

TOWN OF BUENA VISTA, COLORADO

**ORDINANCE NO. 14
(SERIES OF 2016)**

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO,
AMENDING THE BUENA VISTA MUNICIPAL CODE BY THE
ADDITION OF A NEW CHAPTER 19, HISTORIC PRESERVATION.**

WHEREAS, the Town desires to protect its historic resources and develop a process that allows for the protection and proper management of those resources;

WHEREAS, to accomplish this goal, the Town desires to adopt regulations for the establishment and preservation of historic structures, sites and districts; and

WHEREAS, the Board of Trustees finds this Ordinance to be in the best interests of the Town and its citizens to preserve the heritage of the Town.

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF
THE TOWN OF BUENA VISTA, COLORADO:**

Section 1. The Buena Vista Municipal Code is amended by the addition of a new Chapter 19:

CHAPTER 19 – HISTORIC PRESERVATION

ARTICLE 1 – General Provisions

Sec. 19-1. - Purpose and intent.

- (a) In order to foster civic pride in the beauty and accomplishments of the past, and in order to create eligibility for state or federal grant funds for the restoration, stabilization, and preservation of landmarks within the Town of Buena Vista that reflect outstanding elements of the Town's cultural, artistic, social, economic, political, architectural, historic or other heritage, a procedure for designating historic local landmarks within the Town is needed.
- (b) The intent of this Chapter is to create a reasonable balance between private property rights and the public interest in preserving the Town's unique historic character and culture. The intent is to provide incentives to preserve historic and architecturally significant sites, buildings, structures, neighborhoods and districts by providing guidelines for the appropriate use of land and the moving, demolition, reconstruction, restoration, or alteration of such buildings, sites, and structures that comply with state and federal historic preservation laws, thereby making certain tax credits available to private property owners and making other benefits and incentives available for preservation projects.

Sec. 19-2. – Definitions.

Unless specifically defined below, words and phrases in this Chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Chapter its most reasonable application.

- (a) *Alteration* means any act or process that changes either one or more of the exterior architectural features of a structure; or one or more of the physical features of a site or district, except color or paint.
- (b) *Certificate of historic appropriateness* means a certificate issued by the Town showing approval of plans for construction, demolition, moving, reconstruction, restoration, or alteration of any historic structure, site or any structure in a historic district.
- (c) *Commission* means the Town of Buena Vista Historic Preservation Commission.
- (d) *Compatible* shall mean consistent with, harmonious with and/or enhances the mixture of complementary architectural styles either of the architecture of an individual structure or the character of the surrounding structures.
- (e) *Construction* means the act or process of adding an addition to an existing structure, the remodeling of an existing structure, or the erection of a new structure.
- (f) *Contributing structures* means those structures or physical features within a site or district that help to define the historic significance of that site or district.
- (g) *Cultural landscape* means a geographic area (including both cultural and natural resources and the wildlife or domestic animals therein) associated with a historic event, activity, or person or exhibiting other cultural or aesthetic values.
- (h) *Demolition* means any act or process which destroys, in part or in whole, any historic structure.
- (i) *Designated structure, site or district* means a structure, site or district designated pursuant to this Chapter.
- (j) *Exterior architectural feature* means the architectural style and general arrangement of the exterior of the structure including type and texture of the building materials and including all windows, doors, siding, roofs, lights, signs, and other fixtures appurtenant thereto, if such physical component is visible from a public way or adjoining properties.
- (k) *Historic designation* means the formal recognition of a historic structure, site, or district by the Town pursuant to this Chapter.
- (l) *Historic district* means a geographically definable area including a concentration, linkage, or continuity of subsurface sites, cultural landscapes, buildings, structures, or objects. A district is related by a pattern of either physical elements or social activities. The term district may include, but is not limited to, neighborhoods, agricultural, or

commercial districts.

