

## **Historic District and Historic Preservation Ordinance**

### **Chapter I**

#### **Historic Districts**

**[Note:** This Ordinance does not include Historic District Zones which regulate land uses within them in addition to performance standards and design guidelines.]

#### **Section 1 Historic Overlay Zone**

1. General: This overlay district may be used in any area which is suitable for preservation and which has historical, archaeological, architectural, or cultural significance, and which , in addition:

1. Embodies the distinctive characteristics of a type, period, or method of construction; or
2. Portrays the environment of a group of people in an era of history characterized by distinctive architectural type; or
3. Has yielded, or is likely to yield, information important to history of prehistory; or
4. Possesses high artistic values, or has a relationship to designated landmarks or an historic zone which makes the area's preservation critical.

1.2 Inventory: An inventory of all building, structures and signs in an area proposed for a historic district which may have historic or cultural value shall be conducted by a qualified professional before the boundaries of this district are established and mapped and before specific standards

and guidelines for preservation and development are established and approved. The City Council/County Commission may utilize inventories which have already been completed for the purpose of registration on the National Register of Historic Places and/or the New Mexico State Register of Cultural Properties.

1.3 Controls and Procedures:

1.3.1 Controls: The area's distinctive characteristics and general preservation guidelines for the area shall be identified by the City Council/County Commission in a resolution applying the Historic Overlay Zone to any given area. These characteristics and preservation guidelines shall have been previously identified by the Historic Preservation Commission (hereinafter "HPC") or subsequent to an inventory conducted by a qualified professional and submitted to the Planning and Zoning Commission. Specific guidelines for each overlay district area shall be adopted by the City Council/County Commission. Any new construction, modification alteration, addition, moving or destruction which would effect the exterior appearance of any structure within said overlay district, including historic signage, shall not be undertaken until a Certificate of Appropriateness has been approved by the City Council/County

Commission, with the recommendation of the HPC and Planning and Zoning Commission. Provided, however, that the adopted specific development guidelines may exempt specific structures and types of construction, alteration, or demolition, from the requirement for a Certificate of Appropriateness or may provide for Zoning Administrator approval in lieu of HPC and City Council approval. Procedures relating to the issuance of a Certificate of Appropriateness are set forth in Section 5 of the Historic Preservation Ordinance.

1.4 Map: Each HO Overlay District will be mapped through the regular zone map amendment procedures, as provided in Article \_\_\_ of the [Land Development Standards] [Zoning Ordinance]

**Section 2. Route 66 Historic Overlay Commercial District [HO]:**

This District endeavors to protect and promote the educational, cultural, and general welfare of the public through the restoration, preservation, and protection of the traditional architectural and functional character of Route 66 as it passed through \_\_\_\_\_ between \_\_\_\_\_ and \_\_\_\_\_. A map of this District is available for review in the office of the City/County Clerk, and comprises all of the property listed within the boundaries of this District. All uses currently allowed by the current zoning in the district shall continue to be allowed.

2.1 Architectural styles: The City Council/County Commission finds and declares that the vernacular architectural style of commercial buildings, structures and signage erected between \_\_\_\_\_ and \_\_\_\_\_, in the area now

constituted as (name of City or County) in the State of New Mexico, comprises the traditional architectural character of the Route 66 Historic Overlay District. This style includes the neon and other signage of the period. See Appendix A. David Konner. The Council/Commission declares the HO Route 66 Historic Commercial Overlay District to be a living museum of the architecture and culture of the first half of the 20<sup>th</sup> century, and will subject both interior and exterior construction to the performance standards and development guidelines adopted for the District.

## 2.2 Architectural Standards and Development Guidelines:

Applicants for development in this zoning district shall refer to the architectural standards and development guidelines adopted by the City Council/County Commission for this district.

The City Council/County Commission shall, with all due speed, approve specific standards and guidelines for development in the HO Route 66 Historic Commercial Overlay District at a public meeting duly advertised and publicized city/county-wide. These standards and guidelines shall include suggestions for adoptive reuse of landmarks and structures in the Historic Overlay District.

