

TABLE OF CONTENTS

TITLE 9

LAND USE CODE

Chapter 11 Historic Preservation

- 9-11-1 Purpose and Legislative Intent
- 9-11-2 City Council May Designate or Amend Landmarks and Historic Districts
- 9-11-3 Initiation of Designation for Individual Landmarks and Historic Districts
- 9-11-4 Public Process for Historic Districts
- 9-11-5 Landmarks Board Designation Public Hearing
- 9-11-6 Council Ordinance Designating Landmark or Historic District
- 9-11-7 Appeal or Call-Up of Disapproved Proposals
- 9-11-8 Limitation on Resubmission and Reconsideration of Proposed Designation
- 9-11-9 Amendment of Designation
- 9-11-10 Revocation of Designation
- 9-11-11 Construction on Proposed Landmark Sites or in Proposed Districts
- 9-11-12 Landmark Alteration Certificate Required
- 9-11-13 Landmark Alteration Certificate Application
- 9-11-14 Staff Review of Application for Landmark Alteration Certificate
- 9-11-15 Landmark Alteration Certificate Hearing
- 9-11-16 Call-Up by City Council
- 9-11-17 Issuance of Landmark Alteration Certificate
- 9-11-18 Standards for Landmark Alteration Certificate Applications
- 9-11-19 Unsafe or Dangerous Conditions Exempted
- 9-11-20 Property Maintenance Required
- 9-11-21 Recognition of Structures of Merit
- 9-11-22 Enforcement and Penalties
- 9-11-23 Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated
- 9-11-24 Landmarks Board and City Manager Authorized to Adopt Rules

Chapter 11 Historic Preservation¹

9-11-1 Purpose and Legislative Intent.

(a) The purpose of this chapter is to promote the public health, safety, and welfare by protecting, enhancing, and perpetuating buildings, sites, and areas of the city reminiscent of past eras, events, and persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this chapter to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.

(b) The city council does not intend by this chapter to preserve every old building in the city but instead to draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.

(c) The city council intends that in reviewing applications for alterations to and new construction on landmarks or structures in a historic district, the landmarks board shall follow relevant city policies, including, without limitation, energy-efficient design, access for the disabled, and creative approaches to renovation.

Ordinance Nos. 7475 (2006); 7522 (2007)

9-11-2 City Council May Designate or Amend Landmarks and Historic Districts.

(a) Pursuant to the procedures in this chapter the city council may by ordinance:

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

(2) Designate as a historic district a contiguous area containing a number of sites, buildings, structures or features having a special character and historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;

(3) Designate as a discontinuous historic district a collection of sites, buildings, structures, or features which are contained in two or more geographically separate areas, having a special character and historical, architectural, or aesthetic interest or value that are united together by historical, architectural, or aesthetic characteristics; and

(4) Amend designations to add or remove features or property to or from the site or district.

(b) Upon designation, the property included in any such designation is subject to all the requirements of this code and other ordinances of the city.

Ordinance Nos. 7183 (2002); 7475 (2006)

9-11-3 Initiation of Designation for Individual Landmarks and Historic Districts.

(a) Initiation Application: The decision by either the landmarks board or city council to initiate the designation of an individual landmark or historic district is legislative in nature. Designations or amendments to an individual landmark or historic district may be initiated by:

(1) Resolution of the city council or the landmarks board;

(2) The application of all owners of the properties proposed for designation or their authorized agents;

(3) The application of a group of property owners, with the consent of a minimum of twenty-five percent of the properties which constitute building sites within the proposed historic district; or

(4) Application of any historic preservation organization.

(b) **Initiation Hearing Required:** An application that is made by a historic preservation organization or fewer than all of the property owners pursuant to paragraph (a)(3) or (a)(4) of this section, shall be forwarded to the landmarks board for consideration at a public hearing within forty-five days of the application date.

(c) **Initiation Hearing Public Notice:** When the landmarks board or city council is to consider the initiation of, or an amendment to, a designation, the city manager shall provide or cause the following notice to be provided:

(1) **Mailing:** A written notice descriptive of the initiation being considered and the date of the public hearing shall be sent by first class mail at least ten days before the date of the initiation hearing to all owners of property for which the initiation is being considered.

(2) **Publication:** A notice shall be published in a newspaper of general circulation in the city at least ten days prior to the hearing and shall indicate the time, date, and place of the hearing and a brief explanation of the initiation being considered and its location.

(3) **Effect:** The purpose of the notice provided in this subsection is to reasonably inform included property owners of a consideration of initiating designation, but no minor omission or defect in the notice or mailing shall be deemed to impair the validity of the proceedings to consider the designation application. If at or prior to the public hearing an omission or defect in the mailed notice is brought to the attention of the landmarks board or city council, it shall determine whether the omission or defect impairs or has impaired a property owner's ability to participate in the public hearing, upon which finding it shall continue the hearing for at least ten days. Any omission or defect in the mailed notice that is not brought to the board's or council's attention or that the board or council finds did not impair a property owner's ability to participate in the hearing shall not affect the validity of the initiation consideration proceedings.

