

Chapter 12 Historic Preservation

- 16-12-1 Purpose
- 16-12-2 Designation of Landmarks and Districts
- 16-12-3 Amendment of Designation
- 16-12-4 Revocation of Designation
- 16-12-5 Criteria
- 16-12-6 Alteration, Relocation, or Demolition
- 16-12-7 Exemptions

16-12-1 Purpose

This Chapter establishes standards for the designation of historic districts and landmarks for the educational, cultural, and economic benefit of Englewood citizens. Due to various pressures that may result in the destruction, impairment, or alteration of historic resources that reflect elements of Englewood's cultural and architectural heritage, it is the intent of this Chapter to:

- A. Preserve and protect buildings, structure, sites and areas that are reminders of past eras, events, and person(s) important in local, state or national history; which provide significant examples of architectural styles of the past; which are unique or irreplaceable assets to the city and its neighborhoods; which provide for this and future generations examples of the physical surroundings in which past generations lived; or which are archaeologically significant;
- B. Develop and maintain the appropriate environment for such buildings, structures, sites, and areas, reflecting varied architectural styles and distinguished phases of Englewood's history;
- C. Promote public health, safety, and welfare by encouraging the protection and preservation of historically significant resources; and
- D. Stabilize and improve property values by conserving historic properties.

16-12-2 Designation of Landmarks and Districts

- A. **Nominations.** Applications for a nomination for designation as a historic property/landmark ("landmark") or historic properties/district ("district") may be made by the following:
 - 1. The owner(s) of the property (collectively, "owner");
 - 2. A member of the Historic Preservation Commission; or
 - 3. A member of the City Council.
 - 4. All landmark nominations shall be accompanied by written consent to the nomination from the owner(s) of the property. In the case of a district nomination, 65% of the property owners within the proposed district shall provide written consent to the nomination. No nomination shall be considered by the Historic Preservation Commission unless such written consent is provided along with the application.

Within 30 days of receipt of a district nomination, the City shall provide written notice to all properties within a district nominated for designation with a copy of the nomination application, the effects of the district designation, and a provision advising property owners of the hearing procedures outlined in this Chapter.

- B. **Application.** Applications shall be submitted to the City on a form approved by the Historic Preservation Commission. The application fee shall be established by ordinance and maintained in the City's rate and fee schedule.

- C. **Public Hearing.**
1. Within 45 days after an application is determined complete or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the Historic Preservation Commission.
 - a. The Historic Preservation Commission shall provide notice 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 known, to other persons having a legal or equitable interest in the properties or district nominated for designation at least 15 days prior to the hearing.
 - b. 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 City's publication of record at least 15 days prior to the hearing.
 - c. The notice shall be posted at the property's physical location at least 15 days prior to the hearing.
 2. 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 can a hearing be continued for more than 30 days without the applicant's express consent.
 3. Reasonable opportunity shall be provided for all interested parties to express their opinions regarding the proposed designation.
- D. **Historic Preservation Commission Review.**
1. The Historic Preservation Commission shall review the application and evidence submitted at the public hearing for conformance with the established criteria for designation under Section 16-12-5 and with the purposes of this Chapter.
 2. The Historic Preservation Commission shall recommend approval, approval with conditions, or denial of the application.
 3. The Historic Preservation Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation.
 4. The Historic Preservation Commission may continue the nomination process if the Commission finds that additional information is necessary to make a recommendation. 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 for more than 30 days without the express consent of the applicant.
 5. The Historic Preservation Commission shall forward its recommendation to the City Council for final review.
- E. **City Council Proceedings.**
1. Within 30 days after receipt of the Historic Preservation Commission's recommendation, the City Council shall hold a public hearing on the application to consider adopting by ordinance those properties qualifying for designation.
 2. The City Council shall review the application for conformance with this Title.
 3. The City Council shall approve, approve with conditions or deny the application and shall issue written findings based on the Historic Preservation Commission's recommendations. City Council shall adopt an ordinance following the approval of an application designating a landmark or district.
 4. The City shall provide a copy of the decision of the City Council's final action to the applicant and owner(s).
 5. The City Council's decision shall be final, subject only to judicial review in the Arapahoe County District Court.
- F. **Recording of Designation.** Within 30 days of the effective date of an ordinance designating a landmark or district, the City Clerk shall record the ordinance with the Arapahoe County Clerk and Recorder.

