

depths of eighteen (18) inches or more and/or which will convey the flood flows with not more than one-half-foot rise in the water surface profile based on the assumption that there will be equal degree of encroachment extended for a significant reach on both sides of the watercourse.

Floodway district . That area represented by the floodway which has been hydraulically defined and shown on the map in the office of the City Clerk.

Freeboard. The vertical distance in feet above a predicted water surface elevation intended to provide a margin of safety to compensate for unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood, such as debris blockage of bridge openings and the increased runoff due to urbanization of the watershed.

High water mark . The line on the bank of a stream, river, lake or impoundment to which the high water ordinarily rises annually in seasons, as indicated by changes in the characteristics of soil, vegetation or other appropriate means, taking into consideration the characteristics of the surrounding areas. Where the ordinary high water mark cannot be found, it shall be presumed to be the edge of vegetation growing along the channel bank. In braided channels, the ordinary high water mark shall be measured so as to include the entire stream feature.

Letter of map revision (LOMR). FEMA's official revision of an effective flood insurance rate map (FIRM), or flood boundary and floodway map (FBFM), or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective base flood elevations (BFEs), or the special flood plain area (SFHA).

Letter of map revision based on fill (LOMR-F). FEMA's modification of the special flood hazard area (SFHA) shown on the flood insurance rate map (FIRM) based on the placement of fill outside the existing regulatory floodway.

Lowest floor. The inside bottom surface of an enclosed area, including a basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in areas other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this Code.

No-rise certification. A record of the results of an engineering analysis conducted to determine whether a project will increase flood heights in a floodway. A no-rise certification must be supported by technical data and signed by a registered Colorado professional engineer. The supporting technical data should be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the flood insurance rate map (FIRM) or flood boundary and floodway map (FBFM).

Reach . A hydraulic engineering term to describe longitudinal segments of a stream or river. A *reach* will generally include the segments of the flood plain where flood heights are primarily controlled by man-made or natural flood plain obstructions or restrictions. In an urban area, the segment of a stream or river between two consecutive bridge crossings would most likely be a *reach* .

Section 10.03 Historic Preservation

A. Policy & Intent.

1. *Policy.* It is the policy and intent of the City Council to protect and enhance the use of cultural resources having historical and architectural significance for the City's cultural, artistic, environmental, social, economic, political, architectural, historic or other heritage. The City Historic Preservation Commission, as established in Article 2-66 of the Municipal Code, shall implement these goals and policies. The historic preservation regulations are necessary for the Historic Preservation Commission to fulfill the purposes for which it was established.
2. *Intent.* This Section is intended to promote the public health, safety and welfare of the citizens of the City while also providing for the orderly and appropriate preservation, protection, development and redevelopment of cultural resources, including historically significant properties, structures and districts in the City. It is also the intent of this Section to create a reasonable balance between private property rights and the public interest in preserving the City's unique historical character.

B. Eligibility for Designation.

1. *Historic Landmark Eligibility.* A cultural resource may individually be designated as an historic landmark if the cultural resource is at least 50 years old and is of historic and/or architectural significance. If the cultural resource is not at least 50 years old, it must have exceptional historic and/or architectural significance. The finding of significance requires that the cultural resource meets at least one of the following categories, or at least two for a finding of exceptional significance:
 - a. *Architectural category:* In order to be considered significant in the architectural category, at least one of the following criteria must be met:
 - (1). Exemplifies specific distinguishing characteristics of an architectural period or style;
 - (2) Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally or locally;
 - (3) Demonstrates superior craftsmanship or high artistic value;
 - (4) Contains elements of architectural design, detail, materials, construction or craftsmanship which represent a significant innovation; or
 - (5) Evidences a style particularly associated with the Brighton area.
 - b. *Social and historic category:* In order to be considered significant in the social and historic category, at least one of the following criteria must be met:
 - (1) Is the site of an historic event that had an effect upon society;
 - (2) Exemplifies cultural, political, economic or social heritage of the community;
 - (3) Represents a built environment of a group of people in an era of history;
 - (4) Has significant character, interest or value, as part of the development, heritage or cultural characteristics of the City, State or Nation; or
 - (5) Has an association with a notable person or the work of a notable person.
 - c. *Geographic and environmental category:* In order to be considered significant in the geographic and environmental category, at least one of the following criteria must be met:
 - (1) Enhances a sense of identity of the community;
 - (2) By being part of, or related to, a square, park or other distinctive area which should be developed or preserved according to a plan based on an historic, cultural or architectural motif;
 - (3) Is unique in its location of singular physical characteristics;
 - (4) Possesses unique and notable historic, cultural or architectural motifs; or

- (5) Is an established and familiar mutual setting or visual feature of the community.
 2. *Historic District Eligibility.* An area may be designated as an historic district upon a finding that the district has a definable area containing a number of individual cultural resources having historic and/or architectural significance that apply to the patterns and unifying elements of that particular district. Historic significance is determined by applying criteria to the patterns and unifying elements found within a district.
 - a. The district boundaries shall be defined by visual changes, historic documentation of different associations or patterns of development or evidence of changes in site type, density or other characteristics as established through a survey and inventory.
 - b. Each individual cultural resources within an historic district shall be evaluated as to the degree of their historic significance, and assigned to one of the following categories:
 - (1) *Noncontributing resource.* A resource that does not contribute to the district's overall sense of time, place or historical and/or architectural significance shall be considered a noncontributing resource. Noncontributing resources may be included within the boundaries of an historically significant district; however, their presence must not noticeably detract from the overall district's sense of time, place and historic and/or architectural significance. Noncontributing structures will be evaluated for their magnitude of impact by considering their size, scale, design, location and/or information potential.
 - (2) *Contributing resource.* A resource that does contribute to the district's overall sense of time, place or historical and/or architectural significance, but does not necessarily meet the criteria necessary to be officially designated as historically and/or architecturally significant, shall be considered a contributing resource.
 - (3) *Historically significant resource.* A resource that contributes to the district's overall sense of time, place or historical and/or architectural significance, meets at least one of the categories for historic significance and is at least 50 years old shall be considered an historically and/ or architecturally significant structure. If the resource is not at least 50 years old, it must exhibit exceptional historic significance.
 - (4) *Exceptionally significant resource.* A resource that is essential to the district's overall sense of time, place or historical and/or architectural significance and meets at least two of the categories for historical significance shall be considered an exceptionally significant resource.
 - c. The establishment of an historic district shall be based on a finding of the following:
 - (1) No more than 25% of the structures within an historic district may be noncontributing resources.
 - (2) No less than 25% of the structures within an historic district must be historically significant and/or exceptionally significant resources.
 - d. In order to find that an historic district has exceptional historic and/or architectural significance, no less than fifty 50% of the structures within the historic district must be historically significant and/or exceptionally significant resources.
 3. Inclusion of any cultural resource in the National Register of Historic Places and/or the Colorado Registers of Historic Properties shall be construed as an historic designation

