

## **ARTICLE XII**

### **Historic Preservation**

#### **Sec. 16-12-10. Purpose.**

The purpose of this Article is to:

(1) Effect and accomplish the protection, preservation, enhancement and perpetuation of historic buildings, sites, structures and neighborhoods which capture, exemplify and reflect the City's cultural, social, architectural and economic history and character.

(2) Promote high standards of building design and preservation in historic neighborhoods for the purpose of protecting and perpetuating an atmosphere reflective of and consistent with the historic character and past of the City.

(3) Promote and maintain the attractiveness and use of historic buildings, sites, structures and neighborhoods for the benefit and enjoyment of City residents, tourists and visitors, and enhance and strengthen business and the economy of the City. (Ord. 03, 2002 §9-20-1; Ord. 2005-07 §1)

#### **Sec. 16-12-20. Establishment of Salida Downtown Historic District Overlay.**

(a) Established. There hereby is created and established the Salida Downtown Historic District Overlay for the purpose of protecting, preserving, stabilizing, enhancing and perpetuating the buildings, sites, structures and character of the City's original historic downtown area, and which shall contain and be comprised of all that area falling within the boundaries of the Salida Downtown Historic District established and identified by the National Park Service of the U.S. Department of the Interior. All areas within the district shall remain subject to the City's zoning, subdivision and building regulations, in addition to the regulations contained within this Article.

(b) District Map. The District Boundary and Local Historic Landmark Overlay are incorporated into the official Zoning Map of the City, defining and illustrating the geographical boundaries of the historic district. Not less than one (1) copy of the map shall at all times be maintained and available in the office of the City Clerk for public inspection during regular business hours. Copies of the map may be ordered for purchase by interested persons at such cost as deemed necessary and reasonable by the City Clerk. (Ord. 03, 2002 §9-20-2; Ord. 2005-07 §1)

#### **Sec. 16-12-30. Establishment of Local Historic Landmark Overlay.**

(a) Established. There hereby is created and established the Local Historic Landmark Overlay for the purpose of protecting, preserving, stabilizing, enhancing and perpetuating individual historic buildings, sites and structures that exemplify the history of the City. All areas within the Overlay shall remain subject to the City's zoning, subdivision and building regulations, in addition to the regulations contained within this Chapter.

(b) District Map. The Overlay shall apply to individual properties that meet the designation criteria of this Chapter and may be located anywhere within the City. Upon approval

of a designation ordinance, the Administrator shall place the amendment on the Official Zoning Map.

(c) Local Landmarks. The following properties have been designated as local historic landmarks and are included in the Local Historic Landmark Overlay:

(1) Salida Opera House. The site includes that area described as Lots 5, 6 and 7, Block 21, Sackett's Addition, City of Salida.

(2) Denver and Rio Grande Railroad Hospital. The site includes the original 1904 Denver & Rio Grande Railroad Hospital building only (which is part of the larger, contiguous, nonhistoric hospital building complex), which structure can easily be identified as that part of the current complex under the red tile roof; plus land directly in front of the original 1904 structure extending approximately south thirty-four (34) feet and nine (9) inches to the sidewalk along First Street; plus land to the approximate east side of the original 1904 structure extending approximately one hundred two (102) feet and eight (8) inches to the edge of the sidewalk and including the wall structure currently in existence, the east fountain and statue in the center of the east fountain; plus land adjacent to, and in some cases beneath attached buildings, to the approximate north and west of the 1904 structure and extending approximately five (5) feet and no inches in each direction from the 1904 structure. (Ord. 2006-14 §3; Ord. 2007-02 §1)

#### **Sec. 16-12-40. Designation of local historic districts and landmarks; procedure.**

(a) Procedure. A local historic district or landmark may be designated by the submission of a nomination petition. The petition shall follow the stages of the City Land Development Process outlined below. No building permit, demolition permit or other permit required to undertake an external improvement or alteration on any lot, building, structure or site under consideration for designation or within an area under consideration for designation as a historic district shall be processed, issued or allowed pending the final processing and determination of the historic district or landmark designation petition by the City Council.

(1) Preapplication Conference. Attendance at a preapplication conference is recommended for an applicant intending to submit a nomination petition to establish a historic district or landmark.

