

THE TOWN OF
PO BOX 2002 • 210 E. MAIN ST.
BUENA VISTA, COLORADO 81211



BUENA VISTA
P: 719.395.8643 • F: 719.395.8644
WEB: WWW.BUENAVISTACO.GOV

AGENDA

HISTORIC PRESERVATION COMMISSION TOWN OF BUENA VISTA, COLORADO

March 2, 2023 3:00 PM

In-person Meeting will be held at the Central Colorado Airport (2nd Floor Conference Room) with alternate zoom link availability for the public to also attend virtually. To participate in Public Comment and/or Public Hearings you must attend in-person or use the following link: <https://us02web.zoom.us/j/84638379205?pwd=UmRSMWdPZ21MWW5ibnZLZjh3OW10Zz09>

Meeting ID: [846 3837 9205](#) Passcode: [923915](#)

Listen via phone at: [+1 386 347 5053](#)

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **AGENDA ADOPTION**
- IV. **APPROVAL OF MINUTES – February 2, 2022**
- V. **PUBLIC COMMENT**
- VI. **BUSINESS ITEMS**
 - A. ADG chapter 19 review, discussion and next steps
 - B. 2023 goals and next steps
 - C. Saving Places discussion
 - D. 113 N RR Street mock review
 - E. Updates from related organizations and general discussion
- VII. **STAFF UPDATES**
- VIII. **ADJOURNMENT**

CHAPTER 19 Historic Preservation

ARTICLE I 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.
- (c) The further intent is to provide clear and concise design regulations for alterations and new construction on East Main Street in the MU-MS Zone District.

(Ord. 14 §1 , 2016)

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.

Alteration means any act or process that changes exterior architectural features of a structure; the physical features of a site or district; additions to a structure or site; or rehabilitation, restoration or remodeling which impacts the exterior of the structure. ~~The definition of alteration does not include minor maintenance or repairs; or, but does not include~~ demolition or partial demolition of the structure or site.

Certificate of historic appropriateness means a certificate issued by the Town showing approval of plans for alterations to designated structures, or alterations to, or new construction of any structure (designated or not) within the MU-MS Zone District.

Commission means the Town of Buena Vista Historic Preservation Commission.

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.

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.

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.

Demolition means any act or process which destroys, in part or in whole, any exterior features of a structure.

Designated structure, site or district means a structure, site or district designated pursuant to ~~Chapter 19-6 of this municipal code~~ Chapter 19-6 of this municipal code, including any structure deemed to be contributing to designated district.

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.

Historic designation means the formal recognition of a historic structure, site, or district by the Town pursuant to this Chapter.

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.

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.

Historic site means a location of a significant event, historic occupation or activity where the location itself maintains historical, cultural or architectural value and significance to the community regardless of the value of any existing building or structure, and which may be eligible for designation pursuant to this Chapter.

Historic structure means any structure 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 and which is at least fifty (50) years old.

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.

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.

Preservation means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a ~~designated structure or site~~ historic property.

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.

Rehabilitation means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. ~~Restoration means the act or process of making a compatible use for a structure or site~~

Commented [1]: Revised slightly to match the NPS/Sec of Interior definitions here.
<https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>

through repair, and additions, while preserving those portions or features that convey its historic, cultural, or architectural values.

Restoration 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.~~ ~~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 reconstruction of missing features from the restoration period.~~

Significant change means an alteration 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.

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.

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.

(Ord. 13 , § 1, 2019; Ord. 2 , § 1, 2, 2021)

Sec. 19-3. 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 seven (7) regular members and two (2) alternates appointed by the Board of Trustees. To stagger the terms of membership, the initial terms of membership shall consist of four (4) members to serve four (4) year terms and three (3) members and the alternates to serve two (2) year terms. After the initial terms have expired, all members shall serve four (4) year terms. The Commission shall be composed of both professional and lay members, and at least two (2) members 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 or property owners within Town of Buena Vista town limits.
- (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.

