

11.2.3 History Colorado Model CLG Preservation Ordinance – Expanded

Section 1. General

1. This ordinance is adopted pursuant to the police powers of the Town of Minturn and not an exercise of zoning powers:

2. Purpose. The purpose of this ordinance is to enhance the Town of Minturn's local resources and to promote the public health, safety, and welfare through:

4.

- a. The protection and preservation of the Town's architecture, culture, and heritage as embodied in Historic Properties and Historic Districts, by appropriate regulations and incentives;
- b. The ~~enhancement of Property values and the~~ stabilization of historic neighborhoods;
- c. The establishment of the Town's Historic Register listing Historic Properties and Historic Districts;
- d. The cultivation of civic pride in the art, architecture, and accomplishments of the past;
- e. The encouragement of continued private ownership and utilization of such Historic Properties or Historic Districts now so owned and used;
- f. The promotion of thoughtful community planning and design;
- ~~g. The maintenance and improvement of economic and financial benefits through the protection of attractions that bring tourists and visitors to the Town;~~

~~h.g.~~ _____ The provision of educational opportunities to increase public appreciation of the Town's unique heritage.

2.3. Intent. The intention of this ordinance is to create a reasonable balance between private property rights and the public interest in preserving the Town's unique historic character through the nomination of Buildings, Structures, Sites, Objects, and districts for preservation.

3.4. Definitions. For purposes of this ordinance, the following terms are to be defined as follows:

a. **Adjacent Properties** – Properties within 100 linear feet of the boundaries of the proposed or subject Historic Property or Historic District

~~a.b.~~ _____ ~~**Alter, Alters, or Alterations** ration or Alter~~ – Any act or process that changes one (1) or more of the exterior architectural or landscape features of a Building, Structure, Site, Object, or district.

~~b.c.~~ _____ **Applicant** – Person or persons submitting nomination or Alteration paperwork.

~~c.d.~~ _____ **Building** – any shelter or enclosure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind. A shelter or enclosure constructed for persons, animals, or chattels.

~~d.e.~~ _____ **Building Code** – The ~~[Building Code]~~ Building Codes that have been adopted in Chapter 18 of the Minturn Municipal Code

~~e.f.~~ _____ **Building Official** – The officer or other designated authority charged with the administration and enforcement of the Building Code, or that person's authorized representative.

~~f.g.~~ _____ **Certificate of Appropriateness** – Certificate issued by the Commission authorizing any proposed repair, restoration, Alteration, Construction, Relocation,

or Demolition of a Historic Property or element within a Historic District pursuant to this ordinance.

~~g-h.~~ **Certificate of Economic Hardship** – A certificate issued by the Commission authorizing the repair, restoration, Alteration, Construction, Relocation, or Demolition of a designated Building, Structure, Object, Site, or element within a designated Historic District in accordance with the provisions of this ordinance, even though a Certificate of Appropriateness has previously been denied.

~~h.~~

i. **Code** – The Town of Minturn Municipal Code.

j. **Colorado State Register of Historic Properties** – The official listing of state designated cultural resources.

~~k.~~ **Commission** – ~~The Historic Preservation Commission established pursuant to Section 2 of this ordinance.~~

~~l-k.~~ **Compatible** or **Compatibility** – Consistent or harmonious with location, design, setting, materials, workmanship, feeling, or association of an individual Building, Structure, Object, or Site or of surrounding Properties.

~~m-l.~~ **Construction** or **Construct** – Act of erecting an addition to an existing Building, Structure, or Object or the erection of a new principal or accessory Building, Structure, or Object on a lot or Property.

~~n-m.~~ **Contributing Property** – A Building, Structure, Site, or Object that is located within a Historic District and that reflects the historic or architectural character within the Historic District.

~~o-n.~~ **Demolition** or **Demolish** – Any act or process that destroys in part or in whole a Building, Structure, Object, or Site.

~~o.~~ **Historic Preservation Design Guidelines** – A standard of appropriate activity that will preserve the historic and architectural character of a Historic Property, Property, or Historic District.

p. **Eligibility Criteria** – Meaning as set forth in Section 3 of this Chapter as defined in Section 3

q. **Historic District** – Meaning as set forth in Section 3 of this ordinanceChapter.

~~q-r.~~ **Historic Preservation Commission (“HPC”)** – Meaning as set forth in Section 2 of this Article.

~~r-s.~~ **Historic Property** – A Building, Structure, Site, or Object which is designated by the Town Council pursuant to this ~~ordinanceArticle~~.

~~s-t.~~ **Historic Significance** – The meaning or value ascribed to a Building, Structure, Object, Site, or district based on criteria for evaluation as defined by Section 3 of this Articlebelow.

~~t-u.~~ **Infill** – Construction on vacant or under-used parcels within existing areas that are largely developed within a designated Historic District.

~~u-v.~~ **Integrity** – The ability of a ~~p~~Property to convey its Historic Significance through its physical features.

~~v-w.~~ **Inventory** – Catalog of Buildings, Structures, Objects, and Sites within the Town, listed, eligible for listing, or non-eligible for listing in the Town’s Historic Register.

~~w-x.~~ **Maintenance** – All activities necessary to prolong the useful life and aesthetic appearance of a Property.

~~x-y.~~ **National Register of Historic Places** – The list of significant Buildings,

Structures, Sites, Objects, or districts in American history, architecture, archeology, engineering, or culture maintained by the U.S. Secretary of the Interior.

- z. **Non-Contributing Property** – A Building, Structure, Object, or Site that does not reflect the historic or architectural character within a Historic District because of age or lack of Integrity.
- y-aa. **Object** – A material item of functional, aesthetic, cultural, historical, or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.
- aa. ~~**Period of Significance** – Span of time during which significant events and activities occurred.~~
- bb. ~~**Owner** – As applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety of the whole or a part of such building or land. The person, corporation, government, or other legal entity who owns or who has any legal or equitable interest in Property and who is so listed as Owner on the records of the Eagle County Assessor's Office.~~
- cc. ~~**Period of Significance** – Span of time during which significant events and activities occurred.~~
- cc. **Property** – A Building, Structure, Site, or Object.
- dd. **Relocation or Relocate** – Moving a Building, Structure, or Object to a different location, either temporarily or permanently.
- ee. **Secretary** – The secretary of the Commission Historic Preservation Commission.
- ff. **Secretary of the Interior's Standards for the Treatment of Historic Properties** – The preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior.
- gg. **Section 106 Review** – Process required of federal agencies under 54 U.S.C. 306108 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.
- hh. **Site** – Location of a significant event; a prehistoric or historic occupation or activity; or a Building, Structure, or Object, whether standing or vanished, where the location itself maintains historic or archeological value regardless of the value of any existing Building, Structure, or Object.
- ii. **Structure** – anything Constructed or erected, the use of which requires location on or in the ground for purposes other than shelter of humans, animals, or chattels. ~~A Construction for purposes other than shelter for humans, animals, or chattel (such as a road, bridge, canal, fence).~~
- jj. **Town** – The Town of Minturn
- jj. **Town Council** – The council of the Town.
- kk. **Town's Historic Register** – The register established pursuant to **Section 3** of this ordinance Chapter.

Section 2. Historic Preservation Commission

1. Creation. There is hereby established a Historic Preservation Commission, which shall be appointed by the Town Council, and hereinafter referred to as the ("Commission HPC.")
2. Composition
 - a. ~~The Commission HPC~~ shall be composed of five voting members with the

option of Town Council to appoint additional non-voting members to be utilized in an advisory capacity, all of whom have demonstrated interest in, competence with, or knowledge of the Town's history and/or historic preservation.

b. At least ~~60%~~³ of the voting members shall be full time residents, Property or business Owners, or designated representatives of Property or business Owners within of the Town.

c. At least ~~40%~~² of the voting members shall be professionals or shall have extensive expertise in a preservation-related discipline, including but not limited to History, Architecture, Landscape Architecture, American Studies, American Civilization, Construction and Building Trades, Cultural Geography, Cultural Anthropology, Environmental Expertise, Planning, Real Estate, or Archeology.

c. Non-voting advisory members may be appointed by resolution of the Town Council.