- G. **Records.** The City shall maintain a current record of all landmarks and districts and pending designations.
- H. **Resubmission.** If the City Council denies an application, no person shall submit an application for the same property for at least one year from the effective date of the final action on the denied application, unless the denial was based on a request for additional information.

16-12-3 Amendment of Designation

A landmark or district may be amended to add features or properties to such landmark or district under the procedures prescribed in this Chapter.

16-12-4 Revocation of Designation

- A. If a landmark or district has been altered to a degree that it no longer retains its historic integrity, the owner may apply to the Historic Preservation Commission for a revocation of the designation or the Commission shall recommend revocation of the designation to the City Council in the absence of the owner's application to do so. The revocation application shall be reviewed under the same procedures described in this Chapter.
- B. Upon the Historic Preservation Commission's recommendation to revoke a designation, the Commission shall promptly notify the owners of the landmark or district, and the City shall cause to be prepared an ordinance including the legal description of the affected landmark or district stating notice of the revocation, and schedule the ordinance for City Council review. Upon adoption by the City Council, the ordinance shall be recorded. The final determination will be made by Council, based on the recommendation of the Historic Preservation Commission.

16-12-5 Criteria

- A. **Properties.** The following criteria shall apply to determine whether a property should be designated as a landmark:
1. Whether the property is associated with events that are significant in the history of the City, Arapahoe County, the State of Colorado, or the United States.
 2. Whether the property is associated with persons significant in the history of Englewood.
 3. Whether the property has distinctive characteristics of a type, method of construction, architectural style, or period, or represents the work of a master builder or architect.
 4. Whether the property has yielded, or is likely to yield, important archaeological discoveries in prehistory or history.
 5. Whether the property is a visual feature or has visual features identifying an area or neighborhood or consists of structures historically and geographically associated with an area.
 6. The age of the property. Properties to be considered for landmark designation are typically at least 50 years old. However, exceptions can be made for younger properties that have demonstrated historic significance when the above criteria are applied.
 7. The physical integrity of the property, including: location; design; setting; materials; workmanship; and association.
 8. Any property listed as a City or Arapahoe County Landmark or listed on the State or National Register of Historic Places.
- B. **Districts.** The following additional criteria shall apply to determine whether a district has architectural or historic significance:

1. Whether the district includes properties that do not contribute to the significance of the district, but the noncontributing elements do not noticeably detract from the district's sense of time, place, and historical development, evaluating the noncontributing elements for their magnitude of impact by considering their size, scale, design, location, and information potential.
2. Whether the district boundaries are defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or site density as established through testing or survey.
3. Any district designated as a historic district by Englewood, Arapahoe County, or by the State or National Register of Historic Places.

16-12-6 Alterations, Relocation, or Demolition

A. Requirements.

1. Before performing any construction, alteration, relocation or demolition involving the exterior of any landmark or property within a district, the owner must first submit the proposed work to the Historic Preservation Commission and request a Certificate of Appropriateness
2. The City shall review any building or demolition permit application received to determine whether the property is a landmark or located in a district and if so, whether a Certificate of Appropriateness has been issued and whether the proposed work conforms thereto. If so, the City shall process it without further action. If no Certificate of Appropriateness has been issued or if the City determines that the permit application does not conform to such, the City shall not issue a permit until a Certificate of Appropriateness has been issued and the permit application conforms thereto.

B. Application.

1. An application for a Certificate of Appropriateness shall be submitted by the owner to the city on a form approved by the Historic Preservation Commission. The application shall include relevant information, including without limitation: a description of the type of work proposed and its effect or impact upon the landmark or district, and plans and specifications showing the proposed exterior appearance, with finishes, materials, samples of materials, and architectural design and detail.
2. If the City determines the application is complete, the City shall promptly refer the application to the Historic Preservation Commission. If the City determines the application is incomplete, the applicant shall be advised of the reasons in writing within 30 days of submittal.

