

**CHAPTER 8: HISTORIC PRESERVATION  
JUNE 2004**

**SECTION 801. TITLE.**

This chapter shall be known as the "Historic Preservation Ordinance of the City of Phoenix."

**SECTION 802. PURPOSE.**

A. It is hereby declared as a matter of public policy that the protection, enhancement and preservation of properties and areas of historical, cultural, archaeological and aesthetic significance are in the interests of the health, prosperity and welfare of the people of the City of Phoenix. It is further intended to recognize past needless losses of historic properties which had substantial value to the historical and cultural heritage of the citizens of Phoenix, and to take reasonable measures to prevent similar losses in the future. Therefore, this ordinance is intended to provide for the establishment of Historic Preservation Districts in order to:

1. Effect and accomplish the protection, enhancement and preservation of improvements and landscape features of landmarks, districts and archaeological resources which represent distinctive elements of the city's cultural, educational, social, economic, political, architectural and archaeological history.
  2. Safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such districts.
  3. Foster civic pride in the accomplishments of the past.
  4. Protect and enhance the city's attraction to visitors and the support and stimulus to the economy thereby provided.
  5. Promote the use of historic preservation districts and properties for education, pleasure and welfare of the people of the City of Phoenix.
- B. It is further declared that the purposes of this ordinance are:
1. With respect to an historic property and the properties in historic preservation districts:
    - a. To retain and enhance those properties which contribute to the character of the historic preservation district and to encourage their adaptation for current use.
    - b. To assure that alterations of existing structures are compatible with

the character of the historic preservation district.

- c. To assure new construction and subdivision of lots in an historic preservation district are compatible with the character of this historic preservation district.
- d. To recognize the value of historic preservation districts and the contributions which they make to the cultural, educational and historical values of the City, and to encourage the maintenance and preservation of historic preservation districts for future generations by appropriate changes to historic properties.
- e. To retain and enhance historic properties in the City of Phoenix and to encourage their adaptation for current use.
- f. To encourage the restoration of historic properties.

2. With respect to archaeological resources:

- a. To encourage identification of the location of both pre-historic and historic archaeological resources.
- b. To assist with the preservation of these resources, within developments where appropriate, and with recovery of the resources where applicable.
- c. To encourage recognition of the fact that archaeological resources found on public land are the property of all citizens, and are not private property. Archaeological resources found on City-owned lands are the property of the City.

C. The adoption of this ordinance is declared to be in the public interest and is for a public purpose.

### **SECTION 803. DEFINITIONS.**

*Alter:* Any architectural, mechanical or structural change to an historic property which requires a permit under the Construction Code of the City.

*Archaeological Resources:* Any material remains of past human life, activities or habitation which are of historic or pre-historic significance. Such material includes, but is not limited to pottery, basketry, bottles, weapons, weapon projectiles, tools, structures or portions of structures, pit houses, rock paintings, rock carvings, intaglios, graves, skeletal remains, personal items and clothing, household or business refuse, printed matter, manufactured items, or any piece of any of the foregoing items.

*Area:* Two or more parcels of land, sites, houses, buildings or structures which may include streets and alleys.

*Association:* The direct link between an important historic event or person and a historic property.

*Building Official:* The person or designee authorized to grant permits for construction, alterations and demolitions pursuant to the Phoenix Construction Code and to make interpretations thereof.

*Certificate of Appropriateness:* An official form of the City stating that proposed work on historic property is compatible with the historic character of the property and, therefore: 1) may be completed as specified in the Certificate; and 2) any building permits or other Construction Code permits needed to do with work specified in the Certificate may be issued by the City's Development Services Department; and 3) any other permits required by other City ordinances, such as Grading and Drainage may be issued.

*Certificate of No Effect:* An official form of the City stating that proposed work on historic property will have no detrimental effect on the historic character of the property and therefore may proceed as specified in the Certificate without obtaining further authorization under this ordinance, and authorizing the issuance of any permits required by the City Construction Code for said proposed work.

