

1 **BY AUTHORITY**

2 ORDINANCE NO. \_\_\_\_\_

COUNCIL BILL NO. CB19-xxxx

3 SERIES OF 2019

COMMITTEE OF REFERENCE:

4 Land Use, Transportation & Infrastructure

5 **A BILL**

6 **For an ordinance amending Chapter 30 (Landmark Preservation) of the Revised**  
7 **Municipal Code.**

8  
9 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

10 **Section 1.** That section 30-1, D.R.M.C., shall be amended by adding the language underlined  
11 and deleting the language stricken as follows:

12 **“Sec. 30-1. Purpose and declaration of policy.**

13 (1) It is hereby declared as a matter of public policy that the protection, enhancement,  
14 perpetuation and use of structures and districts of historical, architectural, ~~or~~ geographic, or cultural  
15 significance, located within the city or its mountain parks, is a public necessity, and is required in the  
16 interest of the prosperity, civic pride and general welfare of the people.

17 (2) The purpose of this chapter is to:

18 (a) Designate, preserve, protect, enhance and perpetuate those structures and districts  
19 which reflect outstanding elements of the city's cultural, artistic, social, economic,  
20 political, architectural, historic or other heritage;

21 (b) Foster civic pride in the beauty and accomplishments of the past;

22 (c) Stabilize or improve the aesthetic and economic vitality and values of such structures  
23 and districts;

24 (d) Protect and enhance the city's attraction to tourists and visitors;

25 (e) Promote the use of outstanding historical or architectural structures or districts for the  
26 education, stimulation and welfare of the people of the city;

27 (f) Promote good urban design including the perpetuation of related private open spaces;  
28 and

29 (g) Promote and encourage continued private ownership and utilization of such buildings  
30 and other structures now so owned and used, to the extent that the objectives listed  
31 above can be attained under such a policy.

32 (3) It is the sense of the council that the economic, cultural and aesthetic standing of this city  
33 cannot be maintained or enhanced by disregarding the historical, architectural and geographic

1 heritage of the city and by ignoring the destruction or defacement of such cultural assets.

2 (4) This chapter is enacted in accordance with the city council’s general police power found in  
3 charter section 3.2.3, and not the zoning power of city council.”

4 **Section 2.** That section 30-2, D.R.M.C. shall be amended by adding the language underlined and  
5 deleting the language stricken as follows:

6 **“Sec. 30-2. Definitions.**

7 The following words and phrases, when used in this chapter, shall have the meanings respectively  
8 ascribed to them:

9 (1) Accessory structure shall have the same meaning as the term is defined in article XIII of the  
10 Denver Zoning Code.

11 (2) Alteration shall mean any act or process which changes one (1) or more of the exterior  
12 architectural features of a designated structure for preservation or district for preservation.

13 ~~(1.1) Concept of integrity shall mean the ability of a structure or district to be recognized as~~  
14 ~~belonging to its particular time and place in Denver's history. The integrity of the structure or district~~  
15 ~~means that it reflects its original time and place.~~

16 ~~(1.2) Concept of significance shall mean the idea that a structure or district is important to the~~  
17 ~~history, architecture or geography of the city and thus makes a special contribution to Denver's~~  
18 ~~distinctive character.~~

19 (3 2) Contributing shall mean a structure or feature that adds to the historic, architectural,  
20 geographic, or cultural significance of a structure for preservation or a structure in a district for  
21 preservation.:

22 a. ~~That was designated as contributing in the ordinance establishing the district;~~

23 b. ~~That was not designated as either contributing or noncontributing in the ordinance~~  
24 ~~establishing the district, but which adds to the historical or architectural qualities of the~~  
25 ~~district, was present during the period of significance and is recognizable as having~~  
26 ~~been present during the period of significance because it retains its physical integrity;~~  
27 ~~or~~

28 c. ~~That is so designated by the commission because no period of significance and no~~  
29 ~~other means for designating contributing structures was specified in the ordinance~~  
30 ~~establishing a district for preservation, and the structure adds to the historical or~~  
31 ~~architectural qualities of the district, retains its physical integrity, and was built at least~~  
32 ~~thirty (30) years prior to the determination by the commission that it is a contributing~~

1 structure.

2 (4 3) Culture shall mean the traditions, beliefs, customs, and practices of a particular community.

3 Culture can encompass structures, businesses, institutions, organizations, events, arts, and crafts.

4 (5) Demolition shall mean the removal of 40% or more of the exterior walls, 40% of more of the  
5 roof, or 40% or more of the combined total exterior walls and roof of a structure for preservation or  
6 a structure in a district for preservation.

7 (6) District shall mean ~~any structure or improvement and its surrounding environs or~~ a group of  
8 structures or improvements or both, and their surrounding environs that have been designated for  
9 preservation.

10 (7) Executive director shall mean the executive director of the City and County of Denver's  
11 Department of Community Planning and Development, or the executive director's designee.

12 (8 4) ~~Exterior architectural feature~~ Feature shall mean the architectural style, design, general  
13 arrangement and components of all the outer exterior surfaces of a structure or improvement,  
14 including but not limited to the color, texture, materials, type and style of all windows, doors, lights,  
15 signs and other fixtures appurtenant to the structure or improvement.

16 (9 4.1) ~~Historic context or theme~~ shall mean those patterns, themes, or trends in history by which a  
17 specific structure or district is understood. It refers to the cultural, social, religious, economic, and/or  
18 political conditions that existed during a certain time and at a place and provides the background  
19 necessary to understand how and why a structure or district may have historic, architectural,  
20 geographic, or cultural significance. To evaluate a structure or district based on its historic context,  
21 it must be examined based on its relevance to a specific aspect of Denver history, architecture or  
22 geography. This examination includes:

- 23 a. ~~Comparing a particular structure or district to other similar structures or districts to~~  
24 ~~determine how well it illustrates a specific aspect of history, architecture or geography;~~
- 25 b. ~~Determining whether the relevant aspect of history, architecture or geography is~~  
26 ~~significant, and,~~
- 27 c. ~~Determining whether a structure or district possesses the physical features necessary~~  
28 ~~to convey that aspect of history, architecture or geography with which it is related.~~

29 (10 5) Improvement shall mean any feature, building, structure, place, work of art or other object  
30 constituting a physical betterment of real property or any part of such betterment.

31 (11 4.2) Integrity ~~Historic and physical integrity~~ shall mean the ability of a structure or district to  
32 convey its historic, geographic, and architectural, or cultural significance. To have ~~historic and~~

1 physical integrity means that a structure or district can be recognized as belonging to its particular  
2 time and place in Denver's history. The seven (7) qualities that, in various combinations, define  
3 integrity are:

- 4 a. *Location*: The place where the historic structure was constructed or the place where  
5 the historic event occurred.
- 6 b. *Setting*: The physical environment of a historic structure.
- 7 c. *Design*: The combination of elements that create the form, plan, space, structure, and  
8 style of a structure.
- 9 d. *Materials*: The physical elements that were combined or deposited during a particular  
10 period of time in a particular pattern or configuration to form a historic structure.
- 11 e. *Workmanship*: The physical evidence of a particular culture or people's craft during  
12 any given period in history.
- 13 f. *Feeling*: A structure's expression of the aesthetic or historic sense of a particular period  
14 or time.
- 15 g. *Association*: The direct link between an important historic event or person and a historic  
16 structure.

17 Determining which of these seven (7) qualities are most important to a particular property requires  
18 knowing why, where, and when the property is significant.

19 ~~(5) — *Improvement* shall mean any feature, building, structure, place, work of art or other object  
20 constituting a physical betterment of real property or any part of such betterment.~~

21 (12 6) *Noncontributing* shall mean a structure or feature that does not add to the historic,  
22 architectural, geographic, or cultural significance of a structure for preservation or in a district for  
23 preservation.:

- 24 a. ~~That was designated as noncontributing in the ordinance establishing the district (but  
25 see section 30-11(1)(b)); or~~
- 26 b. ~~That was not designated as contributing in the ordinance establishing the district, and  
27 which does not add to the historical or architectural qualities of the district, was not  
28 present during the period of significance or because of alterations or deterioration it  
29 has lost its physical integrity.~~

30 (13 6.4) *Period of significance* shall mean the time period during which a structure for  
31 preservation or a district for preservation gained its historic, architectural, historical or geographical  
32 , or cultural importance. A district's period of significance may cover a longer period of time than a

1 structure's, in order to encompass the period during which the district developed.

2 (14) Primary structure shall have the same meaning as the term is defined in article XIII of the  
3 Denver Zoning Code.

4 (15 7) Replacement structure shall mean a primary structure for a permitted use by right, except  
5 surface parking and storage, that takes the place of a designated structure for preservation or a  
6 structure in a district for preservation.

7 (16 7.4) Residential use shall mean any building or part of a building in which a person or group  
8 of persons are provided with sleeping accommodations.

9 (17) Significance shall mean that a structure for preservation or a district for preservation is  
10 important to the history, architecture, geography, or culture of the city.

11 (18 8) Structure shall mean anything which is constructed or erected and the use of which requires  
12 more or less permanent location on the ground or attachment to something having permanent  
13 location on the ground, not, however, including wheels; any physical feature of the site; any  
14 improvement on the site; an edifice or building of any kind.

15 (19) Temporary sign shall have the same meaning as the term is defined in article XIII of the  
16 Denver Zoning Code.

17 (20) Temporary structure shall have the same meaning as the term is defined in article XIII of the  
18 Denver Zoning Code, or any structure required to have a permit under Denver Building Code Section  
19 134.”

20 **Section 3.** That section 30-3, D.R.M.C. shall be amended by adding the language underlined and  
21 deleting the language stricken as follows:

22 **“Sec. 30-3. Criteria for designation of structures and districts for preservation.**

23 ~~If a A structure or district maintains its historic or physical integrity, it may be designated for~~  
24 ~~preservation if, due to its significance, it meets the criteria listed in subsections at least one (1),~~  
25 ~~criterion in two (2) and or more of the following three (3) below categories:~~

26 (1) ~~The structure or district maintains its historic or physical integrity; *History.* To have historical~~  
27 ~~significance, the structure or district shall be thirty (30) or more years old or have extraordinary~~  
28 ~~importance to the historical development of Denver, and shall:~~

29 a. ~~Have direct association with the historical development of the city, state, or nation;~~

30 b. ~~Be the site of a significant historic event; or~~

31 c. ~~Have direct and substantial association with a person or group of persons who had~~  
32 ~~influence on society.~~

1 (2) The structure or district is more than 30 years old, or is of exceptional importance; and  
2 ~~Architecture. To have architectural significance, the structure or district shall have design quality and~~  
3 ~~integrity, and shall:~~

- 4 a. ~~Embodiment distinguishing characteristics of an architectural style or type;~~
- 5 b. ~~Be a significant example of the work of a recognized architect or master builder;~~
- 6 c. ~~Contain elements of architectural design, engineering, materials, craftsmanship, or~~  
7 ~~artistic merit which represent a significant or influential innovation; or~~
- 8 d. ~~Portray the environment of a group of people or physical development of an area in an~~  
9 ~~era of history characterized by a distinctive architectural style.~~

10 (3) The structure or district meets at least 3 of the following 10 criteria: Geography. To have  
11 geographical significance, the structure or district shall:

- 12 a. It has a direct association with a significant historic event or with the historical  
13 development of the city, state, or nation; Have a prominent location or be an  
14 established, familiar, and orienting visual feature of the contemporary city;
- 15 b. It has direct and substantial association with a recognized person or group of persons  
16 who had influence on society; Promote understanding and appreciation of the urban  
17 environment by means of distinctive physical characteristics or rarity; or
- 18 c. It embodies the distinctive visible characteristics of an architectural style or type; Make  
19 a special contribution to Denver's distinctive character.
- 20 d. It is a significant example of the work of a recognized architect or master builder;
- 21 e. It contains elements of design, engineering, materials, craftsmanship, or artistic merit  
22 which represent a significant innovation or technical achievement;
- 23 f. It represents an established and familiar feature of the neighborhood, community, or  
24 contemporary city, due to its prominent location or physical characteristics;
- 25 g. It promotes understanding and appreciation of the urban environment by means of  
26 distinctive physical characteristics or rarity;
- 27 h. It represents an era of culture or heritage that allows an understanding of how the site  
28 was used by past generations;
- 29 i. It is a physical attribute of a neighborhood, community, or the city that is a source of  
30 pride or cultural understanding; or
- 31 j. It is associated with social movements, institutions, or patterns of growth or change  
32 that contributed significantly to the culture of the neighborhood, community, city, state,

1           or nation.