(Ord. 14 §1 , 2016; Ord. 8 §1, 2017)

Sec. 19-4. 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

Commented [2]: Rehabilitation and Restoration had identical definitions.

Revised to use NPS/Secretary of Interior definitions here:

<https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>

Formatted: Font: Not Italic

Commented [3]: Revised slightly to match NPS/SOIS definition.

Commented [4]: Revised to use NPS/Secretary of Interior definitions here:

<https://www.nps.gov/orgs/1739/secretary-standards-treatment-historic-properties.htm>

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 (1) Commission member must attend a History Colorado approved educational or training event each year.

(Ord. 14 §1 , 2016)

Sec. 19-5. Powers of historic preservation commission.

- (a) To propose for adoption criteria for review of development activities within the MU-MS Zone District.
- (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).

(Ord. 14 §1 , 2016; Ord. §1, 2022)

Sec. 19-6. 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 percent (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 Section 19-6(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.

(Ord. 14 §1 , 2016)

Sec. 19-7. 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 (1) 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 (1) 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 (50) 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.

(Ord. 14 §1 , 2016)

Sec. 19-8. Criteria for designation—Districts.

- (a) Historic districts must comply with the criteria in Section 19-7 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.

(Ord. 14 §1 , 2016)

Sec. 19-9. 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.

(Ord. 14 §1 , 2016)

Sec. 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 designated 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 designated site or structure, or contributing structure in a designated 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 one hundred twenty (120) days. The Commission may grant extensions of the time period for good cause.

(Ord. 14 §1 , 2016; Ord. 2 , § 3, 2021)

Sec. 19-11. Certificate of historic appropriateness.

- (a) A certificate of historic appropriateness is required for the ~~following~~ following:
 - (1) Alterations to structures, or new construction of structures, other than minor ~~minor~~ maintenance and repair, within the MU-MS Zone District.
 - (2) Alterations to designated structures or sites, ~~other than minor maintenance and repair.~~
- (b) It shall be unlawful for any person to undertake any activity described in subsection (a) above, without having first obtained a certificate of historic appropriateness.
- (c) The Commission shall review any application for a certificate of historic appropriateness to determine whether the application meets the criteria in this Chapter.
- (d) 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 the Architectural Design Guidelines as approved by the Town Board of Trustees, as may be amended.

~~(e) All applications for Certificates of Historic Appropriateness within the MU-MS Zone District will follow the review procedures as detailed in this section.~~

~~(f)~~ All applications for certificates of historic appropriateness shall be reviewed as follows:

(1) **Pre-Application Conference.** A pre-application conference shall be held with Town staff.

(2) **Application Submittal, Acceptance, Revisions, and/or Withdrawal.** The application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 16.06.3.2.

(3) **Staff Review and Action.** Staff shall review the application and prepare a staff report and recommendation.

Formatted: Strikethrough

Commented [5]: This seems redundant.

Formatted: Strikethrough

Commented [6]: See example: 300 E Main (Crave building).

(4) Scheduling and Notice of Public Hearings. The application shall be scheduled for a public hearing before the Historic Preservation Commission, with public notice published in a newspaper of general circulation 15 days in advance of the public hearing.

(5) Historic Preservation Commission Review. At the public hearing, Historic Preservation Commission shall review the application and staff recommendation and make a determination as to whether to issue the certificate of historic appropriateness, deny the certificate of historic appropriateness, or issue the certificate of historic appropriateness with conditions.

(6) Any Commission review and decision shall take place prior to other review procedures as defined in Chapter 16 of this municipal code.

(7) The following criteria shall apply to all alterations to any structure in the MU-MS district or any other designated structure-existing structure subject to the certificate of historic appropriateness review must be consistent with the U.S. Secretary of Interior's Standards for the Treatment of Historic Properties.

