

**BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR THE COUNTY OF GILPIN  
AN ORDINANCE REGARDING GILPIN COUNTY HISTORIC PRESERVATION**

WHEREAS, historic preservation is vital to Gilpin County and its residents; and

WHEREAS, the Gilpin County Board of County Commissioners ("BoCC") has the power to provide for historic preservation in Gilpin County pursuant to C.R.S. §30-11-107(1)(bb); and

WHEREAS, in the interest of enhancing public health, safety, and welfare of Gilpin County and its residents, the Board submits this Ordinance setting forth the means by which the goals of historic preservation can be achieved; and

WHEREAS it is the intent of the BoCC to rescind Ordinance numbers 05-02 and 05-04 and replace them with this Ordinance and create a Historic Preservation Commission ("HPC") comprised of the existing members of the Historic Preservation Advisory Commission for their current terms;

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN AS FOLLOWS:**

**Section 1. General**

1. Purpose. The purpose of this ordinance is to enhance our community's local resources and to promote the public health, safety, and welfare through:
  - a. The protection and preservation of the County's architecture, culture, and heritage as embodied in Historic Properties and Historic Districts, by appropriate regulations and incentives;
  - b. The enhancement of Property values and the stabilization of historic neighborhoods;
  - c. The establishment of the County's Historic Register listing Historic Properties and Historic Districts;
  - d. The cultivation of civic pride in the art, architecture, and accomplishments of the past;
  - e. The encouragement of continued private ownership and utilization of such Historic Properties or Historic Districts now so owned and used;
  - f. The promotion of thoughtful community planning and design;
  - g. The maintenance and improvement of economic and financial benefits through the protection of attractions that bring tourists and visitors to the County; and
  - h. The provision of educational opportunities to increase public appreciation of the County's unique heritage.
2. Intent. The intention of this ordinance is to create a reasonable balance between private property rights and the public interest in preserving the County's unique historic character through the nomination of Buildings, Structures, Sites, Objects, and Districts for preservation.
3. Definitions. For purposes of this ordinance, the following terms are to be defined as follows:
  - a. **Alteration or Alter** – Any act or process that changes one (1) or more of the exterior architectural or landscape features of a Building, Structure, Site, Object, or District.
  - b. **Applicant** – Person or persons submitting nomination or Alteration paperwork.
  - c. **Building** – A shelter or enclosure Constructed for persons, animals, or chattels.
  - d. **Building Code** – The most recently adopted Building Code and Fire Code, as adopted through resolution by the BoCC, as may be amended from time to time.
  - e. **Building Official** – The officer or other designated authority charged with the administration and enforcement of the Building Code, or that person's authorized representative.
  - f. **Certificate of Appropriateness** – Certificate issued by the HPC authorizing any proposed repair, restoration, Alteration, Construction, Relocation, or Demolition of a Historic Property or element within a Historic District pursuant to this Ordinance.

- g. **Certificate of Economic Hardship** – A certificate issued by the HPC authorizing the repair, restoration, Alteration, Construction, Relocation, or Demolition of a designated Building, Structure, Object, Site, or element within a designated Historic District in accordance with the provisions of this ordinance, even though a Certificate of Appropriateness has previously been denied.
- h. **County** – County of Gilpin.
- i. **County’s Historic Register** – The register established pursuant to Section 3 of this ordinance.
- j. **Code** – Any applicable regulation, ordinance or policy adopted by the County.
- k. **Colorado State Register of Historic Properties** – The official listing of state designated cultural resources.
- l. **Commission** – The Historic Preservation Commission established pursuant to Section 2 of this Ordinance and hereinafter referred to as “HPC”.
- m. **Compatible or Compatibility** – Consistent or harmonious with location, design, setting, materials, workmanship, feeling, or association of an individual Building, Structure, Object, or Site or of surrounding Properties.
- n. **Construction or Construct** – Act of erecting an addition to an existing Building, Structure, or Object or the erection of a new principal or accessory Building, Structure, or Object on a lot or Property.
- o. **Contributing Property** – A Building, Structure, Site, or Object that reflects the historic or architectural character within a Historic District.
- p. **Cultural Landscape** – A geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.
- q. **Demolition or Demolish** – Any act or process that destroys in part or in whole a Building, Structure, Object, or Site.
- r. **Design Guidelines** – A standard of appropriate activity that will preserve the historic and architectural character of a Historic Property, Property, or Historic District. These may be adopted by the HPC by administrative regulations and ratified by the BoCC.
- s. **District** – A geographically definable area.
- t. **Historic District** – A District that is further defined in and meets the requirements of Section 3 of this Ordinance and is designated by the BoCC pursuant to this Ordinance.
- u. **Historic Property** – A Building, Structure, Site, or Object that is designated by the BoCC pursuant to this Ordinance.
- v. **Historic Preservation Liaison (“HPL”)** – The County designee who establishes and maintains communication for mutual understanding and cooperation between the County and other interested parties.
- w. **Historic Significance** – The meaning or value ascribed to a Building, Structure, Object, Site, or District based on criteria for evaluation as defined by Section 3 below.
- x. **Infill** – Construction on vacant or under-used parcels within existing areas that are largely developed.
- y. **Integrity** – The ability of a property to convey its Historic Significance through its physical features.
- z. **Inventory** – Catalog of Buildings, Structures, Objects, and Sites within the County, listed, eligible for listing, or ineligible for listing in the County’s Historic Register.
- aa. **Maintenance** – All activities necessary to prolong the useful life and aesthetic appearance of a Property.
- bb. **National Register of Historic Places** – The list of significant Buildings, Structures, Sites, Objects, or Districts in American history, architecture, archaeology, engineering, or culture maintained by the U.S. Secretary of the Interior.
- cc. **National Historic Landmark** – A Building, District, Object, Site or Structure that is officially recognized by the United State government for its outstanding historical significance.
- dd. **Non-Contributing Property** – A Building, Structure, Object, or Site that does not reflect the historic or architectural character within a Historic District because of age or lack of Integrity.

