

ARTICLE 8: HISTORIC PRESERVATION

8.1. PURPOSE AND APPLICABILITY

- 8.1.1. Any property designated as a Historic Landmark or a Historic District by the Town of Pagosa Springs Town Council shall be subject to specific and general provisions of this Land Use Code, including reasonable and appropriate restrictions designed to preserve such landmark's or district's historic values, as may be adopted and amended by the Town Council from time to time.
- 8.1.2. The purpose of the this Article is to recognize, protect, and promote the retention and use of historic sites and districts within the community and to promote educational opportunities and awareness of the unique heritage of Pagosa Springs by:
- A. Identifying and designating Historic Landmarks and Historic Districts to ensure the preservation of Pagosa Springs' historic character as a timber, logging and livestock Town, as well as a hot springs destination and a regional economic and cultural center.
 - B. Promoting the cultural, educational, and economic welfare of Pagosa Springs through the preservation of historic structures and areas, the stabilization of historic neighborhoods and the preservation of the historic character of the community.
 - C. Creating a means to draw a reasonable balance between private property rights and the public interest in preserving the unique historical and cultural character of Pagosa Springs.
 - D. Ensuring that alteration, relocation, or demolition of a property of historic value is carefully considered for its impact on the property's historic contribution to Pagosa Springs' heritage.
 - E. Increasing economic and financial benefits to the Town and owners of historic properties while protecting and improving the attractiveness of the Town, as a result of the preservation of the historic character of the community.
 - F. Fostering civic pride in the beauty and noble accomplishments of the past, as represented in Pagosa Springs' Historic Landmarks and Historic Districts.
 - G. Retaining and enhancing the value of those properties and architectural features that contribute to the character of Historic Landmarks and Historic Districts (as well as those found outside of the District), and encouraging their adaptation for current use.
 - H. Encouraging the maintenance and upkeep of historic resources.
 - I. Educating citizens and visitors about the history of the local and regional community, the value of preserving historic properties and the materials and methods of preservation.
- 8.1.3. All public hearings conducted pursuant to this Article shall be in accordance with Article 2 of Chapter 21 of the Code.
- 8.1.4. No owner, lessee, or occupant of any Historic Landmark or structure within a Historic District shall fail to comply with all applicable provisions of this Article and other ordinances of the Town regulating property maintenance.
- 8.1.5. Any property designated as a Historic Landmark or a Historic District by the Town Council shall be subject to all other applicable provisions within the Code.

8.2. STRUCTURES OF MERIT

- 8.2.1. The Historic Preservation Board shall establish a list of structures and sites of merit that demonstrate historic and architectural integrity to recognize and encourage the protection of such resources. The list shall include structures and sites that have not been designated as Historic Landmarks and are not located within a designated Historic District.

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SECTION 8.3 DESIGNATING HISTORIC LANDMARKS AND HISTORIC DISTRICTS

SUBSECTION 8.3.1 REQUIREMENTS FOR DESIGNATION OF LOCAL HISTORIC LANDMARKS

8.2.2. Regulations within this article do not apply to structures or sites of merit and incentives are not available to structures or sites designated as such.

8.3. DESIGNATING HISTORIC LANDMARKS AND HISTORIC DISTRICTS

8.3.1. REQUIREMENTS FOR DESIGNATION OF LOCAL HISTORIC LANDMARKS

In order to qualify for designation as a Local Historic Landmark the following criteria must be met.

- A. The property, building, structure, feature, object, and/or area must be 50 years old or older. The Historic Preservation Board and Town Council reserve the right to waive this requirement.
- B. The property, building, structure, feature, object, and/or area retains structural integrity, which for the purpose of this article shall mean that it does not present an imminent hazard to public health and safety, as determined by a licensed structural engineer.
- C. One or more of the following criteria for architectural, social or geographic/environmental significance applies to the property:
 1. **Architectural**
 - a. It is a portrayal of the environment or a group of people in an era of history characterized by a distinctive architectural style.
 - b. It embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or the use of indigenous materials.
 - c. It embodies elements of architectural design, materials or craftsmanship that represent a significant architectural or structural innovation.
 2. **Social**
 - a. It retains character, interest or value as part of the development, heritage or cultural characteristics of local, regional or national significance.
 - b. It is the location of a site of a significant local, state or national historic event.
 - c. It is identified with a person or persons who significantly contributed to the culture and development of the Town.
 3. **Geographical/Environmental**
 - a. Its unique location or singular geological, archaeological, or physical characteristic represents an established and familiar visual feature of a neighborhood.
 - b. Its relationship in terms of size, location and architectural similarity to other structures or sites of historic or architectural significance, makes the structure or site critical to the preservation of the character and

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identity of the local community or to a historically significant neighborhood.