*City at Large:* All land within the corporate limits of the City.

*City Council:* The Mayor and City Council of the City of Phoenix, Arizona.

*Construction Code:* The Construction Code of the City which regulates construction in the City and requires building permits, electrical permits, plumbing permits and other permits to do work regulated by the Construction Code.

*Demolish:* Any act or process which requires a permit under the Construction Code of the City and which destroys in part or in whole a house, building or other structure within an Historic Preservation District other than solely interior elements or demolition that does not alter exterior features or demolition that is not visible from outside the house, building or other structure.

*Demolition Approval:* Authorization for removal of all or part of a structure which is located within an Historic Preservation District or any area under application for historic preservation designation.

*Design:* The combination of elements that create the form, plan, space, structure and style of a property.

*Development:* Any modification, alteration, remodeling, new construction or

excavation which requires a permit under the Construction Code of the City, or which affects the historical character of an historic property.

*Feeling:* A property's expression of the aesthetic or historic sense of a particular period of time.

*HP:* Historic Preservation.

*HP Commission:* Historic Preservation Commission of the City of Phoenix.

*HP District:* Historic Preservation District of the Phoenix Zoning Ordinance.

*Historic Preservation Officer (of the City of Phoenix):* The City official who administers this ordinance and maintains the Phoenix Historic Property Register.

*Historic Preservation Commission:* The Commission created by this ordinance.

*Historic Preservation District:* A zoning district in the form of an overlay zone, in which property retains the uses of and is subject to the regulations of the underlying zone, but which property is also subject to the provisions of the Historic Preservation Ordinance.

*Historic Property:* One or more parcels of land, sites, houses, buildings, structures, objects, or areas which have been zoned HP.

*Integrity:* The ability of a property to convey its significance.

*Landmark:* A structure or site which contains an outstanding or unique example of an architectural style, which contains or is associated with a major historic event or activity, which contains important, intact archaeological resources, which is a site or structure of unique visual quality and identification, or which is a site of general historic or cultural recognition by the community. A landmark shall also meet all criteria for designation as an HP District.

*Location:* The place where the historic property was constructed or the place where the historic event occurred.

*Materials:* The physical elements that were combined or deposited during a particular period of time and in a particular pattern or configuration to form a historic property.

*Minor Work:* Any change, modifying, restoring, rehabilitating, renovating, surfacing, or resurfacing of the features of historic property which does not materially change the historic characteristics of the property.

*Move:* Any relocation of a structure on its site or to another site.

*Owner:* The owner as shown on the records of the Property Records Section of the Phoenix City Clerk's office on the date of the filing of an application.

*Phoenix Historic Property Register:* The list of contributing resources, including sites, structures, buildings, districts and objects within Historic Preservation Districts in the City of Phoenix as compiled and kept by the Historic Preservation Officer of the City of Phoenix.

*Planning Commission:* The Planning Commission of the City of Phoenix, Arizona.

*Record Owner:* Same as Owner.

*Remodel:* Same as Alter.

*Removal:* Same as Move.

*Replacement/Reuse Plan:* A plan for redevelopment of a site within an HP District indicating a proposed development which shall be in accordance with existing zoning, adopted specific plans, and HP design guidelines. Such plans shall consist of a plot plan illustrating building locations, parking, walls and landscaping. They shall also include general elevation drawings of structures including roofs, doors and windows and other openings.

*Setting:* The physical environment of a historic property.

*Workmanship:* The physical evidence of the crafts of a particular culture or people during any given period in history or prehistory.

## **SECTION 804. HISTORIC PRESERVATION COMMISSION.**

**A. Creation of Commission; Members; Terms; Vacancies.** The Historic Preservation Commission is hereby created, to consist of nine members who are residents of the City at large, to be appointed by the City Council within sixty days of the adoption of this ordinance. The members shall serve for terms of three years, except that the members of the first Commission shall serve as designated by the City Council for the following terms: three members for one year, three members for two years; and three members for three years. Any vacancy shall be filled by the City Council within a reasonable time after the vacancy occurs, for the unexpired term. Members shall serve until their successors are appointed. The members of the Commission shall serve without compensation.