- (m) *Historic significance* means having a special historic or aesthetic interest or value as part of the development, heritage, cultural, or historic character of the town, region, state, or nation.
- (n) *Maintenance and repair* means any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration of, decay of, or damage to a structure or any architecturally significant part thereof, and to restore or replace, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay, or damage, and which work does not effect a significant change in the external appearance of the structure.
- (o) *Overwhelming historical significance* means either possessing such unusual or uncommon significance that any structure's potential demolition or major alteration would diminish the character and sense of place in town; or possessing superior or outstanding examples of the architectural, social, or geographic historic significance criteria outlined in the standards and criteria set forth in this Chapter. The term superior shall mean excellence of its kind, and the term outstanding shall mean marked by eminence and distinction.
- (p) *Preservation* means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a designated structure or site.
- (q) *Reconstruction* means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.
- (r) *Rehabilitation* means the act or process of making a compatible use for a property through repair, alterations, and additions, while preserving those portions or features that convey its historic, cultural, or architectural values.
- (s) *Restoration* means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and/or reconstruction of missing features from other periods in its history.
- (t) *Significant change* means an alteration or modification in the external appearance that has or is likely to have influence or effect on the historic or architectural merit of a structure or site, including but not limited to all activities for which a building permit is required.
- (u) *Site* means a location of a significant event, historic occupation or activity where the location itself maintains historical or architectural value and significance to the community regardless of the value of any existing building or structure.

- (v) *Structure* means anything constructed or erected, the use of which requires permanent or near permanent location on or in the ground, or attachment to something having permanent location on the ground.

19.03. - Historic Preservation Commission

- (a) There is hereby created a Historic Preservation Commission, which shall have the principal responsibility for matters involving historic structures, sites and districts as set forth in this Chapter.
- (b) The Commission shall consist of five regular members and one alternate appointed by the Board of Trustees. To stagger the initial terms of membership, the original Commission shall consist of: three (3) members to serve four (4) year terms and two (2) members and the alternate to serve two (2) year terms. The Commission shall be composed of both professional and lay members, and at least 40% (two of the five) shall be professionals in preservation-related disciplines, such as architecture, landscape architecture, architectural history, archaeology, history, planning, or related disciplines such as building trades, real estate, law, cultural geography, or cultural anthropology. If the required number of professional members cannot be found to serve on the Commission, this requirement may be waived until the next vacancy occurs, at which time the Town shall again diligently seek professional representation. In the case of a lack of professional appointees, the Commission may, with Board approval, be allowed to retain professional consultants to advise the Commission as necessary to fulfill its duties. Commission members shall be residents of Chaffee County.
- (c) At its first meeting of each calendar year, the Commission shall elect one (1) Commissioner to serve as chair to preside over the meetings, and one (1) Commissioner to serve as vice-chair. The Commissioners so designated shall serve in these capacities for terms of one (1) year, and may serve successive terms.

19.04. – Meetings of the Commission.

- (a) The Commission shall meet at least quarterly, unless applications or other requests for action are pending, in which case the Commission shall meet at least monthly.
- (b) A majority of the number of currently appointed regular board members shall constitute a quorum. An alternate may substitute for a regular board member to create a quorum. If a quorum is not present, then the chair of the Commission may set a new date for a special hearing, or the matters scheduled for that hearing shall be heard on the next regularly scheduled hearing date.
- (c) The Commission shall act only at properly noticed meetings.
- (d) No Commissioner shall vote on any matter that may materially or apparently affect the property, income, or business interest of that Commissioner.

- (e) The chair, and in his absence the vice-chair, may administer oaths and compel the attendance of witnesses.
- (f) All meetings of the Commission shall be open to the public. Minutes shall be kept of all Commission proceedings, and sent to the State Historic Preservation Office upon approval.
- (g) The Commission may adopt bylaws and other administrative guidelines to govern the conduct of its meetings, which shall be made available to the public.
- (h) At least one Commission member must attend a History Colorado approved educational or training event each year.