8.3.2. REQUIREMENTS FOR DESIGNATION OF LOCAL HISTORIC DISTRICTS

- A. In order to qualify for designation as a local Historic District the following criteria must be met.
- B. The proposed local Historic District must be a geographically definable area possessing a concentration, linkage or continuity of buildings, structures and/or objects united by past events, plans, social activities or physical development. A Historic District may contain contributing and non-contributing elements, as follows:
 - 1. Contributing elements of the proposed Historic District shall be determined to contribute to the overall character of the district, meet the requirements of Section 8.3 and have historical significance due to one or more of the criteria listed in Section 8.3. All contributing elements shall be identified on a list retained by the Town Planning Department,
 - 2. Non-contributing elements of the district do not contribute to the overall significance of the district, and do not meet the criteria as listed in Section 8.3.

8.4. RECEIVING, AMENDING, OR REMOVING DESIGNATIONS

All applicants for receiving, amending or removing a designation shall authorize designated Town representatives to access the property during regular business hours for historic survey purposes.

8.4.1. RECEIVING DESIGNATION

- A. An eligible applicant shall be:
 - 1. For a local Historic Landmark designation, the property owner(s) of record shall be the eligible Applicant
 - 2. For a Historic District designation, an eligible Applicant shall be either written consent of 67 percent of the property owners of record within the proposed Historic District or the Historic Preservation Board.
- B. When a complete application for a Historic Landmark designation is submitted to the Administrative Officer, the Administrative Officer shall give notice in accordance with Article 2 of this Land Use Code. When an application for a Historic District is submitted, the Administrative Officer shall give notice in accordance with Article 2 of this Land Use Code, including mailing written notice to owners of all properties within the proposed district boundaries.
- C. The Historic Preservation Board shall consider the application for designation at a public hearing during a scheduled meeting within 30 days of receipt of the application from the Administrative Officer. The Historic Preservation Board shall, by motion, approve, approve with conditions, or deny the application. The Historic Preservation Board shall forward its recommendation to the Town Council.
- D. Within 30 days of receiving a recommendation from the Historic Preservation Board regarding the designation of a local Historic Landmark or local Historic District, the Town

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SUBSECTION 8.4.2 AMENDING DESIGNATIONS

Council shall hold a public hearing on the proposed designation. The Town Council shall review the application and recommendation for designation and either approve, approve with conditions, or deny the proposed designation.

- E. An approval of an application for designation of a Historic Landmark or a Historic District shall be made by ordinance. Such designating ordinance shall include a description of the characteristics of the property, building, structure, feature, object, and/or area that justify the Historic designation, a description of the features that should be preserved or enhanced and a legal description of the location and/or boundaries of the Historic Landmark or Historic District.

8.4.2. AMENDING DESIGNATIONS

Designation of a Historic Landmark or Historic District may be amended to add features of the property or to the Historic District by the same procedures described in Section 8.3.