These standards and guidelines shall have been recommended to the Planning and Zoning Commission and City Council/County Commission by the HPC. The specific development standards and guidelines shall establish criteria and standards for evaluation of applications for Certificates of Appropriateness in the HO Route 66 Historic Commercial Overlay District, and shall designate the types of applications for a Certificate of Appropriateness which may be approved by the Zoning Administrator, without the need for procedures before the HPC, Planning and Zoning Commission or City Council. Specific performance standards shall be

consistent with the provisions of the Ordinance. The standards and guidelines may be amended by the City Council/County Commission at a public hearing duly advertised and publicized area-wide at any time. Specific performance standards and development guidelines shall be adopted or amended only after receiving a recommendation on the proposal from the HPC.

2.3 The City Council/County Commission shall, with all deliberate speed, also adopt, and approve standards and guidelines for the replacement of signs in the HO Route 66 District which cannot be restored or do not function in a safe manner. Such standards and guidelines may include new technologies which imitate neon signage.

2.4 Special Approval Required: See Historic Preservation Ordinance for procedures.

2.4.1 Any new construction, modification, addition, alteration, moving, or destruction which might affect the exterior appearance of any structure, place or sign in the HO Route 66 Historic Commercial Overlay District requires a Certificate of Appropriateness which must be approved by the City Council/County Commission upon the recommendation of the HPC. (Historic Preservation Ordinance, Sections 6, 7, 8) Signs in this district also must comply with the Sign Ordinance provisions in the [Land Development Ordinance][Zoning Ordinance], at Section \_\_\_\_\_.

1.4.2 A Certificate of Appropriateness shall also be required for any construction, blasting, industrial activity, or any other land use or activity which would impact any structure, sign or activity within the HO Route 66 Historic Commercial Overlay District. [See Historic Preservation Ordinance, Section 11]

### **Section 3. HO Route 66 Historic Residential Overlay District**

#### **[HO]:**

This district endeavors to protect and promote the educational, cultural, and general welfare of the public through the restoration, preservation, and protection of the traditional architectural character of the residential areas surrounding the HO Route 66 Commercial Overlay District. A map of this District is available for review in the office of the City/County Clerk.

3.1 Architectural Styles: The City Council/County Commission finds and declares that the vernacular architectural style of buildings and structures between \_\_\_\_ and \_\_\_\_\_ comprises the traditional architectural character of the HO Route 66 Residential Overlay District.

3.2 Permissive Uses: All uses permitted in the District under current zoning.

3.3 Performance Standards and Development Guidelines: The City Council/County Commission shall with all due speed, approve performance standards and specific development guidelines for the HO Route 66 Historic Residential Overlay District at a public meeting duly advertised and publicized area-wide. These guidelines shall have been recommended to the Planning and Zoning Commission and County Commission by the HPC. The specific development guidelines shall establish criteria and standards for evaluation of applications for Certificates of Appropriateness in the HO-Route 66 Residential Overlay District, and shall designate the types of applications for a Certificate of Appropriateness which may be approved by the Zoning Administrator, without the need for procedures before the HPC, Planning and Zoning Commission, or City Council/County Commission. Specific development guidelines shall be

consistent with the provisions of the Ordinance. The guidelines may be amended by the City Council/county Commission at a public hearing duly advertised and publicized area-wide at any time. Specific development guidelines shall be adopted or amended only after receiving a recommendation on the proposal from the HPC and the Planning Commission.

3.4 Special Approval Required: See Historic Preservation Ordinance, for procedures.

3.4.1 Any new construction, modification addition, alteration, moving, or destruction which would affect the exterior appearance of any structure or place, or any sign in the HO Route 66 Historic Residential Overlay District requires a Certificate of Appropriateness which must be approved by the City Council/County Commission upon the recommendation of the HPC, (Historic Preservation Ordinance, Sections 6,7,8)

3.4.2 A Certificate of Appropriateness shall also be required for any construction, demolition, replacement, or any other land use or activity within the HO Route 66 Historic Residential Overlay District. (Historic Preservation Ordinance, Section 11)

3.4.3 It will be the responsibility of each person who intends to engage in the proposed land use or activity to determine whether his proposal will have an adverse impact on the Route 66 Historic Residential Overlay District. The owner/developer of the proposed activity shall submit a mitigation plan which will assess the impact of the proposed activity on the district, and will also provide information on how the developer proposes to mitigate this impact on the historic zone. (Historic

Preservation Ordinance, Sections 11, and 12.)

## **Historic Preservation Ordinance**

An ordinance relating to the establishment of Landmarks or Historic District in \_\_\_\_\_, New Mexico.