19.05. - Powers of Historic Preservation Commission.

- (a) To propose for adoption criteria for review of historic resources and for review of proposals to alter, demolish, or move designated resources, that are in addition to and consistent with the criteria set forth in this Chapter.
- (b) To review structures, sites and districts nominated for designation and make recommendations to the Board of Trustees regarding historic designation.
- (c) To advise and assist owners of designated structures or sites on physical and financial aspects of preservation, renovation, rehabilitation, and restoration, including nomination to the National Register of Historic Places and State Register of Historic Properties.
- (d) To develop and assist in public education programs, including but not limited to school programs, walking tours, brochures, a marker program for historic properties, interpretive sites and programs, lectures, and conferences about the history of the local and regional community, the value of preserving historic properties, and the materials and methods of preservation.
- (e) To determine applications for certificates of historic appropriateness pursuant to this Chapter.
- (f) To conduct surveys of historic structures, sites and district in order to define those of historic significance, for the purpose of creating a preservation plan of historic properties and districts.
- (g) To pursue financial assistance for preservation and history-related programs.
- (h) To maintain records and files on all board actions and provide documentation as necessary to History Colorado, Colorado's State Historic Preservation Office (SHPO).
- (i) To identify and implement other incentives for owners of historic properties.
- (j) To authorize and implement such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any historic structure,

site or historic district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.

- (k) To fulfill any other duties required by state and federal law in order to qualify the Town as a Certified Local Government (CLG).

19.06. - Procedures for designation of historic structures, sites and historic districts.

- (a) Nominations for designations shall be made to the Town on forms provided by the Town and may be submitted by the Commission or a citizen. Nominations for historic structures or sites must contain the written approval of all current owners of record. Nominations for historic districts shall have written approval of at least seventy-five (75%) of property owners within the proposed boundaries of the district.
- (b) Once the nomination is deemed completed by Town staff, the Commission shall hold a public hearing on the proposal no more than sixty (60) days after the determination of completeness.
- (c) Notice of the public hearing before the Commission shall be published and posted on the property subject to the nomination fifteen (15) days prior to the public hearing. Posting for a historic district nomination shall be at street intersections within the boundaries of the proposed district. Further, for district nominations, written notice shall be sent by first class mail at least fifteen (15) days prior to the hearing to all property owners whose property is contained within the proposed district.
- (d) The Commission may continue the hearing from time to time as necessary to gather all relevant evidence to make its recommendation. The Commission shall consider the subject property's conformance with the purposes, standards, and criteria of this Chapter.
- (e) Within thirty (30) days after the conclusion of the public hearing, the Commission shall either recommend approval, modification and approval, or denial of the nomination to the Board of Trustees.
- (f) Within sixty (60) days after the date of the recommendation from the Commission, the Board of Trustees shall hold a public hearing on the nomination. Notice of the public hearing shall be provided as set forth in Sec. 19.06(c).
- (g) The Board of Trustees shall, by resolution, approve, modify and approve, or deny the proposed designation, and shall issue written findings in accordance with and after considering the criteria as set forth in this Chapter. Such resolution shall include a description of the characteristics of the site, structure, or district that justify its designation and a description of the features that should be preserved or enhanced, and shall include a legal description of the location and boundaries of the property where the structure is located, site or district. The resolution may also indicate alterations that would have a significant impact upon, or be potentially detrimental to, the historic structure, site or district. The owner or owners of the property nominated or included in the district shall be notified of the Board of Trustees' decision.

- (h) The resolution shall be recorded with the Chaffee County Clerk and Recorder no sooner than thirty (30) days from the effective date of the resolution. As soon as possible, the staff shall send a copy of the recorded resolution to all property owners in a designated district or the owner of the designated structure or site.
- (i) A structure or site designated as historic or a structure located within a historic district shall retain that designation in perpetuity, unless the structure or site has lost its historic character or the designation has been otherwise revoked pursuant this Chapter.