(2) Submit Application. The applicant shall submit a complete application to the Administrator containing those materials listed in Subsection (b) below, Application Contents. Applications for the establishment of a historic district or landmark may be initiated by any resident within the City, any property owner owning the proposed landmark or any property owner owning property within the proposed district, or upon the initiative of the Historic Preservation Commission (HPC), Planning Commission or City Council.

(3) Staff Review. The Administrator shall review the application to determine whether it is complete. Upon determination of the application being complete, the Administrator and one (1) member of the HPC shall contact the owners of the proposed landmark or historic district outlining the reasons and effects of designation and, if possible, secure the consent of the owners to such designation. The Administrator shall forward a report to the HPC, which summarizes the application's compliance with the review standards contained in Section 16-12-50, Historic Districts and Landmarks

Designation Review Standards, and other applicable provisions of this Code. The technical comments and professional recommendations of other agencies, organizations and consultants shall be solicited in drafting the report, as necessary.

(4) Action by Administrator. The Administrator or his or her designee shall conduct a public meeting with the HPC to review the conformance of the nomination application with all applicable provisions of this Chapter. If the Administrator or his or her designee finds that the application is in conformance, it shall make a recommendation that the City Council approve the application. The Administrator or his or her designee shall make written findings and recommendations concerning the merits of the petition and forward the same on to the City Council.

(5) Public Notice by City Council. Public notice that a nomination for establishment of a historic district or landmark is being considered by the City Council shall be provided as specified Article II. Such notice shall contain a name for the new district or landmark and accurately describe the district's or landmark's proposed geographical boundaries. Additionally, written notice of the public hearing shall be mailed via certified mail to all of the owners or record, as reflected by the records of the County Assessor, of all of the property included to be designated. Mailing shall be accomplished fifteen (15) days prior to the hearing.

(6) Public Action by Council. The City Council shall thereafter conduct a public hearing on the petition preceded by timely published notice in the form described above. A determination by the City Council to establish a historic district or landmark shall be made by written ordinance that shall, at a minimum, contain an accurate description of the district's or landmark's geographical boundaries and be accompanied by an accurate map depicting the boundaries as finally determined by the City Council and a statement of findings supporting the granting or denial of landmark designation status. Attendance by the owner at the City Council meeting shall not, at the owner's option, be required, but shall be strongly recommended. A copy of the ordinance shall be promptly sent by certified mail, return receipt requested, or personally delivered to the owner of the subject property.

a. Designation of a landmark with a nonconsenting owner. If a property owner does not consent to the review, approval shall require the assent of at least five (5) of the six (6) City Council members. The basis for approval shall be that the property has overwhelming historic importance to the entire community. The term *overwhelming significance* shall, for the purposes of this Section, encompass the following: possessing such unusual or uncommon significance that the structure's potential demolition or major alteration would diminish the character and sense of place in the community of Salida.

(7) Actions Following Approval.

a. Recordation. The ordinance shall be promptly published in a newspaper of general circulation within the City or a certified copy of the same, inclusive of the final approved district map, shall be recorded in the real property records of the County Clerk and Recorder.

b. Copies. The final approved ordinance shall be maintained in the office of the City Clerk.

(b) Application Contents. An application for designation of an historic district or landmark shall contain the following information.

(1) General Development Application.

(2) Geographic Boundaries.

a. Map. An adequate description of the geographical boundaries of the proposed district or landmark and a map accurately defining the boundaries of the proposed district or landmark.

b. Name. A proposed name for the proposed historic district or landmark. (Ord. 03, 2002 §9-20-3; Ord. 01, 2005 §1; Ord. 2005-07 §1)

**Sec. 16-12-50. Historic district and landmark designation review standards.**

In determining whether a historic district or landmark shall be established, one (1) or more of the following criteria shall be satisfied:

(1) Historic District.

a. Whether the proposed district contains and is defined by a certain style of buildings, sites, structures and/or appearance associated with a significant period, person, event or architectural style in the City's past.

b. Whether the buildings, sites, structures and/or appearance of the proposed district possess historical and/or architectural significance which identifies or differentiates the district from surrounding areas, and/or whether allowing variations or changes thereto would harm the unique historic character or value of the buildings, sites and structures within the district.

c. At least fifty-one percent (51%) of the property owners in the desired district must not object to the designation. A survey of support for the creation of the district must be solicited via certified mail, with each property owner in the proposed district permitted one (1) response. A lack of response will not be considered either an affirmation of support or a negative response to the creation of the district. Certified mailings must be sent at least thirty (30) days prior to action by the City Council, with responses due at least fifteen (15) days prior to action by the City Council.