2 In evaluating the structure's or district's eligibility for designation ~~whether the criteria of history,~~  
3 ~~architecture and geography are met~~, the landmark preservation commission ("commission") shall  
4 consider ~~how a~~ the structure's or district's ~~relates to one (1) or more historic contexts or themes."~~

5 **Section 4.** That section 30-4, D.R.M.C. shall be amended by adding the language underlined and  
6 deleting the language stricken as follows:

7 **"Sec. 30-4. Procedure for designating structures and districts for preservation.**

8 (1) *Initiation of procedure.* An application for designation shall be submitted to the commission  
9 for due consideration through the process described herein. An application for designation may be  
10 submitted:

- 11 a. By the owner or owners of the property or properties to be designated;
- 12 b. By the executive director ~~manager of community planning and development;~~
- 13 c. By a member or members of city council;
- 14 d. By non-owners of the property or properties to be designated, in which case the  
15 application must be submitted by ~~at least~~ three (3) persons who are residents ~~or~~  
16 ~~owners of property in the City and County of Denver, or have a place of business in~~  
17 ~~the City and County of Denver.~~

18 Such an application for designation shall describe the appearance of the structure or district and  
19 shall demonstrate how the structure or district meets the criteria for designation set forth herein. The  
20 ~~landmark preservation~~ commission shall provide an application form and instructions that set out the  
21 required information for designation applications.

22 (2) *Withdrawing of applications.* An applicant may withdraw its application at any time before a  
23 bill for an ordinance to designate a structure or district is filed with city council. An application filed  
24 by three (3) persons as allowed in Sec. 30-4(1) d. above, must be withdrawn by all three (3) persons  
25 who filed the application.

26 (3) *Preliminary investigation.* The commission staff shall conduct an preliminary review  
27 ~~investigation~~ to determine whether the application is complete, and whether the structure or district  
28 is eligible for designation. If the applicant is not the owner of the property, the owner shall be notified  
29 at every stage of the designation proceedings. If preliminary review determines the application to be  
30 complete and the structure or district to be eligible for designation, the commission staff shall set the  
31 time, date and place for the public hearing before the commission (hereinafter called a "designation  
32 hearing") and the review shall proceed as described. If not, the applicant shall be advised of the

1 reasons the application is incomplete or the structure or district does not meet the criteria for  
2 designation. However, the applicant may require that the application be forwarded to the  
3 commission, which shall then decide whether to send it to a public hearing.

4 ~~(4 3)~~ *Scheduling of designation hearing by the commission.* If an application has been forwarded  
5 to the commission in spite of staff's findings that it was not complete or did not meet the criteria for  
6 designation, the commission shall review the application and staff's recommendation to determine if  
7 the application is complete and demonstrates that the structure or district is potentially eligible for  
8 designation. If the commission finds the application complete and the property potentially eligible for  
9 designation it shall schedule a public hearing on the question of designation at a specified time, date  
10 and place.

11 ~~(4) — Reserved.~~

12 (5) *Notice of hearing.* Notice of the designation hearing shall be given as follows:

13 (a) Written notice of the time, date, place and subject of the hearing shall be sent no fewer  
14 ~~not less~~ than twenty-five (25) days ~~not~~ and no more than forty (40) days prior to the  
15 hearing to all owners of record as determined from records in the assessor's office who  
16 own property containing a structure being proposed for designation for preservation or  
17 within a proposed district for preservation. The written notice to owners of property  
18 containing a structure being proposed for designation for preservation shall be by first  
19 class and certified mail. The written notice to owners of property within a proposed  
20 district shall be by first class mail.

21 (b) Signs indicating the proposed action and the time, date and place of the hearing, shall  
22 be posted by the commission on all property proposed for designation as a structure  
23 for preservation and on the boundaries of all areas proposed for designation as a  
24 district for preservation, for a period of not less no fewer than fifteen (15) days prior to  
25 ~~immediately preceding the hearing on all property proposed for designation as a~~  
26 ~~structure for preservation and on the boundaries of all areas proposed for designation~~  
27 ~~as a district for preservation, such signs to be prominently displayed and easily~~  
28 ~~readable from abutting public ways. These signs shall be prominently displayed and~~  
29 easily readable from abutting public ways.

30 ~~(c) — A legal notice indicating the nature of the hearing, the property involved, and the time,~~  
31 ~~date and place of the scheduled public hearing, shall be published once in an official~~  
32 ~~publication of the city not less than ten (10) nor more than fifteen (15) days prior to the~~

1 hearing.

2 (c d) Written notice of the proposed designation, including the identification of the property,  
3 the basis for commencing the designation procedure, and the time, date and place of  
4 the hearing shall be given to the executive director ~~planning board~~, and to the director  
5 of the ~~building inspection~~ not less no fewer than twenty-five (25) days prior to the  
6 hearing.

7 (6) *Review by planning board.* The planning board may review a ~~the~~ proposed designation for a  
8 district for preservation with respect to:

9 (a) Its relationship to the comprehensive plan;

10 (b) The effect of the designation upon the surrounding neighborhood; and

11 (c) Such other planning considerations as may be relevant to the proposed designation.

12 The board may recommend approval, ~~rejection~~ or denial ~~modification~~ of the proposed designation  
13 and if a recommendation is made it shall contain a statement of the basis therefor. If a  
14 recommendation is made by the board, said recommendation shall be delivered to the city council  
15 for council's consideration.

16 (7) *Hearing:*

17 (a) A quorum of the ~~preservation~~ commission shall conduct the hearing. A hearing may be  
18 continued. If the hearing is continued, the time, date and place of the continuation shall  
19 be established and announced to those present when the current session is to be  
20 adjourned.

21 (b) Reasonable opportunity shall be provided for all interested parties to express their  
22 opinions regarding the proposed designation or designations. However, nothing  
23 contained herein shall be construed to prevent the commission from establishing  
24 reasonable rules to govern the proceedings of the hearings, or from establishing  
25 reasonable limits on the length of individual presentations.

26 (c) Transcripts of the hearings are not required; however, the commission's records shall  
27 include the name and address of each speaker; the organization or person the speaker  
28 represents, if any; whether or not the speaker is an owner or holder of some interest  
29 in an affected property, or represents such owner or holder; and each speaker's  
30 position on the designation ~~a summary of the relevant portions of each statement~~.  
31 Written presentations, including the report of the board, shall be incorporated into the  
32 record of the hearing. All recordings ~~tapes~~, documents, and physical evidence

1           considered shall be retained for sixty (60) days after designation.

2 (8) *Findings and recommendations of the commission.* The commission shall consider the  
3 designation criteria in Sec. 30-3 in making its determination. The ~~preservation~~ commission shall act  
4 officially on each proposed designation within forty-five (45) days after the hearing thereon. The  
5 commission may recommend to approve, reject or recommend to modify any proposal, but no  
6 proposal may be extended beyond the boundaries of the land described in the final application for  
7 designation unless the initiation and hearing procedure is repeated for the enlarged boundaries. The  
8 commission may also deny the application, which shall terminate the designation procedure. The  
9 commission shall set forth in its recommendation the findings of fact which constitute the basis for  
10 its decision. If the commission fails to act within the forty-five-day period, the designation shall be  
11 deemed to have been denied ~~rejected~~, and the designation procedure terminated. If more than one  
12 (1) property is involved in the designation procedure, the commission may approve in part and deny  
13 in part. Each part shall then be treated as a separate action. In no event may any property be added  
14 to the area described in the final application for designation without instituting a new designation  
15 procedure.

16 (9) *Transmittal to city council.* Within thirty (30) ~~fifteen (15)~~ days after reaching a ~~its~~ decision to  
17 recommend approval or recommend to modify a designation application, the preservation  
18 commission shall forward ~~either (1) transmit to the city council and to the director of the building~~  
19 ~~department~~ the commission's recommendation on the designation of a structure or district for  
20 preservation, including the description of the property involved, and the findings upon which the  
21 recommendation was based; ~~or (2) terminate the designation procedure.~~ ~~If more than one (1)~~  
22 ~~property is involved in the designation procedure, the commission may approve in part and terminate~~  
23 ~~in part. Each part shall then be treated as a separate action. In no event may any property be added~~  
24 ~~to the area described in the final application for designation without instituting a new designation~~  
25 ~~procedure.~~

26 (10) *Action by city council.* ~~Upon receipt of the recommendations transmitted by the preservation~~  
27 ~~commission, the city~~ City council shall hold a public hearing if the commission recommends approval  
28 or modification to ~~may, by ordinance,~~ designate property as a structure for preservation or a district  
29 for preservation. City council may approve the designation of property as a structure for preservation  
30 or a district for preservation after considering the recommendations of the commission, Due  
31 ~~consideration shall be given to the written views of owners of affected property, and~~ any other  
32 comments received at the public hearing; and the city council deny the designation based on any of

1 ~~the considerations above shall hold public hearings on any proposed structure for preservation or~~  
2 ~~district for preservation designation.~~ However, if no bill for an ordinance to designate a structure or  
3 district is filed within ninety (90) days after transmittal of the recommendation, the designation  
4 procedure is terminated.

5 (11) *Recording of designation.* Within fifteen (15) days of the effective date (date of final  
6 publication) of an ordinance designating property as a structure for preservation or a district for  
7 preservation, the ~~preservation~~ commission shall notify the executive director ~~of building inspection~~  
8 of the official designation and shall record among the real property records of the clerk and recorder  
9 ~~either (1) a certified copy of the ordinance designating specified property as a structure for~~  
10 ~~preservation or a district for preservation, or (2) a notice stating that specified property has been~~  
11 designated as a structure for preservation or a district for preservation, and citing the ordinance and  
12 the effective date thereof which made the designation effective. Failure to record such ~~ordinance or~~  
13 notice within the required time shall suspend the effective date of the designation until the recording  
14 has been made.