(d) **Criteria for Review:** In determining whether to initiate the designation of an application that is made by a historic preservation organization or less than all of the property owners pursuant to paragraph (a)(3) or (a)(4) of this section, the council or the landmarks board may consider, without limitation, whether:

(1) There is probable cause to believe that the building or district may be eligible for designation as an individual landmark or historic district consistent with the purposes and standards in sections 9-11-1, "Legislative Intent," 9-11-2, "City Council May Designate or Amend Landmarks and Historic Districts," and 9-16-1, "General Definitions," B.R.C. 1981;

(2) There are currently resources available that would allow the city manager to complete all of the community outreach and historic analysis necessary for the application;

(3) There is community and neighborhood support for the proposed designation;

(4) The buildings or features may need the protections provided through designation;

(5) The potential boundaries for the proposed district are appropriate;

(6) In balance, the proposed designation is consistent with the goals and policies of the Boulder Valley Comprehensive Plan; or

(7) The proposed designation would generally be in the public interest.

(e) **Initiation Resolution:** If council or landmarks board determines to proceed with initiation of a district or individual landmark, either shall initiate by resolution so long as all other application requirements have been met.

Ordinance Nos. 7213 (2002); 7475 (2006)

9-11-4 Public Process for Historic Districts.

(a) **Public Process Required Prior to Landmarks Board Designation Public Hearing for Historic Districts:** Once an application is certified as complete or a resolution to initiate has been adopted, the following process shall be completed prior to the public hearing before the landmarks board pursuant to section 9-11-5, "Landmarks Board Designation Public Hearing," B.R.C. 1981.

(1) **Public Meeting:** The city manager shall host a minimum of one meeting of the owners of properties within the proposed district to explain the responsibilities and benefits of designation. Notification of the meeting shall be sent by first class mail to the applicant and all owners of properties within the proposed district stating the date,

time and location of the meeting no less than ten days prior to the meeting. Prior to this meeting, the city manager shall make materials available to affected property owners including, without limitation, information on the history of the area proposed for designation, the history of individual properties proposed for designation, and information on the responsibilities and benefits of designation.

(2) Design Guidelines: The city manager shall determine whether the development of design guidelines to interpret the criteria in section 9-11-18, "Standards for Landmark Alteration Certificate Applications," B.R.C. 1981, are needed in order to address unique or special conditions in the proposed historic district. If the development of district specific design guidelines are determined to be needed:

(A) The city manager shall propose draft design guidelines for the review and comment of the landmarks board, the city council, and the public, including the affected property owners.

(B) The draft design guidelines shall be presented at a minimum of one public meeting with the owners of properties within the proposed district to gather public comment. This meeting shall occur prior to mailing a questionnaire as required in paragraph (a)(3) of this section and prior to the landmarks board designation public hearing as set forth in section 9-11-5, "Landmarks Board Designation Public Hearing," B.R.C. 1981. Notification of the meeting shall be sent by first class mail to the applicant and all owners of properties within the proposed district stating the date, time, and location of the meeting no less than ten days prior to the meeting.

(C) The guidelines shall be presented at the landmarks board designation public hearing.

(D) If the city council adopts the ordinance designating the district, the design guidelines shall be adopted pursuant to section 9-11-24, "Landmarks Board and City Manager Authorized to Adopt Rules," B.R.C. 1981.

(E) Subsequent to a designation and if deemed appropriate, the city manager subsequent to a designation may propose new or amended design guidelines pursuant to subparagraphs (a)(2)(A) and (a)(2)(B) of this section.

(3) Questionnaire: Following the completion of the steps described in paragraph (a)(1) and subparagraphs (a)(2)(A) and (a)(2)(B) of this section, the city manager shall send a questionnaire to each property owner of record within the proposed historic district by first class mail. If district specific design guidelines have been drafted, a copy shall be included with the questionnaire.

(A) For purposes of measuring property owner opinion, one questionnaire shall be provided to each building site in the proposed district at least twenty-eight days prior to the landmarks board designation public hearing.

(B) The questionnaire shall be printed on planning department letterhead, and to ensure no duplicate responses are received, shall require the respondent to state his or her name, mailing address, and property address within the district if different from his or her mailing address. This information shall be separated from each response upon receipt by the planning department in order to allow responses to remain anonymous. The questionnaire shall ask the property owner to indicate no opinion, support, or objection to the designation, and allow room for general comments on the proposed district and any draft district specific design guidelines. The owner shall have a minimum twenty-one days from the postmarked date to respond. Only responses received by 5:00 p.m. seven days prior to the landmarks board designation public hearing shall be included in the official results, however all written public comment received shall be included in the public record.

(C) No minor omission or defect in the mailing shall be deemed to impair the validity of the proceedings to consider the designation application. If at or prior to the public hearing an omission or defect in the mailed questionnaire is brought to the attention of the landmarks board or city council, it shall determine whether the omission or defect impairs or has impaired a property owner's ability to indicate an opinion, upon which finding it shall continue the hearing for at least ten days. Any omission or defect in the mailed questionnaire that is not brought to the board's or council's attention or that the board or council finds did not impair a property owner's ability to indicate an opinion shall not affect the validity of the designation proceedings.

(D) A copy of all responses received prior to the questionnaire deadline shall be included in the landmarks board and city council record as part of any public hearing to consider the application, however, the results of the questionnaires shall not be determinative in setting a district.

