

ARTICLE 14-38

HISTORIC PRESERVATION

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14-38-1 INTENT

A. The protection, enhancement and perpetuation of landmarks and historic districts are necessary to promote the economic, cultural, educational, and general welfare of the citizens of the City of Peoria. The identity of a people is founded in its past, and inasmuch as the City of Peoria has significant historic, cultural, and architectural resources which constitute its heritage, this Section is intended to:

1. protect and enhance the historic resources, landmarks, and historic districts which represent distinctive elements of Peoria's historic, architectural, and cultural heritage;
2. foster civic pride in accomplishments of the past;
3. protect and enhance Peoria's attractiveness to visitors and the support and stimulus to the economy thereby provided; and
4. enhance and implement the General Plan for the City of Peoria.

14-38-2 DEFINITIONS

The following definitions shall apply to the provisions of this Section.

Alteration - Any construction or change of the exterior of a building, object, site, or structure or of an interior space designated a landmark. For buildings, objects or structures, alteration shall include, but is not limited to, changing paint color, changing of roofing or siding materials and changing, eliminating, or adding doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, swings, or other ornamentation. Alteration shall not include ordinary repair and maintenance as defined herein.

Archaeologist - A person engaged in the study of human activity, primarily through the study of its material remains, which includes structures still standing, and who meets the requirements of the Secretary of the Interior's guidelines for professional archaeologists.

Archaeological Resource - Material remains of past human activity and life which are at least fifty (50) years old and are of archaeological interest including, but not limited to, pottery, basketry, bottles, weapon projectiles, tools, structures, pit houses, rock paintings and carvings, graves, human skeletal materials, or any portion thereof.

Archaeological Site - A geographic location that contains an archaeological resource.

Building - A building is a structure created to shelter any form of human activity, such as a house, barn, church, hotel, or similar structure. Building may refer to a historically related complex, such as a courthouse and jail or a house and barn.

Cemetery - Any site that contains at least one burial, marked or previously marked, and considered a dedicated cemetery under Arizona State Statutes, even though the site has not been maintained and exhibits evidence of neglect and disrepair.

Certified Local Government (CLG) - A local government that has been certified or approved by the State Historic Preservation Office (SHPO), and given the authority and responsibility to oversee various aspects of historic preservation within the municipality.

Construction - The act of adding an addition to a structure or the erection of a new principal or accessory structure on a lot or property, which requires a building permit.

Contributing Significance - A classification applied to a building site, structure or object within a historic district, but without having exceptional significance as defined below.

Cultural Resources - A broad assortment of assets, which includes buildings, sites, structures, objects, and districts that are of historic, cultural, architectural, or archaeological significance. Examples of such resources include petroglyphs, jewelry, textiles, pottery, projectiles, tools, irrigation canals, and pit houses. This includes artifacts, records, and material remains related to such resources. These assets may be included in or eligible for inclusion in the National Register.

Demolition - Any act or process that partially or totally disassembles or remakes a landmark or a structure within a historic district.

Design Guideline - A specific type of design criteria approved by the Commission that may be used in conjunction with other approved design criteria in reviewing alteration, construction, removal, or demolition activities in relation to landmarks and historic districts.

Exceptional Significance - A classification applied to a building, site, structure, or object signifying the individual contribution that the resource brings to the community in representation of the qualities that give the community cultural, historic, architectural, or archeological distinction. Exceptional significance can be applied to either a landmark or to those resources within a historic district that are of individual importance.

Exterior Architectural Appearance - The architectural character and general composition of the exterior of a structure, including but not limited to the kind, color, and texture of the building material and the type, design and character of all architectural details and elements, including, but not limited to, windows, doors, walls, roofs, overhangs, signs and yards and/or open spaces.

Historic District - An area with definable boundaries designated by the City Council and in which a substantial number of the properties, sites, structures, or objects have a high degree of cultural, historic, architectural, or archaeological significance and integrity, many of which may qualify as landmarks. The historic district may also have within its boundaries other properties, sites, structures or objects which, while not of such cultural, historic, architectural or archaeological significance to qualify as landmarks, nevertheless contribute to the overall visual characteristics of the significant properties, sites, structures or objects located within it.

Historic Landmark - See "Landmark"

Historic Preservation Zoning Overlay - Also termed "Historic Preservation Overlay Zoning," a type of zoning regulation placed on a property in addition to the underlying land use regulations. The overlay is designed to protect historic resources from harm or neglect.