15 (12) *Notification.* Within twenty (20) days after the recording of ~~the ordinance or~~ the notice of  
16 designation, the staff secretary of the ~~preservation~~ commission shall send to the owner of each  
17 property affected by the designation a letter outlining the reasons for such designation and the  
18 obligations and restrictions created by such designation.”

19 **Section 5.** That section 30-5, D.R.M.C. shall be amended by adding the language underlined and  
20 deleting the language stricken as follows:

21 **“Sec. 30-5. Procedure to amend or rescind designation of structures and districts for**  
22 **preservation.**

23 The designation of a structure or district for preservation may be amended or rescinded in the same  
24 manner as the original designation was made under the provisions of section 30-4 of this chapter;  
25 provided however, in the event a structure for preservation has been demolished or moved from the  
26 designated site, then the rescission of designation may be made by ordinance without following the  
27 procedures set forth in said section 30-4; provided further that an amendment to a designating  
28 ordinance shall not require a city council public hearing if said amendment does not change the area  
29 encompassed by the district or structure for preservation. Any application to amend the area of a  
30 district or structure for preservation or to rescind a designation shall be forwarded to city council with  
31 the commission's recommendation.”

32 **Section 6.** That section 30-6, D.R.M.C. shall be amended by adding the language underlined and

1 deleting the language stricken as follows:

2 **“Sec. 30-6. Procedure to authorize erection, construction, reconstruction, alterations to, or**  
3 **demolition of structures.**

4 (1) *Protection from demolition during designation proceedings and review of properties prior to*  
5 *demolition.* ~~The mailing of the written notice required by section 30-4(5)(a) shall initiate the imposition~~  
6 ~~of the following conditions on the issuance of demolition permits:~~

7 (a) Upon or after receipt by community planning and development (“CPD”) of an  
8 application for designation of a structure or a district for preservation, no demolition  
9 permit applied for after the designation application is submitted shall be issued for said  
10 structure or any structure in said district until the commission denies the application for  
11 designation, city council fails to designate the structure of district, or the designation  
12 application is withdrawn. ~~for a period of one hundred twenty (120) days from the receipt~~  
13 ~~of an application for demolition by CPD. An application for designation shall not be~~  
14 ~~considered received until the application fee is received by CPD. If the preservation~~  
15 ~~commission denies the application for designation or if at the end of the 120-day period~~  
16 ~~the structure or district has not been designated by council, the~~ Any demolition permit  
17 must comply shall be issued upon compliance with all Denver Building and Fire Code  
18 requirements. If the structure is ~~has been~~ designated prior to the end of the 120-day  
19 ~~period,~~ the provisions of section 30-6(6) shall apply.

20 (b) For a structure that is not pending designation as a structure for preservation or as part  
21 of a district for preservation at the time an application for demolition is received by  
22 CPD, the executive director shall review the demolition application ~~shall be reviewed~~  
23 within ten (10) working days to determine whether the structure has potential for  
24 designation. The date of receipt of the application shall not be counted in the ten (10)  
25 working day period. For the purposes of this section 30-6(1)(b) only “demolition” shall  
26 be as defined in the Denver Zoning Code, and "structure" shall mean a primary  
27 structure or an accessory structure which is one and a half stories or more in height,  
28 only, as "primary structure", "accessory structure" and "half story" are defined in the  
29 Denver Zoning Code.

30 (i) During the ten (10) working day review period no demolition permit shall be  
31 issued unless the structure is determined not to have potential for designation  
32 by the executive director ~~manager of CPD or the manager's designee~~

1                   ~~(hereinafter in this section "manager").~~ Any time after the executive director  
2                   ~~manager~~ makes a determination that the structure does not have potential for  
3                   designation or if the ten (10) working day period has elapsed without such a  
4                   determination, and provided no application for designation has been received  
5                   by CPD, the demolition approval permit shall be issued upon compliance with  
6                   all Denver Building and Fire Code requirements. The demolition approval under  
7                   this section will be valid for three (3) years from the date of issuance.

8                   (ii) If the executive director ~~manager~~ determines that the structure may have  
9                   potential for designation, the executive director ~~manager~~ shall notify the person  
10                  who applied for demolition, the property owner, the city council person in whose  
11                  district the structure lies, the at-large councilpersons, the registered  
12                  neighborhood organizations the boundaries of which encompass or are within  
13                  two hundred (200) feet of the structure and appropriate historic preservation  
14                  entities that the structure has been deemed to have potential for designation  
15                  and there is a request for demolition pending. The property shall be posted for  
16                  twenty-one (21) calendar days for notification ~~comment~~ about the potential for  
17                  demolition ~~designation~~ of the property. The initial day of posting shall not be  
18                  counted in the twenty-one (21) day period. No demolition permit shall be issued  
19                  for a period of twenty-one (21) calendar days from the date of the above  
20                  notifications and posting. The notification and posting requirements above must  
21                  be completed within three (3) business days of the executive director's decision  
22                  that the structure may have potential for designation.

23                  (iii) Notwithstanding subsection (ii) above, ~~the previous sentence,~~ if a notice of  
24                  intent to file an application for designation ("Notice of Intent") is filed by any of  
25                  the parties allowed to submit an application for designation in Sec. 30-4(1) b-d,  
26                  and is received by the twenty-first (21<sup>st</sup>) ~~fourteenth~~ calendar day after the  
27                  posting of the property, the posting period shall be extended to sixty (60) days  
28                  from the initial posting, and no demolition permit shall be issued during that  
29                  period for a total of twenty-eight (28) days from the initial posting. Only one  
30                  Notice of Intent shall be accepted by CPD per posting.

31                  1. No later than forty (40) days following the initial posting, at least one of  
32                  the parties who filed the Notice of Intent shall meet with the owner of the

1 property or the owner's representative. CPD shall notify a facilitator that  
2 a Notice of Intent has been submitted. The facilitator shall coordinate the  
3 meeting, and shall determine other attendees of the meeting, but in all  
4 cases a member of the commission staff shall attend. The facilitator  
5 should strive to limit the attendees of the meeting to no more than fifteen  
6 (15) people. The facilitator shall produce a written summary of the  
7 meeting to CPD, and this summary will be incorporated into the record of  
8 any commission and city council public hearing. No application for  
9 designation may be submitted to CPD prior to this meeting.

10 2. After the meeting required in subsection 1. above has concluded, a  
11 designation application may be filed with CPD.

12 3. If the party who filed the Notice of Intent fails to appear at the meeting  
13 required above, then the demolition permit shall be issued to the  
14 applicant for the permit. If the owner or owner's representative fails to  
15 appear at the meeting required above, then the demolition permit shall  
16 be denied. The applicant for a demolition permit may apply for another  
17 demolition permit, subject to the procedures of Sec. 30-6(1).

18 (iv) If a complete application for designation, along with the applicable fee, is  
19 received before the applicable posting period has elapsed ~~demolition permit is~~  
20 issued, the provisions of sections 30-6(1)(a) shall apply.

21 (v) If the structure is not designated within ninety (90) days after the receipt by CPD  
22 of a complete application for designation, along with the applicable fee, the  
23 designation proceedings shall be terminated.

24 (vi) If the applicable posting period has elapsed and no complete application for  
25 designation has been received by CPD, if the commission denies the application  
26 for designation, city council fails to designate the structure or district, or the  
27 designation application is withdrawn, then the demolition permit shall be issued  
28 upon compliance with all Denver Building and Fire Code requirements.

29 (c) In order to provide certainty in the demolition process, an owner of a structure that is  
30 not pending designation and is neither designated nor in a district for preservation  
31 designation may apply to CPD to have the structure reviewed for eligibility of demolition  
32 officially declared to be non-historic and have a certificate to that effect (the The

1 "certificate"). Said certificate shall prevent an application for designation from going  
2 forward without the owner's consent for a period of five (5) years from the date of  
3 issuance, and for said five-year period will allow an application for demolition to be  
4 processed without further review as to the structure's potential for designation.  
5 Notwithstanding the previous sentence, if the structure is part of a General  
6 Development Plan (GDP) under the Denver Zoning Code the certificate shall be valid  
7 for the period during which the GDP is vested or five (5) years from the date of  
8 issuance, whichever is longer, up to a maximum of ten (10) years.

9 i. Upon receipt of a complete application for a certificate including any required  
10 fee, the executive director ~~manager~~ shall review the application for a certificate  
11 within ten (10) working days to determine if the structure has potential for  
12 designation. The date of receipt of the application shall not be counted in the  
13 ten (10) working day period. Any time after the executive director makes a  
14 determination ~~If before ten (10) working days have elapsed since the~~  
15 ~~application, the manager has determined~~ that the property does not have  
16 potential for designation or if the ten (10) working day period has elapsed  
17 without such a determination, the executive director ~~manager~~ shall issue a  
18 certificate.

19 ii. If the executive director determines no determination is made before ten (10)  
20 working days have elapsed since the application, or if the manager has  
21 determined that the structure property may does have potential for designation  
22 the executive director ~~manager~~ shall notify the person who applied for the  
23 certificate, the property owner, the city council person in whose district the  
24 structure lies, the at-large council persons, the registered neighborhood  
25 organizations the boundaries of which encompass or are within two hundred  
26 (200) feet of the structure and appropriate historic preservation entities that the  
27 structure has been deemed to have potential for designation and there is a  
28 request for a certificate pending. The property shall be posted for twenty-one  
29 (21) calendar days for notification ~~comment~~ about the potential for receipt of a  
30 certificate for ~~designation~~ of the property. The initial day of posting shall not be  
31 counted in the twenty-one (21) day period. The notification and posting  
32 requirements above must be completed within three business (3) days of the

1 executive director's decision that the structure may have potential for  
2 designation.

3 iii. Notwithstanding subsection ii. above the previous sentence, if a notice of intent  
4 to file an application for designation Notice of Intent is filed by any of the parties  
5 allowed to submit an application for designation in Sec. 30-4(1) b-d, and is  
6 received by the twenty-first (21<sup>st</sup>) fourteenth calendar day after the posting of  
7 the property, the posting period shall be extended to sixty (60) days from the  
8 initial posting, and no certificate shall be issued during that period for a total of  
9 twenty-eight (28) days from the initial posting. Only one Notice of Intent shall be  
10 accepted by CPD per posting.

11 1. No later than forty (40) days following the initial posting, at least one of  
12 the parties who filed the Notice of Intent shall meet with the owner of the  
13 property or the owner's representative. CPD shall notify a facilitator that  
14 a Notice of Intent has been submitted. The facilitator shall coordinate the  
15 meeting, and shall determine other attendees of the meeting, but in all  
16 cases a member of the commission staff shall attend. The facilitator  
17 should strive to limit the attendees of the meeting to no more than fifteen  
18 (15) people. The facilitator shall produce a written summary of the  
19 meeting to CPD, and this summary will be incorporated into the record of  
20 any commission and city council public hearing. No application for  
21 designation may be submitted to CPD prior to this meeting.