- ee. **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.
- ff. **Period of Significance** – Span of time during which significant events and activities occurred.
- gg. **Owner** – The person, corporation, government, or other legal entity who owns or who has any legal or equitable interest in Property and who is so listed as Owner on the records of the Gilpin County Assessor's Office.
- hh. **Property** – A Building, Structure, Site, or Object.
  - ii. **Relocation** or **Relocate** – Moving a Building, Structure, or Object to a different location, either temporarily or permanently.
- jj. **Secretary** – The secretary of the HPC.
- kk. **Secretary of the Interior's Standards for the Treatment of Historic Properties** – The preservation, rehabilitation, restoration, and reconstruction standards adopted by the U.S. Department of the Interior. These Standards and their associated guidelines will be used to determine the effect of proposed alterations to Historic Properties and Districts.
- ll. **Section 106 Review** – Process required of federal agencies under 54 U.S.C. §§ 304108 and 306108 as implemented by 36 C.F.R. 800.1 - 800.16 to consult local governments and other parties in consideration of the effects of projects carried out, permitted, licensed, or funded by that agency on properties listed in the National Register of Historic Places.
- mm. **Site** – Location of a significant event; a prehistoric or historic occupation or activity; or a Building, Structure, or Object, whether standing or vanished, where the location itself maintains historic or archaeological value regardless of the value of any existing Building, Structure, or Object.
- nn. **Structure** – A Construction for purposes other than shelter for humans, animals, or chattel (such as a road, bridge, canal, fence).

**Section 2. Historic Preservation Commission (HPC)**

1. Creation. There is hereby established a Historic Preservation Commission, which shall be appointed by the BoCC, and hereinafter referred to as the "HPC". The by-laws of the HPC are herein adopted by reference.
2. Powers and Duties. The HPC shall:
  - a. Conduct surveys and create inventories of Properties and areas for the purpose of defining those of Historic Significance.
  - b. Review and determine qualifications of Buildings, Structures, Objects, Sites, and Districts nominated for designation and recommend that the BoCC designate by ordinance such Buildings, Structures, Objects, Sites, or Districts qualifying for such designation.
  - c. Recommend to the BoCC the establishment of Construction and Design Guidelines, consistent with the Secretary of the Interior's Standards for the Treatment of Historic Properties, for review of proposals to Alter, Relocate, or Demolish Historic Properties.
  - d. Review and make recommendations on any application for Alteration, Relocation, or Demolition of a Historic Property or Historic District or planning and design project that may affect the character or Integrity of the Historic Property or Historic District.
  - e. Participate in review of National Register of Historic Places nominations.
  - f. Advise and assist Owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the County's Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
  - g. Develop and assist in public education programs on history, archaeology, and historic preservation.
  - h. Advise the BoCC on matters related to preserving the historic character and substance of the County and recommend easements, covenants, licenses, and other methods which will implement the completion of the purposes of this ordinance.
  - i. Participate in Federal Section 106 Review as requested by BoCC or Staff.
  - j. Actively pursue financial assistance for preservation-related programs.
  - k. Draft and recommend for adoption by the BoCC such by-laws, operating policies and other rules of procedure, as the HPC may deem appropriate.

### **Section 3. Establishment of County Register and Designation Criteria**

1. The BoCC hereby establishes the Gilpin County Register of Historic Properties and Districts (the "County's Historic Register").
  - a. Properties or Districts may be listed in the County's Historic Register only if such Property or District has been so designated pursuant to this Ordinance.
  - b. All Properties listed in the Colorado State Register of Historic Properties and the National Register of Historic Places are eligible for the County's Historic Register but are not designated until approval is obtained pursuant to this Ordinance.
2. Eligibility Criteria
  - a. Properties or Districts shall be at least fifty years old and meet one or more of the following criteria in order to be considered for designation:
    - i. Association with events that have made a significant contribution to history.
      1. Is a Site of a historic event that had an effect upon society; or
      2. Exemplifies cultural, political, economic, or ethnic heritage of the County.
    - ii. Connection with persons significant in history.
    - iii. Distinctive characteristics of a type, period, method of Construction, or artisan.
      1. Exemplifies specific elements of an architectural style or period;
      2. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally, or locally;
      3. Demonstrates superior craftsmanship or high artistic value;
      4. Represents a style that is particular to the County;
      5. Represents an innovation in Construction, materials, or design; or
      6. Represents a built environment of a group of people in an era of history.
    - iv. Geographic importance.
      1. Enhances the sense of identity of the County or community; or
      2. Is an established and familiar natural setting or visual feature of the County or community.
    - v. Possibility to yield important information related to prehistory or history.
      1. Addresses research questions or fills recognized data gaps;
      2. Embodies construction, development, or design adaptations; or
      3. Informs on the development of engineering systems.
  - b. A Property or District may be exempted from the age standard if the BoCC finds it to be exceptionally important in other criteria.
3. Integrity Criteria

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

  - a. Location - the place where the Property was constructed or the place where the historic event occurred.
  - b. Design - the combination of elements that create the form, plan, space, structure, and style of a Property.
  - c. Setting - the physical environment of a Property.
  - d. Materials - the physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a Property.
  - e. Workmanship - the physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.
  - f. Feeling - a Property's expression of the aesthetic or historic sense of a particular period of time.
  - g. Association - the direct link between an important historic event or person and a Property.
4. Historic Districts
  - a. A "Historic District" is a geographically definable area including a concentration, linkage, or continuity of Properties within a specified Period of Significance and may include within its

geographic boundaries one or more Contributing Properties, which has been designated by the BoCC pursuant to this ordinance.