**B. Qualifications of Members.** Members of the HP Commission shall be persons who have demonstrated special interest, knowledge or experience in historic preservation. At least one member shall be selected from each of the following: registered architect, real estate professional, archaeologist, historian.

C. **Chairman, Vice-Chairman, Secretary, Rules.** The HP Commission shall elect its chairman and vice-chairman who shall have the power to administer oaths and take testimony. The Historic Preservation Officer or designee shall serve as secretary to the HP Commission. The HP Commission shall adopt rules of procedure for the conduct of its business.

D. **Member's Failure to Attend Meetings, Successor.** If a member of the HP Commission fails to attend three consecutive regular meetings of the HP Commission, or fails to attend fifty percent or more of the regular meetings of the HP Commission during a calendar year, unless excused by the Chairman, the City Council may declare such member's seat vacant and appoint a new member to serve the balance of the unexpired term.

E. **Powers and Duties.** The HP Commission shall work with City Council on matters of historic preservation; take the initiative in bringing people together on historic preservation issues; review proposed alterations to historic properties, historic districts and archaeological resources through the certificate of appropriateness process; and develop, maintain and, from time to time, amend a plan for historic preservation in the City. The Commission shall establish and maintain a Phoenix Historic Property Register, survey historic properties including archaeological resources, recommend to the City Council designations for historic preservation districts, and establish guidelines for evaluation of historic properties, districts including archaeological resources; provide public information and education on preservation, coordinate resources and provide technical assistance, develop criteria and review procedure, promote revitalization of the City through preservation and make recommendations to the City Council and citizens of the city regarding historic preservation. The HP Commission may also confer with other city, county, regional, state and national historic preservation boards and commissions. The HP Commission shall work with and assist departments of the City in matters affecting historic preservation. The HP Commission shall initiate plans for the restoration or rehabilitation of City-owned buildings, and shall advocate and recommend plans for the restoration or rehabilitation of privately-owned buildings and the preservation of archaeological resources. The HP Commission shall discourage and work with City departments to prevent unwanted demolition of historic buildings and structures, and the destruction of archaeological resources.

F. **Conflict of Interest.** Conflict of interest of HP Commission members is controlled by the Arizona Revised Statutes and judicial decisions on conflict of interest.

## **SECTION 805. HISTORIC PRESERVATION OFFICER.**

A. The position of Historic Preservation Officer is hereby created in the City Manager's Office to work under the direction of the City Manager. The Historic Preservation Officer shall:

1. Perform administrative acts required by the Historic Preservation Ordinance,

including giving notice, researching background material, preparing reports and recommendations, receiving and processing appeals, attending meetings of the HP Commission, and rendering such assistance to the HP Commission as is required.

2. Work with and assist departments of the City in matters affecting historic preservation.
  3. In conjunction with policy as established by the Historic Preservation Commission, shall establish and maintain a program of incentives. The incentives shall be used to encourage owners of historic properties to obtain HP designation and to assist owners of designated property in recognition, restoration and maintenance of their historic, architectural or archaeological resources.
  4. Issue certificates of determination of potential eligibility for Historic Preservation District designation. Upon receipt of an application for a certificate, the Historic Preservation Officer shall evaluate the property based on the criteria set forth in Sections 807.D., E. and 808 to determine whether the property could qualify for designation as a HP District or could qualify for inclusion in a HP District. A determination made by the Historic Preservation Officer pursuant to this section shall be advisory only and shall not limit future consideration of HP designation in accordance with the provisions of this chapter. Certificates shall be issued within thirty days of receipt of applications.
  5. Perform such other acts as are required by this ordinance or by the HP Commission.
- B. Duties of the Historic Preservation Officer may be delegated as necessary.