19.07. - Criteria for Designation – Structures and Sites.

- (a) The Commission and Board of Trustees will consider the following criteria in reviewing nominations of structures and sites for historic designation:
 - (1) Properties receiving historic designations shall be at least fifty (50) years old, except as otherwise provided herein, and possess architectural, social, or geographical/environmental importance by meeting at least one or more of the following:
 - a. Exemplifies specific elements of an architectural style or period;
 - b. Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally;
 - c. Demonstrates superior craftsmanship or high artistic value;
 - d. Represents an innovation in construction, materials, or design;
 - e. Represents a style particularly associated with the Buena Vista/Chaffee County area;
 - f. Represents a built environment of a group of people in an era of history;
 - g. Represents a pattern or grouping of elements representing at least one of the above criteria;
 - h. Is the site of a historic event that had an effect upon society;
 - i. Exemplifies cultural, political, economic, or social heritage of the community;
 - j. Represents an association with a notable person or the work of a notable person;
 - k. Represents a typical example/association with a particular ethnic group;
 - l. Represents a unique example of an event in Buena Vista's history;

- m. Enhances sense of identity of the community;
 - n. Is an established and familiar natural setting or visual feature of the community;
 - o. Properties that have yielded or may be likely to yield, information important in history or prehistory; or
 - p. If the property is less than fifty years old, must demonstrate overwhelming historic significance.
- (b) Any site listed on the state or national register of historic places shall be deemed to qualify for local designation under this Chapter, but shall not be locally designated until an application for nomination is filed and processed pursuant to this Chapter.

19.08. – Criteria for Designation - Districts

- (a) Historic districts must comply with the criteria in Sec. 19.07 and be related by a pattern of either physical elements or social activities. Significance is determined by applying criteria in this Chapter to the patterns and unifying elements.
- (b) Properties that do not contribute to the significance of the historic district may be included within the boundaries, as long as the noncontributing elements do not noticeably detract from the district's sense of time, place, and historic development. Noncontributing elements will be evaluated for their magnitude of impact by considering their size, scale, design, location, or information potential.

19.09. - Revocation of designation.

- (a) If a designated structure or physical feature on a designated site is destroyed or demolished through no fault of the owner or in compliance with this Chapter, the owner may apply to the Town for revocation of designation. The Commission shall recommend revocation of a historic designation if it determines that, without the demolished structure or physical feature, the structure or site as a whole no longer meets the purposes and criteria of this Chapter and if the public benefits of alteration, removal, or demolition of the structure or physical feature outweigh the public benefits of maintaining the designation.
- (b) Upon the Commission's recommendation, the application scheduled for consideration by the Board of Trustees. The Board of Trustees shall, by resolution, approve, modify and approve, or deny the application. The resolution, if it approves or modifies and approves the revocation, it shall be recorded with the Chaffee County Clerk and Recorder no sooner than thirty (30) days after the decision.

19.10. - Duties and obligations of owners of historic properties.

- (a) It shall be unlawful for the owners of designated structures, site or contributing structures in a historic district to allow the deterioration of the property, its character defining

features, or its surrounding environment. Landscaping must be maintained and the property kept free from any hazardous or unsafe conditions.

- (b) Before an owner is cited for failure to maintain the historic site or structure, or contributing structure in a historic district, the commission shall notify the property owner, lessee, or occupant of the need to repair or maintain, shall assist the owner, lessee, or occupant in determining how to preserve the property, and shall give the owner a reasonable time to perform such work, which time shall not exceed 120 days. The Commission may grant extensions of the time period for good cause.