22 2. After the meeting required in subsection 1. above has concluded, a  
23 designation application may be filed with CPD.

24 3. If the party who filed the Notice of Intent fails to appear at the meeting  
25 required above, then the certificate shall be issued to the applicant for  
26 the certificate. If the owner or owner's representative fails to appear at  
27 the meeting required above, then the certificate shall be denied. The  
28 applicant for a certificate may apply for another certificate, subject to the  
29 procedures of Sec. 30-6(1).

30 iv. If a complete application for designation along with the applicable fee, is  
31 received before the applicable posting period has elapsed, the provisions of  
32 sections 30-6(1) shall apply. certificate is issued no certificate shall be issued

1 unless and until the commission or city council ultimately decides not to  
2 designate the property provided, however, if the structure is not designated  
3 within one hundred twenty (120) days after the request for the certificate is filed,  
4 the certificate shall be issued and designation proceedings shall be terminated.

5 v. If the structure is not designated within ninety (90) days after the receipt by CPD  
6 of a complete application for designation, along with the applicable fee, the  
7 designation proceedings shall be terminated.

8 vi. If the applicable posting period has elapsed and no complete application for  
9 designation has been received by CPD, if the commission denies the application  
10 for designation, city council fails to designate the structure or district, or the  
11 designation application is withdrawn, then the certificate shall be issued.

12 (d) iii. In this section 30-6(1) "potential for designation" shall mean a structure which after  
13 initial review appears to meet the designation criteria.

14 (2) *Design review standards, policies and guidelines.*

15 (a) The commission shall adopt the secretary of the interior's treatment of historic  
16 properties standards for rehabilitation and design review policies and guidelines (in  
17 such form as it deems appropriate) to aid in its review of design review and permit  
18 applications.

19 (b) For the purposes of this section "permit" includes building permit, curb cut permit,  
20 demolition permit, encroachment ~~revocable~~ permit, zoning construction permit and  
21 request for zoning lot amendment, unless one or more type of permit is specified or  
22 excluded. The commission shall not review permits for temporary structures or  
23 temporary signs.

24 (3) *Review of permit.* The commission shall review any application for a permit for any of the  
25 following acts:

26 (a) Alteration of, reconstruction of, or addition to the exterior of any structure which  
27 constitutes all or part of a designated structure for preservation or all or part of a  
28 structure located in a designated district for preservation or the modification of a zone  
29 lot in a designated district for preservation or all or part the zone lot of a designated  
30 structure for preservation;

31 (b) Demolition of any structure which constitutes all or part of a designated structure for  
32 preservation or all or part of a structure located in a designated district for preservation;

1 (c) Construction of, erection of, or any addition to any structure upon any land in a  
2 designated district for preservation or on any land included in the area designated as  
3 a structure for preservation.

4 (d) Application for a zone lot amendment in a designated district for preservation or for  
5 any land included in the area designated as a structure for preservation.

6 (4) *Approval of permit.* The permit shall not be issued without written approval of the ~~preservation~~  
7 commission or its designated representative, except as provided in subsection 30-6(7).

8 (5) *Action on proposed alterations, reconstruction, or additions.* (See section 30-6(6) for action  
9 on proposed demolitions.) The commission shall base reviews of applications on adopted standards,  
10 policies, ~~and guidelines, and information found in the designation application.~~ The commission may  
11 request additional information as necessary to undertake its review. When dealing with a proposed  
12 alteration of, reconstruction of, or addition to the exterior of a contributing structure in a district for  
13 preservation or of a structure for preservation, the commission shall place the emphasis on applying  
14 the appropriate design guidelines to said structure with a view to preserving the historic significance  
15 of the basic structure. When dealing with a proposed alteration of, reconstruction of, or addition to  
16 the exterior of a noncontributing structure in a district for preservation or a noncontributing structure  
17 within the designated land area of a structure for preservation, the commission shall place the  
18 emphasis on preserving the historic character of the district or structure for preservation rather than  
19 preserving the character of the structure to be altered, reconstructed or added. The commission staff  
20 may administratively approve applications which clearly meet the guidelines, unless the commission  
21 has determined that certain types or applications or projects must be brought before the commission.  
22 All other applications shall be sent to the commission which shall approve, approve with conditions,  
23 or deny said applications. ~~The commission shall take action on the application within thirty (30) days~~  
24 ~~of receipt of all information requested by the commission or commission staff.~~

25 (a) Upon the request of any affected property owner or receipt of an application for a  
26 permit, other than a curb cut, demolition or encroachment ~~revocable~~ permit, the  
27 ~~preservation~~ commission shall review any proposal for altering, constructing, erecting,  
28 or adding to any structure covered by subsections 30-6(3)(a) or (3)(c). If the  
29 commission finds that the proposed work is of a nature which will not destroy or  
30 adversely affect any architectural feature of the structure and is appropriate or  
31 consistent with the spirit and purposes of this chapter, it shall so indicate in writing. No  
32 substantial change shall be made to the work as presented in an application approved

1 by the commission without resubmittal to the commission and approval of such  
2 changes in the same manner as the original application.

3 (b) If upon review of the proposed work, the commission finds portions thereof to be  
4 unacceptable, the application may be approved with conditions which shall be adhered  
5 to.

6 (c) If upon review of the proposed work, the commission finds said work to be  
7 unacceptable, the application shall be denied. The commission shall state the reasons  
8 for the denial ~~in writing~~, citing adopted standards, policies, and guidelines. ~~The~~  
9 ~~applicant may seek relief through economic hardship review set forth in section 30-~~  
10 ~~6(8) or withdraw the proposal.~~

11 (d) Upon approval of a permit, a certificate of appropriateness ("COA") shall be issued  
12 which shall state the approved work and any conditions to said approval. A copy of the  
13 COA certificate shall be displayed along with and in the same manner as any building  
14 permits issued for the same work. The COA certificate of appropriateness shall be valid  
15 for three (3) years from the original date of issuance. If construction has not started  
16 within said three-year period, or if an active building or zoning permit has not been  
17 issued by CPD, the applicant must submit a new application. If the COA has expired  
18 and if no substantial changes have been made to the project, and applicable design  
19 guidelines have not changed since issuance of the COA, the COA will be reissued one  
20 time.

21 (5.5) *Action on a proposed zone lot amendment.* The commission shall base reviews of  
22 applications on adopted standards, policies and guidelines. The commission may request additional  
23 information as necessary to undertake its review. When dealing with a zone lot amendment in a  
24 district for preservation, the commission shall determine whether the amendment adversely affects  
25 character or integrity of the district neighborhood or any contributing structure in the district  
26 neighborhood. When dealing with a zone lot amendment encompassing all or part of the land area  
27 of a structure for preservation, the commission shall determine whether the amendment adversely  
28 affects the character or integrity of the structure for preservation. In reviewing a zone lot amendment,  
29 the commission shall make a recommendation to the zoning administrator for approval, denial, or  
30 approval with conditions.

31 (6) *Action on proposed demolition of a structure for preservation or structure in a district for*  
32 *preservation.* Application for a proposed demolition covered by subsection 30-6(3)(b) (Hereinafter in

1 this section (6) called an "application for demolition") must be made in writing to the commission. An  
2 application for a demolition permit or a letter of intent fulfills this requirement. In no event (except in  
3 the case of (b)iv. below) shall a demolition permit be issued for a primary structure that is a structure  
4 for preservation or contributing to a district for preservation until the commission has approved a  
5 replacement structure ~~or site development~~. In no event (except in the case of (b)iv. below) shall a  
6 demolition permit be issued for a noncontributing primary structure or an accessory structure until  
7 the commission has approved a replacement structure or site plan.

8 (a) If the structure proposed for demolition is a noncontributing ancillary structure or  
9 outbuilding, the commission staff may approve the application for demolition or forward  
10 the application for demolition to the commission with a recommendation for approval  
11 or disapproval.

12 (b) The commission may approve or disapprove without a public hearing an application  
13 for demolition if the structure to be demolished is:

- 14 i. A noncontributing structure in a district;
- 15 ii. A noncontributing addition to a structure or site;
- 16 iii. An accessory ancillary structure or outbuilding of a contributing structure or site;  
17 or
- 18 iv. Determined, in accordance with 30-6(7), to be imminently dangerous to life,  
19 health or property and its demolition remedies said dangerous condition.

20 The commission shall take action on such an application at the regularly scheduled meeting at which  
21 it receives the application or at one (1) of the two (2) regularly scheduled meetings next following  
22 said receipt of the application ~~or within 30 days of receipt of all requested information, if the~~  
23 ~~commission makes such a request of the applicant.~~

24 (c) Upon receipt of an application for demolition of a contributing accessory ancillary  
25 structure or outbuilding, the commission may require a public hearing if it finds that the  
26 accessory ancillary structure or outbuilding has historic, architectural, ~~or~~ geographic,  
27 or cultural significance of its own, and its removal would affect the ~~historic~~ integrity of  
28 the site.

29 (d) The commission shall hold a public hearing on all applications for demolition, except  
30 as provided in sections 30-6(6)(a), (b) and (c) above. Public hearings of the  
31 commission shall be conducted at a regularly scheduled meeting of the commission.  
32 The commission may adopt such rules or limits as may be necessary to govern the

1 hearing within the proper spirit and purposes of this chapter. Staff shall notify the  
2 commission at the commission's next regularly scheduled meeting of receipt of an  
3 application for demolition. After the commission has been so notified, the commission  
4 shall set a public hearing to be held at the second regularly scheduled public meeting  
5 after the meeting at which the commission is notified of the application for demolition,  
6 unless the applicant agrees to a later hearing.

7 Written notice of the public hearing shall be sent to the owner of the property and to  
8 the building permit applicant (if different from the owner), giving the time, date, place  
9 and subject of the public hearing, no fewer ~~not less~~ than thirteen (13) days prior to the  
10 hearing. Signs indicating the proposed action and the time, date and place of the  
11 hearing shall be posted by the commission on the property being considered no fewer  
12 ~~not less~~ than thirteen (13) days prior to the hearing. Such signs shall be prominently  
13 displayed and easily readable from abutting public ways.

14 (e) Determination. Either at the final meeting during which the public hearing is held, or at  
15 the next regularly scheduled meeting after the public hearing is closed, the  
16 ~~preservation~~ commission shall make a determination to approve or deny the  
17 application for demolition. The findings of the commission shall be based on  
18 consideration of specified design standards, presented plans, public testimony and  
19 related findings of fact. Notification of the commission's determination shall be made  
20 ~~in writing to the applicant and such persons as requested notification at the public~~  
21 ~~hearing.~~ Notification shall also be sent to the building inspection division within five (5)  
22 days after the determination. If the application for demolition is approved, the  
23 commission shall require a replacement structure or site development as a condition  
24 of the demolition approval. The demolition approval under this section will be valid for  
25 three (3) years from the date of issuance.

26 (f) If the application for demolition is denied, the applicant may seek relief through the  
27 economic hardship process, defined in section 30-6(8).