#### **SECTION 806. TEMPORARY RESTRAINT OF DEMOLITION.**

A process is established for the review of proposed demolitions of structures which are located in areas where an application for HP designation is under consideration.

- A. It is the purpose of this ordinance to preserve structures of historic or architectural significance, but it is recognized that all areas of significance cannot be identified, analyzed, and designated at one time. However, it is important to protect properties with potentially qualifying buildings from inappropriate demolitions until review and hearings can be completed for possible HP designation.
- B. The following procedures are established to ensure a review of all proposed demolitions of structures within areas under application for HP designation.

- C. No demolition permit shall be issued by the Building Official within the designated areas unless a demolition approval is issued by the HP Officer, the HP Commission, or the City Council.
- D. These procedures shall apply to any building that is located within an area of an application for an HP District between such time as the application is initiated or filed and the time the action is taken on the application by the City Council.
- E. Procedures for review of applications for a demolition permit:
  - 1. The Building Official shall refer all applicants for demolition permits within these areas to the HP Officer. Upon receipt of the application, the HP Officer shall issue a demolition approval if:
    - a. It is determined that the building contains no historic or architectural significance and is not an essential contribution to other historic features in the area.
  - 2. Standards of review by the HP Officer shall include:
    - a. The architectural or historical value or significance of the structure or feature and its relationship or contribution to other historic value of the property.
    - b. The relationship of the exterior architectural features or landscape features to the remainder of the structure, site or property.
    - c. The relation of historic or architectural features found on the site to other such features within the surrounding area.
    - d. Any other factors, including aesthetic, which may be relevant to the historical or architectural aspects of the property.
  - 3. If a demolition approval is not issued then the application shall be set for a public hearing and decision according to the following procedures:
    - a. The HP Officer shall review the application and shall conduct a public hearing within twenty days of receiving the application. Notice of the application shall be posted on the property at least ten days before the date set for the public hearing. The HP Officer shall review the application in light of the standards set forth in Section 806.E.5. below and the evidence presented at the hearing, and shall either grant or deny the application.

- b. Any person aggrieved by the HP Officer's decision may, within five days of the action, appeal to the HP Commission. If appealed, the matter shall be set on the next available agenda of the Commission. Notice of the hearing shall be mailed to the applicant at least fourteen days prior to the hearing and shall be posted on the property at least ten days prior to the hearing.
  - c. The Commission's decision shall be final unless appealed by either the applicant or any aggrieved person within five days of the action. If appealed, the matter shall be set for a public hearing before the City Council at their next available meeting. The hearing shall be noticed and the property posted in accordance with Section 806.E.3.b.
  - d. In the event the initial hearing on an appeal to the HP Commission is not held within sixty days of the date the appeal was filed, the application shall be deemed approved.
4. In the event a demolition approval is denied, no permit for demolition shall be issued for one year from the date of the HP Officer's initial hearing on the subject property unless a subsequent demolition approval has been requested and granted or until adoption of HP zoning for the property.
- a. If HP zoning has not been placed on the property at the time of expiration of the one year, the HP Officer shall grant a demolition approval for the subject property.
  - b. At the time of adoption of HP zoning, the temporary restraint of demolition and any stays of demolition in effect shall expire. Demolition approvals at that time shall be regulated by Section 813. Requests for demolition approvals shall be filed in accordance with the procedures of that Section.
5. Standards for granting demolition permit. A demolition permit shall only be granted if the applicant demonstrates:
- a. That the building is of minimal historic significance because of its location, condition, modifications or other factors, and its demolition shall be inconsequential to historic preservation needs of the area; or
  - b. If the building is determined to have historic or architectural significance, that the denial of the demolition permit will result in an economic hardship to the property owner. Such hardship

shall be determined in accordance with Section 814.