19.11. - Certificate of historic appropriateness

- (a) A certificate of historic appropriateness shall be required for any exterior work other than maintenance and repair on a structure or site subject to a historic designation that involves more than ordinary maintenance and repair. It shall be unlawful for any person to perform any work, other than maintenance and repair, without having first obtained a certificate of historic appropriateness.
- (b) The Commission shall review any application for a certificate of historic appropriateness to determine whether the application meets the criteria in this Chapter.
- (c) All proposals for certificates of historic appropriateness shall be reviewed in accordance with the U.S. Secretary of the Interior's Guidelines for Rehabilitation and any design guidelines approved by the Town Board of Trustees.
- (d) The following criteria shall apply to all alterations or changes:
 - (1) All proposed alterations must be consistent with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties.
 - (2) Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.
 - (3) The removal or alteration of any historical material or distinctive features shall be avoided when possible.
 - (4) Deteriorated historic features shall be repaired rather than replaced when possible. When the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
 - (5) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

- (6) Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
 - (7) New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property and shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic landmark and its environment would be unimpaired. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
 - (8) All historic or contributing buildings, structures, and sites shall be recognized as products of their own time and place. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, site, or environment. These changes may have acquired significance in their own right, and every consideration should be made for their retention and preservation. If they are not to be retained, the applicant must present a reasonable argument for their removal that restores the structure to a significant historical period in the structure's history. Alterations that have no historical basis and which seek to create an earlier or nonlocal appearance shall be discouraged.
- (e) The Commission shall approve, modify and approve or deny the application. Any decision of the Commission approving or disapproving an application for a certificate of historic appropriateness. The Town shall issue a certificate of historic appropriateness for any proposed work on a designated historical structure or site only if the Commission can determine that the proposed work would not detrimentally alter, destroy, or adversely affect any feature that was found by the Board of Trustees in the original designation to contribute to the designation of the structure or site.

19-12. - Hardship exemption.

- (a) The Commission may exempt a property from the requirement of obtaining a certificate of historic appropriateness if the Commission finds that the property owner has shown that the historic designation creates or would create an undue hardship.
- (b) An exemption based on noneconomic hardship may be found by the Commission when designation creates a situation substantially inadequate to meet the applicant's needs because of specific health or safety issues.
- (c) An exemption based on economic hardship may be found by the Commission applying the following standards:
 - (1) The applicant's knowledge of the designation at the time of acquisition, or whether the property was designated subsequent to acquisition;
 - (2) The current level of economic return on the property as considered in relation to

the following:

- a. The marketability of the property for sale or lease, considered in relation to any listing of the property for sale or lease, and price asked and offers received, if any, within the previous two years.
 - b. The infeasibility or feasibility of alternative uses that can earn a reasonable economic return for the property.
 - c. Economic incentives or funding available to the applicant through federal, state, town, or private programs.
- (3) Economic hardship does not include self-created hardships, willful or negligent acts by the owner, purchase of the property for substantially more than the market value, failure to perform normal maintenance and repairs, failure to diligently solicit and retain tenants, or failure to provide normal tenant improvements.
- (d) The Commission shall hold a public hearing as soon as practical, after the notice prescribed in Sec. 19.06(c), to take final action on the application.
- (1) If after reviewing all of the evidence, the Commission finds that the application of the standards set forth in subsection (c) of this section results in economic hardship, then the commission shall issue a certificate of economic hardship, allowing the proposed alteration, or a certificate of demolition.
 - (2) If the Board of Trustees finds that the application of the standards set forth in subsection (c) of this section does not result in economic hardship, then the certificate of demolition shall be denied.

19.13. – Certificate of demolition.

- (a) It shall be unlawful for any historic structure, site or property in a historic district to be demolished without having first obtained a certificate for demolition. If a certificate for demolition is requested on any basis other than that of an imminent hazard or economic hardship, a certificate of demolition will not be issued until all criteria in subsection (b) of this Section are met.
- (b) Applicants requesting a certificate of demolition must provide data to clearly demonstrate that the situation meets all of the following criteria:
 - (1) The structure proposed for demolition is not structurally sound despite evidence of the owner's efforts to properly maintain the structure. An architect or engineer with extensive historic building experience will be required to submit a report with sufficient evidence related to the building's structural integrity.
 - (2) The structure cannot be rehabilitated or reused on-site to provide for any reasonable beneficial use of the property.