(b) Omission or Defect in The Public Process: Any omission or defect in the public process described in this section that is not brought to the attention of the landmarks board or city council or that the board or council find did not impair a property owner's ability to participate in the hearing, shall not affect the validity of the designation proceedings.

9-11-5 Landmarks Board Designation Public Hearing.

(a) Hearing Required: After completion of the steps required in sections 9-11-3, "Initiation of Designation for Individual Landmarks and Historic Districts" and 9-11-4, "Public Process for Historic Districts," B.R.C. 1981, the city manager shall promptly refer to the landmarks board any application or resolution for designation or amendment of a landmark or historic district. The landmarks board shall hold a public hearing on the proposal, under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, no fewer than sixty days or more than one hundred twenty days after the application is certified as complete by staff or the initiating resolution is adopted. For individual landmark designation applications, the time requirements of this subsection may be waived if mutually agreed upon by the board, the applicant, and the owner, if other than the applicant.

(b) Notice of Hearing: The city manager shall provide the following notice:

(1) Publication: Notice of the time, date, place, and subject matter of the hearing in a newspaper of general circulation in the city at least ten days before the date of the hearing.

(2) Mail and Posting: At least ten days before the hearing date, the manager shall also:

(A) Post the property in the application indicating that landmark or historic district designation or amendment has been requested. Historic district designation applications shall include a minimum of one posting per block face within the proposed boundaries; and

(B) Mail written notice of the hearing to the record owners of the property included in the proposed designation or amendment.

(3) Effect: The purpose of the notice provided in this subsection is to reasonably inform property owners within the proposed district of a designation application, but no minor omission or defect in the notice or mailing shall be deemed to impair the validity of the proceedings to consider the designation application. If at or prior to the public hearing, an omission or defect in the mailed notice is brought to the attention of the landmarks board, it shall determine whether the omission or defect impairs or has impaired a property owner's ability to participate in the public hearing, upon which finding it shall continue the hearing on the designation for at least ten days. Any omission or defect in the mailed notice that is not brought to the landmarks board's attention or that the board finds did not impair a property owner's ability to participate in the hearing shall not affect the validity of the designation proceedings.

(c) Criteria for Review: The landmarks board shall determine whether the proposed designation conforms with the purposes and standards in sections 9-11-1, "Legislative Intent," and 9-11-2, "City Council May Designate Landmarks and Historic Districts," B.R.C. 1981. Within forty-five days after the hearing date first set, the board shall adopt specific written findings and conclusions approving, modifying and approving, or disapproving the proposal. Within thirty days of its action, the board shall notify the city council of any decision disapproving a designation or shall refer a proposal that it has approved to the council for its further action. The time requirements of this subsection may be waived if mutually agreed upon by the board, the applicant, and the owner, if other than the applicant.

(d) Final Decision: A decision of the landmarks board disapproving a proposed designation or amendment is final unless called up by the city council or appealed pursuant to section 9-11-7, "Appeal or Call-Up of Disapproved Proposals," B.R.C. 1981.

(e) Planning Board Review: Within forty-five days of the landmarks board's decision to recommend approval on a proposal to establish a historic district, the planning board shall review the proposal and report to the city council on its land use implications.

9-11-6 Council Ordinance Designating Landmark or Historic District.

(a) City Council Hearing, Notice: Within one hundred days after the date of any decision of the landmarks board recommending approval of a proposed designation, amendment, or revocation of a landmark or historic district, the city council shall hold a public hearing on the proposal under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The city manager shall publish notice of the time, date, place, and subject matter of the hearing in a newspaper of general circulation in the city at least ten days before the hearing.

(b) Findings: Within forty-five days after the hearing date prescribed by subsection (a) of this section, unless otherwise mutually agreed upon by the city council, the applicant, and the owner, if other than the applicant, the city council shall adopt specific written findings and conclusions. The findings and conclusions will address whether the designation meets the purposes and standards in subsection 9-11-1(a) and section 9-11-2, "City Council May Designate or Amend Landmarks and Historic Districts," B.R.C. 1981, in balance with the goals and policies of the Boulder Valley Comprehensive Plan. The city council shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation.

(c) Ordinance Designating Landmark or District: In each ordinance designating a landmark or historic district, the city council shall include a description of characteristics of the landmark or district justifying its designation, a description of the particular features that should be preserved, and the location and boundaries of the landmark site or district. The council may also indicate alterations that would have a significant impact upon or be potentially detrimental to the landmark site or the district.

(d) Notice of Designation: When the city council has designated a landmark or historic district, the city manager shall promptly notify the owners of the property included therein and a copy of the designating ordinance may be recorded in the office of the Boulder County Clerk and Recorder.

Ordinance Nos. 5626 (1994); 7080 (2000)

9-11-7 Appeal or Call-Up of Disapproved Proposals.

(a) Owner Appeals: The owners of property proposed to be designated as a landmark or all the owners of at least twenty-five percent of the separate parcels of property proposed to be designated as a historic district may appeal to the city council a decision of the landmarks board disapproving a proposal by filing a notice of appeal with the council within twenty-one days of the decision of the landmarks board.

(b) City Council Call-Up: The city council may call up for review any disapproval decision of the landmarks board within forty-five days of the board's decision.

