



**Land Use and Development Code Update Committee
Monday, November 7, 2022, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631**

This agenda and the meetings can be viewed at www.Townofeagle.org.

PUBLIC WIFI – Eagle Guest

MEETING ACCESS INFORMATION

This will be an in-person meeting with virtual access through Microsoft Teams. First-time users will need to download the app.

Microsoft Teams meeting

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6:00 PM - REGULAR MEETING CALLED TO ORDER

APPROVAL OF MINUTES

Minutes dated October 17, 2022

DISCUSSION

Planned Unit Development Standards

Historic Preservation

FUTURE AGENDA ITEMS

ADJOURN

I hereby certify that the above Notice of Meeting was posted by me in the designated location at least 24 hours prior to said meeting.

Nikki Davis

Administrative Technician II



MEETING MINUTES
Land Use and Development Code Update Committee
Monday, October 17, 2022, 6:00 PM
Public Meeting Room / Eagle Town Hall
200 Broadway, Eagle, CO 81631

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PUBLIC WIFI – Eagle Guest

MEETING ACCESS INFORMATION

This was an in-person meeting with access for the public to attend via Teams.

6:00 PM MEETING CALLED TO ORDER

Hoiland called the meeting to order at 6:05PM.

COMMITTEE MEMBERS PRESENT

Dawn Koenig, Kyle Hoiland, Jack Albertson,
Rick Pylman, Allison Kent, Rick Beveridge,
Scott Schlosser (via Teams)

COMMITTEE MEMBERS ABSENT

Scott Turnipseed

STAFF

Chad Phillips – Community Development Director (via Teams)
Jessica Lake – Planner I
Peyton Heitzman – Planner II
Cliff Simonton – Senior Planner
Nikki Davis – Administrative Tech II
Tez Hawkins – Senior Planner (via Teams)
Elizabeth Garvin – Clarion Associates

APPROVAL OF MINUTES

1. Minutes dated September 19, 2022

There were no objections to the minutes.

DISCUSSION

1. Installment 2

Parking and Loading:

- There is an immediate need for parking enforcement and educating property owners about encroachment/right-of-way parking. Increased signage may be effective for residents.
- Currently, there is little to no funding coming from the existing parking fee in-lieu program to pay for improvements. No new projects have triggered this. The fee is reserved for improvements of existing parking spaces, it is not earmarked for a future lot or garage.
- There are varying times of the day/days of the week when there is limited parking along Broadway.
- Previous development projects received parking variances. Future developers should be held to the parking standards or pay the fee in lieu. Currently, the only exemption applies to businesses in the Central Business/Broadway District undergoing a change in use.
- When does parking truly become a problem? Staff has determined this number from 2021 Downtown parking study.
- Ensure parking standards are not a barrier to affordable housing development.
- Consider how we are counting parking spaces. Many property owners opt to park elsewhere because their garage is used as storage.
- Consider enforcing on-street parking limits and the impacts of snow plowing.
- Do we need Council's feedback on the existing enforcement policies given the challenge of retaining a Code Enforcement officer?

Subdivision Standards:

- Current approach is simply cleaning up and modernizing the language.
- Public Works should be involved in this draft. Subdivision approvals heavily impact the development of infrastructure and utilities.
- Consider subdivision standards and language when working with Old Town Eagle lots. Language and process interpretation has been challenging for both staff and the applicant in the past.

Sustainability and Resilience / Natural Resources and Hazards:

- Consider NWCCOG (Northwest Colorado Council of Governments) waterbody buffer system standards and post-construction stormwater and urban runoff standards.
- There is a need to create measurable standards when referring to natural and environmentally sensitive lands.
- Consider tree requirements and types of trees in landscaping standards.
- Eagle County allows for EPA (Environmental Protection Agency) certified wood burning fireplaces. Can the Town move in this direction?
- Solar regulations will be written to allow, not require, accessory installations.
- Consider encouraging/incentivizing solar accessories on larger commercial structures, in specific zone districts.
- Do regulations for electric vehicle charging stations belong in the building code? Should the developer be responsible for constructing the structure only then wiring comes later, at the owner's expense?
- Consider increasing the size standards for recycling, compost, and trash bins for new multifamily developments. Or establishing a more centralized waste center.
- Consider water resiliency and stormwater management as reflected on the Development Impact Report.
- Consider standards for wildlife-proof waste bins.