under this Section and shall be subject to the same protections as any City historic cultural resource.

C. Nomination for Designation.

1. *Eligible Applicant.* Designation of an historic landmark or district may be initiated by:
 - a. The City Council;
 - b. The Historic Preservation Commission;
 - c. The City Manager; or
 - d. The owners of at least 51% of the cultural resource to be designated for a landmark, or the owners of at least 51% of the individual properties in a proposed district.

2. *Review With Owner's Consent.* The Historic Preservation Administrator shall make a reasonable effort to secure the owner's consent to a designation before the nomination is accepted as complete for review by the Historic Preservation Commission. If the Historic Preservation Administrator is unable to provide an owner with the notice, a written request for consent to designation shall be sent by certified mail, return receipt requested, to the owner of the property as shown on the most recent records. Once consent is obtained, a public hearing shall be scheduled and held by the Historic Preservation Commission to determine if the proposal complies with:
 - a. The guidelines for designation as an historic landmark or an historic district;
 - b. The policy and intent of this Section; and
 - c. The City's Comprehensive Plan.

3. *Review Without Owner's Consent.* Once contacted, the owner of an individually nominated cultural resource or a property located in a nominated historic district shall notify the Historic Preservation Administrator, in writing, of any objection to a designation within 30 days from the date of mailing the nomination consent request. The Administrator shall notify the Historic Preservation Commission of all owners' objections received. Failure to provide written objection to the nomination within 30 days of receipt of the nomination consent request shall be considered as the owner's consent to the nomination.
 - a. If consent cannot be obtained, the Historic Preservation Administrator shall inform the property owner of the date and time of the Historic Preservation Commission review of the nomination.
 - b. If consent to the nomination has not been obtained, the Historic Preservation Commission may review the nomination for designation of an historic landmark or historic district at a public hearing.
 - c. In order to refer a nomination for designation to the City Council without the consent of the property owner, the Historic Preservation Commission must find that the cultural resource and/or historic district has exceptional historic significance.

4. *Procedures.* The procedures for consideration of a nomination for designation shall be as follows:
 - a. Nominations for historic landmark or historic district designations shall be filed with the Historic Preservation Administrator on forms prescribed by the Historic Preservation Commission and shall include the following items:
 - (1) The names and addresses of all owners (including owners of undivided interests);
 - (2) Legal description;
 - (3) Vicinity map;

- (4) Letter of application and justification, including a description of the particular physical features to be preserved; and
 - (5) Other data required by the Historic Preservation Commission.
- b. Upon the filing of an application for nomination for designation, the Historic Preservation Administrator shall notify the owner of record of the nominated cultural resource or owners of the properties in the proposed historic district, by regular United States mail. The notice shall include the characteristics of the cultural resource or historic district that justify its designation as an historic landmark or historic district, a description of the particular physical features to be preserved and the effects of designation. Failure to send notice by mail to any property owner where the address of an owner is unknown and not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.
- c. The Historic Preservation Administrator shall set the dates for the Historic Preservation Commission public hearing. The nomination shall then be referred to all relevant agencies for review and recommendations at least 15 days prior to the public hearing.
- d. Notice of the public hearing shall be given and shall include a description of the location of the cultural resource or historic district sufficient to advise the public of the location, the purpose of the hearing, date, time, place and the Historic Preservation Administrator's name, address and phone number. The following notices of the public hearing shall be made at least 15 days prior to the public hearing:
 - (1) One publication in a newspaper or on a publicly accessible web page;
 - (2) Notice sent by regular mail to each owner, including owners of all real property and cultural resources within a nominated historic district; and
 - (3) A sign or signs, as determined by the Historic Preservation Administrator, shall be posted on the premises nominated for designation.The requirement to post a sign on the property is not required for public hearings related to the designation of an historic district.
- e. The Historic Preservation Commission consider all relevant evidence concerning the proposed designation at the public hearing. Opportunity shall be provided for all interested parties to express their opinions and provide evidence regarding the proposed designation or designations.
 - (1) The Historic Preservation Commission shall hold the public hearing to review a nomination for designation of an historic landmark or historic district within 30 days of the receipt of the nomination and shall make a determination as to the appropriateness of the nomination, according to the standards and criteria adopted in this Section or by the City Council.
 - (2). The Historic Preservation Commission may continue the public hearing for the review of the nomination for no more than two additional 30-day periods if it finds that further investigation is required prior to issuing a recommendation. The Historic Preservation Commission shall make specific findings to justify any continuance.
 - (3) If the Historic Preservation Commission fails to issue a recommendation regarding the nomination within these time frames, the nomination shall be deemed rejected.
- f. If more than one cultural resource is under consideration in the designation procedure, the Historic Preservation Commission may consider each as a

separately nominated landmark. In no event may any cultural resource be added to the nomination without instituting a new designation procedure.