- b. A Historic District is related by a pattern of either physical elements or social activities. Historic Significance is determined by applying eligibility and Integrity criteria to the pattern(s) and unifying element(s).
- c. Historic District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in Property type, density, or Integrity.
- d. Properties that do not contribute to the Historic Significance of the Historic District may be included within its boundaries.

#### **Section 4. Designation Procedure**

##### **1. Nomination and Application**

- a. Applications shall be submitted to the Community Development Department for consideration on a form provided by the HPC.
- b. A nomination for listing in the County's Historic Register may be made:
  - i. By the Owner or Owners of the Property or Properties to be designated;
  - ii. By a member or members of the HPC; and/or
  - iii. By non-Owners of the Property or Properties to be designated, in which case the Applicant must be a resident or Owner of Property in the County, or have a place of business in the County.
- c. Where nominated by someone other than the Property Owner or less than all of the Property Owners in a District nominated for designation, the County or at least one member of the HPC shall contact the Owner or Owners of such Property or Properties nominated for designation as soon as possible but no more than 14 calendar days after receiving the nomination application. The HPL shall review the nomination to determine if it is eligible, and written communication outlining the reasons and effects of listing in the County's Historic Register shall be provided to the owner within 30 days of receipt of nomination.
- d. Applications determined incomplete shall be returned to the Applicant within 30 days with a request for additional information.
- e. Applications for a Historic District nomination shall not be complete if more than 25% of the Property Owners within the proposed Historic District oppose the nomination in writing.

##### **2. Designation Hearing**

- a. Within 45 days after an application is determined complete, or within a time frame agreed upon by the Applicant and the County, a public hearing shall be held by the HPC.
  - i. The Secretary shall provide notice by first class mail of the date, time, and location of the public hearing to the Applicant, the Owner or Owners of record, the Owners of adjacent Properties, and if applicable Owners of Properties within the proposed Historic District at least 10 days prior to the hearing.
  - ii. A legal notice indicating the nature of the hearing, the Property involved, and the time, date, and place of the scheduled public hearing, shall be published in the County's publication of record and posted on the County's website at least 10 days prior to the hearing.
  - iii. The notice shall also be posted at the Property's physical location at least 10 days, or as allowed by law, prior to the hearing if access to the Property is available.
- b. A hearing may be continued. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case shall a hearing be continued more than 30 days without the express consent of the Applicant.
- c. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation. However, nothing contained in this ordinance shall be

construed to prevent the HPC from establishing reasonable rules to govern the proceedings of the hearings, or from establishing reasonable limits on the length of individual presentations.

- d. Transcripts of the hearings are not required; however, the HPC's records shall include the name and address of each speaker; the organization or person the speaker represents, if any; whether or not the speaker is an Owner or holder of some interest in the Property or District nominated for designation, or represents such Owner or holder; and a summary of the relevant portions of each statement. Written reports and presentations shall be incorporated into the record of the hearing.

### 3. HPC Review

- a. The HPC shall review the application for conformance with the established criteria for designation and with the purposes of this Ordinance.
- b. The HPC shall recommend:
  - i. Approval;
  - ii. Approval with conditions; or
  - iii. Denial of the application.

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

- c. If the HPC approves an application or approves an application with conditions, the HPC shall forward the application with a copy of its report and findings of approval to the BoCC.
- d. If the HPC denies an application, the HPC must notify, in writing, the BoCC and the Applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the BoCC.
- e. The HPC may issue an order continuing the nomination process if the HPC finds that additional information is necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the Applicant, except in the event extenuating circumstances outside the reasonable control of HPC prevent the HPC from having a quorum.

### 4. BoCC Proceedings

- a. Within 30 days after receipt of the HPC's approval of an application, the BoCC shall hold a public hearing to consider adopting by ordinance those properties qualifying for designation. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a)-(d), except the Deputy Clerk to the BoCC shall perform the responsibilities assigned therein to the Secretary.
- b. The BoCC shall review the application for conformance with this Ordinance.
- c. The BoCC shall, by resolution, approve, approve with conditions, or deny the proposed application and shall issue written findings based on the HPC's recommendations.
- d. The County shall provide a copy of the results of the BoCC's final action to the Applicant/Applicants, all Owners of record, the Community Development Director, the County Building Official, and any other person who has requested in writing to receive the same.

5. Recording of Designation. Within 30 days of the effective date of a resolution designating a Historic Property or Historic District for preservation, the County shall record the resolution with the Clerk and Recorder of Gilpin County

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

7. Limitation on Resubmission and Reconsideration of Proposed Designation. Whenever the HPC or the BoCC denies a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the denied application unless the HPC or BoCC has denied based on a request for additional information.