(2) Landmark.

a. Exemplary property. The subject property exemplifies or reflects the City's cultural, social, economic, political, engineering or architectural history.

b. Historic significance. The subject property is identified with a historically important person or persons, or with an important event in the history of the City, region, State or Nation.

c. Architectural significance. The subject property embodies the distinguishing characteristics of an architectural style, type or specimen valuable for

the study of a period, type or method of construction, or the use of indigenous materials or craftsmanship.

d. Noted designer. The subject property is representative of the work of a notable or master architect, builder, engineer or designer whose work influenced architecture, building, design or development in the City, region, State or Nation.

e. Archeological importance. The subject property contains or reflects significant archeological importance.

f. Contributing building or structure. The subject property has been listed as a contributing building or structure within a historic district or nominated for inclusion and/or listed on the National Register of Historic Places or the State Inventory of Historic Places. (Ord. 03, 2002 §9-20-4; Ord. 01, 2005 §1; Ord. 2005-07 §1)

**Sec. 16-12-60. Activities subject to review and certificate of approval with regard to landmarks or within historic districts.**

Unless otherwise specifically provided for in this Article, no person may or shall engage in, or allow or direct others to engage in, any of the following activities within a historic district or on a landmarked building structure or site without first applying for and obtaining a certificate of approval as outlined in Section 16-12-80 below.

(1) The construction, erection, demolition, moving, exterior alteration or relocation of or exterior addition to any building or structure.

(2) The exterior renovation, rehabilitation, reconstruction, repair or remodeling of any building or structure, excepting ordinary maintenance and/or repair.

(3) The removal, modification, reconstruction, covering up or destruction of an exterior architectural feature.

(4) The cleaning of an exterior surface of a contributing or landmark building or structure by sandblasting, high-pressure spraying or other chemical or mechanical means which could cause physical damage to the building or structure.

(5) The construction of public or private improvements upon public property by any person or unit of government which alters the layout, design or character of a street, alley, sidewalk, pedestrian way, right-of-way, utility installation, street light, wall or fence.

(6) The application of any sealant, paint, stucco, texture or other material that would conceal, alter or damage the exterior of any contributing or landmark building with an existing unfinished or unpainted brick, masonry or other unfinished siding or structural element. (Ord. 03, 2002 §9-20-8; Ord. 01, 2005 §1; Ord. 2005-07 §1)

**Sec. 16-12-70. Demolition or relocation of buildings, structures or sites.**

Consistent with the purposes of this Article, it is the intent of this Section to preserve the historic districts and historical and architectural resources of the City through limitations on the demolition and relocation of landmark and contributing buildings, structures or sites to the maximum extent feasible, and to regulate the demolition and relocation of nonlandmark and

noncontributing structures within historic districts. The demolition and/or relocation of landmark and contributing buildings, structures and sites are to be discouraged in favor of preservation, renovation, adaptive reuse or relocation within a historic district. Notwithstanding the foregoing, it is recognized that structural deterioration, economic hardship and other factors not within the control of a property owner may cause or require the demolition or relocation of a landmark or contributing building, structure or site.

(1) Certificate of Approval Required. No landmark or contributing building, structure or site, and no building, structure or site within a historic district, may be demolished or relocated without first having been approved through the issuance of a certificate of approval as outlined in Section 16-12-80 below.

(2) Major Activity. An application for a certificate of approval to demolish a landmark or contributing building, structure or site, or a building, structure or site within a historic district, shall be considered a substantial or major activity.

(3) Demolition by Neglect Prohibited. No owner or person occupying or using a landmark or contributing building, structure or site shall allow or cause the demolition, destruction, damage or deterioration of such building, structure or site by neglect. (Ord. 03, 2002 §9-20-9; Ord. 01, 2005 §1; Ord. 2005-07 §1)

#### **Sec. 16-12-80. Certificates of approval; procedure.**

(a) No building permit for work or activity requiring a certificate of approval shall be valid or issued by the Building Official absent the receipt by the official of the necessary certificate of approval ("CA"). Conversely, the issuance of a CA shall not relieve an applicant from having to obtain any and all other permits or approvals for the subject work or activity as may be required under the City's zoning, subdivision, building or other life/safety codes.

