

## **CHAPTER 16**

### **Land Use Code**

#### **Article XI**

#### **Historic Landmarks and Historic Districts**

- Sec. 16-11-10 Designation of historic landmarks and historic districts
- Sec. 16-11-20 Procedures for designating structures and districts for preservation
- Sec. 16-11-30 Criteria for designation
- Sec. 16-11-40 Revocation of designation
- Sec. 16-11-50 Amendment of designation
- Sec. 16-11-60 Landmark alteration certificate required
- Sec. 16-11-70 Construction on proposed landmark sites or in proposed districts
- Sec. 16-11-80 Landmark alteration application and review
- Sec. 16-11-90 Criteria for review of alteration certificate
- Sec. 16-11-100 Relocation criteria
- Sec. 16-11-110 Exemptions from alteration certificate requirements
- Sec. 16-11-120 Enforcement and penalties

## **ARTICLE XI**

### **Historic Landmarks and Historic Districts**

#### **Sec. 16-11-10. Designation of historic landmarks and historic districts.**

(a) Pursuant to the procedures hereinafter set forth, the Board of Trustees may by ordinance subsequently adopted make the following designations of landmarks and historic districts:

(1) Designate as a landmark, individual structure or other feature or an integrated group of structures and features on a single lot or site having a special historical or architectural value, and designate a landmark site for each landmark; and/or

(2) Designate as an historic district an area containing a number of structures having a special historical or architectural value.

(b) Each such designating ordinance shall include a description of the characteristics of the landmark or historic district which justify its designation and a description of the particular features that should be preserved, and shall include a legal description of the location and boundaries of the landmark site or historic district. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this Article.

(c) The property included in any such designation shall be subject to the controls and standards set forth in this Article. (Ord. 480 §11.1, 2003)

#### **Sec. 16-11-20. Procedures for designating structures and districts for preservation.**

A nomination for designation may be made by any member of the Board of Trustees or by any citizen by filing an application with the Town. The Town Clerk shall contact the owner of such landmark or property within a landmark district, outlining the reasons and effects of designation before the nomination is accepted for review.

(1) Board Review with Owner's Consent. The Board of Trustees shall hold a public hearing on any proposal not more than sixty (60) days after the filing of an application for designation. The Board of Trustees shall review the application for conformance with the established criteria for designation. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after said hearing, the Board of Trustees shall either approve, modify and approve or disapprove the proposal.

(2) Board Review without Owner's Consent.

a. If the owner of the property nominated for designation does not consent to the review, the Board of Trustees shall hold a public hearing on the proposal not more than sixty (60) days after the filing of the application.

b. Notice of the time, date and place of such hearing, and a brief summary or explanation of the subject matter of the hearing, shall be given by at least one (1) publication in a newspaper of general circulation within the Town not less than twenty-one (21) days prior to the date of the hearing. In addition, at least twenty-one (21) days prior to the hearing date, the Town shall:

1. Post the property in the application so as to indicate that a landmark or historic district designation has been applied for; and

2. Mail written notice of the hearing to record owners, as reflected by the records of the County Assessor, of all property included in the proposed designation.

c. Failure to send notice by mail to any such property owner where the address of such owner is unknown and not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.

d. The Board of Trustees shall review the application for conformance with the established criteria for designation. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after that date, the Board of Trustees shall either approve, modify and approve or disapprove the proposal. In this instance, approval shall require an affirmative vote of three-quarters ( $\frac{3}{4}$ ) of the members of the Board of Trustees. (Ord. 480 §11.2, 2003; Ord. 522, 2005)

**Sec. 16-11-30. Criteria for designation.**

The Board of Trustees shall consider the following criteria in reviewing nominations of properties for designation:

(1) Landmarks. Landmarks must be at least fifty (50) years old and meet one (1) or more of the criteria for architectural, social or geographic/environmental significance hereinafter described. A landmark could be exempt from the age standard if it is found to be exceptionally important in other significant criteria.

a. Historic sites shall meet one (1) or more of the following:

1. Architectural.

a) Exemplifies specific elements of an architectural style or period;

b) Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally;

c) Demonstrates superior craftsmanship or high artistic value;

d) Represents an innovation in construction, materials or design;

e) The style is particularly associated with the Milliken/Colorado area;

f) Represents a built environment of a group of people in an era of history;

g) Is a pattern or grouping of elements representing at least one (1) of the above criteria;  
and

h) Significant historic remodel.

2. Social.

- a) Is the site of an historic event that had an effect upon society;
- b) Exemplifies cultural, political, economic or social heritage of the community; and
- c) Has an association with a notable person or the work of a notable person.

3. Geographic/environmental.

- a) Enhances sense of identity of the community; and
- b) Is an established and familiar natural setting or visual feature of the community.

b. Prehistoric and historic archaeological sites shall meet one (1) or more of the following:

1. Architectural.

- a) Exhibits distinctive characteristics of a type, period or manner of construction; and
- b) Is a unique example of structure.