6. An application for a demolition permit shall be exempt from these demolition review requirements if the City Manager or designee notifies the HP Officer in writing that the building has been ordered to be demolished in whole or in part by the City Manager or designee, or by the City of Phoenix Rehabilitation Appeals Board to protect the public health, safety and welfare.
7. The provisions of this section apply to all areas of the city under application for HP designation on the effective date of this ordinance and to all areas of the city for which applications for HP designation are initiated after the effective date of this ordinance.
8. A demolition approval may be conditioned on stipulations which provide for rights of access to the property for the purposes of documentation or for agreed upon removal of artifacts.

#### **SECTION 807. PROCEDURE TO ESTABLISH HISTORIC PRESERVATION DISTRICT.**

A. Applications to establish Historic Preservation Districts shall be filed as provided by Section 506 of the Phoenix Zoning Ordinance.

B. The Planning Department shall transmit the application to the Historic Preservation Officer of the City of Phoenix who shall compile and transmit to the HP Commission a complete report on the property in the application, including the location, condition, age, historical features and other relevant information, together with a recommendation to grant or to deny the application and the reasons for the recommendation.

C. The HP Commission shall set a date for public hearing on the application. Notice of the hearing shall be mailed to the property owner and to the applicant at least thirty days prior to the hearing. The notice shall clearly state the implications of HP zoning to the property owner. Notice of the hearing shall be posted at least fifteen days prior to the hearing, on or near the property in one or more locations so that the notice is visible to persons living or working in the neighborhood and to persons passing through the neighborhood.

D. **Evaluation criteria.** The HP Commission shall evaluate each parcel of property and each parcel of property within an area that is included in the application for a demonstrated quality of significance in local, regional, state or national history, architecture, archaeology, engineering or culture according to the following criteria:

1. **Significance**

- a. Associated with the events that have made significant contribution to

the broad patterns of our history; and/or

- b. Associated with the lives of persons significant in our past; and/or
- c. Embody the distinctive characteristics of a type, period or method of construction or that represent the work of a master or that possess high artistic values or that represent a significant and distinguishable entity whose components may lack individual distinction; and/or
- d. Have yielded or may be likely to yield information important in the understanding of our pre-history or history of the City of Phoenix.

**2. Age**

- a. Are at least fifty years old; or
- b. Have achieved significance within the past fifty years if the property is of exceptional importance.

**3. Integrity**

Retain sufficient integrity of location, design, setting, materials, workmanship, feeling and association to convey their significance.

E. The HP Commission shall, when applying the evaluation criteria in Section 807.D. above, draw the boundaries of an historic district as carefully as possible to ensure that:

- 1. The district contains documented historic, architectural, archaeological or natural resources; and
- 2. The district boundaries coincide with documented historic boundaries such as early roadways, canals, subdivision plats or property lines; and
- 3. Other district boundaries coincide with logical physical or manmade features and reflect recognized neighborhood or area boundaries; and
- 4. Other, non-historic resources or vacant land is included where necessary to create appropriate boundaries to assist in meeting the criteria in Section 807.D.1 through 3.

F. Following the hearing, the HP Commission shall transmit to the Planning Commission the HP Commission's decision, report and recommendations.

G. Upon receipt of the decision, report and recommendations of the HP Commission, the Planning Commission shall schedule a hearing on the application in the

same manner and with the same notice requirements as are specified in Section 506 of the Phoenix Zoning Ordinance for public hearings on other zoning applications by the Planning Commission. Notice of hearings shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be designated HP and all property owners, as shown on the last assessment of the property, within six hundred feet of the property to be designated HP.

H. The Planning Commission shall conduct a public hearing at which the property owner, parties in interest and citizens shall have an opportunity to be heard. After such public hearing, the Planning Commission shall make a report and recommendation to City Council.

I. The City Council may set a public hearing on the application, or may adopt the Planning Commission's recommendations without holding another public hearing unless:

1. The property owner, member of the public, or a City Council member, within seven calendar days after the Planning Commission announces its recommendations; either:
  - a. Objects in writing to adoption of the recommendation without a City Council hearing; or
  - b. Requests in writing that a public hearing be held; or
2. The Planning Commission has recommended approval of the application and a written protest causing a three-fourths vote of City Council under Section 506 of the Zoning Ordinance has been filed.