- (3) The structure cannot be practically moved to another site.
- (4) The applicant demonstrates that the proposal mitigates to the greatest extent practical the following:
 - a. Any impacts that occur to the visual character of the neighborhood where demolition is proposed to occur;
 - b. Any impact on the historic importance of the remaining structures located on the property and adjacent properties; and
 - c. Any impact to the architectural integrity of the remaining structures located on the property and adjacent properties.
- (c) In the case of archaeological sites, consideration will be given to whether information can be recovered as part of the demolition process.
- (d) Review criteria for partial demolition:
 - (1) The partial demolition is required for the renovation, restoration, or rehabilitation of the structure; and
 - (2) The applicant must mitigate, to the greatest extent possible:
 - a. Impacts on the historic importance or character defining features of the structures located on the property.
 - b. Impacts on the architectural integrity of the structures located on the property.

19.14. - Demolition or relocation of non-designated buildings.

- (a) No person shall demolish, move, or remove any building which is over 50 years old without first applying to the Planning Department for a permit for demolition or relocation under this Chapter and receiving a permit. Any person receiving such a permit may conduct the demolition or relocation of the building as authorized under such permit only in compliance with the terms of the permit and only before the permit expires.
- (b) Any owner of a building which is over 50 years and who intends to pursue any building or development activity that may require a permit under this Section may request a pre-filing conference with the Commission to discuss the historic nature, status and features of the property. Public comment shall be allowed as part of such conference. No action shall be taken by the Commission as part of this conference, nor shall the Commission, owner or any interested party be bound by any discussion or comments during the conference. The conference shall not be a part of or in lieu of any demolition review required by this Chapter.
- (c) Upon receipt of an application under this Section, Town staff will determine if demolition

or relocation review is required by examining application. In addition, review under this Section will be initiated upon referral from the Planning Department when a building over 50 years old is located on property that is contained within a pending application for a historic district, a Special Use Permit (SUP) or Planned Unit Development (PUD) request, which application has not been withdrawn and has had development referrals issued by the Planning Department.

- (d) This initial review, to determine eligibility for designation, shall be completed no later than 30 days after submission of complete demolition permit application. Failure to meet this review deadline will result in immediate issuance of demolition or relocation permit if all other permitting requirements have been met. If Town staff fails to submit their recommendation to the Commission within 30 days after receipt of a completed permit application, the Town shall issue the permit if all other requirements of the permit process have been met.
- (e) If during the initial review, the property is determined potentially eligible for designation, any permit will be stayed for 60 days. If determined not eligible, then a permit will be immediately issued if all other permitting requirements have been met. A copy of the determination will be sent to the owner with determination findings within 14 days of said determination.
- (f) The Commission shall conduct a public hearing on the application or the referral subject to the notice requirements prescribed in Sec. 19.06(c).
- (g) The Commission shall hold a public hearing on the permit application or referral for review within sixty (60) days after the date of Town acceptance of a completed application or issuance of Planning Department referral. For permit applications, if the Commission fails to hold a public hearing within such 60-day period, the Town shall issue the permit if all other requirements of the permit process have been met.
- (h) If the Commission determines that the non-designated building would qualify for designation under the criteria in this Chapter, the application for a permit to demolish or relocate shall be suspended for a period of 180 days. During the period of suspension, the Commission may take any action authorized to it that it deems necessary and consistent with the purposes and intent of 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, and looking for alternatives to the proposed action which will not have any adverse impact on the historic significance of the structure. The Commission shall work with the owner regarding any action to preserve the historic nature of the structure under this Section. After the 180-day period, the Town shall issue a permit if all other requirements of the permit process have been met.
- (i) Prior to the issuance of a permit for demolition or relocation, the Town or the Commission 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. As a part of this process, the Commission may require the applicant to allow Town staff or its agent on the subject property to provide historic photo-documentation of the structure. The Town will determine where the documentation is to be deposited.