2. Future Agenda Items:

- November 7th meeting: Planned Unit Development
- Draft of Administration and Procedures forthcoming in January 2023.

ADJOURN

Meeting adjourned at 7:42 PM.

DRAFT

4.08. Planned Unit Development (PUD) Overlay District

4.08.010 Purpose

The purpose of the Planned Unit Development (PUD) Overlay district is to provide a general structure and plan for specific properties to encourage flexibility and innovation that:

- A.** Create distinct neighborhoods with quality urban design; and
- B.** Support implementation of community plans and goals, including but not limited to the Town's adopted comprehensive plan; and
- C.** Provide community benefits through the creation of affordable housing, inclusion of environmentally sustainable design features, and retention of historic structures; and
- D.** Protect and promote the health, safety, and general welfare of the community.

4.08.020 PUD Design Standards and Exceptions

- A.** A PUD application shall identify a standard base zoning district for each portion of the PUD area. Base zone districts are located in Chapters 4.03 to 4.07. The PUD shall function as an overlay that identifies approved exceptions from the base district standards.
 - 1. Different base districts may be designated for different areas of the property.
 - 2. The project shall be designed in conformance with the standards of the base district unless an alternative standard or allowance is approved with the PUD.
- B.** Adopted PUD Overlay districts are implemented through Section 4.18.<> Rezoning. The Town's official zoning map shall be updated to show both the base district(s) and a PUD overlay.

4.08.030 Eligibility for Rezoning to PUD Overlay District

- A.** An application for rezoning to a PUD Overlay district may only be accepted for review if the Director determines that the application complies with the following general criteria along with the PUD type-specific criteria in Section 4.08.040:
 - 1. All property included in the proposed PUD must be under common ownership or control or must be the subject of an application filed jointly by the property owners of all the property to be included.
 - 2. The proposed PUD could not be developed using a combination of base zone districts.
- B.** Compliance with the eligibility criteria allows the applicant to begin negotiations with the Town regarding the specific uses, structures, layout, and design that will be used to satisfy the eligibility criteria.
- C.** Compliance with the eligibility criteria does not indicate that the PUD will be approved by the Town. Approval by the Town will require a Town Council finding that the criteria for approval in Section 4.08.080 have been met.

4.08.040 Specific PUD Eligibility Requirements

The proposed PUD Overlay district shall comply with the eligibility criteria of at least one of the following five types of PUD.

A. Affordable Housing PUD

1. Eligibility

An Affordable Housing PUD application must include residential dwelling units and must propose:

- a. That all parcels on which single-unit detached or individual-ownership attached dwelling units will be constructed are permitted to construct an accessory dwelling unit either within the primary building or in a freestanding accessory building in compliance with the provisions of Section <> [ADU standards]; and
- b. Affordable housing in compliance with [cite updated LERP requirements].

2. Flexibility Allowed

Eligible applications for an Affordable Housing PUDs may request an adjustment or waiver of any non-procedural regulation required by a base district if that adjustment or waiver will contribute to achieving the preservation or production of housing at a lower cost than would otherwise be possible under the base district.

B. Historic Structure/Site PUD

1. Eligibility

A Historic Structure/Site PUD application must propose:

- a. Inclusion of an existing structure or site that is currently designated or is documented as eligible for designation on a Town or state list of historic structures or on the National Register of Historic Places within a contiguous area included in the PUD application, and must either:
 - (1) In the case of an existing designated historic structure or site, the PUD application must include a written commitment to preserve the structure or site in compliance with all applicable historic preservation standards for a period of at least 20 years; or
 - (2) In the case of an eligible but undesignated historic structure or site, the PUD application must include a written commitment to complete the designation of the structure or site as historic prior to development of any portion of the PUD, and to preserve the designated structure or site in compliance with all applicable historic preservation standards for a period of at least 20 years.
- b. The PUD application may include additional lands contiguous with the lot or parcel containing the historic structure.

