
- (2) The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure.
- (3) The structure cannot be rehabilitated or reused on site to provide for any reasonable beneficial use of the property.
- (4) The structure cannot be moved to another site because it is physically or economically impractical.
- (5) The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:
 - (i) Significant impacts that negatively alter the visual character of the neighborhood where demolition is proposed to occur.
 - (ii) Significant impact on the historic importance of other structures located on the property and adjacent properties.
 - (iii) Significant impact to the architectural integrity of other structures located on the property and adjacent properties.
- (6) If partial demolition is approved by the Commission and is required for the renovation, restoration or rehabilitation of the structure, the owner should mitigate, to the greatest extent possible:
 - (i) Impacts on the historic importance of the structure or structures located on the property.
 - (ii) Impacts on the architectural integrity of the structure or structures located on the property. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.140 Action of the Commission upon recommendation to deny permit.

(a) If the proposed permit to alter, relocate or demolish is denied, the Commission, acting with all due diligence, shall explore with the applicant available means for substantially preserving the designated property which was affected by the determination. These investigations may include, by way of example and not of limitation:

- (1) Feasibility of modification of the plans.
 - (2) Feasibility of any alternative use of the structures which would substantially preserve the original character.
- (b) If the Commission is unsuccessful in developing either alternate plans or an appropriate public or private use for such structure, which are acceptable to the applicant, it shall notify the owner and the Building Inspection Division in writing. If the owner and the Commission cannot reach a compromise, then the appeal may be filed pursuant to Section 16.60.170 of this Chapter. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.150 Removal of property from historical register or exemption.

(a) In the event a property or district has been designated as historic under this Chapter, the City Council may remove such property if the Council finds that the property owner has shown that historic designation creates undue hardship in accord with the criteria in this Section.

(b) Also, if the request to the Commission for a certificate of approval does not conform to the applicable criteria, an applicant may request an exemption from the certificate requirements, provided that the intent and purpose of this Chapter are not significantly eroded, and provided that adequate documentation is submitted to the Commission either in writing or by testimony to establish qualification for one (1) of the following exemptions. Such documentation or testimony must be substantiated by professional opinion or thorough explanation of how the information was obtained.

(1) Economic hardship exemption. An economic hardship exemption may be granted if:

(i) The owner is unable to obtain a reasonable return on investment in the property's present condition or in a rehabilitated condition.

(ii) For nonincome-producing properties: the owner's inability to resell the property in its current condition or if rehabilitated.

(iii) The economic hardship claimed is not self-imposed.

(2) Health/safety hardship. To qualify for undue hardship, the applicant must demonstrate that the application of criteria creates a situation substantially inadequate to meet the applicant's needs because of health and/or safety considerations.

(3) Inability to use.

(i) If no sale can be made or no feasible use found for the structure within two (2) years of denial of a permit, the owner may request a waiver of all or part of the process described above.

(ii) In determining the applicability of this Section, the Commission shall include the following factors in its deliberations:

1. Written documented evidence illustrating efforts by the owner to make repairs, find an appropriate use or sell the property.

2. Written evidence of the owner's efforts to secure assistance for conforming the application with this Chapter without demolition or defacement.

(b) For the purpose of establishing and maintaining sound, stable and desirable historical districts within the City, the removal of historical designation is to be discouraged. This policy is based on the opinion of the City Council that the City's historical districts are the result of a detailed and comprehensive appraisal of the City's present and future needs regarding land use allocation and other considerations while supporting the City's historical significance and, as such, should not be amended unless to correct manifest errors or because of changed or changing conditions in a particular area of the City in general. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.160 Fines and penalties for violation of Chapter provisions; failure to comply with district designation plan.

Failure to comply with requirements of a district designation plan shall be a violation punishable in accordance with this Section. Whenever any work is being done contrary to the provisions of this Chapter or any plan adopted by the Commission or approved by City Council, a Code Enforcement Officer or other authorized City official may issue a stop work order by notice in writing served in person or by certified mail on the owner or any persons engaged in the performance of such work until authorized by the Code Enforcement Officer, City official or Historic Preservation Commission to proceed with the work. This order of cessation of work is in addition to any other penalties or remedies allowed by this Code. The maximum penalty for violation of this Chapter shall be the same as for violation of any other City ordinances as found in this Code at Sections 1.32.010 and 1.32.020. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.170 Appeal of decisions.

