

**To:** Land Use, Transportation, and Infrastructure committee  
**From:** Kara Hahn, Principal Planner, Community Planning & Development  
**Date:** August 8, 2019  
**RE:** Informational Item on Proposed Landmark Ordinance Update

### Denver Landmark Ordinance:

Denver Landmark Preservation was created by the Denver City Council through the adoption of Denver's landmark preservation ordinance (Chapter 30 of the Denver Revised Municipal Code) in 1967 to foster the protection, enhancement, perpetuation, and use of structures and districts of historical, architectural, and/or geographic significance. Since then, the ordinance has been updated numerous times, most recently in 2012, to ensure that Denver's preservation program aligns with construction and preservation standards as well as other city processes and policies.

### Summary of Landmark Ordinance Task Force:

Denver Landmark Preservation staff has been working over the past 19 months to update the ordinance. In early 2018, we convened a task force to examine areas to reduce conflict and simplify some of the complexities of the ordinance. The task force met 11 times between March 2018 and March 2019 and explored how to improve Landmark processes while balancing property rights with city and community goals to preserve Denver's history, architecture, culture, and neighborhood character. The task force reached consensus and the recommendations, which are summarized below and in the attached sheets, were unanimous.

### Task Force Recommendations:

- Add Culture to the Designation Criteria
  - Expand the criteria for historic designation to include culture
  - Simplify how potential landmarks can meet the criteria by removing categories so that eligible structures would have to meet three of ten total criteria
- Increase Collaboration on Designations Resulting from the Demolition Review Process
  - Encourage collaboration by extending existing demolition pause to provide property owners and the community time to meet and arrive at a potential compromise
  - A city-facilitated stakeholder meeting would be required during the posting period
- Explore Incentives for Designations
  - Explore and improve policies that encourage property owners to designate their properties
  - Reduce regulatory barriers for owners of historic properties
- Clarify language, streamline processes, and ensure consistency throughout ordinance

### Outreach and Adoption:

After the final task force meeting in March, Landmark staff briefed City Council members and the Mayor's Policy Review Committee, presented proposed changes to the Landmark Preservation Commission, the Lower Downtown Design Review Board, and the Denver Planning Board, held community meetings and office hours, and met with RNOs, INC, and professional organizations, such as the Denver Metro Board of Realtors and the American Institute of Architects. The public comment period was open during May and June, and staff received written comments from 10 organizations or individuals. The proposed changes are scheduled for City Council review in September.

## Updating Denver's Landmark Preservation Ordinance

For the last year, preservation planners have been working with a task force to review and recommend updates to the rules that govern the city's Landmark Preservation program. Starting in March 2018, the task force met monthly to discuss various aspects of the city's preservation ordinance and make recommendations on how to improve landmark processes, balancing property rights with city and community goals to preserve Denver's history, architecture, culture, and neighborhood character. Now, after a year of work, proposed updates to the ordinance and changes to policy are ready for public review.

### What are the major changes?

Along with small tweaks throughout the ordinance to clarify definitions, streamline processes and provide greater consistency, several major changes are proposed to address specific challenges.

- 1** Challenge: Highlight Denver's diversity and distinct cultural history through its landmarks.  
Proposed solution: Expand the criteria for historic designation to include culture and simplify how potential landmarks can meet the criteria.

*Current:* To be eligible for designation, structures must meet one criterion in two of the three categories (history, architecture, geography).

*Proposed:* Designation criteria would be simplified and expanded to include cultural significance, and categories would be eliminated so that eligible structures would have to meet three of ten total criteria.

*Result:* Greater diversity of landmarks while retaining the high standards for designation.

- 2** Challenge: Address conflicts between property owners and community members due to designation applications submitted in response to a demolition application.  
Proposed solution: Encourage collaboration by adjusting key deadlines in the process to give property owners and neighbors time to meet and arrive at a potential compromise.

*Current:* One person may submit a notice of intent to file a designation application, extending the period before a demolition permit may be issued by 7 days (total of 28 days).

*Proposed:* Three residents of Denver may submit a notice of intent to file a designation application, extending the period before a demolition permit may be issued by 39 days (total of 60 days). A city-facilitated stakeholder meeting would also be required by day 40 of the posting period.

*Result:* Greater opportunity for dialogue and collaboration, with time to seek alternative outcomes.

- 3** Challenge: Encourage proactive, owner-initiated designations by creating incentives to designate and reducing regulatory barriers once a building is designated.  
Proposed solution: Explore and improve policies that encourage property owners to designate their properties, and streamline regulations for owners of historic properties.

*Proposed Policy Updates:* Explore zoning incentives for designated properties.

*Result:* Provide greater flexibility to owners of designated properties when making alterations.

