

CITY OF LIBERTY
Unified Development Ordinance, City Code Chapter 30
Article VIII. Historic Preservation Overlay District.
(Revised November 2010)

Sec. 30-70. District HP, Historic Preservation Overlay.

The purpose of the historic preservation overlay district is to promote the educational, cultural, economic, and general welfare of the community by:

1. providing a mechanism to identify and preserve the distinctive historic and architectural characteristics of the City, which represent elements of the City's cultural, social, economic, political and architectural history;
2. fostering civic pride in the beauty and noble accomplishments of the past as represented in the City's landmarks and historic districts;
3. conserving and improving the value of property designated as landmarks and within historic districts;
4. protecting and enhancing the attractiveness of the City to homebuyers, tourists, visitors, and shoppers, and thereby supporting and promoting business, commerce, industry, and providing economic benefit to the City; and
5. encouraging preservation, restoration, rehabilitation, and adaptive reuse of structures, streetscapes and neighborhoods, thereby preventing future urban blight.

Sec. 30-70.1. District HP, survey and research.

The Historic District Review Commission shall have the power to conduct surveys and research to identify neighborhoods, areas, sites, structures, and objects that have historic, cultural, architectural, or aesthetic importance, interest, or value. These surveys shall identify potential landmarks and districts that may be nominated for historic designation. Prior to the nomination of any neighborhood, area, site, structure or object, the HDRC shall document its significance with descriptions, photographs, and relevant historical facts, which shall be maintained as part of the public record.

Sec. 30-70.2. District HP, nomination of a landmark or historic district.

A member of the HDRC, the owner of record of the nominated property or structure, or the City Council may submit nominations to the Historic District Review Commission for the designation of a landmark or historic district. A nomination of a landmark or district shall be considered an application to amend the official zoning map of the City and thereby shall be reviewed under the procedures of Article IV of this UDO. The HDRC shall review the application and make a recommendation to the Planning and Zoning Commission and City Council based upon the nomination criteria.

Sec. 30-70.3. District HP, criteria for nomination.

Upon receipt of a nomination application, the HDRC shall review the supporting evidence and determine if the property, area or structure has sufficient integrity of context, design, materials, and workmanship to make it worthy of preservation, restoration, or rehabilitation and one or more of the following criteria shall be met:

1. it has character, interest or value as part of the development, heritage, or cultural characteristics of the community, county, state, or country;
2. it is a site of a significant local, county, state or national event;
3. it is identified with a person(s) who contributed significantly to the development of the community, county, state, or country;
4. it embodies distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or use of indigenous materials;
5. it is identified as the work of a master builder, designer, architect or landscape architect, whose individual work has influenced the development of the community, county, state, or country;
6. it embodies elements of design, detailing, materials, or craftsmanship which renders it architecturally significant;
7. it embodies design elements that make it structurally or architecturally innovative;
8. it has a location or singular physical characteristics that make it an established or familiar visual feature;
9. it has character of a particularly fine or unique example of a utilitarian structure, including, but not limited to barns, gas stations, or other commercial structures, with a high level of integrity or architectural significance; or
10. it is suitable for preservation, restoration, or rehabilitation.

Sec. 30-70.4. District HP, procedure for nomination.

1. The Planning and Zoning Commission shall schedule and hold a public hearing for all nominations. The hearing shall be scheduled, held, and conducted in accordance with the procedures set forth in this Article. Notice of the public hearing shall be published in a local newspaper at least 15 days prior to the hearing and shall state the street address, legal description of a nominated landmark, or the boundaries of a nominated district.
2. Upon a majority vote of City Council, an ordinance shall be passed designating the subject property, area, or structure with the Historic Preservation Overlay zoning.

Sec. 30-70.5. District HP, interim control over nominated properties.

No building permit shall be issued by the City for alteration, construction, demolition, or relocation of a nominated landmark or any property or structure within a nominated historic district from the date of publication of the public hearing by the HDRC at which the nomination is first presented for consideration until the final disposition of the nomination by the City Council, unless such alteration construction, demolition, or removal is authorized by resolution of the City Council, as necessary for the health, safety or welfare of the public. In no event, shall the delay be for more than 180 days.

Sec. 30-71. Certificate of appropriateness, purpose.