8. Appeal of Historic Preservation Commission's Denial of Application

- a. Applicant(s) and/or Owner(s) shall have the right to appeal such decision to the BoCC by filing a written notice within 15 days after the date of receipt of the HPC's denial. Such written notice shall specify the factual and legal basis for the appeal.
  - b. Within 45 days after an appeal is received by the Deputy Clerk to the BoCC, or within a time frame agreed upon by the Applicant(s) and/or Owner(s) and the County, a public hearing shall be held by the BoCC.
  - c. Notice of the BoCC's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the Deputy Clerk to the BoCC shall perform the responsibilities of the Secretary.
  - d. The BoCC may consider only the notice of appeal, the HPC's reasons for denial of the application, and the comments related thereto made during the HPC hearing.
  - e. If the BoCC finds the HPC's denial of the application was based on incorrect information, or there is shown to be newly discovered information not available at the time the application was submitted to the HPC, and if the correct or newly discovered information could, in the opinion of the BoCC, change the HPC's denial of said application, then the entire matter shall be remanded by the BoCC to the HPC for its consideration.
  - f. The decision of the BoCC shall be final.
9. Amendment of Designation
- a. Designation of a Historic Property or Historic District may be amended to add features or Properties to such Historic Property or Historic District under the procedures prescribed hereinabove.
  - b. Upon the HPC's decision to amend a designation, the HPC shall promptly notify the Owners of the Historic Property and the County shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the amendment, and schedule the resolution for BoCC review. Upon adoption by the BoCC, the resolution shall be recorded.
10. Revocation of Designation
- a. If a Historic Property or Historic District has been Altered to a degree that it no longer retains its historic Integrity, the Owner may apply to the HPC for a revocation of the designation or the HPC shall recommend revocation of the designation to the BoCC in the absence of the Owner's application to do so. The revocation application shall be reviewed under the same procedures described hereinabove.
  - b. Upon the HPC's decision to revoke a designation, the HPC shall promptly notify the Owners of the Historic Property or Historic District and the County shall cause to be prepared a resolution including the legal description of the affected Historic Property or Historic District stating notice of the revocation, and schedule the resolution for BoCC review. Upon adoption by the BoCC, the resolution shall be recorded.

**Section 5. Alterations to Listed Properties and Historic Districts**

1. Requirements for a Certificate of Appropriateness
  - a. Before carrying out any new Construction, Alteration, Relocation, or Demolition involving the exterior of any Historic Property or Property within a Historic District (including Non-Contributing Properties) such Owner(s) must first submit the proposed work to the HPC under this Section, as well as apply for any other permits required by the Code.
  - b. The County shall review any building permit application received to determine whether the Property is a listed Historic Property or located in a Historic District and if so, if the Applicant has completed review by the HPC as required by this Section. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the County shall process it without further action. If no Certificate of Appropriateness has been issued or if the County determines that the permit application does not conform to such, the County shall not approve the permit application and shall not issue a permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto.
  - c. No person shall receive a building permit to Construct, Alter, remove, or Demolish any Building, Structure, Object, or other feature on a Site, or element of a District nominated for designation after an application has been filed to initiate the designation of such Property or District. No such building permit shall be approved while proceedings are pending on such designation.
2. Application
  - a. A request for Alteration shall be initiated by the Owner(s). Such application shall be submitted to the County for consideration on a form provided by the HPC. The application shall include anything the County deems necessary, including, without limitation and as applicable, a description of the type of work proposed and its effect or impact upon the Historic Property or Historic District and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail.
  - b. If the County determines the application is complete, the County shall promptly refer the application to the HPC. If the County determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal.
3. Alteration Hearing. Within 45 days after an application is determined complete by the County, or within a time frame agreed upon by the Applicant and the County, a public hearing shall be held by the HPC. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 4, Subsections 2(a) – (d).
4. Review Criteria
  - a. Compliance with any Design Guidelines adopted by the County.
  - b. Compliance with the Secretary of the Interior’s Standards for the Treatment of Historic Properties, including the Standards for Rehabilitation.
  - c. For Non-Contributing Properties within a Historic District:
    - i. Compatibility with the Property’s current design, materials, features, size, scale and proportion, and massing; or
    - ii. Compatibility with the Historic District’s design, materials, features, size, scale and proportion, and massing.
  - d. Infill Construction within Historic Districts shall be differentiated from the Historic Properties but be Compatible with the historic materials, features, size, scale and proportion, and massing to protect the Integrity of the Historic District and its environment.
5. HPC Review
  - a. The HPC shall:
    - i. Approve;
    - ii. Approve with conditions; or
    - iii. Deny the application.