### **Section 1. Purpose:**

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic areas is necessary to promote the economic, cultural, educational, and general welfare of the public. Inasmuch as the identity of a people is founded on its past, and inasmuch as the City/County has many significant historic architectural and cultural resources which constitute its heritage, this act is intended to:

1. Protect and enhance the landmarks and historic areas which represent distinctive elements of the City/County's historic architectural archaeological, and cultural heritage;
1. Foster civic pride in the accomplishments of the past;
1. Protect and enhance the City/County's attractiveness to visitors and the support and stimulus to the economy thereby provided; and
1. Ensure the harmonious, orderly, and efficient growth and development of the City/County.

Note: For the purpose of this Ordinance, "Historic District" shall refer to Historic Districts, Historic Overlay Districts, and Conservation Easements, unless each of these is specifically mentioned in a provision.

### **Section 2. Definitions:**

- 2.1 "Conservation Easement" means an interest in property which is donated to a

qualified entity for the purpose of protecting structures, places, sites or objects having historical, archaeological, scientific, or architectural or other cultural significance, as defined and executed pursuant to the New Mexico Cultural Properties Preservation Easement Act, NMSA 1978: Section 47-12A-1 et seq. (1995)

- 2.2 “Design Guidelines” means requirements for preservation, restoration and new construction of the exterior and interior of buildings, structures, landmarks and signs, including but not limited to architectural design, materials, decor, color and landscaping.
- 2.3 “Development rights” means the right to develop property, which rights may be donated, sold or transferred to other property for the purpose of protecting the historic, cultural or artistic value of the original property.
- 2.4 “Historic District” means a zoning district within the context of a land development ordinance or comprehensive zoning ordinance in which land uses are regulated in order to preserve the distinct historic, cultural or artistic values of the district. Design Guidelines and Performance Standards may also apply to the land uses permitted in a Historic District.
- 2.5 “Historic Overlay District” means a designated and mapped area in which the underlying land uses allowed by a land development ordinance or comprehensive zoning ordinance are not affected, but in which performance standards and design guidelines are required in addition to those applicable to the underlying district for preservation, restoration and new development in order to preserve the distinctive historic, cultural or artistic values of the district.

**Section 3. Historic Preservation Commission:**

There is hereby created a commission to be known as the City/County Historic

Preservation Commission, herein referred to as: (HPC).

- 3.1 The HPC shall consist of five (5) members to be appointed, to the extent available in the community, by the City Council/County Commission as follows:
  - 3.1.1 One shall be a member of the Planning and Zoning Commission;
  - 3.1.2 At least one shall be a resident of an historic district or landmark, or an owner of property which includes an historic district, or sign.
  - 3.1.3 At least one shall have demonstrated significant interest in, and commitment to, the field of historic preservation, evidenced either by involvement in a local historic preservation group, employment or volunteer activity in the field of historic preservation, or other serious interest in the field;
  - 3.1.4 All members shall have a known interest in historic preservation
- 3.2 HPC members shall serve for a term of four years, with the exception of the initial term of one of the five members, which shall be one year, one which shall be two years, and one which shall be three.
- 3.3 The Chairman and Vice Chairman of the HPC shall be elected by and from among, the members of the HPC.
- 3.4 The powers of the HPC shall include:
  - 3.4.1 Utilization of City/County staff, New Mexico State Historic Preservation Office staff, and employment of professional consultants as necessary to carry out the duties of the HPC.  
  
Commitment of the City/County and employment of professionals shall be approved by the City Council.
  - 3.4.2 Promulgation of rules and regulations as necessary.

- 3.4.2 (a) In cooperation with the New Mexico State Historic Preservation Office, adoption of criteria for the identification of significant historic, architectural, and cultural landmarks, including signage and for the delineation of historic districts.
- 3.4.2(b) Conduct of surveys of significant historic, architectural, archaeological and cultural landmarks and historic districts, including signage, with the City/County.
- 3.4.2(c) Designation of identified structures, including signage, resources or areas as landmarks, historic zoning districts, or overlay districts, or conservation easements, with the approval of the City Council/County Commission.
- 3.4.2(d) Assisting property owners in the City/County in obtaining information about State and Federal Registries of historic places and assisting them in following procedures required by these agencies.
- 3.4.2(e) Adoption of architectural and performance standards and/or guidelines for development for each designated historic landmark, including signage, and historic district.
- 3.4.2(f) Adoption of performance standards with City Council/County Commission approval for mitigation of impacts on historic sites.
- 3.4.2(g) Acceptance on behalf of the City Council/County Commission of the donation of conservation easements for

historic and cultural properties, including facades and development rights; the making of recommendations to the City Council/County Commission concerning the acquisition of facade easements or other interest in real property as necessary to carry out the purpose of this act.