(c) Hearing Required: Within seventy-five days of the date of any decision of the landmarks board disapproving a proposed designation of a landmark or historic district that has been appealed to or called up by the city council, the council shall hold a public hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. The city manager shall publish notice of the time, date, place, and subject matter of the hearing in a newspaper of general circulation in the city at least ten days before the hearing and shall mail such notice at least ten days before the hearing to the record owners of all the property included in the proposed designation, except an applicant.

(d) Findings: Within forty-five days after the hearing date prescribed by subsection (c) of this section, unless otherwise mutually agreed upon by the city council and the owner, the council shall adopt specific written findings and conclusions which addresses whether the designation meets the purposes and standards prescribed by subsection 9-11-6(b), B.R.C. 1981, and shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation. Such ordinance shall comply with subsection 9-11-6(c), B.R.C. 1981, and notice shall be given pursuant to subsection 9-11-6(d), B.R.C. 1981.

9-11-8 Limitation on Resubmission and Reconsideration of Proposed Designation.

Whenever the landmarks board or city council disapproves a proposed designation, no person shall submit an application that is the same or substantially the same for at least one year from the effective date of the final action on the original proposal.

9-11-9 Amendment of Designation.

(a) Designations of a landmark or historic district may be amended to add or remove features or property to the site or district under the procedures prescribed by section 9-11-3, "Initiation of Designation for Individual Landmarks and Historic Districts," 9-11-4, "Public Process for Historic Districts," 9-11-5, "Landmarks Board Designation Public Hearing," 9-11-6, "Council Ordinance Designating Landmark or Historic District," 9-11-7, "Appeal or Call-Up of Disapproved Proposals," and 9-11-8, "Limitation on Resubmission and Reconsideration of Proposed Designation," B.R.C. 1981, for initial designations.

(b) Whenever a designation has been amended, the city manager shall promptly notify the owners of the property included therein and a copy may be recorded with the Boulder County Clerk and Recorder.

9-11-10 Revocation of Designation.

(a) If a building or designated feature on a designated landmark site or located within a historic district was lawfully relocated or demolished the owner may apply to the landmarks board for a revocation of the designation.

(b) The board may revoke a landmark or historic designation if, after following the procedures prescribed by section 9-11-5, "Landmarks Board Designation Public Hearing," B.R.C. 1981, it determines that the property or historic district no longer meets the purposes and standards of sections 9-11-1, "Legislative Intent," and 9-11-2, "City Council May Designate or Amend Landmarks and Historic Districts," B.R.C. 1981. If the request is to revoke the designation of a portion of an individual landmark or a historic district, the board shall also determine that the revocation will not adversely impact the integrity of the remainder of the property or the district and that the remainder will still meet the purposes and standards prescribed by subsection 9-11-6(b) and sections 9-11-1, "Legislative Intent," and 9-11-2, "City Council May Designate or Amend Landmarks and Historic Districts," B.R.C. 1981.

(c) Revocation of a designation shall occur under the procedures prescribed by sections 9-11-3, "Initiation of Designation for Individual Landmarks and Historic Districts," 9-11-4, "Public Process for Historic Districts," 9-11-5, "Landmarks Board Designation Public Hearing," 9-11-6, "Council Ordinance Designating Landmark or Historic District," 9-11-7, "Appeal or Call-Up of Disapproved Proposals," and 9-11-8, "Limitation on Resubmission and Reconsideration of Proposed Designation," B.R.C. 1981, for initial designations.

(d) Whenever a revocation is final, the city manager shall promptly notify the owners of the property and a copy may be recorded with the Boulder County Clerk and Recorder.

9-11-11 Construction on Proposed Landmark Sites or in Proposed Districts.

(a) No permit shall be issued to construct, alter, remove, or demolish any structure or other feature on a proposed landmark site or in a proposed historic district after an application has been filed by an owner or after the landmarks board or city council has approved a resolution initiating the designation of such landmark site or area under section 9-11-3, "Initiation of Designation for Individual Landmarks and Historic Districts," B.R.C. 1981. No such permit application filed after such date shall be approved by the city manager while proceedings are pending on such designation unless the applicant obtains an alteration certificate pursuant to sections 9-11-13, "Landmark Alteration Certificate Application," 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," 9-11-15, "Landmark Alteration Certificate Hearing," 9-11-16, "Call-Up by City Council," 9-11-17, "Issuance of Landmark Alteration Certificate," and 9-11-18, "Standards for Landmark Alteration Certificate Applications," B.R.C. 1981. If three hundred and sixty-five days have elapsed from the date of the initiation of the designation and final city council action has not been completed, the manager shall approve the permit application.

(b) No permit shall be issued for demolition or relocation of any building over fifty years old, unless the conditions of section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981, have been satisfied.

(c) Nothing in this chapter shall be deemed to apply to the construction or alteration of a structure or other feature on a landmark site or in a historic district if a permit for such work was issued before the initiation action on the designation of the landmark site or historic district. Such permit must be valid and current, and the construction commenced as required by the city building code, chapter 10-5, "Building Code," B.R.C. 1981, and diligently prosecuted to completion hereunder.

