



COLORADO SPRINGS PLANNING

Land Use Review

Unified Development Code Review Criteria

7.5.528: HISTORIC RESOURCE ALTERATION OR DEMOLITION

Review Criteria

A. Purpose: The purpose of this Section is to regulate the approval of construction related to, alterations to, demolitions of, and relocations of structures in the HP-O district.

B. Applicability: This Section applies to all structures in the HP-O district.

C. Construction, Alteration, Demolition, or Relocation Approval Process:

1. Deferral of Building Permit by Regional Building Official: When the Building Official receives an application for any of the following actions related to a historic resource designated by City Council, and the proposed work would be visible from a public right-of-way, the Building Official shall defer action on the application except as provided in Subsection 5 below until the application is accompanied by a report of acceptability from the Historic Preservation Board:

a. Alteration or reconstruction of or addition to the exterior of any structure including signs, or improvement that is within the HP-O district for which a Building Permit is required.

b. Demolition or relocation of any structure including signs or improvement or object to or from the HP-O district for which a permit is required.

c. Construction or erection of or addition to any structure including signs or improvement upon any land that is within a HP-O district for which a permit is required.

2. Report of Acceptability and Related Decisions:

a. Major and Minor Work: As used in this Section 7.5.528, minor work includes any work that will not alter any distinctive feature or any improvement of the historic structure, and major work includes any work that will alter any distinctive feature or any improvement of the historic structure.

b. Major Work:

(1) If the initial application or later review by the minor work committee shows that the proposed work is major work, the report of acceptability shall be acted upon by the Historic Preservation Board within twenty-eight (28) days after its receipt.

(2) If upon receipt of an application for a report of acceptability, the Historic Preservation Board finds that the proposed work is of a nature that will not erode the authenticity of or destroy any distinctive exterior feature of the structure or improvement and is compatible with both the distinctive characteristics of the HP-O district and with the spirit and purpose of this UDC, the Board shall so advise the applicant in writing by issuing a report of acceptability and shall affix its seal to the plans and specifications for the approved work.

(3) In determining the decision to be made concerning the issuance of a report of acceptability, the Board shall consider the following:

(a) The effect of the proposed work upon the general historical and architectural character of the HP-O district;

(b) The architectural style, arrangement, texture, and materials of existing and proposed structures, and their relation to the structures in the HP-O district;



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(c) The effects of the proposed work in creating, changing, or destroying the exterior architectural features of the structure upon which such work is to be done;

(d) The effect of the proposed work upon the protection, enhancement, perpetuation, and use of the HP-O district; and

(e) Evaluation of City Council approved Design Standards.

c. Minor Work:

(1) To obtain a report of acceptability for minor work, the applicant shall submit with the Building Permit application such documentation as determined necessary by the Manager.

(2) If the Historic Preservation Board finds that the proposed work is of a nature that will not erode the authenticity of or destroy any distinctive exterior feature of the structure of improvement and is compatible with both the distinctive characteristics of the historic preservation overlay zone and with the spirit and purpose of this UDC, the Manager shall so advise the applicant in writing by issuing a report of acceptability.

d. Building Official Action Following Deferral

(1) Upon receipt of the report of acceptability and plans and specifications, the Building Official may proceed with the review of the application for a Building Permit.

(2) No change that would defeat the purpose of this UDC shall be made in an application for a Building Permit or the plans and specifications for the proposed work approved by the Historic Preservation Board without resubmittal to the Board and approval of such changes in the same manner as the original application.

e. Unacceptable Work on Property that is Not Nationally Designated:

(1) If no part of the property that is the subject of the application is listed on the National Register of Historic Places, and the proposed work is not found acceptable, the Historic Preservation Board shall explore with the applicant all means for substantially preserving the improvement that would have been affected by the required permit.

(2) If the Historic Preservation Board and applicant, after a period of ninety (90) days from the receipt of the application by the Board are unable to develop either alternative plans or an appropriate public or private use for the structure, the Board shall document the reasons for the inability of the Board and applicant to agree, and the applicant may obtain the appropriate permit from the Building Official to complete the actions included in the application in compliance this UDC and all other City codes and regulations.

(3) The investigations by the Historic Board with the applicant under this Section may include but are not limited to:

(a) The feasibility of modification of the plans reflected in the application;

(b) The feasibility of any alternative private use of the structure or structures that would substantially preserve the original character thereof; and

(c) The possibility of public acquisition of the structure or structures involved for a public purpose.

f. Unacceptable Work on Property in the National Register of Historic Places



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(1) If any part of the property that is the subject of the application is listed on the National Register of Historic Places, and the proposed work is not found acceptable, the Historic Preservation Board shall explore with the applicant all means for substantially preserving the improvement that would have been affected by the required permit.