3. Term of Office

a. Members shall serve three year staggered terms from the date of their appointment; provided, however, that the initial appointment to ~~the Commission~~HPC shall consist of one appointment of a term of one year, two appointments of a term of two years, and two appointments of a term of three years.

b. Members may continue to serve until their successors have been appointed.

4. Officers. ~~The Commission~~HPC shall, by majority vote, elect one of its members to serve as chairperson to preside over ~~the Commission's~~HPC's meetings and, one member to serve as the vice-chairperson, and one member to serve as Secretary. The members so designated shall serve in these capacities for terms of one year.

4.5. Staffing. The Town Manager shall ~~appoint~~designate one or more Town Employee(s) within the Planning Department to assist HPC in the administration of its duties.

5.6. Quorum and Voting. A quorum for ~~the Commission~~HPC shall consist of a majority or ~~51%~~³ of the voting members. A quorum is necessary for ~~the Commission~~HPC to conduct business, including holding a public hearing. A roll call vote shall be taken upon the request of any member. A majority vote shall be determinative. A tie vote shall be deemed a denial of the motion or recommended action.

6.7. Compensation. All members of ~~the Commission~~HPC shall serve without compensation except for such amounts determined appropriate, in advance, by the Town Council to offset expenses incurred in the performance of their duties.

7.8. Powers and Duties. ~~The Commission shall~~HPC:

a. ~~May~~Conduct surveys and create inventories of Properties and areas for the purpose of defining those of Historic Significance.

b. ~~Shall~~Review and determine qualifications of Buildings, Structures, Objects, Sites, and districts nominated for designation and recommend that the Town Council designate by ordinance such Buildings, Structures, Objects, Sites, or districts qualifying for such designation.

c. ~~Shall~~Recommend to the Town Council the establishment of Construction and Design Guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to Alter, Relocate, or Demolish Historic Properties.

d. ~~Shall~~Review and make recommendations on any application for Alteration,

Relocation, or Demolition of a Historic Property or Historic District or planning and design project that may affect the character or Integrity of the Historic Property or Historic District.

- e. ~~May~~ Participate in review of National Register of Historic Places nominations.
- f. ~~May~~ aAdvise and assist Owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the Town's Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
- g. ~~May~~ Develop and assist in public education programs on history, archaeology, and historic preservation.
- h. ~~Shall~~ Advise the Town Council on matters related to preserving the historic character and substance of the Town and recommend easements, covenants, licenses, and other methods which will implement the completion of the purposes of this ordinance.
- i. ~~Shall~~ Participate in Federal Section 106 Review as requested by Town Council or Staff.
- j. ~~May~~ Actively pursue financial assistance for preservation-related programs.
- k. ~~Shall~~ Draft and recommend for adoption by the Town Council such by-laws, operating policies and other rules of procedure, as ~~the Commission~~ HPC may deem appropriate.

~~8-9.~~ Meetings

- a. ~~The Commission~~ HPC shall establish a regular meeting schedule with no less than ~~four monthly~~ scheduled meetings per fiscal year.
- b. Minutes shall be kept of all ~~Commission~~ HPC proceedings.
- c. All meetings of ~~the Commission~~ HPC shall be open to the public, subject to the right of HPC to receive legal advice in an executive session.

~~9-10.~~ Vacancies. Appointments to fill vacancies on ~~the Commission~~ HPC shall be made by the Town Council in the same manner as regular appointments.

~~10-11.~~ Removal. Members of ~~the Commission~~ HPC may be removed by the Town Council ~~with just cause~~.

Section 3. Establishment of Town Register and Designation Criteria

1. The Town Council hereby establishes the Town of Minturn Register of Historic Places (the "Town's Historic Register").
 - a. Properties or districts may be listed in the Town's Historic Register only if such Property or district has been so designated pursuant to this ordinance.
 - b. All Properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the Town's Historic Register but are not designated until approval, pursuant to this ordinance, is obtained.
2. Eligibility Criteria
 - a. Properties or districts shall be at least fifty years old and meet one or more of the following criteria in order to be considered for designation:
 - i. Association with events that have made a significant contribution to history.
 1. Is a Site of a historic event that had an effect upon society; or
 2. Exemplifies cultural, political, economic, or ethnic heritage of the Town.
 - ii. Connection with persons significant in history.
 - iii. Distinctive characteristics of a type, period, method of Construction, or

artisan.

1. Exemplifies specific elements of an architectural style or period;
2. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
3. Demonstrates superior craftsmanship or high artistic value;
4. Represents a style that is particular to the Town;
5. Represents an innovation in Construction, materials, or design; or
6. Represents a built environment of a group of people in an era of history.

iv. Geographic importance.

1. Enhances the sense of identity of the Town or community; or
2. Is an established and familiar natural setting or visual feature of the Town or community.

v. Possibility to yield important information related to prehistory or history.

1. Addresses research questions or fills recognized data gaps;
2. Embodies Construction, development, or design adaptations; or
3. Informs on the development of engineering systems.

- b. A Property or district may be exempted from the age standard if the Town Council finds it to be exceptionally important in other criteria.

3. Integrity Criteria

All Properties and districts shall be evaluated for their physical Integrity using the following criteria:

- a. Location - the place where the Property was Constructed or the place where the historic event occurred.
- b. Design - the combination of elements that create the form, plan, space, Structure, and style of a Property.
- c. Setting - the physical environment of a Property.
- d. Materials - the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a Property.
- e. Workmanship - the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
- f. Feeling - a Property's expression of the aesthetic or historic sense of a particular period of time.
- g. Association - the direct link between an important historic event or person and a Property.

4. Historic Districts

- a. A "Historic District" is a geographically definable area including a concentration, linkage, or continuity of Properties within a specified Period of Significance and may include within its geographic boundaries one or more Contributing Properties, which has been designated by the Town Council pursuant to this ordinance Chapter.
- b. A Historic District is related by a pattern of either physical elements or social activities. Historic Significance is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).
- c. Historic District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence

- of changes in Property type, density, or Integrity.
- d. Properties that do not contribute to the Historic Significance of the Historic District may be included within its boundaries.

Section 4. Designation Procedure

1. ~~Nomination and Application for Nomination~~

- a. Applications shall be submitted to the Town of Minturn Planning Department for consideration on a form provided by ~~the Commission~~HPC.
- b. ~~A nomination~~An application for nomination for listing in the Town's Historic Register may be made:
- i. By the Owner or Owners of the Property or Properties to be designated;
 - ii. By a member or members of ~~the Commission~~HPC;
 - ~~iii.~~ By a member or members of Town Council; and/or
 - ~~iii-iv.~~ By non-Owners of the Property or Properties to be designated, in which case the Applicant must be a resident or Owner of Property in the Town, or have a place of business in the Town.
- c. Where ~~an application for nomination is submitted~~ nominated by someone other than the Property Owner or less than all of the Property Owners in a district nominated for designation, the ~~Town or at least one member of the Commission,~~ staff person assigned to the HPC pursuant to section 2.5 shall contact the Owner or Owners of such Property or Properties nominated for designation in writing, outlining the reasons and effects of listing in the Town's Historic Register within ~~30-45 business days~~ of receipt of nominationapplication.
- d. Applications determined incomplete by the Planning Department shall be returned to the Applicant within ~~30-45 business days of receipt of application~~ with a request for additional information.
- ~~Applications for a district nomination shall not be complete if more than 25% of the Property Owners within the proposed district oppose the nomination in writing or through ballot prepared and administered by the Town.~~

~~3-2.~~ Designation Hearing

- a. Within ~~45 business days~~ after an application is determined complete by the Planning Department and submitteddelivered to HPC, ~~or within a time frame agreed upon by the Applicant and the Town,~~ a public hearing shall be held by the ~~Commission~~HPC.
- i. ~~The Secretary HPC~~ shall provide notice by U.S. Mail of the date, time, and location of the public hearing to the Applicant, the Owner or Owners of record, the Owners of Adjacent Properties and, if known, to other persons having a legal or equitable interest in the Properties or ~~district nominated for designation~~ at least 10 calendar days prior to the hearing.
 - ii. A legal notice in accordance with Code Sec. 16-21-610 indicating the nature of the hearing, the Property involved, and the time, date, and place of the scheduled public hearing, shall be published in the Town's publication of record at least 10 ~~calendar~~ days prior to the hearing.
- ~~The notice shall be posted at the Property's physical location at least 10 calendar days prior to the hearing.~~
- ~~e.b.~~ A hearing may be continued. If the 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. In no case shall a hearing be continued more than ~~30~~ 45 calendar days without the express consent of the Applicant and the Owner.