- (j) Any demolition or relocation permit that is issued pursuant to an application that is subject to this Section shall expire no later than 180 days after the permit is issued if the work authorized by such permit has not commenced.
- (k) The Town may require the preservation or salvage of specific architectural elements of the structure and the opportunity to document the building photographically prior to demolition of the site.

19.15. - Unsafe or dangerous conditions exempted.

Nothing in this Chapter shall be construed to prevent any measures of construction, alteration, removal, 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 Town and where the proposed measures have been declared necessary by the chief building official to correct the condition, as long as only such work that is necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining a certificate of historic appropriateness under this Chapter, but a certificate is required for permanent alteration, removal, or demolition.

19.16. - Appeals.

- (a) Any person aggrieved by a Historic Preservation Commission decision may appeal the decision to the Board of Trustees by following the procedures set forth in this Section.
- (b) A formal notice of appeal shall be filed with the Town no later than fifteen (15) working days from the date of decision. The notice shall conform with the requirements of this Section, along with the applicable filing fee.
- (c) Upon receipt of the appeal, the Town Clerk shall schedule the appeal for the next regularly scheduled meeting of the Board of Trustees that allows for publication and posting required per Sec. 19.06(c).
- (d) Appeals shall be reviewed on the basis of the record before the Commission to determine the following:
 - (1) If the Design Guidelines were adhered to, if guidelines have been adopted by the Town; and
 - (2) If the Code was interpreted or applied erroneously.
- (e) A perfected appeal shall operate as a stay of the decision unless determined otherwise by

the Board of Trustees.

- (f) Once scheduled, an appeal may only be postponed by the aggrieved party upon a showing of good cause.
- (g) The Board of Trustees shall have the power to affirm, reverse, modify or remand for additional review the action under appeal. The hearing shall be limited to matters raised on appeal. No new evidence shall be admitted at a public hearing.
- (h) The failure to appeal within the fifteen (15) day period shall be deemed to be a waiver of the right to appeal for failure to exhaust administrative remedies.
- (i) The appeal filing fee shall be per the published fee schedule as determined by the Board of Trustees. Failure to pay the fee according to the published fee schedule shall be deemed to be a waiver of the right to appeal.

19.17. - Enforcement and penalties.

- (a) It shall be unlawful for any person to violate a provision of this chapter or the terms of a certificate of historic appropriateness. Any person, either as owner, lessee, occupant, or otherwise, who violates any of the provisions of this Chapter or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this Chapter, shall be subject to penalties in Sec. 1-72 of the Municipal Code.
- (b) In addition to the remedies in Sec. 19.17(a) above, if a designated structure is altered or demolished in violation of this Chapter, the violation shall be grounds for the Town to deny any permit required under the Municipal Code related to the use of the property or building on the property for a period of five (5) years from the Town's discovery of the violation or the Town may seek order from the Municipal Court or other court of competent jurisdiction an order from the court requiring the owner to cease the alteration or demolition or requiring the owner to return the structure to its condition prior to the unlawful alteration or demolition, including reconstruction of the structure in a manner that replicates as closely as possible the original structure. An owner subject to the remedies in this subsection may file for an appropriate permit under this Chapter seeking approval from the Town for the alteration or demolition. Such permit application shall be accompanied by the payment of an amount that is equal to double the current application fee. If the Town approves the application, then the five (5) year moratorium on permits shall be lifted and the owner may seek vacation of any court order.
- (c) The remedies in this Section shall be deemed cumulative.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 12th day of July, 2016.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: 
Joel Benson, Mayor

ATTEST:

Janell Sciacca, Town Clerk