- g. Following the close of the public hearing, the Historic Preservation Commission shall, by written resolution, recommend approval, approval with conditions or deny the nomination for historic designation to the City Council.
 - (1) If the nominated cultural resource or district is found to possess historic and/or architectural significance, as determined by the standards and criteria of this Section and rules and regulations adopted by the City Council, the Historic Preservation Commission shall make a recommendation of approval to designate the cultural resource as an historic landmark or historic district to the City Council.
 - (2) If the Historic Preservation Commission makes a recommendation of denial or approval with conditions, the Commission shall approve a resolution with findings of fact that constitute the basis for its decision.
- 5. *City Council Review.* The procedures for consideration of a nomination for designation by City Council shall be as follows:
 - a. Following action by the Historic Preservation Commission, the Historic Preservation Administrator shall submit a report to the City Council which shall include that portion of the Historic Preservation Commission's survey and inventory related to the nominated cultural resource, a summary of the historic significance of the nominated cultural resource, the recommendations in the Historic Preservation Commission's resolution and further information as may be requested by the City Council.
 - b. The City Manager shall set the date for the City Council public hearing at the next available City Council regular meeting agenda.
 - c. The City Council shall then conduct a public hearing, pursuant to published and mailed notice as required above, and consider all relevant evidence concerning the proposed nomination.
 - d. The City Council may approve, approve with conditions or deny the nomination.
 - (1) Approval or approval with conditions by the City Council shall be by ordinance.
 - (2) Denial may be by motion or resolution, as the City Council deems appropriate.
 - e. The Historic Preservation Administrator shall record, in the office of the applicable County Clerk and Recorder, a certified copy of the ordinance designating the specified cultural resource as an historic landmark or historic district, and include a listing of the individual cultural resources and properties included.
 - f. The Historic Preservation Administrator shall send to the owner of each property a copy of the ordinance and a letter which contains an explanation of the owner's obligations and restrictions created by a designation and specifically advising the owner of the owner's responsibility to apply for a Certificate of Appropriateness (COA) prior to construction, reconstruction, remodeling, alteration, repair, restoration, rehabilitation, relocation or demolition of improvements on a cultural resource or property.

D. **Certificates of Appropriateness.**

1. Prior to submitting a land development application or receiving a permit for construction, reconstruction, remodeling, alteration, repair, restoration, rehabilitation, relocation or demolition of improvements on a cultural resource, property or other exterior physical feature on a designated historic cultural resource, historic landmark or within a historic district, the applicant shall obtain a COA from the Historic Preservation Commission for the proposed work.
 - a. Any type of work occurring on a designated historic cultural resource, historic landmark, or within an historic district shall obtain a COA prior to initiating the work notwithstanding the City's requirement for a land development application or permit for work.
 - b. The Historic Preservation Administrator shall have the authority to review a building permit to determine if a COA would be required. Permits that do not or insignificantly modify the exterior or non-historic elements of a historic resource, landmark, or district may be considered for exemption from this COA requirement.
 - c. The applicant shall submit to the Historic Preservation Administrator an application for a COA. The application for a COA shall include information that the Historic Preservation Administrator determines necessary to consider the application and shall include the following items:
 - (1) The names and addresses of all owners (including owners of undivided interests);
 - (2) A clear description of work, including the work to be performed and the impact of that work to the historic resource, landmark, or district;
 - (3) Other plans applicable to the nature/scope of work and level of review, such as:
 - i. Legal description;
 - ii. Vicinity map;
 - iii. Site development plan;
 - iv. Landscape plan;
 - v. Architectural elevations, including specifications of the textures, materials, colors, architectural details and design; and,
 - vi. Other data as determined by the Historic Preservation Commission.
2. The procedures for consideration of an application for a COA shall be as follows:
 - a. There shall be three levels of review for obtaining a COA: 1) administrative review; 2) COA Sub-Committee review; and/or 3) Historic Preservation Commission public hearing.
 - (1) At any time throughout this process, the applicant may request to be scheduled for a public hearing before the Historic Preservation Commission and omit the administrative and COA Sub-Committee review process.
 - (2) Administrative and COA Sub-Committee reviews may only approve or partially approve a COA application. If, after consideration of the certificate of appropriateness criteria, findings of significant impact are found, the application will be forwarded to the next level of review. Denial of a COA application will only occur through the public hearing review process of the Historic Preservation Commission as further outlined within this Section.
 - b. *Administrative review.* The Historic Preservation Administrator shall review a COA application against the certificate of appropriateness criteria and make a

determination of impact to the historic resource, landmark, or district. If no significant impact is found, the Historic Preservation Administrator shall issue a COA by approving or partially approving the proposed changes in writing. If significant impact is found, the Historic Preservation Administrator shall refer the COA application to the COA Sub-Committee for review.