Historic Property or Historic Resource - A property, building, site, structure, object, or district that is generally at least fifty (50) years old; and which has significant historic, architectural, cultural, or archaeological value as part of the heritage or history of Peoria, the State of Arizona, or the nation.

Interior Architectural Design - The architectural character and general composition of the interior of a structure, including but not limited to, room design and configuration, materials. The design also includes the type, pattern and character of all architectural details and elements, including, but not limited to staircases, doors, hardware, moldings, trim, plaster work, light fixtures and wall coverings.

Landmark - A property, site, structure, or object that is individually designated by the City Council that is worthy of rehabilitation, restoration, and preservation because of its exceptional historic, cultural, architectural, or archaeological significance to the City of Peoria.

National Register of Historic Places - The National Register is the official list of the Nation's historic places worthy of preservation. Authorized by the National Historic Preservation Act of 1966, the National Register is managed by the National Park Service.

Non-contributing - A designation applied to a site, structure or object within a historic district indicating that it is not a representation of the qualities that give the historic district cultural, historic, architectural, or archaeological significance as embodied in the criteria for designating a historic district.

Ordinary Maintenance and Repair - Regular, customary or usual care, reconstruction or renewal of any part of an existing building, structure or object, for the purposes of preserving said property and maintaining it in a safe and sanitary condition.

Property - Land and improvements identified as a separate lot for purposes of the City of Peoria subdivision and zoning regulations.

Repair - Any change that is not an alteration, construction, removal or demolition.

Structure - Anything constructed or erected the use of which requires a permanent or semi-permanent location on or in the ground, including without limitation, buildings, garages, fences, gazebos, advertising signs, billboards, antennas, satellite sending or receiving dishes, and swimming pools.

14-38-3 DESIGNATION OF LANDMARKS OR HISTORIC DISTRICTS

- A. The Historic Preservation Commission may recommend to the City Council that an individual property be designated as a landmark if it:
1. possesses special character or historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or
 2. is identified with historic personages; or
 3. embodies the distinguishing characteristics of an architectural style; or
 4. is the work of a designer whose work has significantly influenced an age, or
 5. because of a unique location or singular physical characteristic, represents and established and familiar visual feature of the neighborhood.
- B. The Historic Preservation Commission may recommend to the City Council that a group of properties in an identifiable area be designated as an historic district if :
1. The area contains several properties that meet one or more of the criteria for designation of a landmark; and
 2. by reason of possessing such qualities, the area constitutes a historic district of the City, and
 3. a majority owner(s) of the properties concur with the designation.

The boundaries of each historic district shall be specified by legal description and map and shall be filed in the City Clerk's Office for public inspection. Properties designated as landmarks or as a part of a historic district shall receive Historic Preservation Overlay Zoning.

- C. Notice of a proposed designation and all associated hearings shall be provided in the manner required for Rezoning applications as described in Article 14-39, "Administrative Procedures".
- D. The Historic Preservation Commission shall hold a public hearing prior to designation of any landmark or historic district. The testimony or documentary evidence at the hearing will become part of a record regarding the historic, architectural, or cultural importance of the proposed landmark or historic district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing. The report and recommendation of the Historic Preservation Commission shall then be forwarded to the Planning and Zoning Commission for review and public hearing. Any recommendation of approval may be subject to such conditions as the commission deems applicable in order to fully carry out the provisions and intent of this chapter.
- E. After receiving the reports and recommendations of the Historic Preservation Commission and the Planning and Zoning Commission, the City Council shall make a final determination in the designation of any landmark or historic district. The City Council may take action as follows:
 - 1. Approve the request;
 - 2. Deny the request;
 - 3. Modify the recommendations of the Historic Preservation Commission and/or the Planning and Zoning Commission and adopt the request as modified;
 - 4. Remand the matter back to the Planning and Zoning Commission or the Historic Preservation Commission for further consideration.

14-38-4 CERTIFICATE OF APPROPRIATENESS

- A. No person shall perform any work that alters the exterior of any landmark or changes the appearance of any property within an historic district, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street or alley without first obtaining a Certificate of Appropriateness or a Finding of Hardship from the Peoria Historic Preservation Commission. This includes, but is not limited to, exterior alteration, restoration, reconstruction, demolition, new construction, or relocation of such buildings, structures, and elements.