(1) All proposed alterations must be consistent with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties and any design guidelines approved by the Board of Trustees:

(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) Alterations shall not detrimentally alter, destroy, or adversely affect any historic materials or features that were found by the Board of Trustees in the original designation to contribute to the designation of the structure or site. All alterations 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.

(9) Façade alterations must conform to the standards of 19-11(i) here below as applicable to the scope of work of the alterations.

(10) Demonstrate substantial compliance with the rest of the Architectural Design Guidelines as evidenced by achieving a 'yes' on the majority of applicable items on the Architectural Design Guidelines Review Checklist.

(h) The following criteria shall apply to all existing structures and new construction within the MU-MS Zone District.

Commented [7]: Note that there is no guaranteed review period.

Commented [8R7]: we need to tie all these review periods together or I agree punting to chap 16 of the m-code. Although the m-code is vague on preservation stuff.

Commented [9]: should we put in time durations for each review or tie into chap 16 of m-code

Commented [10]: suggest changing to "all structures defined under 19-11.a.1,2,3" or something like that.

Commented [11R10]: Agree

Commented [A12]: Propose removing all sub-sections so that only the SOI standards apply.

Formatted: Indent: Left: 0", First line: 0"

Commented [13]: Are these requirements necessary if substantial compliance with the ADG's becomes mandatory?

Commented [14R13]: Yes below I suggest deleting (10) so these SOI requirements would be applicable to all structures or sites outside of the MU-MS district.

Commented [15R13]: But don't we also need #10 to apply to review of alterations to locally designated properties?

Commented [16R13]: the problem is that designated properties outside of MU-MS are mostly of all non-commercial structures. The ADG's are set up for the commercial buildings on main street.

Commented [17]: Suggest we delete 10

Formatted: Indent: Left: 0", Hanging: 0.33"

Commented [18]: Suggest adding "Alterations to structures, or new construction of structures, other than minor maintenance and repair, within the MU-MS Zone District."

-
- (1) Utilize large storefront windows on the first floor with upper transoms and wood, metal, or brick kick plates;
 - (2) Have their primary entrances as recessed doorways off of Main Street;
 - (3) Utilize the module width of 25' as described in section 4.4.2 of the Architectural Design Guidelines;
 - (4) Utilize double-hung windows ~~in any second or third story above the first story that which~~ are at minimum two times as tall as they are wide;
 - (5) Utilize exterior materials substantially similar to those described in section 4.5 of the Architectural Design Guidelines;
 - (6) ~~In addition to compliance with 19-11 (i) (1),(2),(3),(4),(5)~~ Demonstrate substantial compliance with the rest of the Architectural Design Guidelines as evidenced by achieving a 'yes' on the majority of applicable items on the Architectural Design Guidelines Review Checklist.

(Ord. 14 §1 , 2016; Ord. 2 , § 4, 5, 2021)

Sec. 19-12. Hardship exemption.

- (a) The Commission may exempt a structure or site from the requirement of obtaining a certificate of historic appropriateness or certificate of demolition if the Commission finds that the property owner has shown that the obtaining of a certificate creates or would create an undue hardship.
- (b) An exemption based on noneconomic hardship may be found by the Commission when requirement to obtain a certificate creates a situation substantially inadequate to meet the applicant's needs because of specific health, ~~or~~ safety, building code, or other issues as determined by the Commission.
- (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 (2) 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 Section 19-6(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.

Formatted: Indent: Hanging: 0.3"

(2) If the Commission 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.

Formatted: Indent: Hanging: 0.28"

(Ord. 14 §1 , 2016; Ord. 13 , § 2, 2019; Ord. 2 , § 6, 2021)

Sec. 19-13. Certificate of demolition of locally designated properties.

- (a) It shall be unlawful for any locally designated structure or site ~~or contributing structure in a historic district~~ to be demolished without having first obtained a certificate ~~for of~~ demolition. If a certificate ~~for of~~ 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.
- (Ord. 14 §1 , 2016; Ord. 2 , § 7, 2021)

Formatted: Strikethrough

Formatted: Strikethrough

Sec. 19-14. ~~Alteration, d~~Demolition or relocation of non-designated historic structures.