~~d.c.~~ Reasonable opportunity shall be provided for all-interested parties to express their opinions regarding the proposed designation. However, nothing contained in this ordinance shall be construed to prevent the Commission-HPC from establishing reasonable rules to govern the proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.

~~e.d.~~ Transcripts of the hearings are not required; however, the Commission's HPC's records shall include the name and address of each speaker; the organization or person the speaker represents, if any; whether or not the speaker is an Owner or holder of some interest in the Property or district nominated for designation, or represents such Owner or holder. impose same requirements for public speakers at PC/TC Hearings in front of the HPC shall be conducted in conformance with the requirements in Code Sec 16-21-220; and a summary of the relevant portions of each statement. Written reports and presentations submitted to the HPC shall be incorporated into the record of the hearing. find section for recordings

4.3. Commission HPC Review

a. ~~The Commission HPC shall review the application for conformance with the established criteria for designation and with the purposes of this ordinance~~ Article.

b. ~~The Commission HPC shall recommend:~~

- i. Approval;
- ii. Approval with conditions; or
- iii. Denial of the application.

~~The Commission HPC shall set forth in writing its findings of fact which constitute the basis of its recommendation.~~

c. ~~If the Commission HPC recommends approval ofes an application or approval ofes an application with conditions, the Commission HPC shall forward the application with a copy of its report and findings of approval to the Town Council within 30 days of determination.~~

d. ~~If the Commission HPC recommends denial ofes an application, the Commission HPC shall forward the application with a copy of its report and findings to the Town Council within 30 days of determination. must notify, in writing, the Town Council and the Applicant within 30 business days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the Town Council.~~

e. ~~The Commission HPC may issue an order continuing the nomination process if the Commission HPC finds that additional information is necessary to make a decision. If the 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. In no case can a hearing be continued more than 30 45 days without the express consent of the Applicant and the OwnerS.~~

5.4. Town Council Proceedings

a. ~~Within 30 calendar days after receipt of the Commission's HPC's recommendation approval of an application, the Town Council shall hold a public hearing to consider HPC's recommendation, adopting by ordinance those~~

properties qualifying for designation. Such notice and hearing shall be conducted in conformance with the procedures set forth Section 4.2.a. by the Town Council following the adjacent property definition within this Article and striking the physical posting requirements in Section 4, Subsections 2(a)-(d), except the Town Clerk shall perform the responsibilities assigned therein to the Secretary.

- b. The Town Council shall review the application for conformance with this ordinance Article.
- c. The Town Council shall deny, or, by ordinance, shall approve or, approve with conditions, or deny the proposed application and shall issue written findings based on the Commission's HPC's recommendations.

~~The Town shall provide a copy of the results of the Town Council's final action to the Applicant/Applicants, all Owners of record, the [Planning or Community Development] Director, the Building Official, and any other person who has requested in writing to receive the same.~~

7.5. Recording of Designation. Within 30 business days of the effective date of an ordinance designating a Historic Property or Historic District for preservation, the Town shall record the ordinance with the Clerk and Recorder of [name of county] Eagle County.

8.6. Records. The Town shall maintain a current record of all Historic Properties and Historic Districts and pending designations.

9.7. Limitation on Resubmission and Reconsideration of Proposed Designation.

Whenever the ~~Commission or the~~ Town Council denies a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the denied application, ~~unless the Commission or Town Council has denied based on a request for additional information.~~

10. Appeal of Commission's Town Council Denial of Application

- ~~Applicant(s) and/or Owner(s) shall have the right to appeal such decision to the Town Council by filing a written notice within 15 calendar days after the date of receipt of the Commission's denial. Such written notice shall specify the factual and legal basis for the appeal.~~
- ~~Within 45 calendar days after an appeal is received by the Town Clerk, or within a time frame agreed upon by the Applicant(s) and/or Owner(s) and the Town, a public hearing shall be held by the Town Council.~~
- ~~Notice of the Town Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the Town Clerk shall perform the responsibilities of the Secretary.~~
- ~~The Town Council may consider only the notice of appeal, the Commission's reasons for denial of the application, and the comments related thereto made during the Commission hearing.~~
- ~~If the Town Council finds the Commission's denial of the application was based on incorrect information, or there is shown to be newly discovered information not available at the time the application was submitted to the Commission, and if the correct or newly discovered information could, in the opinion of the Town Council, change the Commission's denial of said application, then the entire matter shall be remanded by the Town Council to the Commission for its consideration.~~
- ~~The decision of the Town Council shall be final.~~

17.8. Amendment of Designation

- a. An application to amend ~~D~~esignation of a Historic Property or Historic District ~~may be amended to add features or Properties to such Historic Property or Historic District~~ shall be administered by the Planning Department and HPC in accordance with the procedures in subparts 1-7 of this Section 4 of this Article. ~~above, under the procedures prescribed hereinabove.~~
- ~~Upon the Commission's~~ HPC's decision ~~recommendation to the Town Council of approval, approval with conditions, or denial to amend a designation, the Commission~~ HPC shall promptly notify the Owners of the Historic Property and the Town shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the amendment, and schedule the resolution for Town Council review. Upon adoption by the Town Council, the resolution shall be recorded.

19.9. Revocation of Designation

- a. If a Historic Property or Historic District has been Altered to a degree that it no longer retains its ~~historic Integrity~~ Eligibility Criteria, the Owner, ~~an HPC member, or Town Council person~~ may apply to the Commission ~~HPC~~ for a revocation of the designation or the Commission ~~HPC~~ shall recommend revocation of the designation to the Town Council in the absence of the Owner's application to do so. The revocation application shall be administered by the Planning Department, HPC, and Town Council in the same manner as a proposed amendment of designation. Subparts 1-7 of this Section 4 apply. ~~reviewed under the same procedures described hereinabove.~~
- ~~Upon the Commission's decision to revoke a designation, the Commission shall promptly notify the Owners of the Historic Property or Historic District and the Town shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the revocation, and schedule the resolution for Town Council review. Upon adoption by the Town Council, the resolution shall be recorded.~~

Section 5. Alterations to Listed Properties and Historic Districts

1. Requirements Application

- a. Before carrying out any new Construction, Alteration, Relocation, or Demolition involving the exterior of any Historic Property or Contributing Property within a Historic District ~~(including Non-Contributing Properties)~~ Applicants and/or Owner(s) must ~~first submit~~ submit and obtain approval for an application for the proposed work by the ~~to the Commission~~ Planning Department and HPC under this Section. The application shall include anything the HPC deems necessary, including, without limitation and as applicable, a description of the type of work proposed and its effect or impact upon the Historic Property or Historic District and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail, ~~as well as apply for any other permits required by the Code~~ The application shall not relieve the Applicant from the responsibility to apply for any other permit required by the Code.
- b. The Town Planning Department ~~shall review any building permit~~ the application received to determine whether the Property is a listed Historic Property or a

Contributing Property located in a Historic District, and if so, if the Planning Department shall determine when the application is complete and shall refer the application to HPC for Certificate of Appropriateness review in accordance with this Section. If the Planning Department determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal. Applicant has completed review by the HPC as required by this Section.