28 (6.5) *Action on requests for curb cut and encroachment ~~revocable~~ permits.* Upon receipt of an  
29 application for a curb cut permit or an encroachment ~~revocable~~ permit, the manager of public works  
30 shall determine if the work to be done will be located in a district for preservation or adjacent to a  
31 structure for preservation. If the work is so located, the manager shall forward said application to the  
32 commission for review. The commission shall determine if the work would negatively affect the

1 district for preservation or structure for preservation and make its recommendation, in writing, to the  
2 manager of public works. The commission shall base its review on adopted standards, policies and  
3 guidelines. If recommending that the work not be done or that the work be modified, the commission  
4 shall state which standards, policies and guidelines formed the basis for its recommendation. The  
5 manager shall consider the commission's recommendations in determining whether to approve the  
6 application, but may overrule the commission if the manager finds there are valid public safety or  
7 other concerns that override the historic preservation considerations.

8 (7) *Remedying of dangerous conditions.* In any case where the building inspection division of  
9 CPD, the department of public health and environment or the fire department or any other duly  
10 authorized officer or agency of the city orders or directs the construction, reconstruction, alteration,  
11 repair or demolition of any improvement to a structure for preservation or structure in a district for  
12 preservation, for the purpose of remedying conditions determined by that department, agency or  
13 officer to be imminently dangerous to life, health or property, said work may proceed without further  
14 delay imposed by reason of this chapter, provided any such department, agency or officer shall give  
15 the commission notice prior to issuance of any such order or directive. Nothing contained herein  
16 shall be construed as making it a violation of this chapter for any person to comply with such order  
17 or directive without receipt of a statement from the commission.

18 (8) *Procedure to demonstrate economic hardship.*

19 (a) Economic hardship is proven when the denial of the application for demolition of a  
20 structure for preservation or a contributing structure in a district for preservation would prevent the  
21 owner's reasonable beneficial use of the structure. Consideration of a request for a determination of  
22 economic hardship may not include any of the following:

- 23 (i) The review of proposed elective alterations to a structure;
- 24 (ii) The review of the financial ability of the owner to rehabilitate a property;
- 25 (iii) The review of self-imposed hardships, such as demolition by neglect or  
26 intentional destabilization of a structure; or
- 27 (iv) The lack of due diligence by the owner, or an inopportune economic climate.

28 (b) Application to demonstrate economic hardship shall be made on a form prepared by  
29 the ~~preservation~~ commission. The application may include, but is not limited to, the valuation of the  
30 property, estimates of the costs for rehabilitation of the building, estimates of the costs for new  
31 construction on the site, and reports as to the condition of the building prepared by professionals  
32 with experience in preservation and rehabilitation. The commission shall establish the submittal

1 requirements for an application by rules and regulations under the provisions of article VI, chapter 2  
2 of the Denver Revised Municipal Code. The notice of intent to initiate the procedure shall be given  
3 to the commission within thirty (30) days of the denial of the application to ~~alter or~~ demolish. The  
4 commission shall schedule a public hearing concerning the application and any person, including  
5 the applicant, may testify. The public hearing shall be conducted as in section 30-6(6) above.

6 ~~(a) The commission may solicit expert testimony and require that the applicant make~~  
7 ~~submissions concerning any or all of the following information before it makes a~~  
8 ~~determination:~~

9 ~~(i) Estimate of the cost of the proposed construction, alteration, demolition, or~~  
10 ~~removal and an estimate of any additional cost that would be incurred to comply~~  
11 ~~with the conditions of approval set out in section 30-6(5) or (6) above.~~

12 ~~(ii) A report from a licensed engineer or architect with experience in rehabilitation~~  
13 ~~as to the structural soundness of any structures on the property and their~~  
14 ~~suitability for rehabilitation.~~

15 ~~(iii) In the case of a proposed alteration, the cost of the project proposed by the~~  
16 ~~applicant compared with the changes required by the preservation commission.~~  
17 ~~In the case of a proposed demolition, the estimated market value of the property~~  
18 ~~in its current condition, after rehabilitation, and after demolition shall be~~  
19 ~~compared, in addition to actual project costs.~~

20 ~~(iv) Amount paid for the property, the date of purchase or acquisition, and the party~~  
21 ~~from whom purchased, including a description of the relationship, if any,~~  
22 ~~between the owner of record or applicant and the person from whom the~~  
23 ~~property was purchased.~~

24 ~~(v) All appraisals obtained within the previous two (2) years by the owner or~~  
25 ~~applicant in connection with the purchase, financing, or ownership of the~~  
26 ~~property.~~

27 ~~(vi) Any listing of the property for sale or rent, price asked, and any written offers~~  
28 ~~received within the previous two (2) years.~~

29 ~~(vii) The actual or market value of the land and improvements thereon according to~~  
30 ~~the most recent assessment.~~

31 ~~(viii) Real estate taxes for the previous two (2) years.~~

32 ~~(ix) In the case of a proposed demolition, a proposal for a replacement structure for~~

1           ~~the property and financial proof of the ability to complete the replacement~~  
2           ~~project.~~

3           ~~(x) For income producing property, the annual gross income from the property for~~  
4           ~~the previous two (2) years; itemized operating and maintenance expenses for~~  
5           ~~the previous two (2) years.~~

6           (c b) The commission shall consider the following factors in making ~~make~~ a determination  
7           of economic hardship on a request for a demolition permit of a structure for  
8           preservation or a contributing structure in a district for preservation; within ten (10) days  
9           ~~of the public hearing. The determination to approve or deny shall be based upon the~~  
10          ~~submissions of the applicant and testimony of experts and the public. If approved, the~~  
11          ~~action of the applicant may proceed without further delay imposed by reasons of this~~  
12          ~~chapter. In either case, the commission shall provide a written record of its decision.~~

13          (i)     Whether significant economic hardship to the property is demonstrated based  
14          on the structural condition of the building and/or the condition of its materials,  
15          and the cost of rehabilitation;

16          (ii)    Whether significant harm to the public interest based on the following  
17          preservation factors:

18                1.     The age of the building.

19                2.     The significance of the building as related to the historic and architectural  
20                heritage of the city taking into consideration whether it is a structure for  
21                preservation or a contributing structure to a historic district.

22                3.     The extent to which the structure maintains the continuity, scale and  
23                massing of adjacent contributing structures, and the prominence of the  
24                structure within the block.

25                4.     The extent to which the rehabilitation or reuse implements the goals of  
26                the comprehensive plan, or any adopted neighborhood plans.

27          (d)    Burden of proof and appeal.

28                (i)     The burden of proof as to whether the structure should be demolished is on the  
29                applicant.

30                (ii)    The applicant may appeal the decision under the provisions of section 30-9(4),  
31                below.

32          (9)    This section 30-6 shall apply to all districts for preservation and structures for preservation

1 except for all structures in the Lower Downtown Historic District (LDHD) including any structures for  
2 preservation located therein. Erection, construction, reconstruction, or alterations to ~~or demolition of~~  
3 structures in the LDHD shall be governed by article III (Lower Downtown Historic District) of this  
4 chapter 30.”

5 **Section 7.** That section 30-7, D.R.M.C. shall be amended by adding the language underlined and  
6 deleting the language stricken as follows:

7 **“Sec. 30-7. Extension of time limits.**

8 Any time limits set forth in this chapter may be extended by mutual consent of the ~~preservation~~  
9 commission, the owner, and the applicant.”

10 **Section 8.** That section 30-9, D.R.M.C. shall be amended by adding the language underlined and  
11 deleting the language stricken as follows:

12 **“Sec. 30-9. Enforcement.**

13 (1) It shall be unlawful to violate any provision of this chapter, or to disobey or fail to follow any  
14 order, decision or ruling of the commission or the Lower Downtown Design Review Commission  
15 (“LDDRC”) ~~Board~~. Any person violating any provision of this chapter shall be subject to the penalties  
16 provided by this Code.

17 (2) In case any building or structure is erected, constructed, externally reconstructed, externally  
18 altered, added to or demolished in violation of this chapter, the commission, or if the building or  
19 structure is in the (LDHD); the ~~Lower Downtown Design Review Board (LDDRCB)~~, may order any  
20 such building or structure to be returned to its condition prior to such unlawful erection, construction,  
21 reconstruction, exterior alteration, addition or demolition. This may specifically include ordering the  
22 reconstruction of a structure that was demolished to replicate as closely as possible the original  
23 structure. Furthermore, the city or any proper person may institute an appropriate action or  
24 proceedings to prevent such an unlawful erection, construction, reconstruction, exterior alteration,  
25 addition or demolition.

26 (3) The imposition of any penalty hereunder, or pursuant to Chapter 2, Article XII, Administrative  
27 Citations, shall not preclude the city or any proper person from instituting any proper action or  
28 proceeding to require compliance with the provisions of this chapter and with administrative orders  
29 and determinations made hereunder.

30 (4) ~~Any person interested in or aggrieved by a~~ A final decision or action of the commission may  
31 be appealed to Denver District Court ~~obtain judicial review~~ in accordance with the Colorado Rules  
32 of Civil Procedure Rule ~~106(a)~~(4).”

1 **Section 9.** That section 30-10, D.R.M.C. shall be amended by adding the language underlined and  
2 deleting the language stricken as follows:

3 **“Sec. 30-10. Reviewing entity for historic rehabilitation tax credit projects.**

4 (1) The commission shall act as a reviewing entity for Colorado historic rehabilitation tax credits,  
5 as set forth in C.R.S. §§ 39-22-514, and 39-22-514.5.

6 (2) The amount of the fee required to be paid by the taxpayer for such review shall be as set forth  
7 in C.R.S. § 39-22-514, or as set forth in section 30-13 of this chapter, as applicable.

8 (3) Any appeal of the commission’s review of Colorado historic rehabilitation tax credits shall be  
9 in accordance with C.R.S. §§ 39-22-514, and 39-22-514.5, and any adopted rules and regulations  
10 implementing such sections.”

11 **Section 10.** That section 30-11, D.R.M.C. shall be amended by adding the language underlined and  
12 deleting the language stricken as follows:

13 **“Sec. 30-11. Landmark preservation commission designation of contributing or non-**  
14 **contributing properties within districts for preservation.**

15 ~~When there is no period of significance in the designating ordinance for a district for preservation,~~  
16 ~~and the designating ordinance does not specifically state which structures are contributing, the~~  
17 ~~commission may designate structures as contributing. In determining whether a structure meets the~~  
18 ~~definition of a contributing structure, the commission shall utilize the application for designation of~~  
19 ~~the district as well as the ordinance designating the district and the "criteria for designation of~~  
20 ~~structures and districts for preservation" (section 30-3 of this chapter).~~

21 (1) In determining whether a structure or feature is contributing or non-contributing to the  
22 structure or district for preservation, the ~~The~~ commission shall determine whether the structure or  
23 feature retains integrity and evaluate the following criteria ~~not designate as contributing:~~

24 a. Whether the structure or feature is listed as contributing or non-contributing in the  
25 designation ordinance or in the designation application; Any structure built or  
26 constructed less than thirty (30) years prior to the date of the commission's action on  
27 designation.