Formatted

- (a) No person shall ~~alter,~~ demolish, or relocate any structure over fifty (50) years old, or any portion thereof, without first applying for and receiving a ~~certificate~~approval from the Planning Department.
- (b) Within thirty (30) days of receipt of an application required under this Section, the Planning Department shall determine whether the structure is eligible for historic designation by applying the criteria for designation set forth in Section 19-7. If the Planning Department determines the structure is ineligible for designation, a

certificate shall be issued. If the Planning Department determines the structure is eligible for designation, the Planning Department shall next determine whether the proposal will impact the historic importance or character-defining features of the structure. If not, the Planning Department shall issue the ~~certificate~~[approval](#). If the proposal will impact the historic importance or character-defining features of the structure, the application shall be forwarded to the Commission for determination of its eligibility for designation under the criteria for designation set forth in Section 19-7. Failure to meet the thirty (30) day deadline shall result in immediate issuance of ~~approval~~[certificate](#) if all other applicable requirements have been met.

- (c) If the application is forwarded to the Commission, the Commission shall hold a public hearing within sixty (60) days after Planning Department referral. If the Commission fails to hold a public hearing within such 60-day period, the ~~certificate~~[approval](#) shall be issued if all other applicable requirements have been met.
- (d) If the Commission determines that the non-designated historic structure qualifies for designation under the criteria in this Chapter, the application for ~~approval~~ [a certificate to alter](#), demolish, or relocate the structure shall be suspended for a period of up to one hundred eighty (180) days. The Commission may include a nonbinding recommendation for the duration of the suspension in its determination. During the period of suspension, the Town Administrator may take any action the Town Administrator 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; 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 Town Administrator shall work with the owner to preserve the historic nature of the structure. If the owner still desires to demolish or relocate the structure after expiration of the 180-day suspension period or upon determination by the Town Administrator that all actions authorized hereunder have been satisfactorily pursued, whichever occurs first, the ~~certificate~~[approval](#) shall be issued if all other applicable requirements have been met.
- (e) 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 ~~alteration~~, demolition, or relocation of the structure.

(Ord. 13 , § 3, 2019)

Editor's note(s)—Ord. 13 , § 3, adopted Nov. 12, 2019, changed the title of § 19-14 from "Demolition or relocation of non-designated buildings" to read as herein set out.

Sec. 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.

Sec. 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.

Formatted

-
- (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 Section 19-6(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 Ge 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-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.

(Ord. 14 §1 , 2016)

Sec. 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 Section 1-72 of the Municipal Code.
- (b) In addition to the remedies in Section 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.

(Ord. 14 §1 , 2016)

TOWN OF BUENA VISTA, COLORADO
ORDINANCE NO. ____
(SERIES OF 2023)

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA AMENDING CERTAIN PROVISIONS OF CHAPTER 19 CONCERNING HISTORIC PRESERVATION AND SPECIFICALLY REQUIRED APPROVAL FOR DEVELOPMENT WITHIN THE MU-MS ZONE DISTRICT

WHEREAS, the Town desires to preserve the historic nature of the East Main area which is included in the MU-MS Zone District; and

WHEREAS, the Town finds it is the best interests of the Town to implement an approval process for alterations to existing buildings and new construction in the MU-MS District to ensure the area reflects the Town’s architectural history.

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

Section 1. Sec. 19-1 of the Buena Vista Municipal Code is amended by the addition of a new subsection (c) to read as follows:

- (c) The further intent is to provide clear and concise design regulations for alterations and new construction on East Main Street in the MU-MS Zone District.