Ordinance Nos. 5627 (1994); 5730 (1995); 7172 (2001)

9-11-12 Landmark Alteration Certificate Required.

(a) No person shall carry out or permit to be carried out on a designated landmark site, on a designated feature, or in a designated historic district any of the following without first obtaining a landmark alteration certificate:

(1) New construction, alteration, relocation, or demolition of any building;

(2) New construction, alteration, relocation, or demolition of any designated feature;

(3) New construction, alteration, relocation or demolition of any fence or other landscape features, including, without limitation, any deck, patio, wall, berm, garden structure, water feature, exterior lighting, curb cut, driveway, replacement of sod with a hard surface, or any landscaping that has the potential for damaging buildings or designated features; and

(4) Any activity requiring a building permit pursuant to this code, except for building permits required for interior work on a building.

(b) In addition to the requirements set forth in subsection (a) of this section, applicants must also obtain all necessary permits for the proposed work under this chapter as well as any other permits required by this code or other ordinance of the city.

(c) The planning department shall maintain a current record of all designated landmark sites and historic districts and pending designations. If the building division receives an application for a permit to carry out any new construction, alteration, relocation, or demolition of a building or other designated feature on a landmark site or in a historic district or in an area for which designation proceedings are pending, the building division shall promptly forward such permit application to the planning department.

(d) The city manager shall review any permit application the manager receives to determine whether a landmark alteration certificate for the work proposed in the permit application has been issued and whether the permit application conforms to the certificate. If a certificate has been issued on the permit application and the proposed work conforms thereto, the manager shall refer the permit application to the building division, which shall process it without further reference to this chapter. If no certificate has been issued, or if in the sole judgment of the manager the permit application does not conform to the certificate, the manager shall disapprove the permit application and shall not issue it until a certificate has been issued and the permit application conforms thereto.

Ordinance No. 7225 (2002)

9-11-13 Landmark Alteration Certificate Application.

An owner of property designated as a landmark, or located in a historic district, or located in a proposed landmark or proposed historic district, may apply to the city manager for a landmark alteration certificate on forms prescribed by the city manager. Such forms shall include all information that the manager and the landmarks board determine is necessary to consider the application, including, without limitation, plans and specifications showing the proposed exterior appearance, with color, texture, materials, and architectural design and detail, and the names and address of the abutting property owners.

Ordinance No. 5730 (1995)

9-11-14 Staff Review of Application for Landmark Alteration Certificate.

(a) The city manager and two designated members of the landmarks board shall review all applications for landmark alteration certificates for alterations to buildings or designated features and determine within fourteen days after a complete application is filed whether or not the proposed work would have a significant impact upon or be potentially detrimental to a landmark site or historic district.

(1) If they determine that there would be no significant impact or potential detriment, the manager shall issue a certificate to the applicant and shall notify the city council and the applicant of such issuance.

(2) The above notwithstanding, the manager may review without the two landmarks board designees any application that seeks only approval of certain common types of alterations that have been identified by the board through a regulation as being very familiar to the manager; and, if the manager determines that there would be no significant impact or potential detriment from the alteration, then the manager shall issue a certificate to the applicant and shall notify the city council and the applicant of such issuance.

(3) If either the manager or one of the landmarks board designees determines that the proposed work would create a significant impact or potential detriment, they shall refer the application to the landmarks board for a public hearing and shall promptly notify the applicant of the referral.

(b) The landmarks board shall hold a public hearing on all applications for landmark alteration certificates for new construction, relocation, or demolition of a designated landmark building or designated feature or a designated building or feature within a historic district, except that an application for construction of a one-story above grade accessory building or structure with a total floor area of three hundred forty square feet or less may be approved by the manager and two landmarks board designees without a public hearing.

Ordinance Nos. 6045 (1999); 7183 (2002)

9-11-15 Landmark Alteration Certificate Hearing.

(a) The landmarks board shall hold a public hearing on an application for a landmark alteration certificate, as prescribed by section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981, within seventy-five days after an application is certified as complete by the city manager, under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearing," B.R.C. 1981.

(b) The city manager shall publish notice of the time, place, and subject matter of such hearing in a newspaper of general circulation in the city at least ten days before the hearing. At least ten days before the hearing date, the manager shall also:

(1) Post the property in the application to indicate that a landmark alteration certificate has been requested for alteration, new construction, relocation, or demolition; and

(2) Mail written notice to the record owners of all property that is the subject of the application and, if the subject property is in a historic district, to abutting property owners and to those neighborhood representatives or associations on file with the planning department.

(c) The landmarks board shall determine whether the application meets the standards in section 9-11-18, "Standards for Landmark Alteration Certificate Applications," B.R.C. 1981. Within forty-five days after the hearing date first set, unless otherwise mutually agreed upon by the board and applicant, the board shall adopt written findings and conclusions. The board shall either approve or disapprove the application in whole or in part or suspend action on the application for a period not to exceed one hundred eighty days. If the board decides to suspend action on an application, it may not thereafter disapprove the application. The board shall notify the city council in a timely manner of its decision or suspension of action on an application for a landmark alteration certificate.

(d) If the landmarks board suspends action on an application, the board may take any action that it deems necessary and consistent with this chapter to preserve the structure, including, without limitation, consulting with civic groups, public agencies, and interested citizens; recommending acquisition of the property by private or public bodies or agencies; and exploring the possibility of relocating the structure.