J. In the event that a public hearing before the City Council is to be held, the date, time and place of such hearing and the nature of the application shall be published at least once in a newspaper of general circulation in the City of Phoenix at least fifteen days before the hearing, and notice of hearing shall be sent first class mail to each real property owner, as shown on the last assessment of the property, of the area to be designated HP and all property owners, as shown on the last assessment of the property, within six hundred feet of the property to be designated HP. The date, time and place of such hearing and application shall be posted within the area included in the application so as to give at least fifteen days notice of such Council hearing. In the case of a continuance, at least seven days posting is required but no publication is required.

K. If a public hearing is held by City Council, then City Council may do one of the following:

1. Adopt the recommendation of the Planning Commission;
2. Modify the decision of the Planning Commission and adopt it as modified; or

3. Deny the application; or
4. Remand the application to the Planning Commission or HP Commission for further proceedings.

L. Designation of property by City Council as historic preservation shall be followed by City Council adoption of a supplemental zoning map adding the suffix "HP" to the zoning classification of the property.

M. The HP Commission may elect to first transmit its decision, report and recommendations to the Zoning Hearing Officer.

1. In the event the HP Commission elects to first transmit its decision, report and recommendations to the Zoning Hearing Officer, the proceedings, including any hearings by the Planning Commission and City Council, shall be governed by the provisions of Section 506 of the Zoning Ordinance.
2. Notices of hearings held pursuant to this Section shall be sent first class mail to each real property owner, as shown on the last assessment of the property, of the area to be designated HP and all property owners, as shown on the last assessment of the property, within six hundred feet of the property to be designated HP.

N. Before any of the required hearings before the Planning Commission and/or the City Council, any member of the public may express any issues or concerns they may have regarding an HP zoning application at meetings of the Village Planning Committee governing the area in which the application is being made, if the application is on the agenda of such committee. The proceedings of the Village Planning Committee, including meeting notice and posting requirements, shall be governed by the provisions of Section 506 of the Zoning Ordinance.

## **SECTION 808. LANDMARK DESIGNATION.**

A classification of historic preservation zoning, landmark, is created to recognize that there are some historic properties that possess historic or architectural significance, integrity, distinctive visual character and quality that is a level of exceptional significance among historic properties. Designation by this category gives public recognition of the importance of these properties.

- A. Landmark designation can occur for a property already within an HP District or in conjunction with designation as an HP District.
- B. Review and hearing procedures for designation as a landmark shall be as set forth in Section 807, and

- C. At the time of recommendation for landmark designation, the HP Commission shall adopt a set of findings documenting the uniqueness and significance of the subject building or site.

#### **SECTION 809. PROCEDURE TO REMOVE HP ZONING DESIGNATION.**

The procedures to remove the HP zoning district designation from property shall be the same procedure specified by this ordinance to establish Historic Preservation District zoning.

#### **SECTION 810. PERMITTED USES; SUFFIX "HP", "HP-L".**

Any uses permitted by the existing zones over which Historic Preservation District zoning is superimposed shall be permitted. The property will be designated by its underlying zoning classification and any other overlay zone, plus the suffix "HP". Property designated by the HP suffix is subject to the Historic Preservation provisions of this ordinance, as well as being subject to those provisions of the zoning ordinance which are applicable to property in the underlying classification.

- A. Landmark designation shall be indicated by the suffix "HP-L" for the property affected by such designation.

#### **SECTION 811. EFFECT OF HP ZONING DESIGNATION.**

A. From and after the adoption by City Council of an application designating property with the Historic Preservation HP suffix, any removal or demolition of structures, or construction, alteration or remodeling of structures, or signs, or any landscaping on such property or development of archaeological sites are subject to the provisions of this ordinance.