8.4.3. REMOVING DESIGNATIONS

- A. An eligible applicant shall be:
 - 1. For removal of a local Historic Landmark designation, an eligible Applicant shall be either the property owner(s) of record or the Historic Preservation Board.
 - 2. For removal of a property(s) within a Historic District an eligible Applicant shall be either the property owner(s) of record or the Historic Preservation Board.
 - 3. For removal of an entire Historic District designation, an eligible applicant shall be either 51 percent of the property owners of record within the District or the Historic Preservation Board.
- B. The Applicant shall submit to the Administrative Officer a complete application for removal of designation.
- C. When an application for the removal of a Historic Landmark designation is submitted, the Administrative Officer shall give notice in accordance with Article 2 of this Land Use Code. When an application for the removal of properties within a Historic District or removal of a district designation is submitted, the Administrative Officer shall give notice in accordance with Article 2 of this Land Use Code, including mailing written notice to owners of all properties within the district boundaries.
- D. The Historic Preservation Board shall consider the application for removal of designation in a public hearing during a scheduled meeting within 30 days of receipt of the application from the Administrative Officer. The Historic Preservation Board shall, by motion, approve, approve with conditions, or deny the application. The Historic Preservation Board shall forward its recommendation to the Town Council.
- E. Within 30 days of receiving a recommendation from the Historic Preservation Board regarding the removal of a historic designation, the Town Council shall hold a public hearing, on the proposed removal. The Town Council shall review the application for removal of designation and either approve, approve with conditions, or deny the proposed removal of a historic designation.

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SECTION 8.5 RELOCATION, ALTERATIONS, AND NEW CONSTRUCTION

SUBSECTION 8.4.4 POST-DESIGNATION ACTIONS

- F. The Historic Preservation Board and the Town Council shall base their decision to remove a designation upon the following findings:
 - 1. The Historic Landmark or Historic District no longer maintain their historic significance as determined in their designating ordinances.
 - 2. The property within the Historic District is no longer a part of the geographically definable area possessing a concentration, linkage or continuity of buildings, structures an/or objects united by past events, plans, social activities or physical development as determined in the District's designating ordinance.
- G. An approval to remove a designation by the Town Council shall be made by ordinance. Such ordinance shall include a description of the characteristics of the property, building, structure, feature, object, and/or area that justify the historic designation removal and a legal description of the location and/or boundaries of the former Historic Landmark or former Historic District boundary.

8.4.4. POST-DESIGNATION ACTIONS

- A. Once designated, the Applicant shall be required to display signage as provided by the Historic Preservation Board. Signage shall be maintained by the property owner(s).
- B. Any designated Historic Landmark or District shall be named in the Town of Pagosa Springs Historic Register.

8.5. RELOCATION, ALTERATIONS, AND NEW CONSTRUCTION

- 8.5.1. No person shall be permitted to carry out any relocation, alteration, or new construction of a structure or other feature on a designated Historic Landmark or on/in a property within a Historic District without first obtaining a Certificate of Alteration for the proposed work.
- 8.5.2. The property owner of record must submit a completed Certificate of Alteration to the Administrative Officer. Upon determination that the certificate of alteration application is complete, the Administrative Officer shall forward the application to the Historic Preservation Board.
 - A. Within 30 days of receipt of the application, the Historic Preservation Board shall review the application and motion to approve, approve with conditions, or deny the certificate of alteration.
 - B. If the proposed alterations are significant in scale, the Historic Preservation Board may, in its discretion, conduct its review in a public hearing. A proposed alteration is significant in scale if it would have an impact on the history, archeology, architecture, or culture of the Town, the local region or the nation.
- 8.5.3. A Certificate of Alteration may be issued by the Historic Preservation Board only if the Board can determine the following:
 - A. The proposed work will not detrimentally alter, destroy or adversely affect any architectural or landscape feature that contributes to the original Historic designation
 - B. The proposed work will conform to adopted design criteria and guidelines.

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SUBSECTION 8.4.4 POST-DESIGNATION ACTIONS

- C. The proposed work will conform to the United States Secretary of Interior's Standards for Rehabilitation and the Treatment of Historic Properties.
- 8.5.4.** In evaluating a Certificate of Alteration for Relocation, the Historic Preservation Board should consider the following:
- A. Documentation shows the structure cannot be rehabilitated or re-used on its original site for any beneficial use of the property.
 - B. The contribution the structure makes to its present setting.
 - C. If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation is the best preservation method for the character and integrity of the structure/neighborhood.
 - D. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.
- 8.5.5.** In consideration of the new location, the Historic Preservation Board shall review the relocation permit application for compliance with the following criteria:
- A. Whether the structure is compatible with its proposed site and adjacent properties.
 - B. The structure's architectural integrity and its compatibility with the character of the adjacent properties and neighborhood.