A certificate of appropriateness is intended to provide a process for review and approval of any work to be undertaken on structures residing within the Historic Preservation Overlay Zoning District or on designated local landmarks in order to ensure compliance with the City's design guidelines as based on the Secretary of the Interior's standards for historic preservation. This permit is not intended to disrupt or discourage investment in historic properties, but is intended to promote and encourage established standards for the

rehabilitation, preservation, adaptive reuse, and restoration of historic resources and neighborhoods.

Sec. 30-71.1. Certificate of appropriateness, applicability.

All properties covered by the Historic Preservation Overlay Zoning District or designated local landmarks shall be subject to the provisions of this Article. No application for a building permit or demolition permit for any action in a historic district shall be approved until the City Council, Historic District Review Commission, or its designee has issued a certificate of appropriateness. A certificate of appropriateness shall be required before one or more of the following actions affecting the exterior architectural appearance of any landmark or property within a historic zoning district may be undertaken:

1. any construction, repair, alteration, or removal affecting an exterior architectural feature or features;
2. demolition in whole or in part of any structure;
3. violation of a minimum maintenance standard, and
4. any construction, repair, alteration, removal, or demolition, in whole or in part, proposed by the City or any of its agencies or departments affecting a significant exterior architectural feature or features or archaeological site.

Sec. 30-71.2. Certificate of appropriateness, applications.

Applications for a Certificate of appropriateness shall include the following information:

1. photographs of the existing conditions;
2. scaled drawings of proposed changes;
3. list of proposed materials with dimensions;
4. as necessary for review, manufacturer's literature, material samples, site map, and a structural report; and
5. any other information deemed necessary to conduct a thorough analysis of the application.

Sec. 30-71.3. Certificate of appropriateness, approval criteria.

A certificate of appropriateness shall not be approved unless the applicant presents clear and convincing evidence that the application meets the following criteria, adapted from the Secretary of the Interior's Standards for Rehabilitation. The criteria are to be applied to specific rehabilitation projects in a reasonable manner, taking into consideration economic and technical feasibility.

1. A property will be used as it was historically, or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
2. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided.
3. Each property will be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will not be undertaken.

4. Changes to a property that have acquired historic significance in their own right will be retained and preserved.
5. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property will be preserved.
6. Deteriorated historic features will be repaired, rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
7. Chemical or physical treatments, if appropriate, will be undertaken using the gentlest means possible. Treatments that cause damage to historic materials will not be used.
8. Archeological resources will be protected and preserved in place. If these resources must be disturbed, mitigation measures will be undertaken.
9. New additions, exterior alterations or related new construction will not destroy historic materials, features, and spatial relationships that characterize the property. The new work will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
10. New additions and adjacent or related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

Sec. 30-71.4. Certificate of appropriateness, review procedure.

All applications for a certificate of appropriateness shall be reviewed and considered within a reasonable amount of time. Determinations will be based on the approval criteria set forth in this Article and generally accepted preservation policies as determined and set forth by the HDRC.

Sec. 30-71.4. Certificate of appropriateness, review procedure.

All applications for a certificate of appropriateness shall be reviewed and considered within a reasonable amount of time. Determinations will be based on the approval criteria set forth in this Article and generally accepted preservation policies as determined and set forth by the HDRC.

- (1) Major applications for a certificate of appropriateness, defined as requests for new construction of a principle structure, or demolition of a landmark or principle structure, shall be reviewed by the historic district review commission and forwarded to the city council with a recommendation. The city council shall take formal action on the application. Approval shall be made by a resolution of the city council.
- (2) Applications for a certificate of appropriateness for exterior alterations made as a result of financial incentives provided by the city shall be reviewed by the HDRC and forwarded to the council with a recommendation. The city council shall take formal action on the application. Approval shall be made by a resolution of the city council.

- (3) All other applications for a certificate of appropriateness, unless otherwise provided for in this UDO, shall be reviewed by either the HDRC or preservation staff, as specified in the HDRC Rules and Regulations, and formal action shall be taken.
- (4) Written notice of the approval or denial of the application for a certificate of appropriateness shall be provided to the applicant and the director following the determination.
- (5) Upon the approval of an application, the preservation office may, if all other applicable requirements are met, issue a certificate. The certificate may specify any conditions of approval under which the work shall be completed to be in compliance with the approved application.
- (6) Upon the denial of an application, a statement of the reasons for denial shall accompany the written notice. The city council or historic district review commission shall make recommendations to the application concerning changes, if any, in the proposed action, which would cause the council or HDRC to reconsider its denial. The applicant may submit an amended or revised application that takes into consideration the recommendations.