2. Flexibility Allowed

Eligible applications for an Historic Structure/Site PUD may include a request to:

- (1) calculate any unused development potential from the lot or parcel containing the historic structure or site under the property's current zoning, and
- (2) apply any unused development potential on other portions of the same lot or parcel, or

on contiguous lands included in the PUD application, and to request adjustment or waiver of any non-procedural regulation applicable to the base district if the adjustments or waivers will contribute to achieving the preservation the historic structure.

C. Sustainable/Resilient Design PUD

1. Eligibility

A Sustainable/Resilient Design PUD application must propose project, site, or building design features demonstrated to achieve two or more of the following reductions in resource consumption or trip generation when compared to those levels anticipated for developments of a similar type under the reference base district:

- a. A reduction in water consumption of at least 25 percent; or
- b. A reduction in non-renewable energy use of at least 25 percent; or
- c. A reduction in average daily motor vehicle trip generation of at least 25 percent; or
- d. A combination of reductions in water consumption, non-renewable energy use, or average daily motor vehicle trip generation providing at least an equivalent sustainable/resilient development benefit to the Town.

2. Flexibility Allowed

Eligible applications for a Sustainable/Resilient Design PUD may request an adjustment or waiver of any non-procedural regulation applicable to the base district if that adjustment or waiver will contribute to reductions in water consumption, non-renewable energy consumption, or traffic generation when compared to development of a similar type under the reference base district standards.

D. Large Development PUD

1. Eligibility

A Large Development PUD application must propose all of the following:

- a. The PUD must contain at least 10 acres of contiguous land that is proposed for annexation and development pursuant to a principal development plan approved by the Town or submitted for approval by the Town along with the PUD application;
- b. If the application includes residential dwelling units, the PUD must include the amounts of affordable housing required by Section 4.08.040.A; and
- c. The PUD must include public amenities, public infrastructure investments, or both beyond what would otherwise be required under this Code and the base district(s).

2. Flexibility Allowed

Eligible applications for a Large Development PUD may request an adjustment or waiver of any non-procedural regulation required by a base district if that adjustment or waiver will contribute to achieving the preservation or production of

housing at a lower cost than would otherwise be possible under the reference base district and can be shown to implement other adopted comprehensive plan goals and objectives than would otherwise be possible under the base district.

E. Combined Benefits PUD

1. Eligibility

To be considered for a PUD that provides a combination of a percentage of the affordable housing benefits identified in Section 4.08.040.A and benefits identified in Sections 4.08.040.B, C, or D or any combination thereof, the application must:

- a. Provide at least one-half of the amounts of affordable housing, at the levels of income-restriction, required by 4.08.040.A, for a period of at least 30 years; and
- b. Provide benefits listed in any one or a combination of:
 - (1) 4.08.040.B.1 for consideration of a Historic Structure/Site PUD;
 - (2) 4.08.040.C.1 for consideration of a Sustainable/Resilient Design PUD; or
 - (3) 4.08.040.D.1.a and c above for consideration of a Large Development PUD.

2. Flexibility Allowed

Eligible applications for a Combined Benefits PUD may request an adjustment or waiver of any non-procedural regulation required by a base district if that adjustment or waiver will contribute to achieving the types of flexibility listed in Sections 4.08.040.A.2 or B.2 or C.2 or D.2.

4.08.050 Permitted Uses

- A.** A PUD Overlay may include any land use listed in Chapter 4.09 provided:
 1. Proposed uses shall be consistent with the land use descriptions in the Town's comprehensive plan and any applicable sub area, corridor, or geographically specific plans.
 2. All uses shall be identified by the same names used in Chapter 4.09. Proposed uses that are not identified in Chapter 4.09 shall be clearly identified as a "new use."
- B.** Proposed uses must comply with all applicable use-specific standards for the use(s), identified in Chapter 4.09, unless a waiver or adjustment to applicable standards is proposed and approved as part of the PUD application review process. PUD approval may include specific standards for new uses.