- c. *COA Sub-Committee review.* Upon completion of the administrative review, the Historic Preservation Administrator shall refer the COA application and a summary of the administrative review findings to the COA Sub-Committee for review.
- (1) The COA Sub-Committee shall consist of three members of the Historic Preservation Commission. Each member will be selected by a vote of the Commission on an annual basis. No fewer than two members of the Sub-Committee are required to make a final determination on a COA.
 - (2) Each COA Sub-Committee member shall review the application against the certificate of appropriateness criteria, and may seek input from, the applicant, staff and other Sub-Committee members as necessary to make their determination. Each Sub-Committee member shall prepare a separate written review and provide the same to the Historic Preservation Administrator. Once the Sub-Committee members have completed their review, the Historic Preservation Administrator shall gather and combine the written reviews of the COA Sub-Committee members and report on the Committee's determination of impact to the historic resource, landmark, or district. If no significant impact is found, the Historic Preservation Administrator shall issue a COA on behalf of the COA Sub-Committee by approving or partially approving the proposed changes in writing. If significant impact is found, the Historic Preservation Administrator shall schedule a public hearing before the Historic Preservation Commission.
- d. *The Historic Preservation Commission review.* The Historic Preservation Commission shall review a COA application by conducting a public hearing to consider all relevant evidence concerning the proposed COA application. Opportunity shall be provided for all interested parties to express their opinions and provide evidence regarding the proposed application.
- (1) The Historic Preservation Administrator shall make every effort to schedule the public hearing for the earliest available date before the Historic Preservation Commission. The application shall then be referred to all relevant agencies for review and recommendations at least 15 days prior to the public hearing.
 - (2) The Historic Preservation Commission shall hold the public hearing to review an application and shall make a determination as to the appropriateness of the proposed work, according to the certificate of appropriateness criteria.
 - (3) Following the close of the public hearing, the Historic Preservation Commission shall make a determination regarding the impact of the COA application on the designated resource, landmark, or district.
 - i. The Historic Preservation Commission shall, by written resolution, approve, approve with conditions, or deny the application for a COA.
 - ii. If the proposed work is found to adequately comply with the standards and criteria of this Section, the Historic Preservation Commission shall issue a COA to the applicant.

- iii. If the Historic Preservation Commission denies the application for a COA, the Commission shall approve a resolution with findings of fact that constitute the basis for its decision.
 - (4) The Historic Preservation Commission may continue the public hearing for the review of the COA for no more than two additional 30-day periods if it finds that further investigation is required to explore acceptable solutions to the COA application prior to rendering a decision. The Commission shall make specific findings to justify any continuance.
 - (5) If the Historic Preservation Commission fails to issue a decision regarding the COA application within these time frames, the application shall be deemed rejected.
- e. *Certificate of appropriateness (COA) criteria.* A COA shall only be issued if the Historic Preservation Coordinator, COA Sub-Committee, or Historic Preservation Commission, as applicable, finds that the proposed construction, reconstruction, remodeling, alteration, repair, restoration, rehabilitation, relocation, or demolition of improvements will not have significant impact to a historic resource, landmark, or district. Findings of insignificant impact shall demonstrate that the proposed work will not detrimentally alter, destroy, or adversely affect any architectural or site feature that contributes to the designated resource, landmark, or district, and that the proposed work is visually compatible with existing historic cultural resources. A determination of impact shall be made using the following criteria:
- (1) The effect upon the general historic and/or architectural character of the cultural resource, historic landmark, and/or the historic district;
 - (2) The architectural style, arrangement, texture, and material used on the existing and proposed cultural resources and their relation to and compatibility with one another;
 - (3) The size of the cultural resource, the setbacks, location, and the appropriateness thereof, when compared to the existing cultural resource and site;
 - (4) The compatibility of accessory structures and fences with the existing structure;
 - (5) The effects of the proposed work in creating, changing, destroying, or otherwise impacting the exterior architectural features of the structure upon which work is proposed;
 - (6) The condition of existing improvements and whether they are a hazard to public health and safety;
 - (7) The effects of the proposed work upon the protection, preservation, enhancement, perpetuation, and the use of the cultural resource, historic landmark, and/or historic district;
 - (8) Compliance with the United States Secretary of the Interior's Standards for Rehabilitation and Guidelines of Rehabilitating Historic Buildings, a section of the Secretary of the Interior's Standards for Historic Preservation Projects, of the Department of the Interior Regulations (36 C.F.R. Part 67, Historic Preservation Certifications), as may be amended from time to time; and,
 - (9) Rules and guidelines as may be recommended by the Historic Preservation Commission and approved by the City Council for construction, reconstruction, remodeling, alteration, repair, restoration, rehabilitation, relocation, or demolition of improvements of a cultural resource, historic landmark, and/or historic district.
3. All work performed on the cultural resource, designated historic landmark, or an element within a designated historic district shall conform to the conditions, restrictions, and limitations in the COA.

4. *Appeals.* The applicant may appeal a decision of the Historic Preservation Commission to the City Council.
 - a. The notice of appeal shall be filed with the Historic Preservation Administrator within 30 days of the date of the decision.
 - b. The City Manager shall set the appeal on the next available City Council regular meeting agenda. Notice shall be provided following the same procedures as described in Section 10.03.C.4.d The applicant may present evidence relevant to the application and the grounds for the appeal.
 - c. Following the hearing, the City Council may uphold the decision of the Historic Preservation Commission, approve the application, approve the application with conditions, or deny the application.

5. *Relocating Historically Designated Structures.* Prior to receiving a permit to relocate or move any historically designated cultural resource, or any designated cultural resource within or into an historic district, the applicant shall obtain a COA from the Historic Preservation Commission for the proposed work.
 - a. *Relocation and moving criteria.* In addition to the COA criteria above, the Historic Preservation Commission shall use the following criteria while considering an application for a COA for relocating a cultural resource, including an historic landmark, a contributing structure in an historically designated district, a cultural resource onto an historic site, or a cultural resource onto a property in an historic district:
 - (1) *Original site criteria.* The following criteria shall be used when determining the appropriateness of relocating a cultural resource from its original site:
 - i. Documentation demonstrating that the cultural resource cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;
 - ii. The contribution the cultural resource makes to its present setting;
 - iii. If the cultural resource can be moved and relocated without significant damage to its integrity, and the applicant can demonstrate that relocation is a viable alternative to preserve the character and integrity of the cultural resource; and
 - iv. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the cultural resource proposed for relocation.
 - (2) *Receiving site criteria.* The following criteria shall be used when determining the appropriateness of relocating a cultural resource to a new proposed site:
 - i. Whether the cultural resource is compatible with its proposed new location and if the receiving site is compatible with the cultural resource to be moved;
 - ii. The cultural resource's architectural integrity and its consistency with the character of the neighborhood; and
 - iii. Whether the relocation would diminish the integrity or character of the receiving neighborhood.