Sec. 30-71.5. Certificate of appropriateness, appeal procedure.

An appeal of the denial of a certificate of appropriateness or a certificate of economic hardship by the HDRC shall be filed with the preservation office within thirty (30) days of the date of denial. The appeal shall be submitted for review by the Board of Zoning Adjustments as outlined in section 30-29.7 of this UDO.

Sec. 30-71.6. Certificate of economic hardship.

Upon denial of a certificate of appropriateness, the applicant may apply for a certificate of economic hardship on the basis that the denial will result in the loss of all reasonable and beneficial use of, or return from, the property. Proof of economic hardship shall be the burden of the property owner, and any finding in support of economic hardship shall be based solely on the hardship of the property, not conditions personal to the landowner. Application for a certificate of economic hardship shall be made to the HDRC within thirty (30) days after a certificate of appropriateness has been denied.

- (1) Application submittal requirements. The applicant shall provide expert testimony and/or evidence necessary to allow for the evaluation of the application. Such testimony and/or evidence shall address the following:
 - a. For cases of proposed demolition, an analysis from a licensed architect or engineer experienced in rehabilitation as to the structural soundness of the structure as well as the economic feasibility of rehabilitation and reuse of the existing structure.
 - b. Estimated market value of the property in its current condition.
 - c. An estimate of the proposed project costs, as well as the estimated market value of the property after completion of the proposed construction or alteration; and, in the case of demolition, the estimated market value of the property after rehabilitation for its continued use.

- d. If applicable, estimated project costs associated with any changes recommended by the HDRC as well as the estimated market value of the property after completion of said changes.
- (2) Review criteria. Economic hardship shall only be found when the applicant presents clear and convincing evidence that the structure has no reasonable use in its present condition; or, when the applicant is able to demonstrate that the value of the work recommended by the HDRC would be an unreasonable investment based on the overall value of the property. Demonstration of an economic hardship shall not be based on or include any of the following circumstances: willful or negligent acts by the owner; purchase of the property for substantially more than market value; failure to perform normal maintenance and repairs; failure to diligently solicit and retain tenants; or failure to provide normal tenant improvements.

Sec. 30-71.7. Certificate of appropriateness, stop work order.

1. The Director shall monitor all projects that require a certificate of appropriateness to ensure compliance with the terms and conditions of a certificate of appropriateness, building permit, and demolition permit. Where a project fails to comply with any part of a certificate of appropriateness or the provisions of this Article, it shall be considered a violation of this UDO and, the Director may issue a stop work order in writing, which states the violation and a deadline by which to rectify the violation. If the project fails to meet this deadline for compliance, a second stop work order may be issued in writing and delivered by certified mail, which shall set forth the terms of compliance and/ or necessary penalties for violation in accordance with Article I of this UDO which may be enforced.
2. Whenever the Director has reason to believe that an action for which a certificate of appropriateness is required has been initiated or is about to be initiated, it shall make every reasonable effort to contact the owners, occupants, contractor, or subcontractor and inform them of the application process. If a stop work order is determined to be necessary to halt an action that requires a certificate of appropriateness, a copy of the order shall be delivered to the owners, occupants, contractors, or subcontractors. A copy of the application form shall be included with the order.

Sec. 30-71.8. Certificate of appropriateness, lapse in work.

Approval of any certificate of appropriateness shall be effective for a period of 180 days, at the end of which time a building permit shall have been issued for the action(s) so authorized. In the event that a building permit has not been issued within 180 days or at such time work is suspended or abandoned for a period exceeding 180 days, the certificate of appropriateness shall be null and void, and the applicant shall be required to submit a new certificate of appropriateness application for consideration by the HDRC.

Sec. 30-71.9. Certificate of appropriateness, demolition.