(b) Certificates of approval may be made subject to such terms, conditions or limitations as determined necessary to protect and preserve the structural, aesthetic and/or historic integrity and value of the building, structure or site to which it pertains. A CA shall not constitute a site-specific development plan or vested property right and, unless acted upon in a substantial fashion or otherwise specifically authorized and provided for in the permit, shall automatically expire one (1) year from its date of issuance, unless extended by order of the Administrator or his or her designee.

(1) Procedure. Applications for a CA shall follow the stages of the land development process outlined below:

a. Preapplication conference. Attendance at a preapplication conference is recommended for an applicant intending to submit an application for a CA.

b. Application submittal. The applicant shall submit a complete application to the Administrator containing those materials listed in Subsection 16-12-80(2)(b) below.

c. Staff review. The Administrator or his or her designee shall review the application to determine whether it is complete. The Administrator or his or her designee shall compose a report which summarizes the application's compliance with the review standards contained in Section 16-12-90 below, and other applicable

provisions of this Chapter. The technical comments and professional recommendations of other agencies, organizations and consultants shall be solicited in drafting the report, as necessary.

e. Action by Administrator or his or her designee.

1. Minor activity. An application regarding minor activity shall be reviewed and ruled upon by the Community Development Director within ten (10) business days from the date the application was deemed complete. If it is determined that the application pertains to minor activity only or to activity that will not detrimentally impact or influence the historic integrity and/or appearance of a landmark or designated historic district, a CA shall be issued authorizing the activity. If it is determined that the application pertains to major activity, it shall be referred to the major activity procedure.

2. Major activity. An application regarding major activity shall be reviewed by the HPC and ruled upon by the Administrator or his or her designee at a regular or special meeting to be conducted within twenty (20) days from the date the application was determined complete. Written notice of the date, time and location of the meeting shall be mailed by regular mail or personally delivered to the applicant not less than five (5) days prior to the meeting. The unexcused absence of the applicant from the meeting shall cause the Administrator or his or her designee to deny the application or, at the Administrator or his or her designee's option, continue the matter to a later meeting date of its choosing.

f. Actions following approval. A copy of each approved certificate of approval shall be transmitted by the Administrator to the Building Official promptly upon its issuance.

(2) Application Contents. An application for a Certificate of Approval shall contain the following information:

a. Minimum contents. The minimum contents for all applications specified in Subsection 16-12-40(b) of this Chapter.

b. Photographs. All applications shall be accompanied by photographs reasonably and accurately depicting the current status of the building, structure or site, or that portion thereof, subject to the application. Include photographs showing all sides of the structure, particularly the front and any side affected by the proposed project and detailed photographs of the features affected by the project.

c. Drawing Format: Drawings shall be large enough so that all information is legible but no smaller than 11" x 17". Sketch drawings are acceptable if they provide accurate information and are reasonable drawn to scale.

d. Dimensioned Site Plan: Site plan showing street locations, existing structure and proposed new elements or structures.

e. Dimensioned Floor Plan(s): Floor plans showing existing structures and proposed new elements or structures.

f. Dimensioned Roof Plan: Roof plan showing proposed new roof elements in context of the existing roof.

g. Dimensioned Exterior Elevations: Exterior elevations showing appearance of proposed project with all materials and indicating finishes.

h. Building Sections and Construction Details: Sections and details as required adequately explaining and clarifying the project. Note all materials and finishes.

i. Specification of Materials: Manufacturer's product literature and material samples. Product literature is required for replacement windows.

j. Bids: If proposing to replace existing historic materials or features with replicas rather than repair or restore, firm bids must be provided for both restoration and replication.

k. Window Replacement: If proposing to replace historic windows (aside from wooden replica sash replacement) justification shall be provided as outlined in National Park Service Preservation Brief #9. Submittal must include written assessment of condition of existing windows.

l. New Construction shall include the following information:

1. Block Site Plan: A site plan or aerial photograph showing relationship of proposed structure to existing structures.

2. Written Statement: A written statement of the design philosophy and building program.

3. Massing Model: A massing model illustrating the relationship between the new structure(s) and existing building(s) on the project site and adjacent lots.