6. *Demolition of Historically Designated Cultural Resource.* Prior to receiving a permit to demolish any designated cultural resource, or any cultural resource within an historic district, the applicant shall obtain a COA from the Historic Preservation Commission for the proposed work.
 - a. *Demolition criteria.* In addition to the COA criteria in this subsection, the Historic Preservation Commission shall use the following criteria in considering an

application for a COA for demolition of a cultural resource or a contributing structure in a historically designated district:

- (1) *Total demolition criteria.* The following criteria shall be used when determining the appropriateness of total demolition of a cultural resource:
 - i. Whether the cultural resource proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure;
 - ii. Whether the cultural resource cannot be rehabilitated or reused on the site to provide for any reasonable beneficial use of the property;
 - iii. Whether the cultural resource cannot be practically moved to another site in the community; and,
 - iv. Whether the applicant can demonstrate that the proposal mitigates, to the greatest extent possible, the following:
 - (A) Any impacts that occur to the visual character of the neighborhood where the demolition is proposed to occur;
 - (B) Any impact on the historic importance of other cultural resources located on the property and adjacent properties; and,
 - (C) Any impact to the architectural integrity of other cultural resources located on the property and adjacent properties.
- (2) *Partial demolition criteria.* The following criteria shall be used when determining the appropriateness of partial demolition of a cultural resource or a contributing structure:
 - i. Whether the partial demolition is required for the renovation, restoration, or rehabilitation of the cultural resource; and,
 - ii. Whether the applicant has mitigated, to the greatest extent possible, the following:
 - (A) Impacts to the historic importance of the cultural resource or other cultural resources on the property; and,
 - (B) Impacts to the architectural integrity of the cultural resource or other cultural resources on the property.

7. *Exemptions.* If a COA has been denied, or the application for a COA does not conform to the applicable criteria, an applicant may request demolition pursuant to a Certificate of Exemption from the denial and/or requirements, provided that the intent and purpose of this Section is not significantly compromised, and provided that adequate documentation is submitted to the Historic Preservation Commission, either in writing or by testimony, to establish qualification for one of the exemptions below:

- a. *Economic hardship exemption.* An economic hardship exemption may be granted if:
 - (1) For investment or income-producing properties, the owner is unable to obtain a reasonable return on investment in the cultural resource's present condition or in a rehabilitated condition;
 - (2) For non-income-producing properties, the owner is unable to resell the property in its current condition or if rehabilitated; or,
 - (3) The economic hardship claimed is not self-imposed.
- b. *Health/safety hardship exemption.* An applicant requesting an exemption based on health/safety hardship must show that the application of the Certificate of Appropriateness criteria creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

- c. *Inability to use.* Three years after denial of a demolition permit, if no feasible use or ownership is found for the structure, the owner may request a waiver of all or a part of the restraint of demolition.
- d. The applicant must provide adequate documentation and/or testimony to establish, to the satisfaction of the Historic Preservation Commission, qualification for one of the listed exemptions:
 - (1) The data provided by the applicant must be substantiated by either professionals in an applicable field or by thorough documentation of how the information was obtained.
 - (2) The Historic Preservation Commission may request additional information from the applicant as necessary to make informed decisions.
- e. The Historic Preservation Commission shall include the following factors in its consideration of the request:
 - (1) Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the property owner to comply with this Section and/or make the necessary repairs;
 - (2) Efforts of the applicant to find an appropriate user or to find a purchaser for the property; and,
 - (3) The adequacy of the applicant's efforts to locate available assistance for complying with this Section and/or making the property functional without demolition.
- f. The Historic Preservation Commission shall review all the evidence and information required of the applicant for a Certificate of Exemption and approve, approve with conditions, or deny the same. Failure of the Historic Preservation Commission to act within 60 calendar days after the date a completed application for exemption is received, unless an extension is agreed upon in writing by the applicant, shall be deemed to constitute approval, and a Certificate of Exemption shall be issued.
- g. The applicant may appeal the Historic Preservation Commission's approval with conditions or denial of an application for a Certificate of Exemption to the City Council. The notice of appeal shall be filed with the Historic Preservation Administrator within 30 days of the Historic Preservation Commission's decision. The City Manager shall set the appeal on the next available regular meeting agenda. At the City Council meeting, the applicant and the Historic Preservation Commission may present evidence relevant to the application, the decision of the Historic Preservation Commission, and the basis of the appeal. Following the hearing, the City Council may uphold the decision of the Historic Preservation Commission, approve the application, approve the application with conditions, or deny the application.
- h. All work performed on the designated landmark or on an element within a designated historic district shall conform to the conditions, restrictions, and limitations in the Certificate of Exemption.

E. Demolition and Moving Permit Review.

- 1. *Purpose.* The purpose of this Section is to prevent the loss or destruction of structures that are 50 years of age or older that may have historical or architectural significance, but which have not been designated historic landmarks that are subject to the provisions of Section 10.03.D. above, and to provide the time necessary to initiate landmark designation or consider other alternatives for the preservation of the structures.
- 2. *Application Review.* Prior to approval of any land development application that may require the demolition or relocation of a structure that is 50 years or older which has not been designated as an historic structure or is not located in an historic district, the Community Development Department shall refer the application to the Historic

Preservation Administrator or the City Manager, for review. Prior to issuing a permit for the demolition or moving, in whole or in part, for any structure that is 50 years or older which has not been designated as an historic structure, the Chief Building Official shall refer the demolition or moving permit application to the Historic Preservation Administrator or the City Manager, to be reviewed. The application shall be stayed for 14 days, pending review. The Historic Preservation Administrator or the City Manager, shall review the application and inspect the nondesignated structure to prevent the potential demolition or removal of structures that may be of significance to the historic resources of the City or which may be eligible for designation as an historic landmark as provided in Section 10.03.B above.