4.08.060 Phased Development

- A.** PUD Overlay applications may propose development to occur in phases. If phased development is proposed, the application must include a projected timetable for phased development and a principal development plan that includes all of the land to be included in all phases of development.

- B. In connection with any phased PUD Overlay development, the Town may require the applicant submit a development agreement, improvements agreement, or other documentation acceptable to the Town ensuring dedication of required parks, open space, or both, and construction of required infrastructure, amenities, or site features.
- C. If the nature, design, or location of required parks, open space, infrastructure, amenities, or site features makes it necessary to construct them in a sequence other than in rough proportion to approvals for construction of residential or non-residential structures, the Town may require the applicant to construct them in the order and extent necessary to protect the public and ensure practical function.

4.08.070 General Review Procedures for PUD Zoning Applications

A. Applicability

A request to develop land in any of the five types of PUD Overlay districts must be submitted as a Section <>, Rezoning application.

B. Procedure

1. General

- a. A PUD Overlay application requires review and approval of a principal development plan concurrent with review of rezoning application.
- b. A final development plan must be approved prior to issuance of building permits or initiation of construction.
- c. An application for a final development plan may be filed concurrently with an application for rezoning and a related principal development plan provided that:
 - (1) No action by the Director to approve, approve with conditions, or deny the final development plan is effective until the rezoning and related principal development plan is approved, approved with conditions, or denied.
 - (2) The Director may waive specific requirements for information the applicant must include in a final development plan if the Director determines that information has been included in the application for a principal development plan.
- d. If applicant proposes a PUD Overlay in conjunction with a subdivision, applicant may file an application for preliminary plat concurrently with the application for a principal development plan. The Director may waive specific requirements for information the applicant must include in a final development plan if the Director determines that information has been included in the preliminary plat application.
- e. The City will coordinate processing of the PUD and subdivision applications to allow for consolidated consideration of both applications together. Final development plan review and approval is still required, as described in this section, and compliance with phased development requirements is also required, if applicable.

C. Pre-Application Conference

A pre-application conference is required prior to submission of a PUD Overlay rezoning application.

D. Review Criteria

1. Compliance with Review Criteria

The Planning & Zoning Commission may recommend approval of an application for PUD Overlay zoning, and the Town Council may approve an application for PUD Overlay zoning, if it determines both of the following:

- a. The PUD application complies with all of the criteria in 4.08.070.D.2, and
- b. The PUD Overlay application also complies with one or more of the criteria in 4.08.070.D.3 applicable to specific types of PUD applications.

2. Criteria Applicable to All PUD Applications

- a. Complies with applicable Colorado state law criteria for rezoning approval;
- b. Complies with general eligibility criteria in 4.08.040;
- c. Complies with the specific eligibility criteria for the type of PUD requested;
- d. Is in accordance with the comprehensive plan, including the future land use map; and
- e. Identifies at least one of the base zoning districts for each portion of the PUD; and
- f. Mitigates known adverse impacts on surrounding properties to the extent practicable.

3. Criteria Applicable to Specific Types of PUD Applications

a. Affordable Housing PUD

The applicant has submitted a principal development plan or other documentation acceptable to the Town ensuring the development provides the amounts of affordable housing required by this section. If the PUD proposes to provide an equivalent affordable housing benefit for a period of at least 30 years, the Town may consider the size, type, or location of the dwelling units, site or sustainable design features to be included in the development that would reduce operating or maintenance of the dwelling units, the proposed initial sale prices or rental rates of dwelling units, or other factors.

b. Historic Structure/Site PUD

- (1) The principal development plan or other documentation acceptable to the Director includes an adaptive reuse plan for the listed historic structure(s) included in the PUD; and
- (2) The principal development plan or other documentation acceptable to the Director ensures that the design of any new structures to be constructed on portions of the PUD property that do not contain the historic structure

will meet the Secretary of the Interior standards for Related New Construction.