(2) Except as provided in this Section 7.5.528, no demolition or alteration of property listed in the National Register of Historic Places shall be permitted unless the Board first finds that an unreasonable economic or noneconomic hardship will result to the owner if not allowed to demolish or otherwise alter the property.

(3) If the proposed work to construct, modify, or relocate a National Register property is not approved by the Historic Preservation Board, the applicant shall be so advised and no Building Permit shall be issued unless a certificate of hardship has been issued pursuant to Subsection 3 below.

(4) No reapplication shall be submitted pursuant to this Subsection f based on the plans and specifications found unacceptable by the Historic Preservation Board except upon a showing of changed circumstances sufficient to justify the reapplication, as determined by the Board.

3. Determination of Economic Hardship: If the Historic Preservation Board denies an application for a report of acceptability, it may, upon application or on its own motion, consider issuing a certificate of economic hardship.

a. Economic Hardship Procedure:

(1) The Historic Preservation Board may initiate consideration of economic hardship on its own motion, or the applicant may submit the application for consideration of economic hardship to the Secretary of the Board within ten (10) days of the Board's decision denying approval of the application for acceptability.

(2) Upon application or motion for a certificate of economic hardship, the Board shall schedule a public hearing on that application or motion. The public hearing shall be scheduled for the next regular meeting of the Board or may be scheduled as a special meeting of the Board. The hearing shall be noticed to the public as an item on the Board's agenda.

(3) The Board shall determine who may present evidence or testimony during the hearing. The hearing may be continued provided that, prior to the adjournment or recess of the Board meeting, a clear announcement is made by the Board specifying the date, time, and place at which the hearing will be continued.

(4) The Board may solicit expert testimony or require that the applicant for a certificate of economic hardship make submissions of information before rendering its decision.

(5) Any action of the Board approving or denying an application or motion for economic hardship shall be made in open session by a majority vote with at least four (4) Board members present during the vote. The Board's decision to approve or deny shall set forth the Board's findings of fact and, in the event of approval, shall include any special conditions of approval considered by the Board to be necessary to mitigate impacts upon and protect the intent and spirit of this UDC as it relates to the HP-O district.

b. Board Actions Related to Economic Hardship: The Historic Preservation Board shall review all of the evidence and information required of an applicant for a certificate of economic hardship and if the Board finds that without approval of the proposed work the property owner cannot obtain any reasonable economic return, not just profit, on the property, the Board shall:

(1) Make a finding that denial of approval of the proposed work would impose an economic hardship on the property owner; and



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- (2) Immediately issue a certificate of economic hardship and proceed pursuant to this Subsection 3; or
 - (3) At its discretion, postpone the issuance of the certificate of economic hardship, provided that:
 - (a) The postponement period shall not exceed thirty (30) days unless otherwise agreed to by the applicant. During the postponement period, the Historic Preservation Board shall investigate plans and make recommendations to the City Council to allow the property owner a reasonable economic return from the property, or to otherwise preserve the subject property. Such plans and recommendations may include but are not limited to a relaxation of the provisions of this Section 7.5.528, financial assistance, Building Code modifications, and/or changes in zoning regulations.
 - (b) The Board may request an extension of the postponement period by the City Council. If the City Council determines that there is a program or project underway that could result in public or private acquisition of the building or structure and the preservation or restoration of such building or structure, and that there are reasonable grounds to believe that the program or project may be successful, the Council may extend the postponement period for an additional period for a total postponement period of not more than ninety (90) days from the date of application for a regulated permit.
 - (c) The Board shall issue a certificate of economic hardship authorizing the work or demolition if, at the end of the postponement period:
 - (i) The Historic Preservation Board finds that, after review of all of the alternatives, without authorization of the proposed work or demolition, the property owner still cannot obtain any reasonable economic return from the property;
 - (ii) The applicant has not withdrawn its application for a Building Permit; and
 - (iii) The applicant otherwise complies with this UDC and other City codes and regulations.
 - (d) If the Historic Preservation Board does not find that all three (3) of the conditions in Subsection (c) above have been met, it shall deny the application or motion for a certificate of economic hardship.
4. Determination of Noneconomic Hardship: As an alternative to the Determination of Economic Hardship described in Subsection 3 above, if the Historic Preservation Board denies an application for a report of acceptability submitted by an applicant acting in a religious, charitable or otherwise not for profit tax exempt capacity, it may, upon application or on its own motion, consider issuing a certificate of noneconomic hardship.
- a. Noneconomic Hardship Procedure:
- (1) The Historic Preservation Board may initiate consideration of economic hardship on its own motion, or the applicant may submit the application for consideration of economic hardship to the Secretary of the Board within ten (10) days of the Board's decision denying approval of the application for acceptability.
 - (2) Upon application or motion for a certificate of noneconomic hardship, the Board shall schedule a public hearing on that application or motion. The public hearing shall be scheduled for the next regular meeting of the Board or may be scheduled as a special meeting of the Board. The hearing shall be noticed to the public as an item on the Board's agenda.
 - (3) The Board shall determine who may present evidence or testimony during the hearing. The hearing may be continued provided that, prior to the adjournment or recess of the Board meeting, a clear announcement is made by the Board specifying the date, time, and place at which the hearing will be continued.
 - (4) The Board may solicit expert testimony or require that the applicant for a certificate of noneconomic hardship make submissions of information before rendering its decision.