3.4.2(h) Increasing public awareness of the value of historic, cultural, archaeological, and architectural preservation by developing and participating in public education programs.

3.4.2(i) Making recommendations to the City Council/County Commission concerning the utilization of State, Federal, or private funds to promote the preservation of landmarks and historic districts within the City.

3.4.2(j) Recommending acquisition of a landmark structure, including a sign by the County Commission where its preservation is essential to the purposes of this act and where private preservation is not feasible.

3.4.2(k) Review and recommendation of approval or disapproval of applications for Certificates of Appropriateness pursuant to this Act.

3.4.2(l) Review and recommendation of approval or disapproval of development which may negatively impact historic districts.

3.4.2(m) Identifying public and private agencies, foundations, lists, etc. which are concerned with historic preservation and provide technical and financial resources to government

and private property owners for this purpose and utilizing this information to assist the City and private property owners in historic preservation efforts.

3.5 The HPC shall meet at least quarterly, but meetings may be held at any time upon the written request of any two of the HPC members or on the call of the Chairman of the City Council/County Commission, or upon referral to the HPC of an application for a Certificate of Appropriateness or application for development which may negatively impact an historic landmark or site. The HPC shall follow the procedure the Notice and Hearing as set forth in Chapter \_\_\_ of the City/County [Land Development Ordinance][Zoning Ordinance.]

3.5.1 A quorum for the transaction of business shall consist of three of the HPC members, and not less than a majority of the full authorized membership may recommend a Certification of Appropriateness, or make a recommendation on development impacting an historic site.

**Section 4. Designation of Landmarks, Including Signs, Or Historic Zoning Districts Or Overlay Districts.**

4.1 The HPC may designate or recommend an individual property, including a sign as a landmark if it:

4.1.1 Possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state, or nation; or

4.1.2 Is identified with historic personages; or

- 4.1.3 Embodies the distinguishing characteristics of an architectural style;  
or
- 4.1.4 is included in a inventory of historic structures, signs or landmarks  
conducted by a qualified professional prior to designation;
- 4.1.5 Is the work of a designer whose work has significantly influenced  
an age; or
- 4.1.6 Because of a unique location or singular physical characteristic,  
represents an established and familiar visual feature of the  
neighborhood.
- 4.2 The HPC may recommend or designate a group of properties or signs as an  
historic zoning district or overlay district if such designated district:
  - 4.2.1 Contains properties which meet one or more of the criteria for  
designation of a landmark; and
  - 4.2.2 By reason of possessing such qualities, it constitutes a distinct  
section of the City/County.
  - 4.2.3 Route 66 signs which may be in many areas of the City/County  
may constitute a single district for the purpose of this Ordinance.
- 4.3 The HPC shall recommend to the City Council/County Commission  
whether the historic district should be a Historic Zoning District or an  
Historic Overlay Zone.
- 4.4 The HPC shall recommend to the City Council/County Commission  
whether an interest in an area, or structure of historic residence, or a  
commercial building, should be preserved by means of acquisition of an  
conservation easement by the City/County or some other public or private  
entity for this purpose.

- 4.4.1 The HPC shall recommend methods of obtaining such a conservation easement.
- 4.4.2 The HPC or its representative may negotiate acquisition of the conservation easement if authorized to do so by the City Council/County Commission.
- 4.5 Notice of a proposed designation shall be sent by registered mail to the owner of the property proposed for designation, describing the property proposed and announcing a public hearing by the HPC to consider the designation. Where the proposed designation involves so many owners that individual notice is unfeasible, notice may be instead, published at least once in a newspaper of general circulation, at least 15 days prior to the date of the public hearing. Once the HPC has issued notice of a proposed designation, no building permits shall be issued by the Construction Industries Division until the City Council/County Commission has made its decision.
- 4.6 No designation shall be made without the approval of the owner(s) of a proposed landmark historic district or overlay district.
- 4.7 The HPC shall hold a public hearing meeting the requirements of \_\_\_\_\_ of the [Land Development Ordinance][Zoning Ordinance], prior to approving a district. The HPC, owners, and any interested parties may present testimony or documentary evidence at the hearing which will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark, including sign or historic district. The record shall include the inventory and may also contain staff reports, public comments, or other evidence offered outside the hearing.