28 b. Whether the structure or feature was constructed within the period of significance for  
29 the structure or district for preservation; or A structure listed as non-contributing in the  
30 designating ordinance, except when:

- 31 1. ~~The structure was present during the period of significance, if any;~~  
32 2. ~~The structure has been restored so as to meet the criteria for contributing~~

1 structures; and

2 ~~3. The property owner has requested designation as a contributing structure.~~

- 3 c. Whether the structure or feature contributes to the significance for which the structure  
4 or district for preservation were designated. A structure in a district that has a period of  
5 significance included in the designating ordinance and the structure was not present  
6 during the period of significance.

7 (2) The commission may approve a change in the contributing or non-contributing status of a  
8 property if listed in the designation ordinance in the following circumstances: designate as  
9 contributing a structure that was, due to alterations or deterioration, at one time designated by the  
10 commission as noncontributing, if the following conditions are met:

- 11 a. The structure has been rehabilitated or restored so as to meet the criteria for  
12 contributing structures or features; or and
- 13 b. The structure or feature has lost its integrity and no longer contributes to the  
14 significance for which the structure or district for preservation was designated. The  
15 property owner requests designation.

16 (3) The All designations of properties as contributing by the commission may only consider a  
17 change in status from non-contributing to contributing at the owner's request shall be by affirmative  
18 vote of not fewer than five (5) commissioners."

19 **Section 11.** That section 30-13, D.R.M.C. shall be amended by adding the language underlined and  
20 deleting the language stricken as follows:

21 **"Sec. 30-13. Fees to accompany applications and reviews under this chapter.**

22 The executive director manager of community planning and development may set fees for all  
23 applications and reviews under this chapter 30. Such fees shall cover costs of designation and  
24 review including signs for posting, reproduction and postage for notification, and production and  
25 installation of standard plaques and district signs, certificates of appropriateness and recording fees.  
26 Fees shall be paid prior to the public hearing for designation or review by staff, the commission or  
27 the LDDRCB. All applications or requests for reviews initiated by the city, including city council  
28 members, shall be exempt from such fees."

29 **Section 12.** That section 30-26, D.R.M.C. shall be amended by adding the language underlined and  
30 deleting the language stricken as follows:

31 **"Sec. 30-26. Staff.**

32 The staff of the preservation commission shall consist of a secretary and such other assistants as

1 may be authorized by the mayor. The secretary shall be the custodians of the records of the  
2 commission, shall conduct official correspondence, and shall generally supervise the clerical and  
3 technical work of the commission. ~~The secretary shall be appointed by the mayor with the consent~~  
4 ~~of the commission; provided, however, that nothing herein shall be construed to prevent the mayor~~  
5 ~~from assigning the duties of the secretary as a part-time function of a present employee of the city.”~~

6 **Section 13.** That section 30-27, D.R.M.C. shall be amended by adding the language underlined and  
7 deleting the language stricken as follows:

8 **“Sec. 30-27. Committees and subcommittees.**

9 The commission may appoint committees and subcommittees as necessary to carry out the work of  
10 the commission.

11 ~~(1) — *Design review committee.* A design review committee may be empowered by the commission~~  
12 ~~to act on its behalf in making decisions regarding sections 30-4(2), 30-6(5), 30-6(6), or other matters~~  
13 ~~as assigned.~~

14 ~~(2) — *District subcommittees.* The commission may, at its discretion, appoint a subcommittee to~~  
15 ~~conduct design review, as defined in section 30-6(5), for a specific district for preservation. A report~~  
16 ~~of the subcommittee shall be submitted to the commission for final decision. Such a subcommittee~~  
17 ~~shall consist of at least one (1) member of the commission, at least one (1) design professional, and~~  
18 ~~at least one (1) district resident. Members shall be appointed by the commission for a specified term.”~~

19 **Section 14.** That section 30-46, D.R.M.C. shall be amended by adding the language underlined and  
20 deleting the language stricken as follows:

21 **“Sec. 30-46. Lower Downtown Design Review Commission Board.**

22 (a) There shall be and is hereby created a Lower Downtown Design Review Commission Board  
23 (“LDDRC board”) which shall consist of nine (9) ~~seven (7)~~ members. The nine (9) ~~seven (7)~~ members  
24 shall be appointed by the mayor from nominations from the following persons and organizations or  
25 their successors:

- 26 (1) The city council representative, or representatives, of the Lower Downtown Historic  
27 District for preservation (“district”);
- 28 (2) The Denver chapter of the American Institute of Architects;
- 29 (3) Historic Denver, Inc.;
- 30 (4) History Colorado ~~The Colorado Historical Society~~;
- 31 (5) The National Trust for Historic Preservation, ~~Mountain and Plains Region~~; and,
- 32 (6) Registered neighborhood organizations which represent all of the district.

1 (b) The ~~nine (9) seven (7)~~ members of the LDDRC ~~board~~ shall represent the following groups,  
2 interests or professions:

3 (1) A real estate developer. Nominees shall have experience in the rehabilitation or  
4 construction of commercial or residential projects similar in scale to the buildings in  
5 lower downtown.

6 (2) ~~A practicing~~ An architect.

7 (3) A historic preservationist.

8 (4) A preservation architect.

9 (5) A resident of the district.

10 (6) A property owner in the district.

11 (7) An owner or operator of a business in the district.

12 (8) Two at-large members.

13 (c) Appointments shall be made by the mayor ~~upon the certification by the Landmark preservation~~  
14 ~~commission ("LPC") that the applicants meet the qualifications for the position.~~

15 (d) ~~Two (2) of the four (4) members listed in subsection (b)(1) through (4) above shall not live in,~~  
16 ~~own property in, own or operate a business in, maintain an office in or otherwise represent interests~~  
17 ~~in the district.~~ No member of the LDDRC ~~board~~ shall be a member of the LPC.

18 (e) Each member of the LDDRC ~~board~~ shall serve a term of three years. Members may be  
19 removed by the mayor only for cause upon written charges. The mayor shall appoint ~~two three (2 3)~~  
20 ~~new~~ at-large members, one (1) who shall ~~be a real estate developer, and shall sit for a term of one~~  
21 ~~(1) year, one (1) who shall be a historic preservationist and shall sit for a term of two (2) years, and~~  
22 ~~one (1) who shall be a preservation architect and shall sit for a term of three (3) years.~~ As the LDDRC  
23 ~~board~~ members' terms expire, their replacements shall be then appointed by the mayor for a term of  
24 three (3) years so as to attain and then maintain the representation set forth in (b) above. Members  
25 may be reappointed to succeed themselves. After following the nomination and selection procedures  
26 set forth above in this section, vacancies shall be filled by the mayor for the unexpired term of any  
27 member whose term becomes vacant.

28 (f) A quorum shall be ~~five (5) four (4)~~ members. A concurring vote of a majority of the members  
29 present shall be required to pass general business matters of the LDDRC ~~board~~. To approve any  
30 design review or demolition application, other than for any project in a special review district, the  
31 concurrence of a majority of the LDDRC ~~(five (5) board (four (4) members)~~ shall be necessary. ~~Five~~  
32 ~~(5) of the seven (7)~~ Six (6) of the nine (9) members must concur in order to approve a project in a

1 special review district.

2 (g) The staff of the LDDRC shall be the custodians of the records of the LDDRC, shall conduct  
3 official correspondence and generally supervise the clerical and technical work of the LDDRC.”

4 **Section 15.** That section 30-48, D.R.M.C. shall be amended by adding the language underlined and  
5 deleting the language stricken as follows:

6 **“Sec. 30-48. Design and demolition review.**

7 (a) The design ~~and demolition~~ review process for all structures within the Lower Downtown  
8 Historic District shall be as follows:

9 (1) ~~Demolition review shall be required and shall commence upon the request of the~~  
10 ~~applicant to demolish a structure.~~ Design review shall be required and shall commence  
11 upon a written request by the applicant or upon a request by the applicant for a zoning  
12 permit or a building permit. ~~Applicants for demolition review must also submit an~~  
13 ~~application for design review of a replacement structure. Upon a determination that a~~  
14 ~~building to be demolished is imminently dangerous to life, health or property by the~~  
15 ~~building permitting and inspections services agency, the department of public health~~  
16 ~~and the environment, or the fire department and upon notification of such determination~~  
17 ~~to the board an application for a demolition permit shall be issued without following the~~  
18 ~~remaining provisions of this section and without the requirement for an application of a~~  
19 ~~replacement structure.~~

20 (2) Applications for design review which clearly meet the design guidelines may be  
21 administratively approved by the staff of the LDDRC board. Staff may request  
22 additional information if the application is incomplete. ~~Staff must make its decision~~  
23 ~~within thirty (30) days after receiving all requested information.~~

24 (3) The applicant may request a decision on an entire project at a single meeting, or may  
25 ask for a two- or three-step review except for an application for infill construction, which  
26 must be a two- or three-step review. ~~If the applicant requests a step process, t~~ The first  
27 step is to review the request for demolition a structure, if any. The second step is review  
28 of the building envelope (the building's height, mass, form, stepbacks, site plan, and  
29 contextual fit), and the concept of the basic exterior facade appearances, including  
30 identification of major materials. The third step is review of the remainder of the project.  
31 ~~If the applicant requests the step process, a~~ Approval or denial of each step shall be  
32 considered a final decision and separately appealable in accordance with section 30-

1 48(a)(9).

2 (4) ~~At least fifteen (15) days before the board reviews a request for demolition of a~~  
3 ~~contributing structure, the property shall be posted indicating the date, time and place~~  
4 ~~of the review.~~

5 (5) At each step of the review process, at least five (5) ~~ten (10)~~ days before the LDDRC  
6 ~~board~~ conducts its review, notification shall be sent to all registered neighborhood  
7 organizations within which the property being reviewed is located or whose boundaries  
8 are within two hundred (200) feet of the property being reviewed.

9 (6) ~~The board shall review each step of the completed application within thirty (30) days~~  
10 ~~of its receipt by community planning and development, provided that the board may~~  
11 ~~request additional information if the application is incomplete in which case the board~~  
12 ~~shall make its decision within thirty (30) days of receiving all requested information.~~  
13 ~~The 30-day time period shall not include any period of required notification or posting.~~  
14 ~~If no action is taken within the above specified 30-day time period, then the application~~  
15 ~~shall be deemed to be approved unless the review period is extended by mutual~~  
16 ~~agreement of the applicant and the board.~~

17 (4 7) The LDDRC ~~board~~ may approve, approve with conditions or ~~disapprove~~ deny the  
18 application or any step in the application.

19 (5 8) Upon approval of a complete project, a certificate of appropriateness shall be issued  
20 which shall state the approved work and any conditions to said approval. A copy of the  
21 certificate shall be displayed along with and in the same manner as any building  
22 permits issued for the same work. The certificate of appropriateness shall be valid for  
23 three (3) years from the date of issuance. If construction has not started within said  
24 three-year period or if active building or zoning permits have not been issued for the  
25 project the applicant must submit a new application. If the COA has expired and if no  
26 substantial changes have been made to the project, and applicable design guidelines  
27 have not changed since issuance of the COA, the COA will be reissued one time.