4. Photographs: Photographs of the surrounding structures including both block faces and side streets.

m. Demolition or relocation of a building, structure or site shall include the following:

1. A detailed description of the reasons supporting or justifying the proposed demolition or relocation, including a delineation and explanation of all economic data where economic hardship or other economic cause is given as a reason for the proposed demolition or relocation.

2. A detailed development or redevelopment plan for the demolition and/or receiving relocation site and a schedule for completion of the work.



3. Elevations, building sections, construction details, specifications and massing model of proposed replacement structure similar to those required for new construction.

4. For landmark or contributing structures the applicant must submit a report prepared by an architect, appraiser, engineer or other qualified person experienced in the rehabilitation, renovation and/or restoration of historic buildings, structures or sites addressing:

a) The structural soundness of the building, structure or site and its suitability for rehabilitation, renovation, restoration or relocation.

b) The economic and structural/engineering feasibility of the rehabilitation, renovation and/or restoration of the building, structure or site at its current location.

c) The economic and structural/engineering feasibility of relocating the building, structure or site.

**Sec. 16-12-90. Certificates of approval; review standards.**

(a) Historic Landmark and/or Contributing Buildings, Structures or Sites. All work performed in completion of an approved certificate of approval shall be in conformance with the most recent edition of the Secretary of Interior's *Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings*, published by the U.S. Department of the Interior, National Park Service, Cultural Resource Stewardship and Partnerships, Heritage Preservation Services, Washington, D.C. (available for review at the Community Development Department).

(b) Supplemental Guidelines. The Administrator or his or her designee with advice from the HPC may, subject to final approval by the City Council, devise, adopt, publish and implement design guidelines to supplement the criteria set forth in this Section for the review, evaluation and approval of certificates of approval. Upon their approval by the City Council, said guidelines shall be enforced and have the same effect and authority as if fully set forth in this Section, and violations thereof shall be subject to the same penalties for violations of any other section contained in this Article. In addition, the following minimum criteria will be applied in reviewing and evaluating an application for a CA with respect to a historic landmark or contributing building, structure or site:

(1) Architectural Character. Whether and/or to what extent the proposed work will preserve, protect, change, diminish, disguise, obscure, detract from or destroy the appearance or structural integrity of the historic features, design, materials, character or value of the structure or site.

(2) Original Materials. Whether original designs, materials, finishes and construction techniques that characterize the historic value and appearance of a structure or site can be retained, restored or repaired as opposed to replaced, and whether replacement designs, materials or finishes can match and/or accurately replicate the originals.

(3) Minimum Change. Whether and/or to what extent the proposed work will require more than a minimal change to the historic appearance, materials or integrity of the structure or site.

(4) New Construction. New additions, exterior alterations and related work shall not destroy or detract from the existing historic structure and materials to the maximum extent feasible, and such new work or alterations shall be differentiated from, but compatible with, the existing size, scale and exterior architectural features of the structure or site so as to protect its historic identity and integrity.

(5) Historic Appearance. Work that will protect or return the original historic appearance of a structure or site, especially where documented by photographs, historic research or other credible evidence, shall be encouraged and favored.

(6) Work Necessary. Whether the proposed work is required or necessary to comply with a building, fire or other health/safety code.

(c) Activities Within Designated Historic Districts. The following minimum criteria will be applied in reviewing and evaluating an application for a CA with respect to a nonlandmark or noncontributing building, structure or site within a designated historic district.

(1) Enhance District. Whether and/or to what extent the proposed work will enhance and advance the purposes and intent underlying the establishment of the district.

(2) Overall Character. New structures and additions to, or the exterior repair or alteration of, existing nonlandmark and noncontributing structures shall be compatible with the historic architectural character, scale, shapes, sizes, heights, facades and materials predominant in the district to the maximum extent feasible.

(3) Specific Compatibility. New structures and additions to, or the exterior repair or alteration of, existing nonlandmark and noncontributing structures shall specifically harmonize with neighboring landmark and/or contributing structures or sites with regard to height, scale, shape, size, facade, materials, setback, landscaping and exterior architectural features to the maximum extent feasible.

(4) Work Necessary. Whether the proposed work is required or necessary to comply with a building, fire or other health/safety code.