**Questions:** Additional information is available at [www.DenverGov.org/landmark](http://www.DenverGov.org/landmark). If you have questions, please contact [landmark@denvergov.org](mailto:landmark@denvergov.org).

**Adoption:** The final amendment will be reviewed by City Council in September 2019.

## Landmark Designation Criteria Update: Adding Cultural Significance

Goal: Increase equity in Landmark designations.

Proposal: Expand the designation criteria to include cultural significance. This will provide greater opportunity to designate structures and districts that reflect the breadth of Denver’s diversity and rich cultural history.

Goal: Streamline designation eligibility to ensure clarity for applicants and the public.

Proposal: Remove categories to create a list of criteria while still maintaining our high standards for designation.

### CURRENT CRITERIA

***Landmarks must meet at least one criterion in at least two categories.***

#### **A. History**

1. Have direct association with the historical development of the city, state or nation;
2. Be the site of a significant historic event; or
3. Have direct and substantial association with a person or group of persons who had influence on society.

#### **B. Architecture**

1. Embody distinguishing characteristics of an architectural style or type;
2. Be the significant work of a recognized architect or master builder;
3. Contain elements of architectural design, which represent a significant innovation
4. Portray the environment of a group of people or physical development of an area in an era of history characterized by a distinctive architectural style.

#### **C. Geography**

1. Have a prominent location or be an established, familiar and orienting visual feature of the contemporary city;
2. Promote understanding and appreciation of the urban environment by means of distinctive physical characteristics or rarity;
3. Make a special contribution to Denver’s distinctive character

#### **Proposed Definition of Culture:**

*Culture shall mean the traditions, beliefs, customs, and practices of a particular community. Culture can encompass structures, businesses, institutions, organizations, events, arts, and crafts.*

### PROPOSED CRITERIA

***Landmarks must meet at least three of these ten criteria.***

1. Have direct association with a significant historic event or with the historical development of the city, state, or nation;
  2. Have direct and substantial association with a recognized person or group of persons who had influence on society;
  3. Embody the distinctive visible characteristics of an architectural style or type;
  4. Be a significant example of the work of a recognized architect or master builder;
  5. Contain elements of design, engineering, materials, craftsmanship, or artistic merit which represent a significant innovation or technical achievement;
  6. Due to its prominent location or physical characteristics, represents an established and familiar feature of the neighborhood, community or contemporary city;
  7. Promote understanding and appreciation of the urban environment by means of distinctive physical characteristics or rarity;
- (PROPOSED CULTURE CRITERIA)**
8. Represents an era of culture or heritage that allows an understanding of how the site was used by past generations;
  9. Be a physical attribute of a neighborhood, community, or the city that is a source of pride or cultural understanding;
  10. Associated with social movements, institutions, or patterns of growth or change that contributed significantly to the culture of the neighborhood, community, city, state, or nation.

## Proposed Update to the Landmark Demolition Review Process

### ***What is demolition review and why do we do it?***

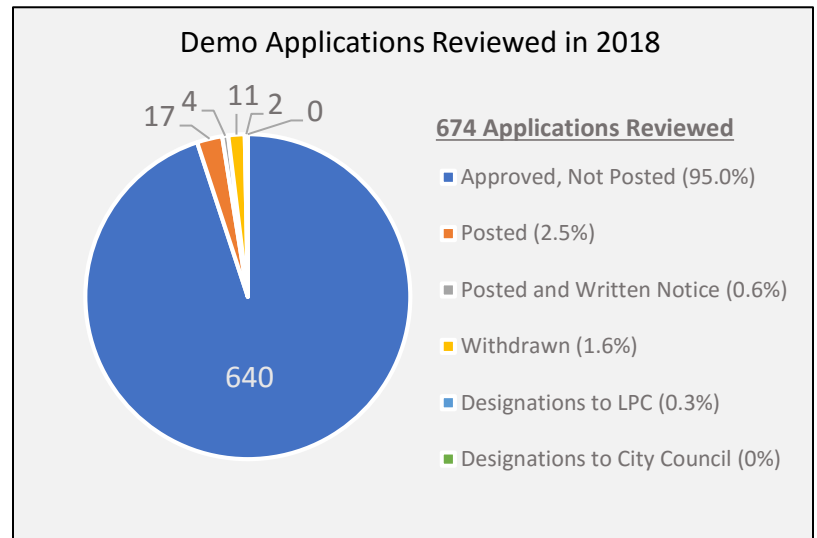
Denver Landmark Preservation planners review all applications for building demolition. Landmark staff reviews and determines whether the property has potential to be designated as a local landmark. The goal is to give the community an opportunity to preserve structures that may have historical, architectural, geographic, or cultural importance.

### ***How does it work? How many properties does it affect?***

About 95% of buildings submitted for demolition each year do not meet historic designation criteria. These applications are approved by Landmark staff within 10 business days.