- c. No person shall receive a building permit to Construct, Alter, remove, or Demolish any Building, Structure, Object, or other feature on a Site, or element of a Historic District nominated for designation after an application has been filed to initiate the designation of such Property or Historic District. No such building permit shall be approved while proceedings are pending on such designation.
- d. If the Planning Department determines that the Property is not a Historic Property or a Contributing Property within a Historic District, then the application shall be processed without further requirement of review under this SectionArticle.

b. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the Town shall process it without further action pursuant to Section [section that deals with Council calling up]. If no Certificate of Appropriateness has been issued or if the Town determines that the permit application does not conform to such, the Town shall not approve the permit application and shall not issue a permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto. **for insertion later**

c. No person shall receive a building permit to Construct, Alter, remove, or Demolish any Building, Structure, Object, or other feature on a Site, or element of a district nominated for designation after an application has been filed to initiate the designation of such Property or district. No such building permit shall be approved while proceedings are pending on such designation. **For insertion later**

1. Application

e. A request for Alteration shall be initiated by the Applicant and/or Owner(s). Such application shall be submitted to the Town for consideration on a form provided by the Commission. The application shall include anything the Town deems necessary, including, without limitation and as applicable, a description of the type of work proposed and its effect or impact upon the Historic Property or Historic District and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail.

f. If the Town determines the application is complete, the Town shall promptly refer the application to the Commission. If the Town determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 business days of submittal.

- 2. Alteration Hearing. Within 45 calendar days after submissionreferral of an application by the Planning Department to HPC is determined complete by the Town, or within a time frame agreed upon by the Applicant and the Town, a public hearing shall be held by the CommissionHPC, and. Such notice and hearing shall be conducted in conformance with

the procedures set forth in 4.2.a. ~~above for an application.~~ in Section 4, Subsections 2(a) — (d).

3. Review Criteria

- a. Compliance with any Historic Preservation Design Guidelines adopted by the Town Council for Historic Properties and/or Contributing Properties within Historic Districts.
- b. Compliance with the Secretary of the Interior's Standards for the Treatment of Historic Properties, including the Standards for Rehabilitation.
~~For Non-Contributing Properties within a Historic District:~~
 - ~~Compatibility with the Property's current design, materials, features, size, scale and proportion, and massing; or~~
 - ~~Compatibility with the Historic District's design, materials, features, size, scale and proportion, and massing.~~
- ~~d. Infill Construction within Historic Districts shall be differentiated from the Historic Properties but be Compatible with the historic materials, features, size, scale and proportion, and massing to protect the Integrity of the Historic District and its environment.~~

8.4. Commission HPC Review Certificate of Appropriateness Review

- a. ~~The Commission HPC~~ shall:
 - i. Approve the application;
 - ii. Approve the application with conditions; or
 - iii. Deny the application.

~~The Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.~~

- ~~c.b.~~ Any decision of the HPC to approve the application or approve the application with conditions shall be included on an agenda of the Town Council within 21 days. The Town Council may call up for review any final decision reached by the HPC. After review, Town Council may affirm, deny, or affirm with additional conditions the decision of HPC. No Certificate of Appropriateness shall be issued before the HPC's decision has been included on an agenda of the Town Council.

- ~~d.c.~~ If the Commission HPC approves or approves the application with conditions, the Commission HPC shall issue and send a Certificate of Appropriateness to the Applicant and a copy will be placed in the appropriate Town records and/or Owner(s), the Planning Director, the Building Official, and any other person who has requested in writing to receive the same within 30 business days. If approved with conditions, such conditions shall be stated in writing in the Certificate of Appropriateness.

- d. If the Commission HPC denies the application, the Commission HPC shall deny a Certificate of Appropriateness and notify, in writing, the Applicant in writing and or Owner(s), the Planning Director, the Building Official, and any other person who has requested in writing to receive the same of the denial within 30 business days of such denial, and a copy will be placed in the appropriate Town records. Such denial shall state the reasons for the denial and the procedures for appeal to the Town Council.

- e. The application form shall have a section for HPC to set forth HPC's reasons for the approval, approval with conditions, or denial of the application.

- f. ~~The Commission~~HPC may issue an order continuing the Alteration application process if ~~the Commission~~HPC would like additional information necessary to make a decision. If the 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. In no case ~~can~~shall a hearing be continued more than ~~30-45~~calendar days without the express consent of the Applicant.
 - g. The Applicant and/or Owner(s) may resubmit an amended application ~~or reapply for a building permit that takes into consideration the recommendations of the Commission~~HPC, or appeal the denial to the Town Council.
 - h. If an application for a Certificate of Appropriateness is denied after final action upon the application by HPC or Town Council, no person may submit a subsequent application for the same Alteration or Construction within one year from the date of the final action upon the earlier application.
 - h.i. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the Town shall process the application in accordance with all other applicable provisions of the Code, and the proposed work conforms thereto, the Town shall process it without further action pursuant to Section [section that deals with Council calling up]. If no Certificate of Appropriateness has been issued or if the Town determines that the permit application does not conform to such, the Town shall not approve the permit application and shall not issue any other permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto
9. Appeal of Grant or Denial of Certificate of Appropriateness
- ~~— If a Certificate of Appropriateness is granted or denied by the Commission~~HPC, the Applicant ~~or aggrieved party~~ may appeal the denial ~~decision~~ to the Town Council by filing a written notice with the Town Clerk within 15 calendar days after receipt of ~~the~~ the Commission ~~HPC's~~ denial ~~decision~~.
 - ~~— Aggrieved party - Aggrieved or adversely affected person means any person who will suffer an adverse effect to an interest protected or furthered by this Chapter~~
 - ~~— Within 45 days after an appeal is received by the Town Administrator~~Clerk, or within a time frame agreed upon by the Applicant and the Town, a public hearing shall be held by the Town Council subject to continuance by vote of the Town Council.
 - ~~— Notice of the Town Council's consideration of the appeal and hearing shall be provided in accordance with notice procedures set forth in [insert section number]~~Section 4, Subsections 2(a)-(d), except the Town Clerk shall perform the responsibilities of the Secretary.
 - ~~— The Town Council shall consider the notice of appeal, the Commission~~HPC's reasons for denial of the application, the comments related thereto made during the Commission hearing and any evidence (including new evidence) it deems relevant to the application.
 - ~~— The Town Council shall apply the criteria in Section 5, Subsection 4 in making its decision.~~
 - ~~— The decision of the Town Council shall be final~~ subject to the provisions of Section 16-21-700 – Appeals.

Section 6. Relocation of Listed Properties

1. General

- a. In addition to the criteria and procedures in ~~Section Article 5, the Commission~~HPC will use the criteria of this ~~Section Article~~ in considering applications for Relocating a Historic Property or Contributing Property in a Historic District within or outside of a designated Site or district or Relocating a Property onto a designated Site or Historic District.
- b. Applicants for Relocation shall provide:
 - i. ~~An professionally prepared estimate of costs, in such form as determined by HPC, of continued Maintenance of the Property in its current condition, of rehabilitation on the Site, and of Relocation and rehabilitation;~~
 - ii. ~~A licensed structural engineer's or architect's report as to structural soundness;~~
 - iii. ~~A professionally prepared estimates of the Property's market value in its current location and current condition, of the market value of the Property rehabbed on its current site, and of the site after Relocation of the Property; and~~
 - iii. ~~Professionally prepared Site plan and Construction documents for the current proposed Relocation Site; and~~
 - iv. ~~A replacement/reuse plan for the current Site.~~
 - iv-c. If Relocation is approved by HPC, the Relocation will not be permitted until a replacement/reuse plan design review application for the current Property Site has been approved by the Planning Commission.