c. Sustainable/Resilient Design PUD

The principal development plan or other documentation acceptable to the Director ensures that the level of combined water consumption, non-renewable energy consumption, average daily motor vehicle trip generation, or a combination thereof from all structures and uses included in the PUD shall be at least 25 percent lower than levels commonly experienced by development meeting current established standards in each of the reference base districts listed in the PUD.

d. Large Development PUD

- (1) The applicant has submitted a principal development plan or other documentation acceptable to the Director ensuring the development provides the amounts of affordable housing required by this section. If the PUD proposes to provide an equivalent affordable housing benefit for a period of at least 30 years, the Director may consider the size, type, or location of the dwelling units, site or sustainable design features to be included in the development that would reduce operating or maintenance of the dwelling units, the proposed initial sale prices or rental rates of dwelling units, or other factors; and
- (2) The principal development plan or other documentation acceptable to the Director ensures the PUD will include physical investments in public infrastructure, or in structures or facilities open to the public or to residents or users of the PUD that significantly exceed those that would otherwise be required under the code for property located in the reference base district listed in the PUD.

e. Combined Benefit PUDs

- (1) The applicant has submitted a development agreement or other documentation acceptable to the Director ensuring the development provides at least one-half of the amounts of affordable housing required by this division. If the PUD proposes to provide an equivalent affordable housing benefit for a period of at least 30 years, the Town may consider the size, type, or location of the dwelling units, site or sustainable design features to be included in the development that would reduce operating or maintenance of the dwelling units, the proposed initial sale prices or rental rates of dwelling units, or other factors; and
- (2) The benefits to the Town through the proposed combination of historic preservation, sustainable/resilient development, and Large development exceed the affordable housing benefits that the Town would have received if the PUD had included the full amounts of affordable housing required by this division.

4.08.080 Duration of PUD Approval

A. Zoning Map Amendment

An approved PUD Overlay district does not expire, but rezoning of the PUD may be initiated by the Town if:

1. The Town has not received an application for a final development plan before the expiration of an approved principal development plan;
2. The Town has not received an application for a building permit before the expiration of an approved final development plan; or
3. The applicant does not proceed with development pursuant to one or more approved final development plans according to provisions for phased development approved by the Town.

B. General Development Plan Duration

1. An approved principal development plan is valid for a period of one year unless the approved principal development plan provides for a longer time or for phased development, or the Town Council approves an extension of such time.
 - a. A final development plan for at least part of the PUD property must be submitted within one year after the approval of a principal development plan.
 - b. The applicant may submit one written request for one extension of up to one additional year to submit the final development plan, and the Director may approve such requests for good cause shown.
2. If a principal development plan expires, the right to proceed with the development pursuant to the approved principal development plan is terminated, and the provisions of the base district(s) applicable to each portion of the land included in the principal development plan shall apply, unless and until the Town Council approves a new principal development plan.

C. Final Development Plan Duration

1. A final development plan is valid for a period of one year unless the Town approves a building permit and applicant begins construction of at least one primary structure within one year of the approval of a final development plan. This may require completion of work and recording of a final plat prior to issuance of a building permit.
2. The applicant may submit to the Director a written request for extension of time for a period not to exceed one year to obtain the required building permit.
3. If a final development plan expires, the applicant must apply for and obtain approval of a new final development plan.

4.08.090 Amendments to Approved PUD Overlays

A. Amendments to Approved Principal Development Plan

After approval of a principal development plan, the applicant may request and the Director may approve, minor amendments to the principal development plan, as described below.