2. Social.

- a) Potential to make an important contribution to the knowledge of the area's history or prehistory;
- b) An association with an important event in the area's development;
- c) An association with a notable person or work of a notable person.
- d) A typical example/association with a particular ethnic group; and
- e) A unique example of an event in Milliken/Colorado's history.

3. Geographic/environmental. Geographically or regionally important.

Buried human remains will be handled in as culturally sensitive and appropriate manner as possible.

c. All properties will be evaluated for their physical integrity using the following criteria (a property need not meet all of the following criteria):

- 1. Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state or nation.
- 2. Retains original design features, materials and/or character.
- 3. Original location or same historic context after having been moved.

4. Has been accurately reconstructed or restored based on documentation.

(2) Districts. For the purposes of this Article, a *district* is a geographically definable area including a concentration, linkage or continuity of subsurface sites, buildings, structures and/or objects. A district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria to the patterns and unifying elements. Nominations will not be considered unless the application contains written approval of sixty percent (60%) of the property owners within the district boundaries. Properties that do not contribute to the significance of the historic district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place and historical development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location and/or information potential. District boundaries will be defined by visual changes, historical documentation of different association or patterns of development, or evidence of changes in site type or site density as established through testing or survey. In addition to meeting at least one (1) of the criteria outlined in Subsections a through d below, the district must be at least fifty (50) years old. The district could be exempt from the age standard if the resources are found to be exceptionally important in other significant criteria. Historic districts shall meet one (1) or more of the following criteria:

a. Architectural.

1. Exemplifies specific elements of an architectural style or period.

2. Is an example of the work of an architect or builder who is recognized for expertise nationally, state-wide, regionally or locally.

3. Demonstrates superior craftsmanship or high artistic value.

4. Represents an innovation in construction, materials or design.

5. The style is particularly associated with the Milliken/Colorado area.

6. Represents a built environment of a group of people in an era of history.

7. Is a pattern or grouping of elements representing at least (1) one of the above criteria.

8. Significant historic remodel.

b. Social.

1. Is the site of an historic event that had an effect upon society.

2. Exemplifies cultural, political, economic or social heritage of the community.

3. Has an association with a notable person or the work of a notable person.

c. Geographic/environmental.

1. Enhances sense of identity of the community.

2. Is an established and familiar natural setting or visual feature of the community.
- d. Archaeology/subsurface.
1. Potential to make an important contribution to the area's history or prehistory.
  2. An association with an important event in the area's development.
  3. An association with a notable person or work of a notable person.
  4. Distinctive characteristics of a type, period or manner of construction.
  5. Geographical importance.
  6. A typical example/association with a particular ethnic group.
  7. A typical example/association with a local cultural or economic activity.
  8. A unique example of an event or structure. (Ord. 480 §11.3, 2003)

**Sec. 16-11-40. Revocation of designation.**

(a) If a building or special feature on a designated landmark site was lawfully removed or demolished, the owner may apply to the Board of Trustees for a revocation of the designation.

(b) The Board of Trustees shall revoke a landmark designation upon determination that, without the demolished building or feature, the site as a whole no longer meets the purposes and standards for designation. (Ord. 480 §11.4, 2003)

**Sec. 16-11-50. Amendment of designation.**

Designation of a landmark or historic district may be amended to add features or property to the site or district. Whenever a designation has been amended, the Town shall promptly notify the owners of the property included therein and shall record a copy of the amending ordinance with the County Clerk and Recorder. (Ord. 480 §11.5, 2003)

**Sec. 16-11-60. Landmark alteration certificate required.**

(a) No person shall carry out or permit to be carried out on a designated landmark site or in a designated historic district any new construction, alteration, removal or demolition of a building or other designated feature without first obtaining a landmark alteration certificate for the proposed work under this Article, as well as any other permits required by this Code.

(b) The Town shall maintain a current record of all designated landmark sites and historic districts and pending designations. If the Building Department receives an application for a permit to carry out any new construction, alteration, removal or demolition of a building or other designated feature on a landmark site or in an historic district or in an area for which designation proceedings are pending, the Building Department shall promptly forward such application to the Town Clerk and Board of Trustees. (Ord. 480 §11.6, 2003)

**Sec. 16-11-70. Construction on proposed landmark sites or in proposed districts.**

No person shall receive a permit to construct, alter, remove or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after the date an application has been filed to initiate the designation of such landmark site or district. (Ord. 480 §11.7, 2003)

**Sec. 16-11-80. Landmark alteration application and review.**

(a) An owner of property designated as a landmark or located in an historic district may apply for a landmark alteration certificate, including all information which the Planning Commission determines is necessary to consider the application, including without limitation plans and specifications showing the proposed exterior appearance, with texture, materials and architectural design and detail, and the names and addresses of the abutting property owners.