- C. **Hearing.** Within 45 days after an application is determined complete by the City, or within a time frame agreed upon by the applicant and the City, the Historic Preservation Commission shall hold a public hearing on the application. Such notice and hearing shall be conducted in conformance with the procedures set forth in Section 16-12-2.C.

D. Review Criteria.

1. The proposed alteration shall comply with any design guidelines adopted by the City and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
2. For non-contributing properties within a district, the proposed alteration shall be: compatible with the property's current design, materials, features, size, scale and proportion, and massing; or compatible with the district's design, materials, features, size, scale and proportion, and massing.
3. Infill construction within districts shall be differentiated from the landmark, but shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the district and its environment.

- E. **Historic Preservation Commission Review.**
1. The Historic Preservation Commission shall approve the application, approve the application with conditions, or deny the application.
 2. The Historic Preservation Commission shall set forth in writing its findings of fact which constitute the basis of its recommendation. If the Historic Preservation Commission denies the application, the Commission shall notify the applicant in writing. Such denial shall state the reasons for the denial and the procedures for appeal to the City Council.
 3. If the Historic Preservation Commission approves or approves the application with conditions, the Commission shall issue a Certificate of Appropriateness. If approved with conditions, such conditions shall be stated in writing in the Certificate of Appropriateness.
 4. 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.
- F. **Appeal of Denial of Certificate of Appropriateness.**
1. If a Certificate of Appropriateness is denied by the Historic Preservation Commission, the applicant may appeal the denial to the City Council by filing a written notice with the City Clerk within 15 days after receipt of the Commission's denial.
 2. Within 45 days after an appeal is received by the City Clerk, or within a time frame agreed upon by the applicant and the City, a public hearing shall be held by the City Council. The public hearing shall conform to the procedures as set forth in EMC § 16-12-2.C.
 3. The City Council shall consider the notice of appeal, the Historic Preservation Commission's reasons for denial of the application, the comments related thereto made during the Commission hearing, and any evidence (including new evidence) it deems relevant to the application.
 4. The decision of the City Council shall be final.

16-12-7 Exemptions

- A. **General.**
1. If an application for a Certificate of Appropriateness is denied, the owner may request an exemption pursuant to this Section.
 2. The application shall be submitted to the City for consideration on a form provided by the Commission. The applicant shall have the burden of proof to establish hardship.
 3. If the city determines the application is complete, the City shall promptly refer the application to the Commission. If the City determines the application is incomplete, the applicant shall be advised of the reasons in writing within 30 days of submittal.
 4. Certificate of Appropriateness exemptions are granted only to the specific owner and are not transferable.
- B. **Criteria for Economic Hardship Exemption.** The following criteria shall 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 Title.
 4. For non-income producing properties consisting of owner-occupied single-family dwellings 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 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.
- C. **Safety/Accessibility Hardship.** An owner requesting an exemption based on a safety/accessibility hardship must show that the application of the criteria creates a situation that is substantially inadequate to meet the applicant's needs because of specific safety or accessibility issues.
- D. **Decision.**
1. If the Historic Preservation Commission deems the criteria of this Chapter are met, the Commission shall issue an order of exemption.
 2. If the Historic Preservation Commission deems the criteria of this Chapter are not met, the Commission shall deny the exemption request, stating the reasons for the denial and the procedures for appeal to the City Council.
- E. **Appeal of Denial of Exemption.**
1. If an exemption is denied by the Historic Preservation Commission, the applicant may appeal the denial to the City Council by filing a written notice of appeal within 15 days of the date of the Commission's denial.
 2. The City Council shall hold a public hearing to consider the appeal, and consider any evidence (including new evidence) it deems relevant to the application.
 3. The City Council shall apply the criteria in this Section in making its decision.
 4. The decision of the City Council shall be final.