1. Minor Amendments

The Director may approve the following minor amendments to an approved principal development plan if the Director determines that they do not change the character of the neighborhood and do not contain any changes that would increase the amount of deviation/relaxation of the requirements of the base zoning districts beyond those in the approved principal development plan. Minor amendments may include but are not limited to:

- a. A change in the location of any internal street that does not affect points of access to or from the PUD property;
- b. A change in the location of any internal park, open space, or storm drainage detention/retention facility that is not located along the periphery of the PUD property; and
- c. A change of location or orientation of any primary building on a lot or parcel;
- d. An increase of less than ten percent in the approved gross leasable floor area of any non-residential building;
- e. An increase of less than ten percent in the amount of permitted residential or non-residential lot coverage;
- f. A change of less than ten percent in the minimum or maximum number of parking spaces required or permitted;
- g. A change of less than ten percent in the maximum permitted height of any building; and
- h. A change in any numerical building design standard by up to ten percent.
- i. An increase or decrease of less than five percent in the number of dwelling units in an approved PUD, provided that the revised number of dwelling units still include the amounts and levels of affordable housing required by this division.

2. Major Amendments

- a. A major amendment is any change to an approved principal development plan not listed in this section.
- b. A major amendment to an approved principal development plan requires approval through the same process used to approve the original PUD Overlay zoning and principal development plan.
- c. Any major amendment that proposes to increase the number of dwelling units in an approved PUD Overlay or to add residential dwelling units to an approved PUD Overlay shall include the amounts of affordable housing required by this division.

B. Amendments to Approved Final Development Plan

1. After approval of a final development plan, the applicant may request, and the Director may approve, amendments to the final development plan if the Director determines the proposed amendments are consistent with the approved principal development plan and the provisions of this chapter.

2. The Director may authorize the applicant to submit only those portions of final development plan application materials necessary to document the proposed change, rather than submitting a new final development plan application.
3. If the Director determines the revised final development plan requires a minor amendment to a principal development plan, the Director may approve both at the same time.

4.08.100 Removal of Property from a PUD

- A. A property owner may apply for a rezoning to remove a parcel from an approved PUD Overlay and any related principal development plan or final development plan.
- B. The application for rezoning shall indicate the base district(s) to be applied to the removed properties, which may be different from the base district identified for the property in the approved PUD.
- C. The Town shall consider any rezoning application pursuant Section 4.18<>, and may require the applicant provide assurances that any unfulfilled obligations related to construction of infrastructure or amenities, provision of open spaces, preservation of access, or other matters addressed in the PUD, principal development plan, or final development plan will be satisfied without imposing additional costs or burdens on properties that are to remain included in the PUD or on any organization or entity responsible for providing or maintaining improvements or services to the remaining PUD properties.

4.08.110 Administrative Procedures Authorized

The Town Manager may adopt, and from time to time amend, administrative procedures to implement this section. The administrative procedures may at a minimum include the following items:

- A. Standards to evaluate equivalent levels of housing affordability;
- B. Standards related to required levels of maintenance of historic structure;
- C. Standards to measure reductions in water consumption, reductions in non-renewable energy use, and reductions in average daily motor vehicle trip generation;
- D. Standards to measure or evaluate equivalence of benefits to the Town; and
- E. Procedures for application requirements, processing, and review of a PUD.

4.08.120 PUD Principal Development Plan Submittal Requirements

The following information must be presented in a PUD principal development plan for the entire property in an application for a PUD rezoning, unless the review authority determines that one or more of the items is not necessary in light of the size, location, availability of existing services, or information already available to the Town related to the proposed development:

- A.** An explanation of the proposed land use and development density or intensity for each portion of the site and a calculation of each proposed land use as a percent of total site area;
- B.** One or more map or drawings showing: (1) the existing conditions, and (2) the proposed final conditions for each of the following at a concept level of detail. Final plans, studies, and engineering detail will be required with applications for Final Development Plans.
 - 1. Site boundaries (with dimensions and legal description);
 - 2. Site topography (including existing features to be retained);
 - 3. Floodplain boundaries;
 - 4. General land uses, including maximum number and unit type of dwelling units and maximum gross floor area of non-residential land uses for each portion of the property;
 - 5. General lot and street network and access points to arterial and collector streets;
 - 6. General locations of trails, bicycle paths, and pedestrian ways;
 - 7. General location of parks and open space network;
 - 8. General landscaping plan for public areas, property boundaries, and proposed street frontages;
 - 9. General storm drainage retention/detention areas, and stormwater design plan; and
 - 10. General locations of major water and sewer line locations and utility easements.
- C.** A map identifying a reference base district for each portion of the PUD property along with a narrative list of any requests for adjustment or waiver to specific standards in each base district that identifies:
 - 1. The base district location and, if applicable, location for the adjustment request,
 - 2. The existing, applicable regulations, and,
 - 3. The specific adjustment or waiver, along with a calculation of the percent change where applicable;
- D.** If phasing of development is proposed, a separate phasing plan with phases clearly identified; and
- E.** Any additional information needed to confirm that the application meets the eligibility requirements in 4.08.040.A through E for the type of PUD being requested, as determined by the Director.