14-38-5 APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

- A. Prior to the commencement of any work requiring a Certificate of Appropriateness the property owner shall file an application for such a certificate on the official form provided by with the Planning and Community Development Department.
- B. No building permit shall be issued for such a proposed work until the Historic Preservation Commission has first issued a Certificate of Appropriateness. The Certificate of Appropriateness required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance or the City of Peoria.

14-38-6 HEARING OF APPLICATION FOR CERTIFICATE OF APPROPRIATENESS

- A. The Commission shall hold a public hearing for each application for a Certificate of Appropriateness. The hearing shall be posted and noticed in accordance with Section 9-462.04 of the Arizona Revised Statutes.
- B. The Commission shall approve, deny, or approve the permit with modifications.
- C. In its review and consideration of an application for a Certificate of Appropriateness, the Historic Preservation Commission shall not consider changes to interior spaces, unless they are open to the public, or to architectural features that are not visible from a public street or alley.
- D. The Commission's decision shall be based upon the following principles:
 - 1. Properties which contribute to the character of the historic district shall be retained, with their historic features altered as little as possible;
 - 2. Any alteration of existing historic landmark properties shall be compatible with their historic character. Any alteration of existing properties within a historic district shall be compatible with their historic character as well as with the surrounding district; and
 - 3. New construction shall be compatible with the district in which it is located.
- E. In applying the principle of compatibility, the Commission shall consider the following factors:
 - 1. The general design character and appropriateness to the property of the proposed alteration or new construction;
 - 2. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties and the neighborhood;
 - 3. Texture, materials, and color and their relation to similar features of other properties in the neighborhood;

4. Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings with the facade, roof shape, and the rhythm of spacing of properties on streets, including setback;
 5. The importance of historic, architectural or other features to the significance of the property.
- F. The Commission shall utilize the Secretary of the Interior's Standards for Rehabilitation (1990 edition) as a guide for its decisions with respect to review of applications for Certificate of Appropriateness.
- G. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant within ten (10) days after the Commission's decision by mail. A copy shall be made available for public inspection at the Planning and Community Development Department. The Commission's decision shall state findings and reasons for denying or modifying any application.

14-38-7 RELIEF FROM COMMISSION DECISION

- A. An applicant that has an application for Certificate of Appropriateness denied for a proposed demolition may apply for relief on the grounds of hardship. In order to prove the existence of hardship, the applicant shall establish that:
1. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 2. The property cannot be adapted for any other use, whether by the current owner or by a purchaser interested in acquiring the property and preserving it have failed.

14-38-8 APPLICATION FOR FINDING OF HARDSHIP

- A. An applicant shall submit an application for Finding of Hardship within thirty (30) days after the Commission's decision to deny the Certificate of Appropriateness. No building permit or demolition permit shall be issued unless the Commission makes a finding that a hardship exists.
- B. The Commission shall hold a public hearing on the hardship application in accordance with the procedures specified in Section 14-37-7 above.
- C. The applicant shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property.
- D. All decisions of the Commission shall be in writing. A copy of the decision shall be sent to the applicant by mail. A copy shall be made available for public inspection at the

Planning and Community Development Department. The Commission's decision shall state findings and reasons for granting or denying the hardship application.

14-38-9 MAINTENANCE OF PROPERTIES AND LANDMARKS

- A. Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district that does not involve a change in design, material, color or outward appearance.
- B. No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair. A serious state of disrepair is evidenced by the deterioration of any exterior architectural feature which would, in the judgment of the Historic Preservation Commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. A serious state of disrepair includes, but is not limited to, the following conditions:
 - 1. Deterioration of exterior walls or other vertical supports;
 - 2. Deterioration of roofs or other horizontal members;
 - 3. Deterioration of exterior chimneys;
 - 4. Deterioration or crumbling of exterior stucco or mortar;
 - 5. Ineffective waterproofing of exterior walls, roofs, or foundations,
 - 6. Including broken windows or doors;
 - 7. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

14-38-10 PENALTIES

- A. Any person found guilty of violating any provision of this ordinance shall be guilty of a class one (1) misdemeanor.
- B. Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this ordinance shall be required to restore the property and its site to its appearance prior to the violation. Any action to enforce this subsection may be brought by the City Attorney or any individual. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty.

14-38-11 APPEALS

Any person aggrieved by a decision of the Historic Preservation Commission relating to a Finding of Hardship or Certificate of Appropriateness may, within fifteen (15) days of the decision, file a written application with the City Council for review of the decision.