(e) A decision of the landmarks board approving, disapproving, or suspending action on an application for a landmark alteration certificate is final unless called up by the city council as provided in section 9-11-16, "Call-Up by City Council," B.R.C. 1981.

Ordinance Nos. 5009 (1986); 5377 (1991); 6045 (1999); 7527 (2007)

9-11-16 Call-Up by City Council.

(a) The city council may call up for review any decision of the landmarks board approving, or suspending action on a landmark alteration certificate application by serving written notice on the board within fourteen days of the board's decision and notifying the applicant of the call-up. It may call up for review any decision of the landmarks board disapproving a landmark alteration certificate within thirty days of the board's decision and notifying the applicant of the call-up. If the city manager finds in writing within the original call-up period that the council did not receive notice of a decision of the board in time to enable it to call up the decision for review, then the manager may extend the call-up period until the council's next regular meeting.

(b) Within forty-five days after the date of a decision by the landmarks board called up by the city council, the council shall hold a public hearing under the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after publishing notice of the time, date, place, and subject matter of the hearing in a newspaper of general circulation in the city at least ten days before the hearing.

(c) Within thirty days after the hearing date first set, unless otherwise mutually agreed upon by the city council and the applicant, the council shall adopt written findings and conclusions approving or disapproving the application. In cases of a call-up of a landmarks board decision suspending action on an application, the council may reduce the suspension or extend it up to one hundred eighty days from the date of the council decision. In cases of a call-up of a landmarks board approval of an application following the board's suspension of action, the council may approve or disapprove the application.

Ordinance No. 6045 (1999)

9-11-17 Issuance of Landmark Alteration Certificate.

- (a) Issuance of Alteration Certificate: The city manager shall issue a landmark alteration certificate if:
- (1) An application has been approved by the landmarks board or the city council; or
 - (2) The board or the council on appeal has suspended action on the application and the suspension period has expired.
- (b) Expiration, Initial Approval and Extensions for Alteration Certificates: A landmarks alteration certificate shall remain valid, in accordance with the following:
- (1) Expiration Period: An approved alteration certificate will be valid for purposes of applying for a building permit for a period not to exceed one hundred eighty days from the date of issuance of the alteration certificate. An alteration certificate shall expire if a building permit has not been applied for one hundred eighty days from the date such alteration certificate is approved. If an alteration certificate expires, a new alteration certificate shall be first obtained before an applicant may apply for a building permit.
 - (2) Initial Approval Period: The approving authority under sections 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," 9-11-15, "Landmark Alteration Certificate Hearing," and 9-11-16, "Call-Up by City Council," B.R.C. 1981, may extend the initial approval period for a length of time greater than one hundred eighty days upon a showing of good cause as to why additional time is necessary to apply for building permits.
 - (3) Extensions: Any person holding an unexpired alteration certificate may apply for an extension of the time within which to apply for a building permit under that alteration certificate when such person is unable to commence work within the time required by this section. The city manager may extend the time for action by the applicant for a period not exceeding one hundred eighty days on written request by the applicant showing that circumstances beyond the control of the applicant have prevented action from being taken. No alteration certificate shall be extended more than once.
- (c) Denial - Subsequent Application: If the landmarks board or city council disapproves an application for a landmark alteration certificate, no person may submit a subsequent application that is substantially similar to the original application for the same construction, alteration, relocation, or demolition within one year from the date of the final action upon the earlier application.

Ordinance No. 7080 (2000)

9-11-18 Standards for Landmark Alteration Certificate Applications.

- (a) The landmarks board and the city council shall not approve an application for a landmark alteration certificate unless each such agency finds that the proposed work is consistent with the purposes of this chapter.
- (b) Neither the landmarks board nor the city council shall approve a landmark alteration certificate unless it meets the following conditions:
- (1) The proposed work preserves, enhances, or restores and does not damage or destroy the exterior architectural features of the landmark or the subject property within a historic district;
 - (2) The proposed work does not adversely affect the special character or special historical, architectural, or aesthetic interest or value of the landmark and its site or the district;
 - (3) The architectural style, arrangement, texture, color, arrangement of color, and materials used on existing and proposed structures are compatible with the character of the existing landmark and its site or the historic district; and
 - (4) With respect to a proposal to demolish a building in a historic district, the proposed new construction to replace the building meets the requirements of paragraphs (b)(2) and (b)(3) of this section.
- (c) In determining whether to approve a landmark alteration certificate, the landmarks board shall consider the economic feasibility of alternatives, incorporation of energy-efficient design, and enhanced access for the disabled.

9-11-19 Unsafe or Dangerous Conditions Exempted.

Nothing in this chapter shall be construed to prevent any measures of construction, alteration, relocation, or demolition necessary to correct the unsafe or dangerous condition of any structure, other feature, or parts thereof where such condition is declared unsafe or dangerous by the city building or zoning division or fire department and where the proposed measures have been declared necessary by the city manager 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 landmark alteration certificate under this chapter, but a certificate is required for permanent alteration, relocation, or demolition.

9-11-20 Property Maintenance Required.