2. Review Criteria

- a. For consideration of the original Property and Site, ~~the Commission~~HPC will review for the following criteria:
 - i. ~~Whether the Property cannot be preserved, restored, rehabbed, or reused on its current Site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's Site or Adjacent Properties;~~
 - ii. And
 1. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the Building, Structure, or Object proposed for Relocation;
 2. If the Property can be Relocated without significant damage to its physical Integrity; and
 3. Whether plans are specifically defined for the Site to be vacated, and have been ~~determined to meet all other Town codes and ordinances~~approved by the Planning Commission.
- b. For consideration of the new location, if it is to a Historic District within Town boundaries, ~~the Commission~~HPC will review for compliance with all of the following criteria:
 - i. Whether the Building, Structure, or Object is Compatible with its proposed Site and Adjacent Properties; and if the receiving Site is Compatible in nature with the Building, Structure, or Object proposed to be moved;
 - ii. The Building, Structure, or Object's architectural Integrity and its consistency with the character of the neighborhood of the receiving Site;
 - iii. Whether the Relocation of the Building, Structure, or Object will diminish

the Integrity or character of the neighborhood of the receiving sSite; and

iv. If a Relocation plan has been submitted and approved by the Town, including posting a bond, to ensure the safe Relocation, preservation, and repair (if required) of the Property and site preparation and infrastructure connections as described in the Code.

Section 7. Demolition of Listed Properties

1. General

- a. In addition to the criteria and procedures in ~~Section~~ Article 5, the ~~Commission~~ HPC will use the criteria of this Section in considering applications for Demolition of Historic Properties and Contributing Properties in a Historic District.
- b. Applicants for Demolition shall provide:
 - i. An professionally prepared estimate of costs, in such form as determined by HPC, of continued Maintenance of the Property in its current condition, of rehabilitation, and of Demolition;
 - ii. A licensed structural engineer's or architect's report as to structural soundness; and
 - iii. Professionally prepared estimates of the Property's market value in its current condition, as rehabbed, and after Demolition.
- c. If a Demolition approval is granted on any basis other than that of an imminent hazard or economic hardship (See ~~Section~~ Article 8), a Certificate of Appropriateness will not be issued until a replacement/reuse plan design review application for the Property has been approved by the Town Planning Commission.

2. Review Criteria for Total Demolition. Applicants requesting a Certificate of Appropriateness for total Demolition must provide data to clearly demonstrate all of the following criteria:

- a. The Property proposed for Demolition is not structurally sound, despite evidence of the Owner's efforts to properly maintain said Building, Structure, or Object;
- b. The Property cannot be preserved, restored, rehabbed, or reused on sSite to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's sSite or Aadjacent Properties;
- c. The Property cannot be practically moved to another sSite in the Town; and
- d. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following that are applicable:
 - i. Any impacts that occur to the visual character of the neighborhood where Demolition is proposed to occur;
 - ii. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and Aadjacent Properties;
 - iii. Any impact to the Integrity of Buildings, Structures, or Objects located on the Property and Aadjacent Properties; and
 - iv. Any impact to archaeological deposits or ruins or the potential to access such resources and whether information can be recovered as part of the Demolition process.

3. Review Criteria for Partial Demolition. Applicants requesting a Certificate of Appropriateness for partial Demolition must provide data to clearly demonstrate all of the following criteria:

- a. The partial Demolition is required for the preservation, restoration, or rehabilitation of the Property; and
- b. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
 - i. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and Adjacent Properties; and
 - ii. Any impact on the Integrity of the Buildings, Structures, or Objects located on the Property and Adjacent Properties.
4. Any decision of the HPC to approve the application or approve the application with conditions shall be included on an agenda of the Town Council within 21 days. The Town Council may call up for review any final decision reached by the HPC. After review, Town Council may affirm, deny, or affirm with additional conditions the decision of HPC.

Section 8. ~~Alteration Exemptions~~

1. General
 - a. If an application for a Certificate of Appropriateness is denied, the Applicant and/or Owner(s) may request an exemption from such certificate requirement pursuant to this ~~Section~~Article.
 - b. A request for exemption shall be initiated by the Applicant and/or Owner(s). Such application shall be submitted to the ~~Town Planning Department for consideration~~ on a form provided by the ~~Commission~~HPC. The Applicant and/or Owner(s) shall have the ~~burden of proof~~obligation to establish hardship.
 - c. ~~The Commission~~HPC may request additional information from the Applicant and/or Owner(s) as necessary to make informed decisions according to the applicable ~~criteria~~ for decision-making.
 - d. If the ~~Town Planning Department~~ determines the application is complete, the ~~Town Planning Department~~ shall promptly refer the application to the ~~Commission~~HPC. If the ~~Town Planning Department~~ determines the application is incomplete, the Applicant and/or Owner(s) shall be advised of the reasons in writing within 30 days of submittal.
 - ~~Certificate of Appropriateness exemptions are granted only to the specific Property Owner and are not transferable.~~
- ~~3.2.~~ Criteria for Exemption
 - a. Economic Hardship
 - i. ~~The Commission~~HPC may solicit **expert testimony** and require that the Applicant and/or Owner(s) make submissions concerning any or all of the following information before it makes a determination:
 1. Estimate of the cost of the proposed Construction, Alteration, Demolition, or ~~removal~~Relocation and an estimate of any additional cost that would be incurred to comply with the conditions of approval set out in ~~Sections Articles 5, 6 and or 7~~ above.
 2. A report from a licensed structural engineer ~~or architect~~ with experience in rehabilitation of Historic Properties as to the structural soundness of any Buildings, Structures, or Objects on the Property and their suitability for rehabilitation.
 3. In the case of a proposed Alteration, the cost of the project proposed by the Applicant compared with the ~~changes~~ conditions.

required by the Commission HPC.

4. In the case of a proposed Demolition, the estimated market value of the Property in its current condition, after rehabilitation, and after Demolition shall be compared, in addition to actual project costs.
 5. Amount paid for the Property, the date of purchase or acquisition, and the party from whom purchased, including a description of the relationship, if any, between the Owner of record or Applicant and the person from whom the Property was purchased.
 6. All appraisals obtained within the previous two (2) years by the Owner or Applicant in connection with the purchase, financing, or ownership of the Property.
 7. Any listing of the Property for sale or rent, price asked, and any written offers received within the previous two (2) years.
 8. The ~~actual~~ or market value of the land and improvements thereon according to the most recent property tax assessment.
 9. Real estate taxes for the previous two (2) years.
 10. Any proposal for a replacement Building, Structure, or Object for the Property and financial proof of the ability to complete the replacement project.
 11. For income producing Property, the annual gross income from the Property for the previous two (2) years and itemized operating and Maintenance expenses for the previous two (2) years.
- ii. The following factors, evidence, and testimony are to be considered:
1. The structural soundness of any Buildings or Structures on the Property and their potential for rehabilitation.
 2. The economic feasibility of rehabilitation or reuse of the existing Property in the case of a proposed Demolition.
 3. For investment or income producing Properties, the ability to obtain a reasonable rate of return on the Property in its present condition, or in a rehabbed condition pursuant to the requirements of this ordinance Chapter.
 4. For ~~non-income producing~~ Properties consisting of Owner-occupied single-family dwellings and/or non-income-producing institutional Properties not solely operating for operated on a not for profit basis and providing profit public benefit, the ability to maintain or to convert the Property to a reasonable residential or institutional not for profit use in its present condition or in a rehabbed condition pursuant to the requirements of this ordinance Article or the ability to transfer the Property for a reasonable rate of return.
 5. The ~~consideration~~ justification for economic hardship shall not include any of the following:
 - a. Willful or negligent acts by the Owner;
 - b. Purchase of the Property for substantially more than its market value;
 - c. Failure to perform normal Maintenance and repairs; or
 - d. ~~Failure to~~ offer a rental Property for rent on market terms.

