

BY AUTHORITY

ORDINANCE NO.
SERIES OF 2012

COUNCIL BILL NO. 12-0820
COMMITTEE OF REFERENCE:
Land Use, Transportation and
Infrastructure

A BILL

For an ordinance modifying Chapter 30, Landmark Preservation.

NOW BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. Section 30-2(4.1), Denver Revised Municipal Code (DRMC), shall be amended by deleting the language stricken below and adding the language underlined below to read and be read as follows:

Sec. 30-2(4.1) ~~Historic context (historic framework) is an organizing framework for interpreting history that clusters information about historic structures that share a common theme, common geographical area, and a common time period. The historic context is necessary to determine whether the characteristics and associations of a particular structure or district are significant. or theme. To evaluate a structure or district based on its historic context, it must be examined based on its relevance to a specific aspect of Denver history, architecture or geography. This examination includes:~~

- a. Comparing a particular structure or district to other similar structures or districts to determine how well it illustrates a specific aspect of history, architecture or geography;
- b. Determining whether the relevant aspect of history, architecture or geography is significant, and,
- c. Determining whether a structure or district possesses the physical features necessary to convey that aspect of history, architecture or geography with which it is related.

Section 2. Section 30-2, DRMC, shall be amended by repealing and deleting section 30-2(6.2) in its entirety and enacting and adding section 30-2(4.2) to read and be read as follows:

Sec. 30-2(4.2) Historic and physical integrity shall mean the ability of a structure or district to convey its historic and architectural significance. To have historic and physical integrity means that a structure or district can be recognized as belonging to its particular time and place in Denver's history. The seven qualities that, in various combinations, define integrity are:

- a. Location: The place where the historic structure was constructed or the place where the historic event occurred.
- b. Setting: The physical environment of a historic structure.
- c. Design: The combination of elements that create the form, plan, space, structure, and style of a structure.
- d. Materials: The physical elements that were combined or deposited during a particular period of time in a particular pattern or configuration to form a historic structure.
- e. Workmanship: The physical evidence of a particular culture or people's craft during any given period in history.
- f. Feeling: A structure's expression of the aesthetic or historic sense of a particular period or time.
- g. Association: The direct link between an important historic event or person and a historic structure.

Determining which of these seven qualities are most important to a particular property requires knowing why, where, and when the property is significant.

Section 3. Section 30-3, Denver Revised Municipal Code (DRMC), shall be amended by deleting the language stricken below and adding the language underlined below to read and be read as follows:

Sec. 30-3. Criteria for designation of structures and districts for preservation.

A If a structure or district maintains its historic or physical integrity, it may be designated for preservation; if it meets at least one (1) criterion in two (2) or more of the following three (3) categories:

(1) *History*. To have historical significance, the structure or district shall be thirty (30) or more years old or have extraordinary importance to the historical development of Denver, and shall:

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

(2) *Architecture*. To have architectural significance, the structure or district shall have design quality and integrity, and shall:

- a. Embody distinguishing characteristics of an architectural style or type;

- b. Be a significant example of the work of a recognized architect or master builder;
- c. Contain elements of architectural design, engineering, materials, craftsmanship, or artistic merit which represent a significant or influential innovation; or
- d. 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.

(3) *Geography*. To have geographical significance, the structure or district shall:

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

In evaluating whether the criteria of History, Architecture and Geography are met, the landmark preservation commission ("commission") shall consider how a structure or district relates to one or more historic contexts or themes.

Section 4. Sections 30-4(1), (2), (3) and (6), Denver Revised Municipal Code (DRMC), shall be amended by deleting the language stricken below and adding the language underlined below to read and be read as follows:

Sec. 30-4. Procedure for designating structures and districts for preservation.

(1) *Initiation of procedure*. An application for designation shall be submitted to the ~~landmark preservation~~ commission for due consideration through the process described herein. An application for designation may be submitted:

- a. By the owner or owners of the property or properties to be designated;
- b. By the manager of Community Planning and Development;
- c. By a member or members of City Council
- d. By non-owners of the property or properties to be designated, in which case the application must be submitted by at least three persons who are residents or owners of property in the City and County of Denver, or have a place of business in the City and County of Denver.

Such an application for designation shall describe the appearance of the structure or district and shall demonstrate how the structure or district meets the criteria for designation set forth herein. The landmark preservation commission shall provide an application form and instructions that set out the required information for designation applications.

(2) *Preliminary investigation.* The commission staff shall conduct an investigation to determine whether the application is complete, and whether the structure or district is eligible for designation. If the applicant is not the owner of the property, the owner shall be notified at every stage of the designation proceedings. ~~If the commission is not in receipt of the written consent to designation by the owner of a proposed structure for designation, an explanation of why the commission should proceed without such consent shall be given.~~ If preliminary review determines the structure or district to be eligible for designation, the commission staff shall set the time, date and place for the public hearing before the commission (hereinafter called a designation hearing) and the review shall proceed as described. If not, the applicant shall be advised of the reasons the application is incomplete or the structure or district does not meet the criteria for designation. ~~However,~~ the applicant may require that the application be forwarded to the commission, which shall then decide whether to send it to a public hearing.

(3) ~~*Scheduleing of designation hearing by.*~~ *The the commission.* If an application has been forwarded to the commission in spite of staff's findings that it was not complete or did not meet the criteria for designation, the commission shall review the application and staff's recommendation to determine if the application is complete and the structure or district is potentially eligible for designation. If the commission finds the application complete and the property potentially eligible for designation it shall schedule a public hearing on the question of designation, ~~hereinafter called a designation hearing,~~ at a specified time, date and place.