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



- b. If the HPC approves or approves the application with conditions, the HPC shall issue and send a Certificate of Appropriateness to the Applicant, the Community Development Director, the County Building Official, and any other person who has requested in writing to receive the same within 30 days. If approved with conditions, such conditions shall be stated in writing in the Certificate of Appropriateness.
  - c. If the HPC denies the application, the HPC shall deny a Certificate of Appropriateness and notify, in writing, the Applicant, the Community Development Director, the County Building Official, and any other person who has requested in writing to receive the same within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the BoCC.
  - d. The HPC may issue an order continuing the Alteration application process if the HPC would like additional information necessary to make a decision. If the hearing is continued, the time, date, and place of the continuation shall be established and announced to those present when the current session is to be adjourned. In no case can a hearing be continued more than 30 days without the express consent of the Applicant.
  - e. The Applicant may resubmit an amended application or reapply for a building permit that takes into consideration the recommendations of the HPC, or appeal the denial to the BoCC.
  - f. If an application for a Certificate of Appropriateness is denied, no person may submit a subsequent application for the same Alteration or Construction within one year from the date of the final action upon the earlier application.
6. Appeal of Denial of Certificate of Appropriateness
- a. If a Certificate of Appropriateness is denied by the HPC, the Applicant may appeal the denial to the BoCC by filing a written notice with the Deputy Clerk within 15 days after receipt of the HPC's denial.
  - b. Within 45 days after an appeal is received by the Deputy Clerk, or within a time frame agreed upon by the Applicant and the County, a public hearing shall be held by the BoCC.
  - c. Notice of the BoCC's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the Deputy Clerk shall perform the responsibilities of the Secretary.
  - d. The BoCC shall consider the notice of appeal, the HPC's reasons for denial of the application, the comments related thereto made during the HPC hearing and any evidence (including new evidence) it deems relevant to the application.
  - e. The BoCC shall apply the criteria in Section 5, Subsection 4 in making its decision.
  - f. The decision of the BoCC shall be final.

## **Section 6. Relocation of Listed Properties**

### **1. General**

- a. In addition to the criteria and procedures in Section 5, the HPC will use the criteria of this Section in considering applications for Relocating a Historic Property or Contributing Property in a Historic District within or outside of a designated Site or District or Relocating a Property onto a designated Site or Historic District.
- b. Applicants for Relocation shall provide:
  - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation on site, and of Relocation and rehabilitation;
  - ii. An engineer's or architect's report as to structural soundness;
  - iii. A professionally prepared estimates of the Property's market value in its current location and current condition, of the market value of the Property rehabilitated on its current site, and of the site after Relocation of the Property; and
  - iv. Professionally prepared site plan and construction documents for the current site.

### **2. Review Criteria**

- a. For consideration of the original Property and site, the HPC will review for the following criteria:

- i. The Property cannot be preserved, restored, rehabilitated, or reused on its current site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
- ii. And
  - 1. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the Building, Structure, or Object proposed for Relocation;
  - 2. If the Property can be Relocated without significant damage to its physical Integrity; and
  - 3. Whether plans are specifically defined for the site to be vacated, and have been determined to meet all other County codes and ordinances.
- b. For consideration of the new location, the HPC will review for compliance with all of the following criteria:
  - i. Whether the Building, Structure, or Object is Compatible with its proposed site and adjacent Properties; and if the receiving site is Compatible in nature with the Building, Structure, or Object proposed to be moved;
  - ii. The Building, Structure, or Object's architectural Integrity and its consistency with the character of the neighborhood of the receiving site;
  - iii. Whether the Relocation of the Building, Structure, or Object will diminish the Integrity or character of the neighborhood of the receiving site; and
  - iv. If a Relocation plan has been submitted and approved by the County, including posting a bond, to ensure the safe Relocation, preservation, and repair (if required) of the Property and site preparation and infrastructure connections as described in the Code.

## **Section 7. Demolition of Listed Properties**

### **1. General**

- a. In addition to the criteria and procedures in Section 5, the HPC will use the criteria of this Section in considering applications for Demolition of Historic Properties and Contributing Properties in a Historic District.
- b. Applicants for Demolition shall provide:
  - i. A professionally prepared estimate of costs of continued Maintenance of the Property in its current condition, of rehabilitation, and of Demolition;
  - ii. An engineer's or architect's report as to structural soundness; and
  - iii. Professionally prepared estimates of the Property's market value in its current condition, as rehabilitated, and after Demolition.
- c. If a Demolition approval is granted on any basis other than that of an imminent hazard or economic hardship (See Section 8), a Certificate of Appropriateness will not be issued until a replacement/reuse plan for the Property has been approved by the County.
- 2. Review Criteria for Total Demolition. Applicants requesting a Certificate of Appropriateness for total Demolition must provide data to clearly demonstrate all of the following criteria:
  - a. The Property proposed for Demolition is not structurally sound, despite evidence of the Owner's efforts to properly maintain said Building, Structure, or Object;
  - b. The Property cannot be preserved, restored, rehabilitated, or reused on site to provide for any reasonable, beneficial use of the Property regardless of any proposed development plan for the Property's site or adjacent Properties;
  - c. The Property cannot be practically moved to another site in the County; and
  - d. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
    - i. Any impacts that occur to the visual character of the neighborhood where Demolition is proposed to occur;

- ii. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties;
  - iii. Any impact to the Integrity of Buildings, Structures, or Objects located on the Property and adjacent Properties; and
  - iv. Any impact to archaeological deposits or ruins or the potential to access such resources and whether information can be recovered as part of the Demolition process.
3. Review Criteria for Partial Demolition. Applicants requesting a Certificate of Appropriateness for partial Demolition must provide data to clearly demonstrate all of the following criteria:
- a. The partial Demolition is required for the preservation, restoration, or rehabilitation of the Property; and
  - b. The Applicant demonstrates that the proposal mitigates to the greatest extent practical, all the following:
    - i. Any impact on the Historic Significance of the Buildings, Structures, or Objects located on the Property and adjacent Properties; and
    - ii. Any impact on the Integrity of the Buildings, Structures, or Objects located on the Property and adjacent Properties.