8.6. DEMOLITION OF HISTORIC LANDMARKS OR STRUCTURES WITHIN A HISTORIC DISTRICT

- 8.6.1.** No person shall be permitted to carry out any demolition of a structure or a feature of a structure that has been designated a Historic Landmark or demolition of a structure or feature of a structure within a designated Historic District without first obtaining an approval to demolish pursuant to this Article, in addition to any permits required by other applicable provisions of the Code.
- 8.6.2.** The property owner(s) of record shall be an eligible Applicant and shall submit a completed application to demolish to the Administrative Officer. Upon determination that the application is complete, the Administrative Officer shall forward the application to the Historic Preservation Board.
- A. When an application to demolish a structure or a feature of a structure that has been designated a Historic Landmark is submitted, the Administrative Officer shall give notice in accordance with Article 2 of this Land Use Code. When an application to demolish a structure or feature of a structure within a designated Historic District is submitted, the Administrative Officer shall give notice in accordance with Article 2 of this Land Use Code, including mailing written notice to owners of all properties within the proposed district boundaries.
 - B. The Historic Preservation Board shall consider the application to demolish at a public hearing during a scheduled meeting within 30 days of receipt of the application from the Administrative Officer. The Historic Preservation Board shall, by motion, approve, approve with conditions, or deny the application. The Historic Preservation Board shall forward its recommendation to the Town Council.

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- C. Within 30 days of receiving a recommendation from the Historic Preservation Board regarding the demolition application, the Town Council shall hold a public hearing on the proposed demolition. The Town Council shall review the application to demolish and either approve, approve with conditions, or deny the application.
- 8.6.3.** An application to demolish shall be approved upon the findings by the Historic Preservation Board or the Town Council that:
- A. A non-contributing structure within a historic district has, over time, not become a contributing element of the Historic District
- B. A feature of a Historic Landmark, contributing or non-contributing structure within a Historic District, if removed or demolished, will not compromise the essential form or integrity of the structure.
- C. A designated Historic Landmark or contributing structure within a Historic District is necessary to rectify a condition of structural hardship or economic viability, as described below. The Applicant shall provide any additional information requested by staff, the Historic Preservation Board and/or the Town Council needed to verify or clarify the standards, factors, evidence, and testimony considered in this determination.
- 1. Structural Hardship Exemption**
- A structural hardship exemption shall be granted if one of the following conditions exist:
- a. The structure must be demolished because it presents an imminent hazard to public health and safety as determined by a licensed structural engineer; or
- b. The structure proposed for demolition is not structurally sound despite evidence of the Applicant's efforts to rehabilitate and properly maintain the structure.
- 2. Economic Viability**
- The economic viability of the property should be determined by reviewing one or more of the following factors, evidence, and testimony from the Applicant: Any economic incentives and/or funding available to the applicant for the subject property shall also be considered.
- a. The structural soundness of the structures on the property and their suitability for rehabilitation. This may be demonstrated through a report from a licensed engineer or architect with experience in rehabilitation.
- b. The economic feasibility of rehabilitation or reuse of the existing property in the case of a proposed demolition. This may be shown by preparing actual project costs and by comparing the estimated market value of the property in its current condition, after rehabilitation and after demolition. The Applicant should also consider providing a five-year pro forma or projected revenues and expenses of the reasonable

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uses or revenues that takes into consideration the utilization of incentive programs available.

- c. The current level of economic return on the property as considered in relation to the following:
- (i) Amount paid for the property, the date of purchase, party from whom purchased, including a description of the relationship, if any, between the owner of record or Applicant..
 - (ii) A substantial decrease in the fair market value of the property as a result of the denial of the demolition permit.
 - (iii) The fair market value of the property at the time the application was filed, to be prepared by a professional appraiser.
 - (iv) Real estate taxes from the previous three years.
 - (v) Annual gross and net income, if any, from the property for the previous three years; itemized operating and maintenance expenses for the previous three years; and depreciation deduction and annual cash flow before and after debt service, if any, for the previous three years.
 - (vi) Remaining balance on any mortgage or other financing secured by the property and annual debt service, if any, during the previous three years.
 - (vii) All appraisals obtained within the previous three years by the owner(s) or Applicant in connection with the purchase, financing or ownership of the property.
 - (viii) Any state or federal income tax returns on or relating to the property for the previous three years.
 - (ix) The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease and the price asked and offers received, if any, within the previous two years. This determination can include testimony and relevant documents regarding:
 - (1) Any real estate broker or firm engaged to sell or lease the property.
 - (2) The price or rent sought by the Applicant.
 - (3) Any advertisements placed for the sale or rent of the property by the owner or Applicant.
- D. The lack of feasibility of alternative uses that can earn a reasonable economic return for the property as considered in relation to the following:
- 1. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any buildings/structures on the property and their suitability for rehabilitation.