28 (6 9) ~~Any person interested in or aggrieved by a~~ A final decision or action of the LDDRC  
29 ~~board may be appealed to Denver District Court obtain judicial review~~ in accordance  
30 with the Colorado Rules of Civil Procedure ~~Rule 106(a)(4).~~

31 (b) The criteria for the design review process shall be as follows:

32 (1) The purpose of the review process is to protect, enhance, and perpetuate buildings,

1 sites, and areas of the historic district reminiscent of past eras, events, and persons  
2 important in local, state, or national history; to encourage rehabilitation of contributing  
3 buildings and ensure new construction is compatible with contributing buildings; to  
4 provide significant examples of architectural styles of the past and to develop and  
5 maintain appropriate settings and environments for such buildings, sites, and areas to  
6 enhance property values, stabilize neighborhoods, promote economic development,  
7 job creation, tourist trade, and foster knowledge of the city's living heritage;

8 (2) The design review process is intended to draw a reasonable balance between private  
9 property rights and the public interest in preserving the cultural, historic, ~~and~~  
10 architectural and geographic heritage of the historic district by providing property  
11 owners the opportunity to retain the benefits of property ownership through  
12 rehabilitation or alteration of existing buildings or the construction of new buildings  
13 which are architecturally compatible with the heritage of the district, ensuring that  
14 renovation, rehabilitation, or alteration of buildings and structures contributing to that  
15 heritage will be carefully weighted with other alternatives and the economic feasibility  
16 of renovation and re-use, and that alterations to such buildings and structures and new  
17 construction will respect the character of the district, not by imitating surrounding  
18 structures, but by being compatible with them ~~to the extent economically feasible~~.

19 (3) The LDDRC board will review the application for design review in accordance with ~~the~~  
20 ~~purposes of the district,~~ the secretary of the interior's treatments for historic properties,  
21 the design guidelines for Denver landmark structures and districts, the Lower  
22 Downtown design guidelines, the design review process, and the following  
23 requirements guidelines:

- 24 a. If the proposed work is related to renovation or rehabilitation of a contributing  
25 building, the proposed work preserves, enhances or restores and does not  
26 damage, destroy or obscure the exterior ~~architectural~~ features of the building;
- 27 b. The proposed work does not adversely affect the special character or special  
28 historical or architectural features of the property, and/or the district;
- 29 c. The architectural style, massing, texture, scale, color, arrangement of color, and  
30 materials used on existing and proposed structures are compatible with the  
31 character of the district;
- 32 d. Height:

1. Fifty-five (55) feet, excluding cornices, heating, ventilating and air conditioning equipment, stair enclosures and elevator overruns, shall be considered the height by right in the district.
2. Buildings between fifty-five (55) and eighty-five (85) feet in height (excluding cornices, heating, ventilating and air conditioning equipment, stair enclosures and elevator overruns) may be allowed by the LDDRC board if they are in context with any contributing buildings within three hundred (300) feet of any point on the property line of the proposed building, and if the structure includes residential uses anywhere in the building in a minimum amount equal to the floor area above the 55-foot limit. All residential use portions of the building shall be constructed first, or at the very least, at the same time as the remainder of the building.
3. Buildings between eighty-five (85) and one hundred (100) feet in height may be allowed, but only: if they are in context with any contributing building within three hundred (300) feet of any point on the property line of the proposed building; if the structure includes residential uses anywhere in the building in a minimum amount equal to the floor area above the 55-foot limit; and if the additional fifteen (15) feet above the 85-foot limit of 2. above, is a residential penthouse. Notwithstanding the previous sentence, for contributing structures which have no residential uses, the penthouse need not be a residential penthouse, however, all other provisions of this section 30-48 shall apply to such nonresidential penthouse. Cornices, heating, ventilating and air conditioning equipment, stair enclosures and elevator overruns must be included in the total height of one hundred (100) feet. The residential penthouse shall be used exclusively for residential or residential support purposes and shall not cover in excess of one-third ( 1/3 ) of the roof area at that level. All aspects of the penthouse shall comply with the design guidelines. All residential use portions of the building shall be constructed first, or at the very least, at the same time as the remainder of the building.
4. Buildings between one hundred (100) and one hundred thirty (130) feet in height, excluding stair enclosures and elevator overruns not in excess

1 of fifteen (15) feet tall, may be allowed by the LDDRC board if they are  
2 in special review district 1, 2 or 3, provided the structure includes  
3 residential uses anywhere in the building in a minimum amount equal to  
4 the floor area above fifty-five (55) feet. All residential use portions of the  
5 building shall be constructed first, or at the very least, at the same time  
6 as the remainder of the building. The following three (3) areas are defined  
7 for purposes of this section 30-48(a)(3)d.4. as special review districts:

8 i. District 1 shall include:

9 Lots 1 to 16 inclusive, Block 49, East Denver; and Lots 17 to 32 inclusive,  
10 Block 39, East Denver.

11 ii. District 2 shall include:

12 Lots 12 to 16 inclusive, Block 47, East Denver; Lots 11 to 22, inclusive,  
13 including vacated alley between said lots, Block 41, East Denver;  
14 Lots 1 to 6 inclusive, Block 46, East Denver; Lots 1 to 6 inclusive,  
15 and lots 27 to 32 inclusive, including vacated alley between said  
16 lots, Block 42, East Denver; and Lots 27 to 32 inclusive, Block 19,  
17 East Denver.

18 iii. District 3 shall include:

19 Lots 1 to 15 and Lots 22 to 30, all in Block 12, East Denver, and Lots "A"  
20 to "G", Howard Resubdivision (being a resubdivision of part of  
21 block 12 East Denver, and parts of Cherry Creek as shown by  
22 Boyds Map of the City of Denver)

23 Together with a parcel of land designated in the Cherry Creek  
24 Commissioners report as "Tract No. 52" being more particularly  
25 described as follows:

26 Commencing at a point where the East line of Cherry Creek as shown by  
27 Boyds Map of the City of Denver intersects the produced  
28 Northwest line of the alley in Block 12, East Denver; thence  
29 Southwest along said produced Northwest alley line to an  
30 intersection with Northeast line of the Channel of Cherry Creek as  
31 defined and described in Ordinance No. 86 Series of 1903; thence  
32 Northwest along said line as so defined to the produced Southeast

1 line of Wewatta Street; thence Northeast along said produced line  
2 of Wewatta Street to the East line of Cherry Creek as shown on  
3 said Boyds map; thence Southerly along said East line of the  
4 Channel of Cherry Creek to the point of beginning, and

5 Together with the vacated alley extending Northeasterly and  
6 Southwesterly through Block 12, East Denver and with a parcel of  
7 land designated in the Cherry Creek Commissioners report as  
8 "Tract No. 51", all being more particularly described as follows:

9 Commencing at the point where the East line of Cherry Creek as shown  
10 by Boyds Map of the City of Denver intersects the produced  
11 Northwest line of the alley in Block 12, East Denver; thence  
12 Southwest, along said produced Northwest alley line to an  
13 intersection with the Northeast line of the Channel of Cherry Creek  
14 as defined and described in Ordinance No. 86 Series of 1903;  
15 thence Southeast, along said line as so defined to the produced  
16 Southeast line of the alley in Block 12, East Denver; thence  
17 Northeast, along said produced Southeast Alley line and along  
18 said Southeast alley line to the Southwest line of 15th Street;  
19 thence Northwest, along said Southwest line of 15th Street to the  
20 Northwest line of the alley in Block 12, East Denver; thence  
21 Southwest, along said Northwest alley line and along said  
22 northwest alley line produced, to the point of beginning.

23 5. Special review district 4, which shall also be known as the Historic Urban  
24 Edge District (HUED), is hereby created. Its boundaries shall be that  
25 portion of the Lower Downtown Historic District lying southwest of 14th  
26 Street and a line extending 14th Street northwest to Wewatta Street as  
27 defined by the southwest edge of the B-7 zone district. There shall be  
28 seven (7) sub-areas within the HUED with heights limited as follows:

29 i. Sub-area 1 shall consist of that portion of the HUED bounded by:  
30 the south ROW line of Walnut St. (North Boundary); the east ROW  
31 line of N. Speer Blvd (West Boundary); the north ROW line of  
32 Larimer St. (South Boundary); and the northwesterly line of the

1 Official Channel of Cherry Creek as established by ordinance 86  
2 Series of 1903 (East Boundary). Building height shall be limited to  
3 three hundred seventy-five (375) feet, plus up to twenty-five (25)  
4 feet for screened mechanical equipment, stair and elevator  
5 overruns and an exceptional architectural feature, such as a spire,  
6 provided however that if any portion of the building shall have a  
7 height in excess of eighty-five (85) feet, excluding up to fifteen (15)  
8 feet for screened mechanical equipment, stair and elevator  
9 overruns, the floorplate of said building shall not exceed seven  
10 thousand five hundred (7,500) square feet excluding balconies  
11 and terraces. If no portion of the building exceeds eighty-five (85)  
12 feet, excluding up to fifteen (15) feet for screened mechanical  
13 equipment, stair and elevator overruns, the floorplate limitation  
14 shall not apply.

15 ii. Sub-area 2 shall consist of that portion of the HUED bounded by:  
16 the south ROW line of Walnut St. (North Boundary); the  
17 northwesterly line of the Official Channel of Cherry Creek as  
18 established by ordinance 86 Series of 1903 (West Boundary); the  
19 north ROW line of Larimer St. (South Boundary); and the west  
20 ROW line of 14th St. (East Boundary). Building height shall be  
21 fifty-five (55) feet plus up to fifteen (15) feet for screened  
22 mechanical equipment, stair and elevator overruns.

23 iii. Sub-area 3 shall consist of that portion of the HUED bounded by:  
24 the south ROW line of Blake St. (North Boundary); the east ROW  
25 line of N. Speer Blvd. (West Boundary); the north ROW line of  
26 Walnut St. (South Boundary); and the northwesterly line of the  
27 Official Channel of Cherry Creek as established by ordinance 86  
28 Series of 1903 (East Boundary). Between a line thirty (30) feet to  
29 the Walnut St. side of a line formed by extending the center line of  
30 Blake St. as it is in the non-HUED portion of the Historic District  
31 through the HUED (Blake St. extended) and Walnut street,  
32 building height shall be limited to eighty-five (85) feet, plus up to

1 fifteen (15) feet for screened mechanical equipment, stair and  
2 elevator overruns. Between a line thirty (30) feet to the Blake St.  
3 side of Blake St. extended and Blake St., building height shall be  
4 limited to sixty-four (64) feet, plus up to fifteen (15) feet for  
5 screened mechanical equipment, stair and elevator overruns. Any  
6 structure must have residential uses anywhere in the building in a  
7 minimum amount equal to the floor area above fifty-five (55) feet.  
8 For a distance of thirty (30) feet on either side of the line of Blake  
9 St. extended there shall be no habitable structures.