**Section 8. Alteration Exemptions**

1. General

- a. If an application for a Certificate of Appropriateness is denied, the Applicant may request an exemption from such certificate requirement pursuant to this Section.
- b. A request for exemption shall be initiated by the Owner(s). Such application shall be submitted to the County for consideration on a form provided by the HPC. The Applicant shall have the burden of proof to establish hardship.
- c. The HPC may request additional information from the Applicant as necessary to make informed decisions according to the applicable criteria for decision-making.
- d. If the County determines the application is complete, the County shall promptly refer the application to the HPC. If the County determines the application is incomplete, the Applicant shall be advised of the reasons in writing within 30 days of submittal.
- e. Certificate of Appropriateness exemptions are granted only to the specific Owner and are not transferable.

2. Criteria for Exemption

a. Economic Feasibility

- i. The HPC may solicit expert testimony and require that the Applicant make submissions concerning any or all of the following information before it makes a determination:
  - 1. Estimate of the cost of the proposed Construction, Alteration, Demolition, or removal and an estimate of any additional cost that would be incurred to comply with the conditions of approval set out in Sections 5, 6 and 7 above.
  - 2. A report from a licensed engineer or architect with experience in rehabilitation of Historic Properties as to the structural soundness of any Buildings, Structures, or Objects on the Property and their suitability for rehabilitation.
  - 3. In the case of a proposed Alteration, the cost of the project proposed by the Applicant compared with the changes required by the HPC.
  - 4. In the case of a proposed Demolition, the estimated market value of the Property in its current condition, after rehabilitation, and after Demolition shall be compared, in addition to actual project costs.
  - 5. Amount paid for the Property, the date of purchase or acquisition, and the party from whom purchased, including a description of the relationship, if any, between the Owner of record or Applicant and the person from whom the Property was purchased.

6. All appraisals obtained within the previous two (2) years by the Owner or Applicant in connection with the purchase, financing, or ownership of the Property.
  7. Any listing of the Property for sale or rent, price asked, and any written offers received within the previous two (2) years.
  8. The actual or market value of the land and improvements thereon according to the most recent assessment.
  9. Real estate taxes for the previous two (2) years.
  10. Any proposal for a replacement Building, Structure, or Object for the Property and financial proof of the ability to complete the replacement project.
  11. For income producing Property, the annual gross income from the Property for the previous two (2) years and itemized operating and Maintenance expenses for the previous two (2) years.
- ii. The following factors, evidence, and testimony are to be considered:
1. The structural soundness of any Buildings or Structures on the Property and their potential for rehabilitation.
  2. The economic feasibility of rehabilitation or reuse of the existing Property in the case of a proposed Demolition.
  3. For investment or income producing Properties, the ability to obtain a reasonable rate of return on the Property in its present condition, or in a rehabilitated condition pursuant to the requirements of this ordinance.
  4. For non-income producing Properties consisting of owner-occupied single-family dwellings and/or non-income producing institutional Properties not solely operating for profit, the ability to maintain or to convert the Property to a reasonable residential or institutional use in its present condition or in a rehabilitated condition pursuant to the requirements of this ordinance or the ability to transfer the Property for a reasonable rate of return.
  5. The consideration for economic hardship shall not include any of the following:
    - a. Willful or negligent acts by the Owner;
    - b. Purchase of the Property for substantially more than its market value;
    - c. Failure to perform normal Maintenance and repairs;
    - d. Failure to diligently solicit and retain tenants;
    - e. Failure to prescribe a rental amount which is reasonable; or
    - f. Failure to provide normal tenant improvements.
- b. Undue Hardship. An Applicant requesting an exemption based on undue hardship must show that the application of the criteria create a situation that is substantially inadequate to meet the Applicant's needs because of specific health and/or safety issues.
- c. Inability to Use
- i. Two years after denial of a Demolition permit approval, if no feasible use or ownership is found for the designed Site or Structure, the Owner may request a waiver of all or a part of the restraint of Demolition.
  - ii. The HPC may solicit expert testimony and require that the Applicant make submissions concerning any or all of the following information before it makes a determination:
    1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to make necessary repairs, to find an appropriate user or to find a purchaser for the Property.
    2. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the Owner to locate and obtain available assistance for making the Property functional without Demolition.
  - iii. The following factors, evidence and testimony shall be considered:
    1. Efforts to locate and secure a potential user or purchaser for the Property.

2. Efforts to locate and obtain available assistance for making the Property functional without Demolition.
3. The consideration for inability to use shall not include any of the following:
  - a. Willful or negligent acts by the Owner;
  - b. Purchase of the Property for substantially more than its market value; or
  - c. Failure to perform normal Maintenance and repairs.

### 3. Decision

- a. If the HPC deems the criteria of this Section are met, the HPC shall issue an order of exemption and send a Certificate of Economic Hardship to the County within 30 days.
- b. If the HPC deems the criteria of this Section are not met, the HPC shall deny the exemption request and notify, in writing, the County and the Applicant within 30 days of such denial. Such denial shall state the reasons for the denial and the procedures for appeal to the BoCC.
- c. The HPC may issue an order continuing the exemption process for a period of not to exceed 90 days from the date of the application if the HPC would like additional information necessary to make a decision.
- d. The Applicant may resubmit an amended application, reapply for an exemption that takes into consideration the recommendations of the HPC, or appeal the denial to the BoCC.
- e. If an application for an exemption is denied, no person may submit a subsequent application within one year for the same from the date of the final action upon the earlier application.