1. Demolition, in whole or in part, of individual landmarks or any contributing primary structure within a historic district is not permitted. Deterioration caused by neglect or lack of routine maintenance by the existing owner does not provide grounds for the approval of demolition. Exceptions will be considered only if:

- a. the structure has been substantially damaged through fire, deterioration, or natural disaster;
 - b. the structure does not possess the integrity, originality, craftsmanship, and age to merit preservation; and
 - c. there is substantial evidence that it would not be physically or economically viable to rehabilitate the structure.
2. Upon receipt of an application for demolition of a local landmark or contributing primary structure within a historic district, the HDRC may postpone the request for up to 180 days to allow time to explore alternatives to demolition. This may include seeking an alternative use for the property, obtaining supplemental funding for repairs or rehabilitation, or marketing the property for sale.
3. For applications for demolition, the City should provide notice of the proposed demolition to surrounding property owners, as outlined in Section 30-22.2 of this UDO, and post a sign on the affected property indicating the proposed demolition. In cases of demolition, the owner shall permit access to the subject property for the purpose of inspections and/or appraisals required by the HDRC or City staff.
4. Applications for demolition of a landmark or primary structure shall be reviewed by the HDRC and forwarded to the City Council with a recommendation. The City Council shall take formal action on the application. Approval shall be made by resolution of the City Council.
5. If a request for demolition is approved, the applicant shall submit the following exhibits in an archival-safe manner before the certificate of appropriateness is issued:
 - a. Photographs and negatives of the following:
 - i. Front façade.
 - ii. Perspective views: façade and one side, and rear and opposing side.
 - iii. Detail front entrance and/or typical window.
 - iv. General view from distance showing environment, landscaping, adjacent building(s), street from each direction.
 - v. Exterior details: these may include, chimney, oriel, gingerbread ornamentation, etc.
 - vi. If they exist, at least one view of any dependent structures, such as sheds, detached garages, barns or carriage houses.
 - vii. In the case of landmark structures, interior views of significant original details may also be required, e.g. stair hall, mantel detail, decorative molding.
 - b. Site map: A scaled site map showing the existing structure, outbuildings, and prominent landscape features, such as fences & retaining walls.
 - c. Interior floor plan: A scaled floor plan showing existing entrances, windows, walls, etc.
6. If a request for demolition is denied, the applicant may seek relief through the hardship appeal procedure, as outlined in Section 30-71.6.; submit an amended or revised application; or appeal to Circuit Court within 30 days of the date of denial.

Sec. 30-72. District HP, design principles.

In addition to the criteria for approval of a certificate of appropriateness as set forth in this Article, the following design principles may be used, in conjunction with design guidelines and policies adopted by the HDRC in considering an application for a certificate of appropriateness and can serve as the basis for conditions of approval. These principles are based on accepted practices for historic preservation and are not intended to inhibit change, new construction, new architectural styles, or new technologies when these changes complement the existing buildings and streetscapes. Design review decisions shall be based on the same set of principles for all properties designated by the district HP, however, structures possessing a greater degree of integrity, originality, craftsmanship and historic significance may have the principles more stringently applied than those with lesser significance as determined by the HDRC. These principles shall be enforced for all alterations, construction, demolition, or repairs affecting the exterior appearance of the property.

1. New buildings and additions to existing buildings: New buildings should not duplicate older styles of architecture, but must be compatible with the architecture of the district. Scale, placement on lots and street setback must conform to the scale, placement and setback of adjacent structures, especially in the context of rows of buildings and streetscapes. Styles of architecture will be controlled only to ensure that their exterior design, materials, and color are in harmony with neighboring structures.
2. Alterations: Alterations shall restore a structure's original elements, materials, and appearance, if economically or physically feasible. Alterations affecting the exterior of a structure shall preserve all significant original exterior elements, including building materials, doors, windows, and decorative elements. Elements that are not original, but which may have acquired significance by virtue of age or craftsmanship, shall also be preserved. Alterations that disguise or sheath original elements and materials will not be permitted. Storefronts and commercial building facades shall be treated as a whole, and alterations to the first floor should be compatible with the upper floor(s).
3. Demolition: Demolition of past additions that have disguised or sheathed original elements or facades is encouraged, as long as the intention is to restore those elements and facades.
4. Relocation of buildings: Structures shall not be removed from their original site unless there is substantial evidence that it would not be practical or economical to utilize the building on its present site. If a building lies in the path of a public improvement project and if the building is worthy of preservation by virtue of its integrity, originality, craftsmanship or age, relocation may be considered as an alternative only after it is determined that the project cannot be altered to avoid the site of the historic structure.
5. Exterior walls: A structure's original walls, including masonry, siding, sheathing materials, and exposed foundations, shall be maintained and preserved. Walls, siding, and sheathing materials that may not be original, but have acquired significance by virtue of age or craftsmanship, shall also be maintained and preserved. These walls, siding, and sheathing materials shall not be altered, covered or disguised by new