Section 2. The following definitions, in Sec. 19-2 of the Buena Vista Municipal Code, are amended to read as follows:

Alteration means any act or process that changes exterior architectural features of a structure; the physical features of a site or district; additions to a structure or site; or rehabilitation, restoration or remodeling which impacts the exterior of the structure. The definition of alteration does not include minor maintenance or repairs; or demolition of the structure or site.

Certificate of historic appropriateness means a certificate issued by the Town showing approval of plans for alterations to, or new construction of any structure (designated or not) within the MU-MS Zone District, or alterations to designated structures in any zone district.

Designated structure, site or district means a structure, site or district designated pursuant to Chapter 19-6 of this municipal code, including any structure deemed to be contributing to designated district.

Historic structure means any structure 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 and which is at least fifty (50) years old.

Preservation means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property.

Restoration 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.

Section 3. Sec. 19-5(b) of the Buena Vista Municipal Code is deleted and subsequent subsections are renumbered accordingly.

Section 4. Sec. 19-11 of the Buena Vista Municipal Code is repealed and reenacted to read as follows:

Sec. 19-11. Certificate of historic appropriateness.

(a) A certificate of historic appropriateness is required for the following:

(1) Alterations to structures or sites, other than maintenance and repair, or new construction within the MU-MS Zone District.

(2) Alterations to designated structures or sites, ~~other than maintenance and repair~~.

(b) It shall be unlawful for any person to undertake any activity described in subsection (a) above, without having first obtained a certificate of historic appropriateness.

(c) All applications for certificates of historic appropriateness shall be reviewed as follows:

(1) Pre-Application Conference. A pre-application conference shall be held with Town staff.

(2) Application Submittal, Acceptance, Revisions, and Withdrawal. The application shall be submitted, accepted, and may be revised or withdrawn pursuant to Section 16.06.6.3.2.

(3) Staff Review and Action. Staff shall review the application and prepare a staff report and recommendation.

(4) Scheduling and Notice of Public Hearings. The application shall be scheduled for a public hearing before the Historic Preservation Commission, with public notice published in a newspaper of general circulation 15 days in advance of the public hearing.

(5) Review. The Commission shall review any application for a certificate of historic appropriateness to determine whether the application meets the criteria in this Chapter.

(d) Any Commission review and decision shall take place prior to other review procedures as defined in Chapter 16 of this code.

(e) Alterations to any existing structure subject to the certificate of historic appropriateness review must be consistent with the U.S. Secretary of Interior's Standards for the Treatment of Historic Properties. ~~The following criteria shall apply to all alterations to any structure or site in the MU-MS district or any designated structure or site within any zone district, as applicable:~~

~~(1) All proposed alterations must be consistent with the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties and any design guidelines approved by the Board of Trustees.~~

~~(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) Alterations 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.~~

~~(9) — Façade alterations must conform to the standards of 19-11(i) here below as applicable to the scope of work of the alterations.~~

~~(10) — Demonstrate substantial compliance with the rest of the Architectural Design Guidelines as evidenced by achieving compliance on the majority of applicable items on the Architectural Design Guidelines Review Checklist.~~

~~(11) — 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. The Commission shall approve, approve with conditions, or deny the application.~~

(f) The following criteria shall apply to all existing structures and new construction within the MU-MS Zone District:

(1) Utilize large storefront windows on the first floor with upper transoms and wood, metal, or brick kick plates;

(2) Have their primary entrances as recessed doorways off of Main Street;

(3) Utilize the module width of 25' as described in section 4.4.2 of the Architectural Design Guidelines;

(4) Utilize double-hung windows in any second or third story above the first story which are at minimum two times as tall as they are wide;

(5) Utilize exterior materials substantially similar to those described in section 4.5 of the Architectural Design Guidelines;

(6) Demonstrate substantial compliance with the rest of the Architectural Design Guidelines as evidenced by achieving compliance on the majority of applicable items on the Architectural Design Guidelines Review Checklist.