- 4.8 If a historic sign meets the criteria for designation, but does not meet the requirements of the Sign Ordinance, Section \_\_\_\_ of the [Land Development Ordinance] [Zoning Ordinance], the HPC shall seek a variance from the requirements of the Sign Ordinance.
- 4.9 The HPC shall forward the recommendation of designation to the City Council/County Commission immediately upon its decision. Any person aggrieved by the recommendation may appeal to the City Council/County Commission using the procedure for appeals from a Planning Commission decision, as set forth in Section \_\_\_\_ of the [Land Development Ordinance][Zoning Ordinance.]
- 4.10 The HPC shall forward notice of each property designated as a landmark and of the boundaries of each designated historic zoning district to the office of the City/County Clerk for recordation.

**Section 5. Certificate of Appropriateness For Alternation, Demolition Or New Construction Affecting Landmarks Or Historic Districts.**

- 5.1 No person shall carry out any alteration, addition, modification, restoration, reconstruction, demolition, new construction, or moving of a landmark, sign or property within an historic district, nor shall any person make any material change in the appearance of such property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley which affects the appearance and cohesiveness of the historic district, without first obtaining a Certificate of Appropriateness from the City Council/County Commission.
- 5.2 Activities involving historic signs also must comply with the Sign

Ordinance provisions of the [Land Development Ordinance] or [Land Zoning Ordinance].

**Section 6. Criteria For Approval Of A Certificate Of Appropriateness.**

- 6.1 The HPC shall establish architectural standards and guidelines for development for each landmark and historic area designated, including for signs such as those in a Route 66 Historic Overlay (HO) District. These guidelines shall be approved by the City Council/County Commission.
- 6.2 In reviewing an application for a Certificate of Appropriateness, the HPC shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street or alley. The HPC's decision shall be based upon the following principles:
  - 6.2.1 The proposal should comply with architectural standards and/or development guidelines adopted for the landmark or historic area;
  - 6.2.2 Properties, including signs which contribute to the character of the historic district, including signs shall be retained, with their historic features altered as little as possible;
  - 6.2.3 Any alteration of existing properties shall be compatible with its historic character, as well as with the surrounding district; and
  - 6.2.4 New construction shall be compatible with the district in which it is located.
  - 6.2.5 Historic signs which have deteriorated, are no longer functional and cannot be restored shall be replaced with new signs which are compatible with those characteristics with the District in design, but may be constructed with appropriate new technologies, e.g. "Neon" in appearance..

- 6.3 In applying the principles of compatibility, the HPC shall consider the following factors:
- 6.3.1 The general design, character and appropriateness to the property of the proposed alteration or new construction;
  - 6.3.2 The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
  - 6.3.3 Texture, materials, and color and their relation to similar features of other properties in the neighborhood;
  - 6.3.4 Visual compatibility with surrounding properties including proportion of the property's front facade, proportion and arrangement of windows and other openings within the facade, roof shape, and the rhythm of spacing of properties on streets, including setback;
  - 6.3.5 New signs shall be compatible in design to the property on which they are located and with other signs in the neighborhood and surrounding properties. They may utilize new technologies to assure durability and safety.
  - 6.3.6 The importance of historic, architectural or other features to the significance of the property.

**Section 7. Certificate of Appropriateness Application Procedure.**

- 7.1 The applicant shall schedule a pre-application conference with the Zoning Administrator. A member of the HPC shall attend the pre-application conference. Procedures on re-submittal will apply.
- 7.2 After the pre-application conference, in addition to a formal application for a building permit, as required herein by the [Land Development

Ordinance] [Zoning Ordinance], the owner shall file an application for a Certificate of Appropriateness with the Zoning Administrator. The application shall contain:

7.2.1 All information identified at the pre-application conference.

7.2.2 The following historically related information:

7.2.2.(a) location and photographs of property or sign;

7.2.2.(b) elevation drawings of proposed changes, if available;

7.2.2.(c) perspective drawings, including relationship to adjacent properties, if available;

7.2.2.(d) samples of color or materials to be used;

7.2.2.(e) where the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination or technology plan showing the sign's location on the property;

7.2.2.(f) any other information which the HPC may deem necessary in order to visualize the proposed work.