### 4. Appeal for Denial of Exemption

- a. If an exemption is denied by the HPC, the Applicant may appeal the denial to the BoCC by filing a written notice with the Deputy Clerk within 15 days of the date of the receipt of the HPC's denial.
- b. Notice of the BoCC's consideration of the appeal and hearing shall be provided in accordance with Section 4, Subsections 2(a)-(d), except the Deputy Clerk shall perform the responsibilities of the Secretary.
- c. The BoCC shall hold a public hearing to consider the appeal, and consider any evidence (including new evidence) it deems relevant to the application.
- d. The BoCC shall apply the criteria in this Section in making its decision.
- e. The decision of the BoCC shall be final.

## **Section 9. Alteration to Non-Designated Properties Greater Than 50 Years Old**

1. Purpose: The purpose of the review of permit applications for demolition, relocation and alterations of buildings that require a building permit and that are over fifty years old is to prevent the loss of buildings that may have historical or architectural significance. The purpose of this section is also to provide the time necessary to initiate designation as an individual landmark or to consider alternatives for the building.
2. Requirements
  - a. Any permit application for Alteration, Relocation, or Demolition of a non-designated Property greater than 50 years old shall be reviewed by the County to determine the eligibility of such Property for listing on the County Register.
  - b. Permit applications for work on the interior of a Property, minor repair as determined by the County Building Official, and/or replacement of materials in-kind are exempt from this requirement.
  - c. In order to determine eligibility for listing on the County Register, the Applicant must submit a Determination of Eligibility Form requiring ownership, Construction and Alteration information, and photos of all facades of all Buildings, Structures, and Objects located on site.
3. Initial Staff Review: The initial review shall occur within fourteen (14) days after the Community Development Department accepts a completed permit application to determine whether there is probably cause to believe that the building may be eligible for designation as an individual county landmark.
  - a. The Historic Preservation Liaison shall review permit applications for demolition, relocation and significant alterations of all building greater than fifty years of age. If the Historic Preservation Liaison determines that the building would not be eligible as an individual landmark, or that there would be no significant impact or potential detriment to the historic resource, the permit shall be

issued if all other requirements of the permit process have been met. If the Historic Preservation Liaison determines that there is reasonable grounds that the building may be eligible for designation as an individual landmark, the issuance of the permit shall be stayed for up to sixty (60) days from the date that a completed application is accepted by the County, and the permit shall be referred to the Historic Preservation Board for a public hearing. The applicant shall be notified of the initial review determination within fourteen days of the decision.

#### 4. HPC Review

- a. The HPC shall act officially on each application within thirty (30) days after the hearing thereon.
- b. The HPC shall review the eligibility of the Property following the eligibility criteria and review procedure as outlined in Section 3.
- c. The HPC shall determine that the Property is:
  - i. Eligible for listing; or
  - ii. Not eligible for listing.
- d. If the HPC deems the Property eligible:
  - i. In the case of a permit application for Alteration, the HPC shall determine if the proposed Alteration will Alter the Property to a degree that it no longer retains its historic Integrity. If so, the HPC shall follow the process as outlined in this Section. If not, the HPC shall notify the Applicant, the Community Development Director, the County Building Official, and any other person who has requested in writing to receive the same within 30 days, that the property is eligible, but all other permitting shall proceed in accordance with Code.
  - ii. A Stay of Alteration, Relocation, or Demolition shall be placed on the Property which:
    1. Cannot exceed one-hundred and eighty (180) days.
    2. Shall provide the Owner and the HPC the opportunity to take action consistent with this section to preserve the Property, including but not limited to:
      - a. Consulting with County staff, civic groups, public agencies, and interested citizens regarding feasible alternatives;
      - b. Exploring the possibility of relocating Buildings, Structures, or Objects that would otherwise be Demolished;
      - c. For applications of proposed Demolition, recommending acquisition of the Property by private or public bodies or agencies; and
      - d. Salvaging building materials.
  - iii. At the expiration of the Stay, should the Property not be nominated for listing on the County Register as set forth in Section 4, nor a Certificate of Appropriateness issued as set forth in Sections 5, 6 or 7, all other permitting shall proceed in accordance with Code.
- e. If the HPC deems the Property ineligible, the HPC shall notify, in writing, the Applicant, the Community Development Director, the County Building Official, and any other person who has requested in writing to receive the same within 30 days of such finding and all other permitting activities shall proceed in accordance with the Code.

#### **Section 10. Maintenance**

1. The BoCC intends to preserve from deliberate or inadvertent neglect the exterior portions of Historic Properties or Historic Districts and all interior portions thereof whose Maintenance is necessary to prevent deterioration of any exterior portion. No Owner, lessee, or occupant of any Historic Property or Contributing Property within Historic District shall fail to prevent significant deterioration of the exterior of the Building, Structure, Object, or special feature beyond the condition of such Historic Property or Contributing Property within a Historic District on the effective date of the designating ordinance.
2. No Owner, lessee, or occupant of any Historic Property or Contributing Property within a Historic District shall fail to comply with all applicable provisions of this ordinance and other ordinances of the County regulating property Maintenance.
3. Before the County Attorney files a complaint in Gilpin County Court for failure to maintain the Historic Property or Contributing Property within a Historic District, the County shall notify the Owner, lessee, or

occupant of the need to repair, maintain or restore such Property; shall assist the Owner, lessee, or occupant in determining how to preserve such Property; and shall give the Owner, lessee, or occupant a reasonable time to perform such work.