building materials unless it is no longer feasible to maintain the significant materials. Masonry shall not be painted or stuccoed unless it is no longer feasible to maintain the significant materials. Restoration of original walls, siding and sheathing materials is encouraged. Removal of false facades that cover or disguise original walls and materials is encouraged.

6. Decorative and character defining elements: Original decorative and character defining elements and those that may not be original, but have acquired significance by virtue of age or craftsmanship shall be restored, maintained, and preserved.
7. Doors and windows: Original doors and windows shall be retained and preserved, including such elements as sash, glass, sills, lintels, casings, muntins, trim, frames, thresholds, and hardware. When repair is not feasible, as determined by the HDRC, replacements may be deemed appropriate, provided the appearance, detail, profile, size, and material are designed to match the original door or window, as specified in the Historic District Design Guidelines. The wholesale replacement of original windows is not permitted. Windows that are not original to the structure may be replaced in-kind or with a higher grade material. In-kind replacements consistent with this standard shall be approved by staff. If additional doors or windows become necessary, they shall be located and designed in a sensitive manner. If it is necessary to expand original openings, it shall be accomplished in a manner that respects and complements the surrounding building elements, materials, and colors.
8. Porches: Porches, porticos, stoops, entryways, loading docks and exterior stairways shall be of a scale, design, material, and color that complement the existing façade and its individual elements. Loading docks and service entrances shall be located inconspicuously and should be considered a part of a building's overall design scheme.
9. Roofs: Rooflines and shapes shall not be altered. Visible roofing materials shall be compatible with other building elements and materials in terms of color, materials, and texture. The use of roofing materials appropriate to the style and period of the building is encouraged. The use of roofing materials that reflect an earlier or later style or period is discouraged.
10. Mechanical equipment and weather protection devices: Mechanical and weather protection devices shall be placed and installed in a manner that is unobtrusive.
11. Fences, sidewalks, decorative dividers and walls: Fences and decorative walls shall be placed and scaled in a manner that does not cover, block or damage significant building façades or elements. Fences and walls shall be of a style or period that corresponds with the style or period of the building or buildings they serve. Original fences, walls and sidewalks and those that have acquired significance by virtue of age or craftsmanship shall not be removed or destroyed and shall be maintained and preserved.
12. Vacant lots, alleys, and parking areas: Parking lots, driveways, and other spaces between and around buildings shall be designed and maintained in a manner that does not detract from neighboring buildings and façades. The creation of new parking lots, driveways and parking pads shall be done in a way to minimize their appearance and to complement the buildings they serve and the surrounding neighborhood. Garbage dumpsters, bollards, loading docks and other similar fixtures shall be structurally and

cosmetically maintained and shall be placed in a manner that is as inconspicuous as possible.

13. Signs and awnings: Original signs or those that have acquired significance by virtue of age or craftsmanship shall be maintained and preserved. Signs that disguise, obstruct, or detract from significant façade elements shall not be allowed. Signs and awnings shall be designed to complement the style, materials, and color of the building. Lighting and other illumination shall be properly shielded or diffused to eliminate glare. Individual building mounted lights shall be no brighter than 100 watts and be mounted no lower than 6 feet and no higher than 9 feet in height. All signs shall be installed in accordance with the provisions of Article XV.

Sec. 30.73. Design subcommittee.

The Historic District Review Commission may establish a design subcommittee of 5 of its members to meet with applicants at any time during the application process to review and comment on proposed applications. An applicant may request a meeting with the subcommittee before or during the review of any application. The subcommittee may issue a certificate of appropriateness for standard applications upon the affirmative vote of 4 of its members, when delay to the next regular meeting would create an unnecessary inconvenience to an applicant.