Decisions of the Commission are reviewable by the City Council. The findings and determinations of the Commission may be reviewed, modified, affirmed or reversed by a simple majority vote of the elected members of the City Council. Appeals are filed by presenting to the City Clerk a written notice of appeal within thirty (30) days after the determination has been made and entered upon the records of the Commission. Determinations issued by the City Council shall constitute final agency action. (Ord. 29, 2002 §1; Ord. 14, 2000 §1(part); Ord. 27, 1999 §1(part); Ord. 33, 1995 §1(part))

16.60.180 Severability clause

If any provision of this Chapter or any provision of any rule or regulation lawfully promulgated hereunder or any application of this Chapter or rule or regulation promulgated hereunder to any person or circumstance is held invalid or inoperative, such invalidity or inoperativeness shall not affect other provisions or applications of the Chapter or rules or regulations. The council hereby declares that in these regards the provisions of this Code and all rules and regulations promulgated hereunder are severable. In the event that any part of this Chapter negatively affects the City's certified status as a Certified Local Government by the National Park Service, then the conflicting provision shall be severable.

16.60.200 Permit review by Historic Preservation Specialist for undesignated properties outside of a historic district.

(a) When application for a permit is made with the City to significantly alter the streetscape view of the exterior of, move or demolish any structure or building that is forty (40) years or older, the application shall be forwarded and reviewed by the City's Historic Preservation Specialist or designee.

(1) *Significant alterations* shall be defined as follows:

- (i) Siding – including new stucco applied over original or existing wood, existing siding metal or brick;
- (ii) Fenestration – window openings enlarged or reduced;
- (iii) Roof – changes of roofline or structure;
- (iv) Porches – changes to original porch visible from streetscape;
- (v) Any building modification as viewed from any public street.

(2) The City's Historic Preservation Specialist or designee shall have ten (10) working days to review and comment on applications that meet the criteria set forth above. The ten (10) working days shall commence on the day the permit application is submitted to building inspections. Should ten (10) working days expire without written comment from the City's Historic Preservation Specialist or designee, then those parties shall not be allowed to comment on the permit.

(i) The City's Historic Preservation Specialist or designee shall research the historic significance of the building for which a permit has been applied.

(ii) If the City's Historic Preservation Specialist or designee determines that a building currently holds no historic significance, then such a notice shall be placed with the permit that will be issued through the Building Inspections Office.

(iii) If the City's Historic Preservation Specialist or designee determines that potential significance exists, the Historic Preservation Specialist or designee shall make the information available to the groups named in Subsection 16.60.070(a)(2) of this Code.

(iv) The City's Historic Preservation Specialist or designee shall issue comments and/or suggestions to the Building Inspections Office. These comments shall recognize the historical significance or lack thereof concerning the building for which a permit has been requested. The Historic Preservation Specialist may also make suggestions of ways to make the changes more compatible or acceptable with the age or type of structure.

(3) Nonsignificant alterations shall be excluded from review by the Historic Preservation Specialist or designee. *Nonsignificant alterations* shall be defined as follows:

- (i) Siding – vinyl or metal over original;
- (ii) Fenestration – replacement of windows in original openings;
- (iii) Roof – new shingles or deck without changing original roofline;
- (iv) Porches – additions of back porches or decks;
- (v) Additions – not visible from the street (less than fifty percent [50%] of original structure);

- (vi) Doors;
- (vii) Landscaping;
- (viii) Accessory structures;
- (ix) Signs.

(4) Whenever an application for development includes alterations or demolition described in the ordinance codified herein and is required to go through the Planning Department, the Planning Department will use its best efforts to inform the applicant of the ramifications that this Section will have on the application.

(b) If a building must be demolished because it poses a threat to the health, safety or welfare to the citizens of the Town, this Section shall not apply. (Ord. 55, 2004 §§2,3)

Illustrative flow chart 16.60.083 (a)