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

#### **Section 11. Unsafe or Dangerous Conditions Exempted**

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

#### **Section 12. Enforcement and Penalties**

1. No person shall violate or permit to be violated any of the requirements of this Ordinance or the terms of a certificate issued pursuant to this Ordinance.
2. Violations of this Ordinance are punishable as provided in this Ordinance. This Ordinance shall upon adoption be considered part of the Gilpin County's Building Code and Zoning Regulations and shall be enforceable under the laws applicable to building code and zoning violations. Violations may also be subject to the following additional or alternative penalties:
  - a. If any Historic Property or Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this ordinance, the HPC may order any Property to be returned to its condition prior to such unlawful Construction, reconstruction, exterior Alteration, addition, or Demolition. This may specifically include ordering the reconstruction of a Property that was Demolished to replicate as closely as possible the original Property.
  - b. If any Building, Structure, or Object is erected or Constructed on a Historic Property or Property within a Historic District, the HPC may order any such Building, Structure, or Object to be removed or deconstructed.
  - c. Alterations to a Historic Property or Historic District without an approved Certificate of Appropriateness will result in a one-year moratorium on all building permits for the subject Property.
  - d. Relocating or Demolishing a Historic Property or Property within a Historic District without an approved Certificate of Appropriateness will result in a five-year moratorium on all relocation, Demolition, or building permits for such Property and/or its original location.
  - e. If any Historic Property or Property within a Historic District is externally reconstructed, externally Altered, added to, Relocated, or Demolished in violation of this ordinance or if any Building, Structure, or Object is erected or Constructed on a Historic Property or Property within a Historic District, the County may issue an administrative citation:
    - i. Administrative citations for violations of this ordinance shall be issued only after the responsible party has received notice of violation and time to comply, unless, because of the nature of the offense, immediate compliance is required; further, any appeal process shall be completed prior to issuance of an administrative citation.

- ii. Each day a violation exists or continues shall constitute a separate and distinct violation for which a separate citation may be issued. However, unless the County determines that continued violations will cause immediate peril to life or property or the offense is one that, because of the nature of the offense, requires immediate compliance, once a citation has been issued for a violation of this ordinance, no additional citation shall be issued for the same violation for ten (10) days or, if the responsible party appeals, until after the appeal has been heard and the responsible party has not complied with an order of the administrative hearing.
- iii. If the responsible party fails to correct the violation cited, commits the same violation again, or fails to correct a violation as specified in accordance with an administrative enforcement order, subsequent administrative citations may be issued for violations of the same Code section. The penalties assessed for each administrative citation issued for violations of the same Code section or sections shall not exceed the following amounts regardless of the number of violations per citation:
  - 1. First administrative citation: one hundred and fifty dollars (\$150.00);
  - 2. Second administrative citation: five hundred dollars (\$500.00);
  - 3. Third and each subsequent administrative citation: nine hundred and ninety-nine dollars (\$999.00).
- iv. Payment of the penalty shall not excuse the failure to correct the violations nor shall it bar further enforcement action by the County.
- v. If an administrative hearing was held, the failure of any responsible party to pay the civil penalties assessed by an administrative citation within the time specified on the citation or administrative enforcement order may result in the imposition of a late fee of up to twenty-five dollars (\$25.00) and interest at a rate of ten (10) percent per annum.
- vi. The County shall record a notice with the County Clerk and Recorder of a lien against the Property in violation. The lien created hereby shall be automatically perfected and prior to all other liens, regardless of their dates of recordation, except liens for general taxes and prior special assessments.

**Section 13. Incentives**

- 1. Any Owner of a Historic Property or Contributing Property within a Historic District under this ordinance may be eligible for economic incentives for the restoration or rehabilitation of that Property as provided by the State of Colorado and such additional incentives as may be developed by the HPC or the BoCC.
- 2. The HPC shall identify and advise the BoCC regarding the implementation of economic incentives for Historic Properties. The HPC shall notify the Owners of Historic Properties of economic incentive opportunities available.
- 3. The HPC shall make the determination for each request regarding economic incentives.

**Section 14. Severability**

In the event any portion of this Ordinance shall be declared null and void or unenforceable by any court of competent jurisdiction, such offending provisions/s shall be deemed to be deleted from this Ordinance, provided however that the remaining portions of this Ordinance shall remain in full force and effect and fully enforceable as written; subject, however, to the Board of County Commissioners exercise of discretion to determine that such severed provision is too important, material or fundamental to the Ordinance that the entire Ordinance must be invalidated.

**Section 15. Emergency Clause**

The Board of County Commissioners finds and determines that the provisions of this Ordinance are essential to the immediate protection of the public health, safety, and welfare of the residents of Gilpin County. This



Introduced and first read the 19<sup>th</sup> day of November, 2019, and continued first reading on January 7, 2020, and ordered published in full in a newspaper of general circulation published in Gilpin County at least 10 days prior to final adoption.

**NOTICE OF SECOND AND FINAL READING:** The second and final reading of Ordinance #19-01 shall take place at the Gilpin County Courthouse 203 Eureka St., Central City, Colorado 80427 on the 04<sup>th</sup> day of February, 2020, at 9:00 a.m. MST by the Gilpin County Board of County Commissioners at a regularly scheduled meeting of the Board for the purposes of adoption of Ordinance #19-01.

Attest:

Sharon Cate  
Sharon Cate, Deputy Clerk to the Board

Gail Watson  
Gail Watson, Chair