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(5) Any action of the Historic Preservation Board approving or denying an application or motion for noneconomic hardship shall be made in open session by a majority vote with at least four (4) Board members present during the vote. The Board's decision to approve or deny shall set forth the Board's findings of fact and, in the event of approval, shall include any special conditions of approval considered by the Board to be necessary to mitigate impacts upon and protect the intent and spirit of this UDC as it relates to the HP-O district.

b. Board Actions Related to Noneconomic Hardship: The Historic Preservation Board shall review all of the evidence and information required of an applicant for a certificate of noneconomic hardship and if the Board finds that without approval of the proposed work the property is either substantially inadequate for the owner's legitimate needs, or either physically and/or financially prevents or seriously interferes with the owner's religious, charitable or otherwise not for profit purpose, the Board shall:

(1) Make a finding that denial of approval of the proposed work would impose a noneconomic hardship on the property owner; and

(2) Immediately issue a certificate of noneconomic hardship and proceed as in this Subsection 4; or

(3) At its discretion, postpone the issuance of the certificate of noneconomic hardship, provided that:

(a) The postponement period shall not exceed thirty (30) days unless otherwise agreed to by the applicant. During the postponement period, the Historic Preservation Board shall investigate plans and make recommendations to the City Council to render the property adequate for the owner's legitimate needs, or remove serious physical or financial interference with the owner's religious, charitable, or otherwise not for profit purpose, or to otherwise preserve the subject property. Such plans and recommendations may include but are not limited to a relaxation of the provisions of this Section 7.5.528, financial assistance, Building Code modifications, and/or changes in zoning regulations.

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

(c) The Board shall issue a certificate of noneconomic hardship authorizing the work or demolition if, at the end of the postponement period:

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

(ii) The applicant has not withdrawn its application for a Building Permit; and

(iii) The applicant otherwise complies with this UDC and other City codes and regulations;

(d) If the Historic Preservation Board does not find that all three (3) of the conditions in Subsection (c) above are met, it shall deny the application or motion for a certificate of noneconomic hardship.

5. Remediating of Dangerous Conditions:



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a. If the Building Official, Fire Department, or any other public authority having the power to do so orders or directs the construction, reconstruction, alteration, repair, relocation, or demolition of any structure in the HP-O district for the purpose of remedying conditions determined by that official, department, or authority to be imminently dangerous to life, health, or property, nothing contained in this UDC shall be construed as making it unlawful for any person to comply with such order.

b. Any such official, department, or authority shall take immediate steps to notify the Historic Preservation Board of the issuance of any such order or directive and may include in such order or directive any timely received requirements or recommendations of the Board.

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

7. Limitation on Similar Application:

a. Whenever a request for a report of acceptability, determination of economic hardship, or determination of noneconomic hardship has been finally denied by the Historic Preservation Board, no further application shall be made for a report of acceptability, economic hardship, or noneconomic hardship affecting the same property, or a part thereof, for a period of twelve (12) months from the date of the final action of denial.

b. A property owner may apply to the Historic Preservation Board for an exception to this limitation by specifying and showing that, due to a change of circumstances and the existing condition of the property, a request for a report of acceptability, determination of economic hardship, or determination of noneconomic hardship is substantially different from the previous application.

8. Normal Maintenance and Repair: Nothing in this UDC shall be construed to prohibit the accomplishment of any work on a structure in the HP-O district that will neither change the exterior appearance nor the exterior architectural features of improvements or structures, nor the character or appearance of the land itself, and which is considered necessary as a part of normal maintenance and repair.

9. Notification of State or National Designation: The Manager shall promptly notify the Historic Preservation Board of any known National or State designations of landmark structures or landmark districts within the City. (Ord. 23-03)