- ~~diligently solicit and retain tenants;~~
 - ~~e. Failure to prescribe a rental amount which is reasonable; or~~
 - ~~f. d. Failure to provide normal tenant improvements.~~
- b. Undue Hardship. An Applicant and/or Owner(s) requesting an exemption based on undue hardship must show that the application of the criteria create a situation that is substantially inadequate to meet the Applicant's and/or Owner(s) needs because of specific health and/or safety issues.
- c. Inability to Use
 - i. ~~Two years~~ After two years following denial of a Demolition permit approval, if no ~~feasible~~ reasonable economic use or ownership is found for the designated Site or Structure, the Owner may request a waiver of all or a part of the restraint of Demolition.
 - ii. ~~The Commission~~ HPC may solicit **expert testimony** and require that the Applicant make submissions concerning any or all of the following information before it makes a determination:
 - 1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to make necessary repairs, to find an appropriate user or to find a purchaser for the Property.
 - 2. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to locate and obtain available assistance for making the Property functional without Demolition.
 - iii. The following factors, evidence and testimony shall be considered:
 - 1. Efforts to locate and secure a potential user or purchaser for the Property.
 - 2. Efforts to locate and obtain available assistance for making the Property functional without Demolition.
 - 3. The ~~consideration~~ justification for inability to use shall not include any of the following:
 - a. Willful or negligent acts by the Owner;
 - b. Purchase of the Property for substantially more than its market value; or
 - c. Failure to perform normal Maintenance and repairs; or
 - e. d. Failure to offer a rental Property for rent on market terms.

4.3. Decision

- a. If ~~the Commission~~ HPC deems the criteria of this Section are met, ~~the Commission~~ HPC shall issue an order of exemption approval of exemption and ~~send~~ deliver a Certificate of Economic Hardship, Undue Hardship, or Inability to Use as applicable **to the Applicant with a copy to the Town Council** within 30 days.
- b. If ~~the Commission~~ HPC deems the criteria of this Section are not met, ~~the Commission~~ HPC shall deny the exemption request and notify, in writing, ~~the Town and the Applicant,~~ with a copy to the Town Council, within 30 days of such denial. Such denial shall state the reasons for the denial ~~and the procedures for appeal to the Town Council.~~
- c. ~~The Commission~~ HPC may issue an order continuing the exemption process for a period of not to exceed 90 days from the date of the ~~application~~ initial HPC hearing if ~~the Commission~~ HPC would like additional information

necessary to make a decision.

d. ~~The Applicant and/or Owner(s) may resubmit an amended application, reapply for an exemption that takes into consideration the recommendations of the Commission, or appeal the denial to the Town Council.~~

e.d. ~~If an application for an exemption is denied, no person may submit a subsequent application within one year for the same from the date of the final action upon the earlier application.~~

~~Appeal for Denial of Exemption~~

~~If an exemption is denied by the Commission, the Applicant and/or Owner(s) may appeal the denial to the Town Council by filing a written notice with the Town within 15 calendar days of the date of the receipt of the Commission's denial.~~

~~Notice of the Town Council's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the Town Clerk shall perform the responsibilities of the Secretary.~~

~~The Town Council shall hold a public hearing to consider the appeal, and consider any evidence (including new evidence) it deems relevant to the application.~~

~~The Town Council shall apply the criteria in this Section in making its decision.~~

~~The decision of the Town Council shall be final.~~

Section 9. Alteration, Relocation, or Demolition ~~to~~ of Non-Designated Properties Greater Than 50 Years Old

1. Requirements

a. Any permit application for Alteration, Relocation, or Demolition of a non-designated Property greater than 50 years old shall be ~~reviewed~~ referred to HPC for review ~~by the Commission~~ to determine the eligibility of such Property for listing consideration as a Historic Property or Contributing Property within a Historic District on the Town Register.

b. Permit applications for work on the interior of a Property, minor repair as determined by the Building Official, and/or replacement of materials in-kind are exempt from this requirement.

c. In order to determine eligibility for listing consideration on the Town Register as a Historic Property or Contributing Property within a Historic District, the Applicant must submit a Determination of Eligibility Form as prescribed by HPC requiring ownership, Construction and Alteration information, and photos of all facades of all Buildings, Structures, and Objects located on site.

~~e.d. This Article shall not apply to mobile homes.~~

2. ~~Commission~~ HPC Review

a. ~~The Commission~~ HPC shall act officially on each application within ~~30~~ 45 calendar days after the hearing thereon.

b. ~~The Commission~~ HPC shall review the eligibility of the Property following the Eligibility ~~e~~ Criteria and review procedure as outlined in ~~Section~~ Article 3.

c. ~~The Commission~~ HPC shall determine that the Property is:

- i. Eligible for listing consideration; or
- ii. Not eligible for listing consideration.

d. If the ~~Commission~~ deems the Property eligible Notice of determination:

- i. ~~In the case of a permit application for Alteration, the Commission shall determine if the proposed Alteration will Alter the Property to a degree that it no longer retains its historic Integrity. If so, the Commission shall~~

follow the process as outlined in this Section. If not, the Commission shall notify Applicant and/or Owner(s), the Planning Director, the Building Official, and any other person who has requested in writing to receive the same, that the property is eligible, but all other permitting shall proceed in accordance with Code.

i. The Commission HPC shall determine within 45 days of referral to HPC whether the Property is eligible for consideration or not eligible for consideration.

ii. If HPC determines that the Property is not eligible for consideration then HPC shall notify the Applicant and/or Owner(s), the Planning Director, the Building Official with a copy to Town Council, and any other person who has requested in writing to receive the same within 30 days that the Property is not eligible for consideration. In such case, all other permitting activities shall proceed in accordance with the Code.

iii. If HPC determines that the Property is eligible for consideration, then:

iii.1. A Stay of Alteration, Relocation, or Demolition shall be placed on the Property which:

4.a. Cannot exceed 180 90 days.

2.b. Shall provide the Owner and the Commission HPC the opportunity to take action consistent with this chapter Article to preserve the Property, including but not limited

to:

a. Consulting with Town staff, civic groups, public agencies, and interested citizens regarding feasible alternatives;

b. Exploring the possibility of Relocating Buildings, Structures, or Objects that would otherwise be Demolished;

e. For applications of proposed Demolition, recommending acquisition of the Property by private or public bodies or agencies; and

• Salvaging building materials; or

d. Nominating the Property for consideration as a Historic Property or a Contributing Property within a Historic District.

iv. At the expiration of the Stay, should the Property not be nominated for listing on the Town Register consideration as a Historic Property or a Contributing Property within a Historic Property as set forth in Section Article 4, nor a Certificate of Appropriateness issued as set forth in Sections Articles 5, 6 or 7, all other permitting shall proceed in accordance with Code.

d. If the Commission deems the Property ineligible, the Commission shall notify, in writing, the Applicant and/or Owner(s), the Planning Director, the Building Official, and any other person who has requested in writing to receive the same within 30 days of such finding and all other permitting activities shall proceed in accordance with the Code.

Section 10. Appeals

1. A final decision of the HPC made pursuant to Section Article 5 (Alterations to Listed Properties and Historic Districts), Section Article 6 (Relocation of Listed Properties), Section Article 7 (Demolition of Listed Properties), Section Article 8 (Exemptions) and Section Article 9 (Alteration, Relocation or Demolition of Non-Designated Properties Greater than 50 Years Old) may be appealed by the Applicant or aggrieved party to the Town Council by filing a written notice with the Town Clerk within 15 days after the HPC's final decision.
 - a. An aggrieved party is any person who will suffer an adverse effect to an interest protected or furthered by this Chapter.
 - b. No right of appeal shall exist for an application that was the subject of a call up by the Town Council in which the Town Council has already affirmed, denied, or affirmed with additional conditions the decision of HPC.
 - c. Within 45 days after an appeal is received by the Town Administrator, a public hearing shall be held by the Town Council subject to continuance by vote of the Town Council.
 - d. Notice of the Town Council's consideration of the appeal and hearing shall be provided in accordance with notice procedures set forth in Section 4, Subsections 2(a)-(d). Code Sec. 19-4-20 except the Town Clerk shall perform the responsibilities.
 - e. The Town Council shall consider the notice of appeal, HPC's reasons for denial of the application, the comments related thereto made during the Commission HPC hearing and any evidence (including new evidence) it deems relevant to the application.
 - f. The decision of the Town Council shall be final subject to the provisions of Code Section 16-21-700 – Appeals.