7.3 No zoning permit or building permit shall be issued for such proposed work until a Certificate of Appropriateness has first been issued by the HPC. The Certificate of Appropriateness required by this Act shall be in addition to, and not in lieu of, any zoning permit and/or building permit that may be required by an other ordinance of the City/County or the Construction Industries Division of the State of New Mexico.

7.4 The formal application procedure for a Certificate of Appropriateness shall proceed according to the procedures of the [Land Development

Ordinance] [Zoning Ordinance.]

- 7.5 The HPC shall hold a public hearing on the application according to the procedure set forth in the [Land Development Ordinance] [Zoning Ordinance] pertaining to notice and hearing, at which an opportunity will be provided for proponents and opponents of the application to present their views.
- 7.6 The HPC shall recommend approval, denial, or approval of the Certificate with modification within thirty (30) days of the hearing on the application.
- 7.7 All recommendations of the HPC shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the City/County Clerk's Office for public inspection. The HPC recommendations shall state written findings setting forth its reasons for recommending approval, disapproval, or approval with conditions.
- 7.8 The HPC recommendations shall be transmitted to the Planning and Zoning Commission, which shall approve a Certificate of Appropriateness if the HPC recommended approval.
- 7.9 Any person aggrieved by a recommendation of the HPC may appeal their recommendation to the Planning and Zoning Commission by filing an appeal with the Zoning Administrator within ten (10) days of the decision. The Planning and Zoning Commission shall proceed with the appeal by treating it as a full public hearing on an application before it. The Planning and Zoning Commission may decide to hear the appeal from the recommendation of the HPC on the Certificate of Appropriateness at the same time it holds a hearing on the non-historic aspects of the development.

- 7.10 The Planning and Zoning Commission will make its recommendations on the appeal to the City Council/County Commission, as provided in the [Land Development Ordinance] [Zoning Ordinance.] The provisions of Section \_\_\_\_ will apply to such an appeal.

**Section 8. Hardship Criteria**

- 8.1 An applicant whose Certificate of Appropriateness for a proposed demolition has been denied by the HPC may apply to the HPC for relief, on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that:
- 8.1.1 The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- 8.1.2 The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- 8.1.3 Efforts have failed to find a purchaser interested in acquiring the property and preserving it.

**Section 9. Hardship Application Procedure.**

- 9.1 After receiving written notification from the HPC of the denial of a Certificate of Appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the HPC makes a finding that a hardship exists.
- 9.2 The HPC may hold a public hearing on the hardship application, according to procedures of notice and hearing of the [Land Development Ordinance] [Zoning Ordinance], at which an opportunity will be provided for

proponents and opponents of the application to present their views.

- 9.3 The applicant shall consult in good faith with the HPC, local and other preservation groups, and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- 9.4 All decisions of the HPC shall be in writing. A copy shall be sent to the applicant by registered mail. The HPC's decision shall state the reasons for granting for denying the hardship application.
- 9.5 The applicant may appeal a denial of the hardship application to the Planning and Zoning Commission , as provided herein.

**Section 10. Enforcement.**

All work performed pursuant to a Certificate of Appropriateness issued under this Ordinance shall conform to any requirements included therein. It shall be the duty of the Zoning Administrator to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, or upon notification of such fact by the HPC, the Zoning Administrator shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on this project as long as a stop work order is in effect.

**Section 11. Maintenance and Repair Required.**

- 11.1 Nothing in this Ordinance shall be construed to prevent any ordinary maintenance and repair of any exterior architectural fixture of a landmark, including signs, or property within an historic zoning district or overlay district, which does not involve a change in the sign, material, color, or outward appearance.
- 11.2 No owner or person with an interest in real property designated as a landmark, including a sign, or included within an historic zoning district or

overlay district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgement of the HPC, produce a detrimental effect upon the character of the property itself, or threaten the safety of the occupant of the building or the public.

11.3 Examples of such deterioration include:

11.3.1 Deterioration of exterior walls or other vertical support.

11.3.2 Deterioration of roofs or other horizontal members.

11.3.3 Deterioration of exterior chimneys.

11.3.4 Deterioration or crumbling of exterior stucco or mortar.

11.3.5 Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors.