(6) *Review by planning board.* The planning board may review the proposed designation with respect to:

- (a) Its relationship to the comprehensive plan;
- (b) The effect of the designation upon the surrounding neighborhood; and
- (c) Such other planning considerations as may be relevant to the proposed designation.

The board may recommend approval, rejection or modification of the proposed designation and if a recommendation is made it shall contain a statement of the basis therefor. If a recommendation is made by the board, said recommendation shall be delivered to the city council for council's consideration. ~~If the board fails to act prior to the public hearing before city council, the proposed designation shall be deemed to have received a recommendation of approval by the board.~~

Section 5. Section 30-6(1)(b) DRMC, shall be amended by adding the language underlined below to read and be read as follows:

Sec. 30-6(1)(b) For a structure that is not pending designation as a structure for preservation or

as part of a district for preservation at the time an application for demolition is received by CPD, the demolition application shall be reviewed within ten (10) working days to determine whether the structure has potential for designation. For the purposes of this section 30-6(1)(b) only “structure” shall mean a primary structure or an accessory structure which is one and a half stories or more in height, only, as “primary structure”, “accessory structure” and “half story” are defined in the Denver Zoning Code.

Section 6. Section 30-6(1)(b)(ii) DRMC, shall be amended by adding the language underlined below and deleting the language stricken below to read and be read as follows:

Sec. 30-6(1)(b)(ii) If the manager determines that the structure may have potential for designation the manager shall notify the person who applied for demolition, the property owner, the city council person in whose district the structure lies, the at-large councilpersons, the registered neighborhood organizations the boundaries of which encompass or are within two hundred (200) feet of the structure and appropriate historic preservation entities that the structure has been deemed to have potential for designation and there is a request for demolition pending. The property shall be posted for twenty-one (21) calendar days for comment about the potential for designation of the property. No demolition permit shall be issued for a period of twenty-one (21) calendar days from the date of the above notifications and posting. Notwithstanding the previous sentence, if a notice of intent to file an application for designation is received by the fourteenth (14th) calendar day after the posting of the property, no demolition permit shall be issued for a total of twenty eight (28) days from the initial posting. ~~If an~~ complete application for designation, along with the applicable fee, is received before the demolition permit is issued, the provisions of section 30-6(1)(a) shall apply. If the applicable posting period has elapsed and no complete application for designation, has been received by CPD, the demolition permit shall be issued upon compliance with all Denver Building and Fire Code requirements.

Section 7. Section 30-6(1)(c) DRMC, shall be amended by adding the language underlined below to read and be read as follows:

Sec. 30-6(1)(c) In order to provide certainty in the demolition process, an owner of a structure that is not pending designation and is neither designated nor in a district for designation may apply to CPD to have the structure officially declared to be non-historic and have a certificate to that effect (The “certificate”). Said certificate shall prevent an application for designation going forward without the owner’s consent for a period of five (5) years from the date of issuance, and for said five (5) year period will allow an application for demolition to be processed without further

review as to the structure's potential for designation. Notwithstanding the previous sentence, if the structure is part of a General Development Plan (GDP) under the Denver Zoning Code the certificate shall be valid for the period during which the GDP is vested or five (5) years from the date of issuance, whichever is longer, up to a maximum of ten (10) years.

Section 8. Section 30-6(1)(c)ii DRMC, shall be amended by adding the language underlined below and deleting the language stricken below to read and be read as follows:

Sec. 30-6(1)(c)ii. If no determination is made before ten (10) working days have elapsed since the application, or if the manager has determined that the property does have potential for designation the manager shall notify the person who applied for the certificate, the property owner, the city council person in whose district the structure lies, the at-large council persons, the registered neighborhood organizations the boundaries of which encompass or are within two hundred (200) feet of the structure and appropriate historic preservation entities that the structure has been deemed to have potential for designation and there is a request for a certificate pending. The property shall be posted for twenty-one (21) calendar days for comment about the potential for designation of the property. Notwithstanding the previous sentence, if a notice of intent to file an application for designation is received by the fourteenth (14th) calendar day after the posting of the property, no certificate shall be issued for a total of twenty eight (28) days from the initial posting. If an complete application for designation along with the applicable fee, is received before the certificate is issued no certificate shall be issued unless and until the commission or city council ultimately decides not to designate the property provided, however, if the structure is not designated within one hundred twenty (120) days after the request for the certificate is filed, the certificate shall be issued and designation proceedings shall be terminated. If the applicable posting period has elapsed and no complete application for designation has been received by CPD, the certificate shall be issued.

Section 9. Section 30-13 DRMC, shall be amended by adding the language underlined below to read and be read as follows:

Sec 30-13. Fees to accompany applications and reviews under this chapter.

The manager of community planning and development may set fees for all applications and reviews under this chapter 30. Such fees shall cover costs of designation and review including signs for posting, reproduction and postage for notification, production and installation of standard plaques and district signs, certificates of appropriateness and recording fees. Fees shall be paid prior to the public hearing for designation or review by staff, the commission or the LDDR. All

1 applications or requests for reviews initiated by the city, including City Council members, shall be
2 exempt from such fees.

3 COMMITTEE APPROVAL DATE: 11/13/2012.

4 MAYOR-COUNCIL DATE: 11/20/2012.

5 PASSED BY THE COUNCIL _____ 2012

6 _____ - PRESIDENT

7 APPROVED: _____ - MAYOR _____ 2012

8 ATTEST: _____ - CLERK AND RECORDER,
9 EX-OFFICIO CLERK OF THE
10 CITY AND COUNTY OF DENVER
11

12 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2012; _____ 2012

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14 PREPARED BY: Kerry A. Buckey _____ 7/18/2012

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16 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
17 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
18 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
19 § 3.2.6 of the Charter.
20

21 Douglas J. Friednash, City Attorney

22 BY: _____, _____ City Attorney Date: _____