10 iv. Sub-area 4 shall consist of that portion of the HUED bounded by:  
11 a line parallel to and 44.72 northwesterly of the southeasterly line  
12 of Lot 8 Block 240, West Denver Subdivision, said parallel line  
13 being extended southwesterly to the northeasterly ROW line of  
14 Speer Boulevard and extended northwesterly from the  
15 southwesterly line of said Lot 8, north 59° 36' 28" East a distance  
16 of 85.48 feet, thence South 45° 26' 13" East a distance of 46.31  
17 feet to a point on the northwesterly line of Lot 9, said Block 240  
18 extended northeasterly, thence continuing along the northeasterly  
19 extension of the northwesterly line of said Lot 9 to the  
20 southwesterly line of the Official Channel of Cherry Creek as  
21 established by ordinance 86 Series of 1903 (northwesterly  
22 boundary); the northeasterly ROW line of Speer Boulevard  
23 (southwesterly boundary); the southeasterly line of the Official  
24 Channel of Cherry Creek (northeasterly boundary); and the  
25 northwesterly line of Wazee Street (southeasterly boundary). The  
26 building height provisions generally applicable to contributing  
27 structures in the Lower Downtown Historic District shall apply.

28 v. Sub-area 5 shall consist of that portion of the HUED bounded by  
29 the northwesterly line of lot 7, Block 240, West Denver, lying  
30 southwesterly of the southwesterly line of the Official Channel of  
31 Cherry Creek as established by ordinance 86 Series of 1903 and  
32 extended southwesterly to the northeasterly ROW line of Speer

Boulevard (northwesterly boundary); the southwesterly line of the Official Channel of Cherry Creek as established by ordinance 86 Series of 1903 (northeasterly boundary); the northeasterly ROW line of Speer Boulevard (southwesterly boundary); and a line lying 44.72' northwesterly of and parallel to the southeasterly line of Lot 8, Said Block 240, said line extended southeasterly to the northeasterly ROW line of Speer Boulevard and also extended to the northeast North 59° 36' 22" East from the southwesterly line of said Lot 8, a distance of 85.48 feet, thence South 45° 26' 13" East to a point on the northwesterly line of Lot 9, said Block 240, thence along said northwesterly line of Lot 9 extended North 59° 36' 22" East to the southwesterly line of the Official Channel of Cherry Creek as established by ordinance 86 Series of 1903 (southeasterly boundary). Building height shall be limited to eighty-six (86) feet plus up to fifteen (15) feet for screened mechanical equipment, stair and elevator overruns. Any structure must have residential uses anywhere in the building in a minimum amount equal to the floor area above fifty-five (55) feet.

vi. Sub-area 6 shall consist of that portion of the HUED bounded by: the northwesterly line of Lot 7, Block 240, West Denver, and said northwesterly line lying southwest of the southwesterly line of the Official Channel of Cherry Creek as established by ordinance 86 Series of 1903 and extended to the northeasterly ROW of Speer Boulevard (southeasterly boundary); the southwesterly line of the Official Channel of Cherry Creek as established by ordinance 86 Series of 1903 (northeasterly boundary); the northeasterly ROW line of Speer Boulevard (southwesterly boundary); and a line parallel with and sixty-five (65) feet southeasterly of the southeasterly ROW line of Wewatta St. as established by the northwesterly line of Block 12, East Denver, extended southwesterly (northwesterly boundary). The building height provisions generally applicable in the Lower Downtown Historic

District shall apply.

vii. Sub-area 7 shall consist of all portions of the HUED not included in any other sub-area. The building height provisions generally applicable in the Lower Downtown Historic District shall apply.

6. Buildings over one hundred thirty (130) feet in height, excluding cornices, heating, ventilating and air conditioning equipment, stair enclosures and elevator overruns, shall not be allowed in the district, except in sub-area 1 of the HUED.

e. For buildings greater than eighty-five (85) feet in height, that portion of the building over 85 feet must be set back at least twenty-five (25) feet along the front zone lot line which is part of the longer dimension of any block; and

f. Contemporary design for additions, alterations, and new construction is not discouraged, and is recognized as an important element in the evolution of individual buildings as well as the district as a whole.

g. The above building heights are maximums and the LDDRC board may reduce the height of any proposed structure to comport with the design guidelines.

h. Notwithstanding the height requirements above, a nonconforming structure may be reconstructed in accordance with the requirements and limitations of the Denver Zoning Code for nonconforming structures.

(c) The LDDRC board shall follow the process of Sec. 30-6(6) ~~consider the following factors in making a determination on a request for a demolition permit of a contributing structure, including the economic hardship process in Sec. 30-6(8).~~ ÷

~~(1) Significant economic hardship to the property based the following economic factors:~~

~~a. Structural condition of the building and practicality of rehabilitation and reuse;~~

~~b. Determination of economic hardship based on a comparison of 1. and 2. below:~~

~~1. Economic feasibility of rehabilitation and reuse of the structure.~~

~~2. Economic feasibility of the proposed redevelopment plans.~~

~~3. This comparison must establish as a base line the property as it is and what value the property contributes to either 1. or 2. above.~~

~~(2) Significant harm to the public interest based on the following preservation factors:~~

~~a. Age of building.~~

~~b. Architectural and historic significance of the building as related to the district.~~

1 e. ~~Extent to which the structure maintains the continuity, scale and massing of~~  
2 ~~adjacent contributing structures, and the prominence of the structure within the~~  
3 ~~block.~~

4 ~~(3) Extent to which reuse or proposed redevelopment implements the goals of the Lower~~  
5 ~~Downtown neighborhood plan and the purposes of this district.~~

6 ~~(4) Burden of proof and appeal.~~

7 a. ~~The burden of proof as to whether the structure should be demolished is on the~~  
8 ~~applicant.~~

9 b. ~~The applicant may appeal the decision under the provisions of section 30-~~  
10 ~~48(a)(9), above.~~

11 ~~(5) Applications for demolition review of contributing structures shall include, but are not~~  
12 ~~limited to, valuation of the property, estimates of the costs and income for rehabilitation~~  
13 ~~of the building, estimates of the costs and income for new development, preliminary~~  
14 ~~development plans, and reports as to the condition of the building prepared by~~  
15 ~~professionals with experience in preservation and rehabilitation. The board shall~~  
16 ~~establish the submittal requirements for an application by rules and regulations under~~  
17 ~~the provisions of article VI, chapter 2 of the Denver Revised Municipal Code. Such~~  
18 ~~application shall be filed with community planning and development.”~~

19 **Section 16.** That section 30-49, D.R.M.C. shall be amended by adding the language underlined and  
20 deleting the language stricken as follows:

21 **“Sec. 30-49. Contributing buildings.**

22 (a) Contributing buildings are hereby established as indicated on the map titled "Contributing  
23 Building Survey" ("survey") as filed with the office of the Denver city clerk and Recorder on March  
24 20th, 2002, in Filing Number 02-242. Contributing buildings are those buildings shaded on the map.  
25 This map also reflects the boundaries of the district as originally designated in section 1 of Ordinance  
26 109, series of 1988; which boundaries are still in effect.

27 (b) The owner of a property may petition the LDDRC board to include said property on the survey  
28 as a contributing building. If the LDDRC board determines that the property is a proper candidate for  
29 inclusion as a contributing building, the LDDRC board shall forward its recommendation to the city  
30 council, which may then by ordinance include said property as a contributing building in the district.

31 (c) A building cannot be deleted from the survey, unless it is approved for demolition according  
32 to the terms of this article, destroyed by fire, flood, or act of God, or major accidental damage not

1 the fault of the owner.”

2 **Section 17.** That section 30-50, D.R.M.C. shall be amended by adding the language underlined and  
3 deleting the language stricken as follows:

4 **“Sec. 30-50. Parking.**

5 (a) In the event an applicant for a project proposes to include parking in an amount greater than  
6 the minimum parking plus the additional parking allowed by section 59-239 of the former chapter 59  
7 for a project zoned under former chapter 59 or by section 8.4.1.4 for a project zoned under the  
8 Denver Zoning Code, the applicant shall specifically request permission from the LDDRC board to  
9 include said excess parking.

10 (b) Said excess parking shall be considered as part of the design review process, however, any  
11 meeting at which excess parking is to be considered shall only be held after appropriate notice, as  
12 described in section 30-48(a)(5) above ~~subsection (c) below~~.

13 ~~(c) Notice of any meeting at which excess parking shall be considered shall be mailed to any~~  
14 ~~owner of property within 100 feet of the proposed parking, and any affected registered neighborhood~~  
15 ~~organizations no less than fourteen (14) days before the meeting, and the property where the excess~~  
16 ~~parking is proposed shall be posted no less than ten (10) days prior to the meeting. Said mailing and~~  
17 ~~posting shall include the date, time and place of the meeting, and the number of excess parking~~  
18 ~~spaces requested.~~

19 ~~(d) The board shall hold a public hearing on the excess parking.~~

20 ~~(e) The board shall act within 30 days of receiving a request for excess parking, unless the time~~  
21 ~~is extended with the consent of the applicant.~~

22 ~~(f)——The LDDRC board may approve, approve with conditions, or deny the application grant the~~  
23 ~~request, grant it in part, or deny it.~~

24 ~~(d g)~~ The decision of the LDDRC board is a final decision and may be appealed as provided in  
25 section 30-48(a)(6 9) above.

26 ~~(e h)~~ The siting of excess parking within the district shall be carefully considered using the following  
27 criteria:

28 (1) Excess parking may be appropriate if there is minimal impact on the context and social  
29 fabric of the neighborhood.

30 (2) Excess parking may be appropriate in those areas that demonstrate a high parking  
31 demand combined with a scarce or fully utilized current parking inventory.

32 (3) Excess parking should be encouraged in special review districts.

- 1 (4) Excess parking should not disrupt street liveliness.
- 2 (5) Excess parking should not disrupt established traffic patterns.
- 3 (6) Excess parking should not create congestion.
- 4 (7) Excess parking should not create unacceptable levels of noise, air or light pollution.
- 5 (8) Excess parking should be related to the parking needs of Lower Downtown as
- 6 discussed in the neighborhood plan.”

7 **Section 18. Effective Date.**

8 The provisions of this ordinance shall be effective on November 1, 2019; provided, however, that for  
9 any complete designation application along with the applicable fee that is received by CPD prior to  
10 October 31, 2019, 4:30 P.M., MST, the designation process shall follow the requirements of Chapter  
11 30, DRMC, as the chapter existed prior to the effective date of this ordinance.

12 **BALANCE OF PAGE INTENTIONALLY LEFT BLANK**

13

1 COMMITTEE APPROVAL DATE: [fill in]  
2 MAYOR-COUNCIL DATE: [fill in]  
3 PASSED BY THE COUNCIL: \_\_\_\_\_  
4 \_\_\_\_\_ - PRESIDENT  
5 APPROVED: \_\_\_\_\_ - MAYOR \_\_\_\_\_  
6 ATTEST: \_\_\_\_\_ - CLERK AND RECORDER,  
7 EX-OFFICIO CLERK OF THE  
8 CITY AND COUNTY OF DENVER  
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: \_\_\_\_\_;  
10 PREPARED BY: Adam C. Hernandez, Assistant City Attorney DATE: [fill in]  
11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of  
12 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed  
13 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to  
14 § 3.2.6 of the Charter.  
15 Kristin M. Bronson, City Attorney  
16 BY: \_\_\_\_\_, Assistant City Attorney DATE: \_\_\_\_\_