11.3.6 Deterioration of neon tubing, electrical wiring or structural support of a sign.

11.3.7 Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

**Section 12. A Certificate of Appropriateness Is Required For Land Uses, Construction, Or Activities Which May Adversely Impact A Landmark or Historic Zoning District.**

12.1 Any person proposing development of any type has the responsibility during the course of the pre-application conference, or before this conference, to determine if this development will impact historic districts or landmarks, including signs. This development includes, but is not limited to, a change in land use; residential development, including construction of a single-family house which may be otherwise exempted

from a zoning permit; new construction; mining; industrial development; commercial development; blasting; and landfills.

- 12.2 The applicant shall schedule a pre-application conference with the City/County Manager and/or Zoning Administrator and a member of the HPC. These officials will inform the applicant of requirements in addition to those normally required for development as set forth herein.
- 12.3 In addition to the sketch plan, the applicant may submit a mitigation plan, and plan for closure, if relevant, and plans for security for preservation of the historic site, at the pre-application stage.
- 12.4 If the applicant intends to conduct blasting activities, a blasting plan shall be submitted disclosing time, place, intensity and materials used.
  - 12.4.1 The HPC shall consider the blasting plan along with the rest of the application for a Certificate of Appropriateness and may recommend approval, conditional approval, or disapproval of the blasting plan as it relates to historic sites.
  - 12.4.2 The HPC may recommend denial of a Certificate of Appropriateness even if the Zoning Administrator approves the blasting plan against the recommendation of the HPC. The procedures of this Section will apply in that event.
- 12.5 The Zoning Administrator and HPC representative shall inform the developer of all necessary information which he will have to submit for his formal application to be complete, as well as the requirements of the mitigation plan and security.
- 12.6 The same requirements for resubmitting during the pre-application period will apply as set forth herein in the [Land Development

Ordinance][Zoning Ordinance].

- 12.7 When the developer has submitted a complete application to the Zoning Administrator, the Zoning Administrator shall review the application, refer it to appropriate agencies or professionals and make a written report attaching comments, and including findings, as provided in the [Land Development Ordinance][Zoning Ordinance], before transmitting it to the HPC. The procedures for resubmittal in that Section shall apply. The HPC will follow the procedures set forth in the [Land Development Ordinance][Zoning Ordinance], for public notice and hearing.
- 12.8 At the hearing, the HPC may make a decision to recommend or deny the Certificate of Appropriateness, or recommend it with conditions, may refer the application back to the Zoning Administrator to obtain additional information, or may take it under advisement, making a recommendation within 10 days of the hearing.
- 12.9 The HPC, in its recommendation to approve, deny or approve with conditions, a Certificate of Appropriateness, shall submit written findings which set forth the reasons for the recommendation.
- 12.10 The HPC will transmit its recommendations to the Planning and Zoning Commission. The Planning and Zoning Commission shall recommend approval of Certificates of Appropriateness which have been recommended by the HPC.
- 12.11 Any person may appeal the recommendation of the HPC for or against the Certificate of Appropriateness because of adverse impact on an historic site under the procedures set forth at Section 7.9 of this Ordinance.
- 12.12 If the applicant does not appeal an adverse recommendation from the

HPC, then the Planning and Zoning Commission shall also recommend against granting of the Certificate.

- 12.13 Any person may appeal a recommendation for or against the Certificate of Appropriateness by the Planning and Zoning Commission to the City Council/County Commission for developments which have an impact on historic sites only if the recommendation follows a public hearing by the Planning and Zoning Commission.
- 12.14 The procedure for an appeal of any decision of the Planning and Zoning Commission, shall be the procedure set forth in the [Land Development Ordinance] [Zoning Ordinance.]
- 12.15 The City Council/County Commission shall approve all favorable recommendations of the Planning and Zoning Commission for plans for mitigation and security to assure that development does not unfavorably impact an historic landmark, sign or site which are not appealed as provided herein.

**Section 13. Effective Date.**

This Ordinance shall be in full force and effect 30 days after its recording with the City/County Clerk, as required by law, following publication by title and general summary.

**PASSED, APPROVED, AND SIGNED** this \_\_\_\_ day of \_\_\_\_\_, 2002, by the \_\_\_\_\_.

\_\_\_\_\_  
(Mayor)(Chairman)

\_\_\_\_\_  
Member

\_\_\_\_\_  
Member

\_\_\_\_\_ Member

ATTEST: \_\_\_\_\_  
City/County Clerk