3. *Initial Determination.* The application for land development approval or demolition/moving permit shall be reviewed and the structure proposed for demolition or moving inspected by the Historic Preservation Administrator or the City Manager, in order to make an initial determination of whether there exists a reasonable belief that the subject property may be of significance to the historic resources of the City or eligible for designation as an historic landmark. An initial determination shall be made within 14 days of the permit or application submittal. The subject property may be reviewed against the Historic Properties Priority Matrix and/or the Historic Properties Watch List and may be inspected in the field to make the initial determination.
 - a. If the structure is not identified on the Historic Properties Priority Matrix or the Historic Properties Watch List, and the Historic Preservation Administrator or the City Manager, determines that the property does not possess historic significance and there is no reasonable basis to believe that the structure may be eligible for designation as an historic landmark; and the loss thereof will not have a significant impact on the historic resources of the City, the land development application may proceed or the demolition or relocation permit may be issued by the Chief Building Official, provided that all other requirements for the application or permit are satisfied.
 - b. The Historic Preservation Administrator or the City Manager, shall refer the application for land development approval or demolition/moving permit to the Demolition Review Sub-Committee if the structure is identified on the Historic Properties Priority Matrix or the Historic Properties Watch List, or if the Historic Preservation Administrator or the City Manager, determines by written notice to the owner with a copy thereof to the Demolition Review Sub-Committee that there is a reasonable belief that the structure may possess historic or architectural significance, the loss of the structure may have a significant impact on the historic resources of the City, and the structure may be eligible for designation as an historic structure. Approval of the application and/or issuance of the permit shall be stayed for 30 days from the date of the initial determination unless the owner of the subject property agrees to more time.
4. *Demolition Review Meeting.* Upon a finding that there exists a reasonable belief that the subject property possesses historic significance or may be eligible for designation as an historic structure, the Historic Preservation Administrator or the City Manager, shall contact the applicant and the owner of the subject property, by regular United States mail, in order to notify the owner of the initial determination and the 30-day stay, and in order to schedule a meeting with the Demolition Review Sub-Committee.
 - a. If the owner of the subject property is unable to attend the demolition review meeting within 30 days of the initial determination, the meeting may be postponed to a later date as agreed to by the owner of the subject property.
 - b. Should the owner of the subject property be unable to attend a demolition review meeting and does not agree to additional time, waives the right to attend the meeting in writing or is unable to be contacted, the Demolition Review Sub-Committee shall schedule a meeting within 30 days of the initial determination.

- c. The Demolition Review Sub-Committee shall then meet with or without the owner, in order to consider all relevant evidence concerning the historical significance of the structure, the proposed demolition or moving of the structure and any alternatives to demolition or relocation. Opportunity shall be provided for the property owners to express their opinions and provide evidence regarding the historical significance of the structure and the proposed demolition or moving of the structure.
 - d. Alternatives. During the demolition review meeting and the stay of the application or demolition or moving permit, the Demolition Review Sub-Committee may seek alternatives to demolition or moving of the structure, which may include:
 - (1) Soliciting cooperation from the owner to find solutions or alternatives to demolition or moving;
 - (2) Consult with the Historic Preservation Commission, civic groups, public or private agencies, interested citizens, the City, the City Council or any other interested parties, in order to find alternative solutions to demolition or moving of the structure;
 - (3) Recommend and/or facilitate acquisition of the property by another interested party;
 - (4) Explore the potential for moving the structure to another location;
 - (5) Explore the potential for salvaging historically significant features of the property; and
 - (6) Seek any other acceptable alternative to prevent demolition or removal of the structure.
 - e. If the Demolition Review Sub-Committee finds that further investigation and negotiations are required in order to explore acceptable solutions to the proposed demolition or removal of the structure prior to rendering a final decision, the Sub-Committee may continue the demolition review meeting for no more than 30 days from the initial meeting date, unless additional times or meetings are agreed upon by the owner of the subject property.
 - f. If the Demolition Review Sub-Committee determines that the structure has no historic or architectural significance, the demolition or removal of the structure would have no significant impact on the historic resources of the City and there is no reasonable basis to believe that the structure may be eligible for designation as a landmark, the land development application may proceed or the Chief Building Official shall issue the permit, if all other requirements of the application or permit process have been met.
 - g. If the Sub-Committee determines that there is a reasonable basis to believe that the structure has historic or architectural significance, that the loss of the structure would have a significant impact on the historic resources of the City and there is reasonable basis to believe that the structure may be eligible for designation as an historic structure, the application or permit may be postponed for a period not to exceed 60 days from the date of the final Demolition Review Sub-Committee Meeting. The Sub-Committee shall provide the Historic Preservation Commission and the property owner with a written notice of the determination that the structure may have historical or architectural significance and of the additional sixty-day postponement.
5. *Demolition/Moving Permit Postponement.* The Historic Preservation Commission may take any action that it deems necessary, during the sixty-day postponement, in order to research and document the significant features of the property or to preserve the structure.
- a. During the 60-day postponement, the Historic Preservation Commission may conduct a Cultural Resource Survey of the property, as described in the *Colorado Cultural Resources Survey Manual: Guidelines for Identification*:

History and Archaeology, for the purpose of researching and documenting the property.

- b. During the sixty-day postponement, the Historic Preservation Commission may take action to preserve the structure, including initiating consideration of the structure as an historic landmark in accordance with Section 10.03.C above and the issuance of a Certificate of Appropriateness pursuant to Section 10.03.D.
 - (1) If the property has been nominated for historic designation during the 60-day postponement of the application or permit, the postponement of the permit shall be continued during the consideration of historic designation, application for a Certificate of Appropriateness or application for a Certificate of Exemption.
 - (2) If the property has not been nominated for historic designation or the Historic Preservation Commission and owner have entered into an agreement for the preservation of the structure during the 60-day postponement of the application or permit, the application or permit shall be considered approved and the application may move forward or the permit issued by the Chief Building Official, provided that all other requirements for the application or permit are met.