History Colorado Model CLG Preservation Ordinance
Edited for Town of Eagle

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Section 1. General

1. Purpose

The purpose of this ordinance is to create a reasonable balance between private property rights and the public interest in preserving the Town's unique historic character through the nomination of Buildings, Structures, Sites, Objects, and districts for preservation.

2. Definitions

For purposes of this ordinance, the following terms are to be defined as follows:

- a. **Certificate of Appropriateness** – Certificate issued by the Commission authorizing any proposed repair, restoration, Alteration, Construction, Relocation, or Demolition of a Historic Property or element within a Historic District pursuant to this ordinance.
- b. **Colorado State Register of Historic Properties** – The official listing of state designated cultural resources.
- c. **Design Guidelines** – A standard of appropriate activity that will preserve the historic and architectural character of a Historic Property, Property, or Historic District.
- d. **Historic District** – Meaning as set forth in Section 3 of this ordinance.
- e. **Historic Property** – A Building, Structure, Site, or Object which is designated by the Town Council pursuant to this ordinance.
- f. **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.
- g. **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
- h. **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.
- i. **Period of Significance** – Span of time during which significant events and activities occurred.
- j. **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.
- k. **Section 106 Review** – Process required of federal agencies under 54 U.S.C. 306108 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.
- l. **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.

Section 2. Powers and Duties. The Planning & Zoning Commission shall:

1. Review and determine qualifications of Buildings, Structures, Objects, Sites, and districts

nominated for designation and recommend that the Town Council designate by ordinance such Buildings, Structures, Objects, Sites, or districts qualifying for such designation.

2. Recommend to the Town Council 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.
3. 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.
4. Participate in review of National Register of Historic Places nominations.
5. Advise and assist Owners on physical and financial aspects of preservation, rehabilitation, restoration, and reconstruction, including nomination to the Town's Historic Register, the Colorado State Register of Historic Properties, and the National Register of Historic Places.
6. Advise the Town Council on matters related to preserving the historic character and substance of the Town and recommend easements, covenants, licenses, and other methods which will implement the completion of the purposes of this ordinance.
7. Participate in Federal Section 106 Review as requested by Town Council or Staff.
8. Draft and recommend for adoption by the Town Council such by-laws, operating policies, and other rules of procedure as the Commission may deem appropriate.

Section 3. Establishment of Town Register and Designation Criteria

1. Establishment

The Town Council hereby establishes [Name of Municipality or County] Register of Historic Places (the "Town's Historic Register").

- a. Properties or districts may be listed in the Town'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 Town's Historic Register but are not designated until approval, pursuant to this ordinance, is obtained.

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;
 - ii. Connection with persons significant in history;
 - iii. Distinctive characteristics of a type, period, method of Construction, or artisan;
 - iv. Geographic importance; and/or
 - v. Possibility to yield important information related to prehistory or history.
- b. A Property or district may be exempted from the age standard if the Town Council 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
- b. Design
- c. Setting
- d. Materials
- e. Workmanship
- f. Feeling
- g. Association

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 Town Council 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, Planning Department, Town Clerk] for consideration on a form provided by the Commission.
- b. A nomination for listing in the Town'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 Commission;
 - iii. By a member or members of Town Council; and/or
 - iv. 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 Town, or have a place of business in the Town.
- 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 Town or at least one member of the Commission shall contact the Owner or Owners of such Property or Properties nominated for designation in writing, outlining the reasons and effects of listing in the Town's Historic Register 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 district nomination shall not be complete if more than 25% of the Property Owners within the proposed district oppose the nomination in writing or through ballot prepared and administered by the Town.