Section 110. Maintenance

1. The Town Council intends to preserve from deliberate or inadvertent neglect the exterior portions of Historic Properties and the exterior portions of Contributing and Non-Contributing Properties within or Historic Districts and including all interior portions thereof ~~whose~~ who's Maintenance is necessary to prevent deterioration of any exterior portion. No Owner, ~~lessee, or occupant~~ of any Historic Property or of any Contributing or Non-Contributing Property within a Historic District shall fail to prevent significant deterioration of the exterior of the Building, Structure, Object, or special feature beyond the condition of such Historic Property or of such Contributing or Non-Contributing Property within a Historic District on the effective date of the designating ordinance.
2. No Owner, ~~lessee, or occupant~~ of any Historic Property or of any Contributing or Non-Contributing Property within a Historic District shall fail to comply with all applicable provisions of this ordinance and other ordinances of the Town regulating pProperty Maintenance.
3. Before the Town's ~~attorney~~ files a complaint in municipal court for failure to maintain ~~the~~ a Historic Property or a Contributing Contributing or Non-Contributing Property within a Historic District, the Town shall notify the Owner, lessee, or occupant of the need to repair, maintain or restore such Property; shall assist the Owner, lessee, or occupant in determining how to preserve such Property; and shall give the Owner, lessee, or occupant a reasonable time to perform such work.

4. Should the condition of ~~the~~ a Historic Property or of a Contributing or Non-Contributing Property within a Historic District require immediate repair or stabilization to mitigate unsafe or dangerous conditions and after notification, the Owner has not undertaken such repair or stabilization, the Town may take such action and bill all expenses to the Owner. Should the Owner not remit such payment to the Town, after ninety (90) calendar days, the Town ~~shall~~ may record a notice with the ~~{Eagle County}~~ Clerk and Recorder of a lien against the Historic Property in violation. The lien created hereby shall be automatically perfected and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and prior special assessments.

Section 142. Unsafe or Dangerous Conditions Exempted

Nothing in this ~~ordinance~~ Chapter shall be construed to prevent any measures of Construction, Alteration, removal, or Demolition necessary to correct the unsafe or dangerous condition of any Property, other feature, or parts thereof where such condition is ~~declared~~ determined to be unsafe or dangerous by the Town and the Owner has been given notice by the Town to correct the unsafe or dangerous condition ~~where the proposed measures have been declared necessary by the Town to correct the condition, as long as only such work that is absolutely necessary to correct the condition is performed.~~ Any temporary measures deemed necessary and approved by the ~~Town Building Official~~ Town Building Official may be taken without first obtaining a Certificate of Appropriateness under this ~~ordinance~~ Chapter, but a certificate is required for permanent Construction, Alteration, removal, or Demolition.

Section 123. Enforcement and Penalties

1. No person shall violate or permit to be violated any of the requirements of this ~~ordinance~~ Chapter or the terms of a certificate issued pursuant to this ~~ordinance~~ Chapter.
2. Any person who violates the provisions of this Chapter shall be guilty of a misdemeanor and, in addition to the penalties provide herein, upon conviction shall be punished in accordance with the provisions of Code Section 1-4-20 of this Code.
3. The Town may seek an injunction to restrain a person who does not obtain the required approvals or permits provided in this Chapter or who engages in violations of this Chapter after the required approvals or permits have been revoked or suspended. This remedy shall be in addition to all other remedies prescribed in this Chapter or available by law.
- 2.4. Violations of this ordinance Chapter are punishable as provided in the Code and ~~may be~~ subject to the following additional penalties:
 - a. If any Historic Property or any Contributing Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this ordinance Chapter, the Commission HPG the Court may order any Historic Property or any Contributing Property within a Historic District to be returned to its condition prior to such unlawful Construction, reconstruction, exterior Alteration, addition, or Demolition. This may specifically include ordering the reconstruction of a Property that was Demolished to replicate as closely as possible the original Property.
 - a.b. If any Historic Property or any Contributing Property within a Historic District is not maintained as required in Article 11, then the HPG may Town may obtain an order of the Court for the Owner thereof to correct and remediate violation.
 - b.c. If any Building, Structure, or Object is erected or Constructed on a Historic Property or any Contributing Property within a Historic District, without complying with this Article Chapter, the Commission HPG the Court may order

any such Building, Structure, or Object to be removed or deconstructed.

~~c.5.~~ Alterations to a Historic Property or a Contributing Property ~~Historic District~~ without an approved Certificate of Appropriateness ~~will~~ may result in a one-year moratorium imposed by the Town on all building permits for the subject Property.

~~d.6.~~ Relocating or Demolishing a Historic Property or Contributing Property ~~within a Historic District~~ without an approved Certificate of Appropriateness ~~will~~ may result in a five-year moratorium imposed by the Town on all Relocation, Demolition, or building permits for such Property and/or its original location.

e. If any Historic Property or Contributing Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this ordinance or if any Building, Structure, or Object is erected or Constructed on a Historic Property or Contributing Property within a Historic District, the Town may issue an administrative citation:

~~Administrative citations for violations of this ordinance shall be issued only after the responsible party has received notice of violation and time to comply, unless, because of the nature of the offense, immediate compliance is required; further, any appeal process shall be completed prior to issuance of an administrative citation.~~

~~Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate citation penalty may be issued assessed. However, unless the Town determines that continued violations will cause immediate peril to life or property or the offense is one that, because of the nature of the offense, requires immediate compliance, once a citation has been issued for a violation of this ordinance, no additional citation shall be issued for the same violation for ten (10) days or, if the responsible party appeals, until after the appeal has been heard and the responsible party has not complied with an order of the administrative hearing.~~

~~If the responsible party fails to correct the violation cited, commits the same violation again, or fails to correct a violation as specified in accordance with an administrative enforcement order, subsequent administrative citations may be issued for violations of the same Code section. The penalties assessed for each administrative citation issued for violations of the same Code section or sections shall not exceed the following amounts regardless of the number of violations per citation:~~

~~0. First administrative citation: one hundred and fifty dollars (\$150.00);~~

~~0. Second administrative citation: five hundred dollars (\$500.00);~~

~~0. Third and each subsequent administrative citation: nine hundred and ninety-nine dollars (\$999.00);~~

~~Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the Town.~~

~~If an administrative hearing was held, the failure of any responsible party to pay the civil penalties assessed by an administrative citation within the time specified on the citation or administrative enforcement order may result in the imposition of a late fee of up to twenty-five dollars (\$25.00) and interest at a rate of ten (10) percent per annum.~~

~~The Town shall record a notice with the Eagle County clerk and recorder of a lien against the Property in violation. The lien created hereby shall be automatically perfected and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and prior special assessments.~~

~~Mike Addition: The HPC may refer to the Town Attorney for prosecution in Municipal~~

~~Court an action for injunctive relief to prevent further injury.~~

Section 13. — Incentives

~~2. Any Owner of a Historic Property or Contributing Property within a Historic District under this ordinance may be eligible for the following economic incentives:~~

- ~~— Property tax rebate. The Owner may apply for a refund of certain of ad valorem taxes (not to include special district taxes, if any) paid to the Town upon any Historic Property listed on the Town's Historic Register or Contributing Property within a Historic District listed on the Town's Historic Register during the year of designation and any subsequent years that said Property is so designated provided that Maintenance and rehabilitation activities as required by the Commission are completed and the Property was and is maintained as required herein. The amount of the refund shall be computed by multiplying the mill levy~~

~~imposed by the Town for the current year by assessed valuation of said Property and by the percentage of refund as determined by Town Council.~~