F. Administration and Enforcement.

1. *Interim Control.* No building permit, relocation permit or demolition permit shall be issued by the Building Division for construction, reconstruction, remodeling, alteration, repair, restoration, rehabilitation, relocation or demolition of a cultural resource under consideration of historic designation as a landmark or within an historic district, from the date of receipt of a nomination for designation, until a final decision related to the designation by the City Council is determined, or unless the construction, reconstruction, remodeling, alteration, repair, restoration, rehabilitation, relocation or demolition is authorized by resolution of the City Council as necessary for public health, welfare or safety. In no event shall the delay in issuance of a building permit due to the provisions of this Section be for more than 90 days.
2. *Cultural Resource Survey.* If any cultural resource 50 years or older exists on a property at the time that a land use development application is submitted, the City Council, the Historic Preservation Commission or the City Manager may require the owner or applicant of the property to submit a Cultural Resource Survey, as described in the Colorado Cultural Resource Survey Manual: Guidelines for Identification: History and Archaeology, prior to processing the land use application. The cost of conducting the cultural resource survey may be solely borne by the applicant of the land development application.
3. *Register of Locally Designated Historic Landmarks or Districts.* The Historic Preservation Administrator shall maintain a current record of all pending designations and a registry of designated cultural resources, landmarks and districts.
4. *Amendment or Revocation of Designation.* An historic landmark or historic district designation may be amended or rescinded in the same manner as the original designation was made. The ordinance therefor shall be recorded in the office of the applicable County Clerk and Recorder.
5. *Application of Standards.* All standards, rules and regulations adopted by the City Council by resolution or ordinance, the Colorado Cultural Resource Survey Manual: Guidelines for Identification: History and Archaeology and the Standards for Rehabilitation and Guidelines of Rehabilitating Historic Buildings, a section of the Secretary of the Interior's Standards for Historic Preservation Projects, of the Department of the Interior

Regulations (36 C.F.R. Part 67, Historic Preservation Certifications), shall be the technical documents utilized by the Historic Preservation Commission for the evaluation of all materials, construction types and all other relevant issues relating to the construction, reconstruction, remodeling, alteration, repair, restoration, rehabilitation, relocation or demolition to cultural resources. These standards shall be on file and available for inspection by the public in the Community Development Department. The standards, rules and regulations are to be applied to all work in a reasonable manner, taking into consideration economic and technical feasibility.

6. *Property Maintenance Required.* The deliberate or inadvertent neglect of a cultural resource, including neglect to interior portions of those structures for which maintenance is necessary to prevent exterior deterioration, is prohibited and shall be considered by the City a violation of this Section. No owner, lessee, occupant or person in possession of a cultural resource shall act in a way as to cause deterioration, or act in a way as to fail to prevent the deterioration, of any cultural resource, historic landmark or any physical features of a cultural resource or historic landmark.
7. *Maintenance and Repair.* Nothing in this Section shall be construed to prohibit the accomplishment of any work on any cultural resource, landmark or historic district which will change neither the exterior appearance (including color and materials), 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.
8. *Remedying of Dangerous Conditions.* In any case where the Building Inspector, the Greater Brighton Fire Protection District or any other public authority having the power, orders or directs the construction, reconstruction, alteration, repair, relocation or demolition of a cultural resource for the purpose of remedying conditions determined by that officer, department or authority to be imminently dangerous to life, health or property. Nothing in this Section shall be construed as making it unlawful for any person to comply with this order. The officer, department or authority shall take immediate steps to notify the Historic Preservation Administrator and the Historic Preservation Commission of the proposed issuance of any order or directive.
9. *Extension of Time Limits.* Any time limit in this Section may be extended by mutual consent of the Historic Preservation Commission or City Council, whichever is applicable, and the applicant.

- G. **Defined Terms.** The following terms used in this Section shall have the meaning given below. All other terms shall have their usual customary meaning, or the meaning given elsewhere in this code or other applicable uniform or international code adopted by the City, except where the context clearly indicates a different meaning.

Alteration. Any act or process that changes any of the exterior architectural features of a designated historic landmark or any of the physical features of an historic site or historic district.

Building. Any structure which, by illustration, may include a house, barn, agricultural structure, church, public structure or commercial structure.

Certificate of Appropriateness. A certificate issued by the Historic Preservation Commission or staff, showing approval of plans for construction, alteration, reconstruction, remodeling, repair, restoration, demolition or relocation of structures that would affect a cultural resource designated as an historic landmark, district or element thereof.

Certificate of Exemption. A certificate issued by the Historic Preservation Commission, authorizing the construction, alteration, reconstruction, remodeling, repair, restoration, demolition

or relocation of a designated cultural resource or an element within a designated historic district in accordance with the provisions of this Section, even though a Certificate of Appropriateness has previously been denied.

Colorado Register of Historic Properties. The official listing of state-designated historic sites.

Compatibility. Consistent with, harmonious with and/or enhancing the mixture of complementary styles, either of the architecture of an individual cultural resource, historic landmark or the character of a particular historic district.

Construction. The erection of on-site improvements on a parcel of land, whether the site is presently improved or unimproved, or the erection of a new principal or accessory structure on such property.

Contributing structure. Those cultural resources, structures, landmarks or physical features within an officially designated site or district that contribute to the historical or architectural significance of the cultural resource, historic site or district.

Cultural resource. Any individual building, object, monument, structure, site or geographically definable area, such as an historic district that possesses a significant concentration, linkage or continuity of buildings, objects, monuments, structures and sites united by past events, or aesthetically by plan or physical development, that possess distinctive character and special historic, aesthetic, architectural or geographic interest or importance, or reflect the multicultural-multietnic heritage of the City. All properties listed on the National Register of Historic Places and the Colorado Registers of Historic Properties shall be deemed *cultural resources*.