(b) Upon receipt of an application for an alteration certificate, the Planning Commission shall submit that application, together with a recommendation thereon, to the Board of Trustees for final approval. (Ord. 480 §11.8, 2003)

**Sec. 16-11-90. Criteria for review of an alteration certificate.**

(a) The Board of Trustees shall issue an alteration certificate for any proposed work on a designated historical site or district only if the Board of Trustees determines that the proposed work would not detrimentally alter, destroy or adversely affect any architectural or landscape feature which contributes to the original historical designation. The Board of Trustees must find that a proposed development is visually compatible with designated historic structures located on the property in terms of design, finish, material, scale, mass and height. When the subject site is an historic district, the Board of Trustees must also find that the proposed development is visually compatible with the development on adjacent properties. For purposes of this Article, the term *compatible* shall mean consistent with, harmonious with and/or enhancing the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.

(b) The Board of Trustees will use the following criteria to determine compatibility:

(1) The effect upon the general historical and architectural character of the structure and property.

(2) The architectural style, arrangement, texture and material used on the existing and proposed structures and their relation and compatibility with other structures.

(3) The size of the structure, its setbacks, site, location and the appropriateness thereof when compared to existing structures and the site.

(4) The compatibility of accessory structures and fences with the main structure on the site, and with other structures.

(5) The effects of the proposed work in creating, changing, destroying or otherwise impacting the exterior architectural features of the structure upon which such work is done.

(6) The condition of existing improvements and whether they are a hazard to public health and safety.

(7) The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.

(8) Compliance with the Secretary of the Interior's Standards for Rehabilitation as listed below:

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures if appropriate, shall be undertaken using the gentlest means possible.

h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

1. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property. To protect the historic integrity of the property and its environment, the new work shall be differentiated from the old and shall be compatible with the massing, size scale and architectural features.

2. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired. (Ord. 480 §11.9, 2003)

**Sec. 16-11-100. Relocation criteria.**

The Board of Trustees shall use the following criteria in considering alteration certificate applications for relocating a landmark, a structure on an historic site, a building or structure within an historic district, a structure onto a landmark site, or a structure to property in an historic district:

(1) For consideration of the original site, the Board of Trustees will review for compliance with all of the following criteria:

- a. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;
- b. The contribution the structure makes to its present setting;
- c. Whether plans are specifically defined for the site to be vacated, and have been approved by Staff;
- d. If the structure can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the structure;
- e. Whether the structure has been demonstrated to be capable of withstanding the physical impacts of the relocation and re-siting; and
- f. Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the structure proposed for relocation.

(2) For consideration of the new location, the Board of Trustees will review for compliance with all of the following criteria:

- a. Whether the building or structure is compatible with its proposed site and adjacent properties, and if the receiving site is compatible in nature with the structure proposed to be moved;
- b. The structure's architectural integrity and its consistency with the character of the neighborhood;
- c. Whether the relocation of the historic structure would diminish the integrity or character of the neighborhood of the receiving site; and
- d. If a relocation plan has been submitted and approved by Staff, including posting a bond, to ensure the safe relocation, preservation and repair (if required) of the structure, site preparation and infrastructure connections as described in this Code. (Ord. 480 §11.10, 2003)

**Sec. 16-11-110. Exemptions from alteration certificate requirements.**

An applicant may request an exemption from the alteration certificate requirements set forth herein. The applicant must provide adequate documentation to establish qualification for one (1) of the following exemptions:

(1) Economic hardship exemption. Exemptions are granted only to the specific owner and use and are not transferable.

a. For investment or income-producing properties: The owner's inability to obtain a reasonable rate of return in its present condition or if rehabilitated.

b. For non-income-producing properties consisting of owner-occupied single-family dwellings and/or non-income-producing institutional properties not solely operating for profit: The owner's inability to convert the property to institutional use in its present condition or if rehabilitated.

The consideration for economic hardship shall not include willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.

(2) Undue hardship. An applicant requesting an exemption based on undue hardship must show that the application of the criteria creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues. (Ord. 480 §11.11, 2003)

**Sec. 16-11-120. Enforcement and penalties.**

(a) No person shall violate or permit to be violated any of the requirements of this Article or the terms of a landmark certificate.

(b) Violations. Violations of this Article are punishable as is otherwise provided in this Code and, in addition, are subject to the following penalties:

(1) Alterations to a designated landmark or district without an approved landmark alteration certificate will result in a one-year moratorium on all building permits for the subject property; and

(2) Moving or demolishing a designated structure without an approved landmark alteration certificate will result in a five-year moratorium on all moving, demolition or building permits for the structure and for the property at the structure's original location. (Ord. 480 §11.12, 2003)