- ~~— Building permit fee rebate. The Owner may apply for a refund of building permit fees paid to the Town upon any Historic Property listed on the Town's Historic Register or Contributing Property within a Historic District listed on the Town's Historic Register for any preservation, rehabilitation, restoration, or reconstruction of said Property that is determined by the Commission to adhere to the Secretary of the Interior's Standards for the Treatment of Historic Properties and any Design Guidelines adopted by Town Council. Additions and new Buildings or Structures shall not qualify for said rebate. The amount of the refund shall be computed by multiplying the building permit fee imposed by the Town for the current year by the percentage of refund as determined by Town Council.~~
- ~~— Building Code application. The Town shall utilize and follow the "International Existing Building Code" for any review of code for any Historic Property listed on the Town's Historic Register or Contributing Property within a Historic District listed on the Town's Historic Register.~~
- ~~— Code variances. The Town, through its variance review process as provided in Section 16-21-690 of the Code, shall allow for certain variances for any Historic Property listed on the Town's Historic Register or Contributing Property within a Historic District listed on the Town's Historic Register:~~
 - ~~— Allowable variances:~~
 - ~~0. Development in the side, rear and front setbacks;~~
 - ~~0. Development that does not meet the minimum distance requirements between Buildings;~~
 - ~~0. Up to five percent (5%) additional site coverage; and~~
 - ~~0. Reduction of on-site parking requirements.~~
 - ~~— In order for a variance to be heard through the variance review process, the Commission must recommend said variance through written documentation demonstrating that said variance:~~
 - ~~0. Is similar to the pattern, features, and character of the Historic Property or Historic District; and~~
 - ~~0. Enhances, or mitigates an adverse impact to, the Historic Significance or architectural character of the Historic Property, an adjoining Historic Property or Historic District.~~
- ~~— Revolving loan fund. The Town hereby establishes a historic rehabilitation loan program and finds that the program promotes a valid public purpose of increasing the quality, exterior Integrity, and permanence of the Town's stock of Historic Properties for the enjoyment and benefit of present and future generations of citizens of the Town:~~
 - ~~— Availability. The Town shall set aside funds for this loan program through its annual budgeting process. All funds placed in said loan program will remain in the fund as cash or loan agreement with qualified Owners.~~
 - ~~— Qualifying projects:~~

- ~~0. The subject Property must be a Historic Property listed on the Town's Historic Register or Contributing Property within a Historic District listed on the Town's Historic Register.~~
- ~~0. Loan Applicants must provide matching funds in an amount equal to or greater than the amount of the loan.~~
- ~~0. Loan and matching funds must be utilized only for the stabilization or exterior rehabilitation of the subject Property; the repair or replacement of electrical, heating, or plumbing systems; the repair or installation of fire sprinkling systems in commercial Properties; or the installation or reconfiguration to meet the minimum requirements of the Americans with Disability Act. Neither the loan nor the matching funds shall be used for the installation or rehabilitation of signage (unless such signage is historic and determined to be a character defining feature); interior rehabilitation or decoration; the addition of architectural or decorative elements which were never a part of the Historic Property; or the Construction of additions or new Buildings, Structures, or Objects.~~
- ~~0. Overall project, including but not limited to, that portion paid through loan and matching funds must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.~~
- ~~0. In addition to items required in Section 5, Subsection 2 a., loan Applicant must submit cost estimates from qualified architects, engineers and/or contractors including labor and materials.~~

~~— Loan Terms and Repayment:~~

- ~~0. Applications for participation in the Loan Program shall be in the names of all Owners of title of the subject Property. Applications in the names of less than all Owners shall not be reviewed.~~
- ~~0. Ownership and title to the subject Property, must be in "good" or marketable title with all taxes and loans current, liens paid, no foreclosure proceedings pending, all restrictions of record and encumbrances disclosed and approved by the Commission, and compliance to all zoning codes.~~
- ~~0. No interest shall be charged on loan funds; however, the Commission may set a reasonable application fee.~~
- ~~0. Loan must be repaid in equal installments not to exceed ten (10) years. The remaining principle balance shall be due in full upon sale or transfer of the property.~~
- ~~0. Forty-five (45) calendar days after failure to make timely payment shall cause the entire principal balance to become a lien upon the Property, and shall have priority over all liens, except general taxes and prior special assessments.~~
- ~~0. No loan funds shall be disbursed until after the recipient has completed the work, the work has been physically inspected and~~

~~approved by the Town, the disbursement of loan funds has been approved by the Town Manager, and the loan recipient has documented the cost of the work by submitting to the Town copies of all bills, invoices, work orders and/or such other documentation showing, to the satisfaction of the Town, that the funds requested are reasonable and are supported by actual proof of expense.~~

~~0. All rehabilitation work shall be completed within one (1) year from the date upon which the loan was awarded; provided, however, that upon application and a showing of good cause as to why the project cannot be timely completed, the Commission may authorize an extension of up to one (1) additional year for completion of the work.~~

~~0. Loan recipients shall, as a condition of the loan, prominently place a sign upon the property being rehabilitated stating that such rehabilitation has been funded, in part, through the Town's loan program.~~

~~. Loan Review Procedures. Review of loan shall follow the procedures set forth in Section 5., except the Commission shall present a written recommendation for approval or denial to be presented to the Town Manager who shall have final approval authority, which must be awarded or denied within 30 calendar days of the Commission's recommendation.~~

~~. Rehabilitation Grant Program. The Town hereby establishes a historic rehabilitation grant program and finds that the program promotes a valid public purpose of increasing the quality, exterior integrity, and permanence of the Town's stock of Historic Properties for the enjoyment and benefit of present and future generations of citizens of the Town:~~

~~. Availability. The Town shall set aside funds for this grant program on an annual basis through its budgeting process. All funds placed in said grant program shall be awarded on an annual basis.~~

~~. Qualifying projects:~~

~~0. The subject Property must be a Historic Property listed on the Town's Historic Register or Contributing Property within a Historic District listed on the Town's Historic Register.~~

~~0. Grant Applicants must provide matching funds in an amount equal to or greater than the amount of the loan.~~

~~0. Grant and matching funds must be utilized only for the stabilization or exterior rehabilitation of the subject Property; the repair or replacement of electrical, heating or plumbing systems; the repair or installation of fire sprinkling systems in commercial Properties; or the installation or reconfiguration to meet the minimum requirements of the Americans with Disability Act. Neither the grant nor the matching funds shall be used for the installation or rehabilitation of signage, unless such signage is historic and determined to be a character defining feature, interior~~

~~rehabilitation or decoration, the addition of architectural or decorative elements which were never a part of the Historic Property, or the Construction of additions or new Buildings.~~

- ~~0. Overall project, including but not limited to, that portion paid through grant and matching funds must meet the Secretary of the Interior's Standards for the Treatment of Historic Properties.~~
- ~~0. In addition to items required in Section 5, Subsection 2 a., grant Applicants must submit cost estimates from qualified architects, engineers and/or contractors, including cost estimates for labor and materials.~~

~~Grant Terms:~~

- ~~0. Applications for participation in the grant program shall be in the names of all Owners of title of the subject Property. Applications in the names of less than all Owners shall not be reviewed.~~
- ~~0. Ownership and title to the subject Property must be in "good" or marketable title with all taxes and loans current, liens paid, no foreclosure proceedings pending, all restrictions of record and encumbrances disclosed and approved by the Commission, and compliance to all zoning codes.~~
- ~~0. No grant funds shall be disbursed until after the recipient has completed the work, the work has been physically inspected and approved by the Town, the disbursement of grant funds has been approved by the Town Manager and the grant recipient has documented the cost of the work by submitting to the Town copies of all bills, invoices, work orders, and/or such other documentation showing, to the satisfaction of the Town, that the funds requested are reasonable and are supported by actual proof of expense.~~
- ~~0. All rehabilitation work shall be completed within one (1) year from the date upon which the grant was awarded; provided, however, that upon application and a showing of good cause as to why the project cannot be timely completed, the Commission may authorize an extension of up to one (1) additional year for completion of the work.~~
- ~~0. Grant recipients shall, as a condition of the grant, prominently place a sign upon the Property being rehabilitated stating that such rehabilitation has been funded, in part, through the Town's grant program.~~

- ~~Grant Review Procedures. Review of grant shall follow the procedures set forth in Section 5, except the Commission shall present a written recommendation for approval or denial to be presented to the Town Manager who shall have final approval authority which must be awarded or denied within 30 calendar days of the Commission's recommendation.~~

~~51. The Commission shall attempt to identify and advise the Town Council regarding the implementation of other economic incentives for Historic Properties. The Commission shall notify the Owners of economic incentive opportunities available.~~

~~52. 1._____ The Commission shall make the determination for each request regarding economicincentives.~~