The other roughly 5% are properties that have potential to be landmarks. These are posted publicly for 21 days. During that time, community members are encouraged to communicate with the property owner about collaborative solutions. A person may pause the process by submitting a written notice, extending the posting period to 28 days. These written notices are rare, occurring only a handful of times a year.

If three members of the community submit a designation application during the posting period, City Council must approve it within 120 days for the building to be designated.



### ***What's the problem?***

While rare, designations submitted during the demolition posting period may create conflict when the designation does not have the support of the property owner.

### ***What's the proposed solution?***

The Landmark Preservation Ordinance Update Task Force recommends changes to demolition review that will promote collaboration among stakeholders and foster better decision-making.

CURRENT PROCESS	PROPOSED CHANGE
One individual may temporarily pause demolition process.	Three Denver residents must come forward to temporarily pause process.
Temporary 7-day pause extends posting period from 21 to 28 days.	Temporary pause extends posting period from 21 to 60 days and must involve a stakeholder meeting organized by a city facilitator.

### ***What's the goal of this solution? Collaboration!***

Individual landmarks and historic districts are community assets—that's why designation is a public process. Tight deadlines in the demolition review process make it difficult for property owners and community members to collaborate and to look for solutions other than designation or demolition. The proposed updates do not change property rights or the community's ability to apply for designation of a beloved structure. What they do is provide an opportunity for the parties to meet and seek a mutually agreeable solution.

## Incentives for Designation and Preservation-Friendly Regulations

The Landmark Ordinance Task Force studied Denver’s existing incentives for historic designation, and policies that ease regulatory burdens for owners once a property is designated. They also looked at incentives offered by other cities nationwide. Based on this research, the task force recommends exploring zoning and regulatory updates.

### Existing Incentives and Preservation-Friendly Regulations in Denver

#### State Historic Preservation Tax Credits

- For owner-occupied properties: a state income-tax credit for up to 20% of qualified rehabilitation expenses
- For income-producing properties: a state income-tax credit for up to 25% of qualified rehabilitation expenses
- Qualified work includes, but is not limited to reroofing; mechanical, electrical and plumbing upgrades; repairs of historic materials; installation of storm windows

#### Federal Historic Preservation Tax Credits

- For income-producing properties: a federal income-tax credit for up to 20% of qualified rehabilitation expenses

#### State Historical Fund Grants

- Eligibility for State Historical Fund grants to offset cost of rehabilitation expenses, historic structure assessments, and surveys and inventories

#### Downtown Historic District Tax Rebate Program

- Denver property-tax rebate for properties in Downtown Historic District whose elevations and systems are in good repair, and whose elevations are substantially original in appearance
- Properties not eligible if they receive Denver Urban Renewal Authority (DURA) funding or are tax-exempt

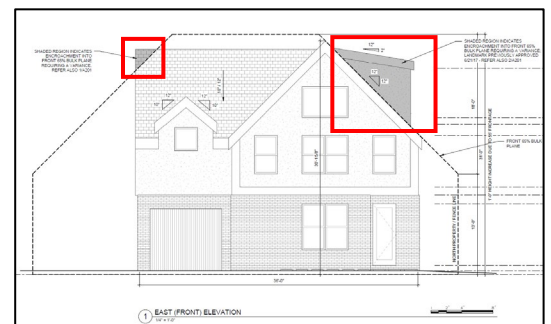


#### Denver Zoning Code’s Preservation-Friendly Regulations

- Parking incentives to allow change of use of designated structure without triggering higher parking requirements associated with new use
- Historic Structure Use Overlay (UO-3) allows office, art studio or bed & breakfast uses in individual landmark
- Conservation Overlays in Historic Districts – may allow greater flexibility based on character of historic district
- Ability to transfer of undeveloped floor area from designated building to new development site in Downtown zone districts
- Administrative adjustments to allow additions, new infill, or Accessory Dwelling Units (ADUs) to exceed height or bulk-plane requirements, based on historic character
- Recommendation of variances to Board of Adjustment for changes to setbacks or other zoning requirements, based on historic character

#### Denver’s Building Code Exemptions for Designated Properties

- Individual landmarks and contributing buildings may be exempt from aspects of building code if code requirements would negatively impact historic character of building



### New Incentives and Preservation-Friendly Regulations Recommended by Task Force

- Expansion of Administrative Adjustments allowed in Zoning Code
- Zoning allowances for greater density in large, single-family structures
- Reduction in parking requirements
- Zoning allowance for Accessory Dwelling Units (ADUs) in all historic districts
- Off-site restoration of historic signage followed by reinstallation in original location

### Next steps

These recommended incentives and regulations entail updates to the Zoning Code and other existing policies. In the next 6-18 months, Landmark staff will work with our colleagues to adopt these recommendations.