Demolition. Any act or process that destroys, in whole or in part, a cultural resource. The term includes the removal of any material constituting part of the structure other than for purposes of ordinary maintenance or repair, which removal affects the exterior appearance of the structure or which reduces the stability or longevity of the structure.

Designated historic landmark or historic district means a cultural resource which is officially included in the City of Brighton Registry of Historic Cultural Resources, National Register of Historic Places and the Colorado Registers of Historic Properties.

Exceptional historic importance. Possessing such unusual or uncommon significance that any cultural resource's potential demolition or major alteration would diminish the character and sense of place in the City, or possessing superior or outstanding examples of the architectural, social or geographic historic significance criteria, outlined in the standards and criteria in this Section.

Exterior appearance. The character and general composition of the exterior of a cultural resource, including but not limited to the kind, color and texture of the building material and the type, design and character of all windows, doors, light fixtures and appurtenant elements.

Exterior feature. The architectural design, style, components and general arrangement of all the outer surfaces of a cultural resource, including but not limited to the color, texture, materials, type and style of all windows, doors, lights, signs and other fixtures appurtenant to said cultural resource.

Historic district. Any geographically definable area that has been designated as such by the City Council because of its historic and/or architectural significance and importance to the City. An historic district will include a concentration, linkage or continuity of cultural resources and/or physical features. A district may be related by a pattern of either physical elements or social activities.

Historic landmark. Any cultural resource which has been designated as historic and has been included in the City of Brighton Registry of Historic Cultural Resources, the National Register of Historic Places or the Colorado Registers of Historic Properties.

Historic Preservation Administrator. The City employee appointed by the City Manager to assist and advise the Historic Preservation Commission and administer duties in this Section.

Historic property. Any cultural resources, including buildings, structures, objects, sites or districts, which is officially included in the City of Brighton Registry of Historic Cultural Resources, the National Register of Historic Places and the Colorado Registers of Historic Properties.

Historic significance. Having importance in the history, architecture or culture of the City as outlined in the standards and criteria in this Section.

Improvement. Any building, structure, place, work of art or other object constituting a physical betterment of real property or any part of such betterment, including improvement on public property.

Land development application. Any application, form, accompanying documents, exhibits and fees that are required of an applicant by the applicable City department, board or commission, in order to obtain approval or permitting to establish a use, activity or development and having the effect of permitting development. A land development application shall include construction permit, demolition permit, tenant finish permit, home occupation permit, sign permit, business license application, certificate of occupancy, conditional use permit, subdivision plan, final plat, annexation petition, zoning and rezoning, conditional use permit and variance, planned development application, site plan, site improvement permit, or other similar plans.

Landmark. A cultural resource as defined in this Article and designated as such by the City Council by ordinance.

Monument. A building, object, structure or site closely linked in remembrance of a person or event.

National Register of Historic Places. The national list of districts, sites, buildings, structures and objects significant in American history, architecture, archaeology, engineering or culture maintained by the Secretary of the Interior under authority of Section 101(a)(1)(A) of the National Historic Preservation Act, as amended.

Nomination. The process of filing an application for designation as an historic cultural resource. For a district or nonowner application for designation, all paperwork for the application must be completed per the rules promulgated by the Historic Preservation Commission.

Noncontributing structure. Any cultural resource, structure or physical feature that may be within a site or district, but does not contribute to the historic significance of the district or site per se.

Nondesignated structure. Any structure that has not been designated as an historic landmark.

Object. A material item of functional, aesthetic, cultural, historical or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Owner. The person, corporation or other legal entity, including any public entity, who owns or who has any legal or equitable interest in property and who is so listed as owner in the records of the Assessor's Office of Adams County or Weld County. If title to a cultural resource is held by two or more undivided interest holders, the term *owner* shall refer to all owners of the property and/or their authorized agents.

Physical features. The features of a cultural resource that contribute to its historic significance.

Preservation. The identification, evaluation, recordation, documentation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of cultural resources, including the act or process of applying measures to sustain the existing form, integrity and material of a cultural resource.

Reconstruction. The act or process of reproducing by new construction the exact form and detail of a vanished cultural resource, or part thereof, as it appeared at a specific time.

Rehabilitation. The act or process of returning a cultural resource to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the cultural resource which are significant to its historic, architectural and cultural values.

Relocation. Moving a cultural resource to a different location, either temporarily or permanently.

Repair. The replacement of deteriorated materials which are impractical to save and the repair or reclamation of items worn to the point that they can no longer perform their intended function. Material used for repairs on cultural resources should be as close as possible to the original in composition or materials, in method of fabrication and in manner of erection.

Repair and maintenance. Work done on a cultural resource in order to correct any deterioration, decay or damage to any part thereof and in order to restore the same as nearly as practical to its condition prior to such deterioration, decay or damage.

Restoration. The act or process of accurately recovering the form and details of a cultural resource and its setting as it appeared at a particular period of time by means of the removal of later work or by replacement of missing earlier work.

Site. The location of a significant event, historic occupation or activity or a building or structure, whether standing or vanished, where the location itself maintains historical or architectural value and significance to the community, regardless of the value of any existing building or structure.

Structure. A work made up of interdependent and interrelated parts in a definite pattern or organization constructed by man without regard to the size thereof.

Section 10.04 Wireless Communication Facilities

- A. **Intent.** In order to accommodate the communication needs of residents and businesses while protecting the public, health, safety, and general welfare of the community, the City Council finds that these regulations are necessary to:
1. Provide for the managed development and installation, maintenance modification, and removal of wireless communications infrastructure in the City with the fewest number of wireless communications facilities (WCFs) to complete a network without unreasonably discriminating against wireless communications providers of functionally equivalent services, including all of those who install, maintain, operate, and remove WCFs;
 2. Promote and protect the public health, safety, and welfare by reducing the visibility of WCFs to the fullest extent possible through techniques including camouflage design techniques and undergrounding of the equipment associated with WCFs where technically feasible;