Section 5. Sec. 19-12(b) and (d)(1) of the Buena Vista Municipal Code are amended to read as follows:

(b) An exemption based on noneconomic hardship may be found by the Commission when requirement to obtain a certificate creates a situation substantially inadequate to meet the applicant's needs because of specific health, safety, building code, or other issues as determined by the Commission.

(d) The Commission shall hold a public hearing as soon as practical, after the notice prescribed in Section 19-6(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 Commission 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.

Section 6. Sec. 19-13(a) of the Buena Vista Municipal Code is amended to read as follows:

(a) It shall be unlawful for any locally designated structure or site ~~or contributing structure in a historic district~~ to be demolished without having first obtained a certificate of demolition. If a certificate of 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.

Section 75. Sec. 19-14 of the Buena Vista Municipal Code is renamed "~~Alteration,~~ ~~d~~Demolition or relocation of non-designated historic structures." and is amended as follows:

- (a) No person shall ~~alter,~~ demolish, or relocate any structure over fifty (50) years old, or any portion thereof, without first applying for and receiving ~~a certificate approval~~ from the Planning Department.
- (b) Within thirty (30) days of receipt of an application required under this Section, the Planning Department shall determine whether the structure is eligible for historic designation by applying the criteria for designation set forth in Section 19-7. If the Planning Department determines the structure is ineligible for designation, ~~a certificate approval~~ shall be issued. If the Planning Department determines the structure is eligible for designation, the Planning Department shall next determine whether the proposal will impact the historic importance or character-defining features of the structure. If not, the Planning Department shall issue the ~~certificate approval~~. If the proposal will impact the historic importance or character-defining features of the structure, the application shall be forwarded to the Commission for determination of its eligibility for designation under the criteria for designation set forth in Section 19-7. Failure to meet the thirty (30) day deadline shall result in immediate issuance of ~~a certificate approval~~ if all other applicable requirements have been met.
- (c) If the application is forwarded to the Commission, the Commission shall hold a public hearing within sixty (60) days after Planning Department referral. If the

Commission fails to hold a public hearing within such 60-day period, the ~~certificate approval~~ shall be issued if all other applicable requirements have been met.

(d) If the Commission determines that the non-designated historic structure qualifies for designation under the criteria in this Chapter, the application for ~~a certificate approval~~ to, demolish, or relocate the structure shall be suspended for a period of up to one hundred eighty (180) days. The Commission may include a nonbinding recommendation for the duration of the suspension in its determination. During the period of suspension, the Town Administrator may take any action the Town Administrator 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; 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 Town Administrator shall work with the owner to preserve the historic nature of the structure. If the owner still desires to demolish or relocate the structure after expiration of the 180-day suspension period or upon determination by the Town Administrator that all actions authorized hereunder have been satisfactorily pursued, whichever occurs first, the ~~certificate approval~~ shall be issued if all other applicable requirements have been met.

(e) 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 ~~alteration~~ demolition, or relocation of the structure.

Section 86. Sec. 19-14(d) of the Buena Vista Municipal Code is revised to read as follows:

If the Commission determines that the non-designated historic structure qualifies for designation under the criteria in this Chapter, the application for a certificate to alter, demolish, or relocate the structure shall be suspended for a period of up to one hundred eighty (180) days. The Commission may include a nonbinding recommendation for the duration of the suspension in its determination. During the period of suspension, the Town Administrator may take any action the Town Administrator 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; 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 Town Administrator shall work with the owner to preserve the historic nature of the structure. If the owner still desires to demolish or relocate the structure after expiration of the 180-day suspension period or upon determination by the Town Administrator that all actions authorized hereunder have been satisfactorily pursued, whichever occurs first, the certificate shall be issued if all other applicable requirements have been met.

Section 97. Sec. 19-18 of the Buena Vista Municipal Code is deleted.

Section 108. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 119. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this _____ day of _____, 2023.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY (30) DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: _____
Libby Fay, Mayor

ATTEST:

Paula Barnett, Town Clerk

(SEAL)