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SECTION 8.7 PROPERTY MAINTENANCE REQUIRED

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2. At least three estimates indicating the cost of the proposed construction, alteration, relocation or demolition and estimates of any additional cost that would be incurred to comply with the Secretary of Interior's Standards for Rehabilitation and Treatment of Historic Properties and/or any adopted design guidelines.
 3. Testimony from a licensed engineer or architect with experience in rehabilitation as to the economic feasibility of rehabilitation or reuse of existing structures on the property.
- E. Conduct not supporting economic hardship: Demonstration of economic hardship by the Applicant shall not be based on conditions caused by or resulting from any of the following:
1. Willful or negligent acts by the Applicant.
 2. Purchasing the property for substantially more than market value.
 3. Failure to perform normal maintenance and repairs.
 4. Failure to diligently solicit and retain tenants.
 5. Failure to prescribe a rental amount which is reasonable for the current market.
 6. Failure to provide normal tenant improvements.
- 8.6.4. If the Town Council approves an application to demolish, consideration will be given to whether materials can be recycled for use as part of another building or structure or whether any component of the building can be donated to a local museum.

8.7. PROPERTY MAINTENANCE REQUIRED

- 8.7.1. It is the Town Council's intention to preserve the exterior portions of designated Historic Landmarks and properties within Historic Districts from deliberate neglect.
- 8.7.2. No owner of any Historic Landmark or structure within a Historic District shall allow significant deterioration of the exterior of the structure/feature beyond the condition of the structure on the effective date of the designating ordinance. Allowing such significant deterioration shall be considered a nuisance as defined in Article 12 of this Land Use Code.
- 8.7.3. Property owner(s) shall reasonably maintain the surrounding environment. Failing to reasonably maintain the surrounding environment shall be considered a nuisance as defined in Article 12 of this Land Use Code.
- 8.7.4. Prior to the Town filing a complaint in municipal court for failure to maintain the designated Historic Landmark or property or structure within a Historic District, the Historic Preservation Board shall notify the property owner(s) of the need to repair, maintain or restore the property. The Historic Preservation Board shall also assist the property owner(s) in determining the actions necessary to preserve the property and shall allow the property owner(s) reasonable time to complete such work.

8.8. DESIGN GUIDELINES AND CRITERIA

- 8.8.1. Property owner(s) of record of a Historic Landmark or of a structure within a Historic District shall follow design guidelines adopted by the Town Council.

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SECTION 8.9 INCENTIVES

SUBSECTION 8.4.4 POST-DESIGNATION ACTIONS

- 8.8.2.** Design guidelines create a standard of appropriate architectural features and site activity that includes, but is not limited to, parking, landscaping, and pedestrian provisions that will preserve the historic and architectural character of a local Historic Landmark or District.
- 8.8.3.** The Historic Preservation Board may recommend design guidelines to the Town Council. The Town Council may adopt the guidelines by resolution.
- 8.8.4.** A property owner of record of a Historic Landmark or of a structure within a Historic District may request variations from the Design Guidelines by submitting to the Administrative Officer a complete application for variation.
- A. Within 30 days of receipt of the application, the Historic Preservation Board shall review the Application and, by motion, approve, approve with conditions or deny the application.
 - B. If the proposed variations are significant in scale, the Historic Preservation Board may, in its discretion, conduct its review in a public hearing. A proposed variation is significant in scale if it would have an impact on the history, archeology, architecture, or culture of the Town, the local region or the nation.

8.9. INCENTIVES

The Town Council may adopt policy, by resolution, for the granting of economic and other incentives for the retention, renovation, rehabilitation, restoration, and reuse of designated historic properties.