(d) Demolition or Relocation of a Landmark or a Building, Structure or Site Within a Historic District. The following criteria shall be used in determining whether a certificate of approval should be issued for the demolition or relocation of a landmark or a building, structure or site within a historic district:

(1) The historic, social or architectural significance of the building, structure or site.

(2) The structural soundness and safety of the building, structure or site.

(3) In the case of a landmark or contributing building, structure or site, whether the same can be rehabilitated, renovated or restored at its current location as part of an economically feasible and beneficial use of the property.

(4) In the case of a landmark or contributing building, structure or site, whether the same has been properly maintained and/or been subject to disrepair, deterioration and/or demolition by neglect.

(5) In the case of a landmark or contributing building, structure or site, whether the same can be relocated to a historically appropriate alternative location in a manner that will protect and insure its structural integrity.

(6) The impacts of the proposed demolition or relocation of the building, structure or site, and the planned redevelopment of the site, on the historical character of the existing neighborhood.

**Sec. 16-12-100. Exempt activity.**

A CA shall not be required for the interior alteration, renovation, repair, reconstruction or rehabilitation of a landmark or contributing building or structure, or for any other building or structure within a historic district. Similarly, a CA shall not be required to undertake ordinary exterior maintenance and/or repair if such work involves and is carried out using materials and elements identical in appearance to the materials and elements being repaired or worked on, and such maintenance and/or repair does not substantially alter the appearance, composition or texture of the exterior appearance, feature or surface of the building or structure. (Ord. 03, 2002 §9-20-12; Ord. 01, 2005 §1; Ord. 2005-07 §1)

**Sec. 16-12-110. Exceptions.**

Nothing in this Article shall prohibit the issuance of orders or correction notices, or the implementation of emergency enforcement actions, authorized by law for the purpose of correcting or abating conditions relative to any landmark, contributing or other building, structure or site determined to be dangerous to life, health or property in accordance with building and/or life and safety codes duly adopted by the City, and/or such other governing authority with jurisdiction, including, when deemed necessary, the demolition or partial demolition of a building or structure. However, when the need for emergency action is not present, all work or activity normally subject to the provisions and procedures contained in this Article shall be undertaken and performed in compliance therewith. (Ord. 03, 2002 §9-20-13; Ord. 01, 2005 §1; Ord. 2005-07 §1)

**Sec. 16-12-120. Removal of landmark, contributing or historic district designation.**

(a) Finding by City Council required. The removal of a landmark or contributing designation for any building, structure or site, or the removal of the designation of a district as a historic district, shall only be approved upon a finding by the City Council after a noticed public hearing that the building, structure, site or district no longer satisfies the eligibility criteria for landmark, contributing or historic district status, and that it would be in the public interest and welfare to remove or rescind such designation.

(b) Procedure. The procedures contained in Section 16-12-50 above with regard to the designation of landmark, contributing or historic buildings, structures, sites or districts, respectively, shall be followed in applying for and processing a petition for the removal or rescission of such a designation. Notwithstanding the foregoing, no landmark or other historic designation awarded to any building, structure, site or district by the United States Department of the Interior and/or the State, respectively, shall be removed, rescinded or modified except in

accordance with the procedures and standards established by said governmental authority. (Ord. 03, 2002 §9-20-14; Ord. 2005-07 §1)

**Sec. 16-12-130. Violations and penalties.**

(a) Violation of the provisions of this Chapter shall be punishable as set forth in Chapter 1 Article IV of this Code. Additionally, each separate violation and each day any violation continues shall constitute a separate offense and be subject to the penalties specified in this Section.

(b) Any development, activity, facility or structure which is continued, operated or maintained in violation of the provisions of this Article, or the terms and conditions of a CA or any other permit, shall be subject to injunction, abatement and/or other appropriate legal remedy as may be sought and obtained by the City, in which event the City shall be entitled to recover its reasonable costs and attorney fees from the offending party or parties.

(c) All penalties and remedies for violations of the provisions of this Article shall be nonexclusive and cumulative, and the City's pursuit and/or exercise of one (1) remedy or penalty shall not foreclose or prohibit the pursuit and exercise of alternative or other remedies. (Ord. 03, 2002 §9-20-15; Ord. 01, 2005 §1; Ord. 2005-07 §1)