(a) The city council intends to preserve from deliberate or inadvertent neglect the exterior portions of any landmarked building or designated feature and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. No owner, lessee, or occupant of any landmarked building or designated feature shall fail to undertake such repairs or maintenance as are necessary to prevent significant deterioration of the exterior of the structure or designated feature beyond the condition of the structure on the effective date of the designating ordinance.

(b) No owner, lessee, or occupant of any landmarked building or designated feature shall fail to comply with all applicable provisions of this code and other ordinances of the city regulating property maintenance, including, without limitation, weed control,² garbage,³ and housing.⁴

(c) Before the city attorney files a complaint in municipal court for failure to maintain the property on the landmark site or within a historic district, the landmarks board or city manager shall notify the property owner, lessee, or occupant of the need to repair, maintain, or restore the property, and shall give the owner a minimum of thirty days to perform such work.

9-11-21 Recognition of Structures of Merit.

(a) Purpose: The landmarks board may approve a list of structures of historical, architectural, or aesthetic merit that have not been designated as individual landmarks, to which the board may add to from time to time, in order to recognize and encourage the protection, enhancement, and use of such structures. Nothing in this chapter shall be construed to impose any additional regulations or controls upon structures of merit included on the list.

(b) Application: An application for recognition as a structure of merit may be submitted by the property owner or by the landmarks board.

(c) Procedure: The city manager shall refer to the landmarks board any application or resolution for the recognition of a structure of merit.

(d) Criteria for Recognition: The landmarks board may recognize a structure as a structure of merit if the structure is of historical, architectural, or aesthetic merit.

(e) Record of Historic Structures: The landmarks board shall maintain a record of historic structures in the city that have been officially designated as such by agencies of the state or federal government and shall add such structures to the list authorized by subsection (a) of this section.

(f) Recognition by Landmarks Board: The landmarks board may authorize such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any such listed structure or of any designated landmark or any structure in a designated historic district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures. The board shall cooperate with appropriate state and federal agencies in such efforts.

(g) Recommendations for Historical Names: The landmarks board may recommend that the city council and any other appropriate agency give historical names from Boulder's history to streets, squares, walks, plazas, and other public places.

Ordinance Nos. 5929 (1997); 7080 (2000)

9-11-22 Enforcement and Penalties.

(a) No person shall violate or permit to be violated any of the requirements of this chapter or the terms of a landmark certificate. Except in the case of a violation of section 9-11-23, "Review of Permits for Demolition, On-Site Relocation,

and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981, no municipal summons or complaint may be issued charging a violation of this chapter or the terms of a landmark alteration certificate unless the alleged violation has not been corrected within thirty days after the city manager has delivered notice thereof personally or mailed by regular mail to the last address of the owner of the property listed in the records of the Boulder County Assessor.

(b) Violations of this chapter are punishable as provided in section 5-2-4, "General Penalties," B.R.C. 1981, except that the penalty for the unlawful demolition of a building in violation of section 9-11-12, "Landmark Alteration Certificate Required," or 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981, is a fine of not more than \$5,000.00 per violation or incarceration in jail for not more than ninety days or both such fine and incarceration.

(c) In addition to any other remedies prescribed by this chapter or by this code or other ordinance of the city, the city attorney, acting on behalf of the city council, may maintain an action for an injunction to restrain or correct any violation of this chapter.

Ordinance Nos. 5801 (1996); 7048 (2000)

9-11-23 Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated.

(a) Purpose: The purpose of the review of permit applications for demolition, on-site relocation, and off-site relocation of buildings that are over fifty years old is to prevent the loss of buildings that may have historical or architectural significance. The purpose of this section is also to provide the time necessary to initiate designation as an individual landmark or to consider alternatives for the building.

(b) Permit Requirement: No person shall demolish or relocate any building which is over fifty years old without first applying to the city manager for a permit under this section, receiving the permit, and conducting the demolition or relocation of the building before the permit expires. The application and permit shall be in addition to any application or permit required under chapter 10-5, "Building Code," B.R.C. 1981, and shall be on a form provided by the city manager, although the manager may combine the application and permit with any other form or permit at the manager's discretion. An applicant for a permit under this section shall pay the fee prescribed by section 4-20-37, "Historic Preservation Application Fees," B.R.C. 1981, prior to the initial review and the landmarks board public hearing review, if the additional review is required. In the event that an initial stay is imposed, the time requirements of this section shall be tolled until such public hearing review fee has been paid.

(c) Demolition Determination: The city manager shall determine if demolition review under this section is required by examining building permit applications for buildings described in subsection (b) of this section. A proposed action that meets the definition of "demolition" or "demolish" in section 9-16-1, "General Definitions," B.R.C. 1981, shall be subject to the review process required by this section. For the purposes of this review, on-site relocation shall mean the relocation of the building on the current building site. Off-site relocation shall mean the relocation of the building off the current building site.

(d) Initial Review: The initial review shall occur within fourteen days after the city manager accepts a completed permit application to determine whether there is probable cause to believe that the building may be eligible for designation as an individual landmark consistent with the purposes and standards in sections 9-11-1, "Legislative Intent," and 9-11-2, "City Council May Designate or Amend Landmarks and Historic Districts," B.R.C. 1981.