2. Records

The Town shall maintain a current record of all Historic Properties and Historic Districts and pending designations and will send a notice of the designation of the historic district to the State Historic Preservation Officer.

Section 5. Alterations to Listed Properties and Historic Districts¹

1. Requirements

- 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 Commission under this Section, as well as apply for any other permits required by Code.
- b. The Town 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 Commission as required by this Section. If a Certificate of Appropriateness has been issued on the permit application and the proposed work conforms thereto, the Town shall process it without further action. If no Certificate of Appropriateness has been issued or if the Town determines that the permit application does not conform to such, the Town 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.

2. Building Permit

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.

3. Review Criteria

- a. Compliance with any Design Guidelines adopted by the Town and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- b. 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.
- c. 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

¹ Clarion drafting note: This will require the listing of a new procedure -- a certificate of appropriateness -- to be approved by the PC (although it could also be drafted to be approved by staff, with appeal to the PC). Most communities have major alterations/demolitions be PC decisions but then delegate minor decisions to staff.

massing to protect the Integrity of the Historic District and its environment.

Section 6. Demolition of Listed Properties²

1. General

- a. In addition to the criteria and procedures in Section 5, the Commission 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 rehabbed and after Demolition.
- c. If a Demolition approval is granted on any basis other than that of an imminent hazard, a Certificate of Appropriateness will not be issued until a replacement/reuse plan for the Property has been approved by the Town.

2. Review Criteria for Total Demolition³.

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, rehabbed, 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 Town; 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

² Clarion drafting note: This is the big policy question -- can the Town stop a demolition of a building by refusing to issue a certificate or occupancy or a demolition permit. This text says they can, but many communities decide that they can only delay the demolition 90 or 180 days to try to find a different buyer willing to buy and preserve the property. If you don't want to have a separate procedure for this, some communities say the owner has to apply to remove the property from the historic district (or have it listed as a non-contributing property) or have it de-listed as an individual landmark, and that if the CC agrees to amend the zoning to do so, then the owner can apply for a demolition permit. Your choice about what to do on this issue.

³ Clarion drafting note: Most codes do not have separate criteria for total and partial demolition. If you keep demolition as a separate process, you might want to keep just one of these lists.

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 7. Criteria for Economic Hardship Exemption

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. 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.

Section 8. Maintenance⁴

- 1. No Owner, lessee, or occupant of any Historic Property or Contributing Property within a 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. Before the Town's attorney files a complaint in municipal court for failure to maintain the Historic Property or Contributing Property within a Historic District, the Town shall notify the Owner, lessee, or occupant of the need to repair, maintain, or restore such Property; shall assist

⁴ Clarion drafting note: These provisions can be incorporated with the general maintenance and enforcement provisions in the LUDC.

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.

Section 9. 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 Town and where the proposed measures have been declared necessary by the Town 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 10. Enforcement and Penalties⁵

Violations of this ordinance may be subject to the following additional penalties:

1. 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 Commission may order any such Property to be returned to its condition prior to such unlawful Construction, reconstruction, exterior Alteration, addition, Relocation, or Demolition
2. If any Building, Structure, or Object is erected or Constructed on a Historic Property or Property within a Historic District, the Commission may order any such Building, Structure, or Object to be removed or deconstructed.
3. 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.
4. 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.

Section 11. 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 Commission or the Town Council.
2. The Planning & Zoning Commission shall identify and advise the Town Council regarding the implementation of economic incentives for Historic Properties. The Commission shall notify the Owners of Historic Properties of economic incentive opportunities available.
3. The Town Council shall make the determination for each request regarding economic incentives.

⁵ Clarion drafting note: This section can be integrated with the general LUDC enforcement provisions. Sections 10.3 and 10.4 are not commonly used but they are included here for Town review.