(1) Staff Review: The city manager may review permit applications for all accessory buildings over fifty years old, all on-site relocations of buildings over fifty years old, and all demolition and off-site relocations for primary buildings constructed during or after 1940. If the city manager determines that there would be no significant impact or potential detriment to the historic resources of the city, the permit shall be issued if all other requirements of the permit process have been met. If the city manager determines that there is probable cause to believe that the building may be eligible for designation as an individual landmark, the issuance of the permit shall be stayed for up to sixty days from the date that a completed application is accepted by the city manager, and the permit shall be referred to the landmarks board for a public hearing. The applicant shall be notified of the initial review determination within fourteen days of the decision.

(2) Committee Review: The city manager and two designated members of the landmarks board shall review all demolition and off-site relocation permit applications for buildings built prior to 1940. If the city manager and two designated members of the landmarks board unanimously determine that there would be no significant impact or potential detriment to the historic resources of the city, the city manager shall issue the permit if all other requirements of the permit process have been met. If the city manager or one of the two designated members of

the landmarks board determines that there is probable cause to believe that the building may be eligible for designation as an individual landmark, the issuance of the permit shall be stayed for up to sixty days from the date that a completed application is accepted by the city manager, and the permit shall be referred to the landmarks board for a public hearing. The applicant shall be notified of the initial review determination within fourteen days of the decision.

(e) Notice of Public Hearing: The city manager shall publish notice of the time, place, and subject matter of the public hearing before the landmarks board in a newspaper of general circulation in the city at least ten days before the hearing. At least ten days before the hearing, the city manager shall also:

(1) Post the property subject to the application to indicate that a permit review appeal has been requested; and

(2) Mail written notice to the record owners of the property subject to the application. If the address of the property owner is not a matter of public record, any failure to send notice by mail does not invalidate any proceedings on the permit application.

(f) Landmarks Board Public Hearings on Permits: The landmarks board shall hold a public hearing on the permit application within seventy-five days after the city manager accepts a completed application, pursuant to the procedures prescribed by chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. If the landmarks board fails to hold a public hearing within seventy-five days after the city manager accepts a completed permit application, the city manager shall issue the permit if all other requirements of the permit process have been met. The landmarks board shall consider and base its decision upon any of the following criteria:

(1) The eligibility of the building for designation as an individual landmark consistent with the purposes and standards in sections 9-11-1, "Legislative Intent," and 9-11-2, "City Council May Designate or Amend Landmarks and Historic Districts," B.R.C. 1981;

(2) The relationship of the building to the character of the neighborhood as an established and definable area;

(3) The reasonable condition of the building; and

(4) The reasonable projected cost of restoration or repair.

In considering the condition of the building and the projected cost of restoration or repair as set forth in paragraphs (f)(3) and (f)(4) of this section, the board may not consider deterioration caused by unreasonable neglect.

(g) Decision of The Landmarks Board: If the landmarks board finds that the building to be relocated or demolished does not have historical significance under the criteria set forth in subsection (f) of this section, the city manager shall issue a permit if all other requirements of the permit process are met. If the board finds that the building may have historical significance under the criteria set forth in subsection (f) of this section, the application shall be suspended for a period not to exceed one hundred eighty days from the date the permit application was accepted by the city manager.

(h) One Hundred Eighty Day Stay Period: During the period of a stay of the issuance of a permit for demolition or relocation, the landmarks board may take any action that it deems necessary and consistent with this chapter to preserve the structure, including, without limitation, consulting with civic groups, public agencies, and interested citizens; recommending acquisition of the property by private or public bodies or agencies; exploring the possibility of moving buildings that would otherwise be demolished; and salvaging building materials. If individual landmark or district designation has not been initiated during the one hundred eighty day period, the city manager shall issue a permit if all other requirements of the permit process have been met.

(i) Record of Demolished and Moved Properties: Prior to the issuance of a permit for demolition or relocation, the city manager may require the applicant to provide information about the building, including, without limitation, the date of original construction, significant events and occupants, architectural features, and a description of the building through photographs, plans, and maps. The city manager shall determine where the documentation is to be deposited.

(j) Expiration: Any approval pursuant to this section shall expire one hundred eighty days after such approval is made if the applicant has failed to procure the permit, or if the work authorized by such permit has not commenced. A decision or failure to take action by the city manager and two members of the landmarks board pursuant to subsection

(d) of this section, or by the landmarks board pursuant to subsection (g) of this section, shall be considered an approval.

Ordinance Nos. 5627 (1994); 5801 (1996); 5929 (1997); 7048 (2000); 7080 (2000); 7120 (2001); 7183 (2002); 7213 (2002)

9-11-24 Landmarks Board and City Manager Authorized to Adopt Rules.

The landmarks board and the city manager are authorized to adopt rules and regulations under chapter 1-4, "Rulemaking," B.R.C. 1981, that the landmarks board or the city manager determine are reasonably necessary to implement the requirements of this chapter.

Ordinance No. 7225 (2002)

¹ Adopted by Ordinance No. 7476. Amended by Ordinance No. 7475.

² Chapter 6-2, "Weed Control," B.R.C. 1981.

³ Chapter 6-3, "Trash," B.R.C. 1981.

⁴ Chapter 10-2, "Housing Code," B.R.C. 1981.