B. The owners of HP property shall maintain and preserve buildings, structures and sites at such a level that they are not a safety hazard to the occupants or to the public.

C. The HP Commission shall adopt design guidelines which shall apply to the exterior features of structures in all HP districts. The guidelines are intended to offer assistance to property owners when building or modifying structures in the district, as well as to establish a set of standards to be used in reviewing proposals for certificates of appropriateness. The guidelines shall be a set of principles that give direction on how the parts and details of a building's scheme or plan should be assembled involving the following categories of work in historic districts or on historic structures:

1. Rehabilitation of historic structures.
2. Additions or alterations to historic structures.
3. New construction on vacant land located in historic districts or adjacent to

historic structures.

D. Design guidelines may contain provisions which modify the standards for signs contained in Section 705 of the Zoning Ordinance. Such modifications may not change the safety or permit provisions of that chapter, but may specify size, height, placement, numbers, materials and lighting of signs. Further, these guidelines may specify the location of off-street parking or loading spaces as contained in Section 702 of the Zoning Ordinance. If any of these provisions are to be contained in design guidelines, the guidelines shall be approved according to the procedures contained in Section 807.

E. No building, permanent sign, or other structure within an HP District may be erected, demolished, moved, restored, rehabilitated, reconstructed, altered or changed in exterior appearance until plans for such activities have been submitted to and approved by the Historic Preservation Officer, HP Commission or City Council, and a Certificate of No Effect, a Certificate of Appropriateness, or a Demolition Approval is issued. Failure to comply with a stipulation, guideline or plan made a part of any of these approvals shall constitute a violation of this ordinance. An approved plan shall be binding upon the applicant and their successors and assignees. No building permit shall be issued for any building or structure not in accord with the plan except that temporary facilities shall be permitted in conjunction with construction. No structure or other element specified on the plan shall be eliminated, or altered and provided in another manner, unless an amendment is approved in conjunction with the procedures for original approval.

F. Nothing in this ordinance shall be construed to prevent ordinary maintenance or repair of any structure in the HP District, which does not alter or modify the historic character of the structure. Demolition of a structure without obtaining a demolition approval shall constitute a violation of this ordinance.

## **SECTION 812. REVIEW PROCESS ON APPLICATION FOR CERTIFICATE OF NO EFFECT, OR CERTIFICATE OF APPROPRIATENESS.**

A. When a building permit or other permit is sought from the City to alter, remodel, move, build or otherwise develop or landscape property or archaeological sites in the HP District, issuance of the permit shall be deferred until after a Certificate of No Effect or a Certificate of Appropriateness is obtained from the Historic Preservation Officer, or the HP Commission.

B. In the event work requiring a Certificate of Appropriateness is being performed without such a Certificate, the Historic Preservation Officer shall contact the person performing the work and ask that all work cease. If work continues, the Historic Preservation Officer shall ask that a Stop Work Order be issued by the Building Official. In the event work is being performed that is not in accordance with a Certificate of Appropriateness issued by the HP Commission, the Historic Preservation Officer shall ask that a Stop Work Order be issued by the Building Official. The City may seek an injunction to enforce a Stop Work Order.

C. The Building Official shall refer applicants for building permits located within an HP District to the HP Officer. The HP Officer shall hold a pre-application meeting with the applicant to review the request and determine whether a Certificate of No Effect or Certificate of Appropriateness is required.

1. The HP Officer shall issue a Certificate of No Effect if:
  - a. It is determined the proposed work is minor and clearly within adopted design guidelines, and
  - b. If modifications to the proposed work are requested by the HP Officer, they are agreed to by the applicant, and
  - c. In any case, the proposed work will not diminish, eliminate, or adversely affect the historic character of the subject property or its affect on the district.
2. If a Certificate of No Effect is not issued, a Certificate of Appropriateness shall be required.
3. The review and decision on certificates of appropriateness shall be conducted in the following manner:
  - a. The HP Officer shall review the application and shall conduct a public hearing within twenty days of the filing of an application for a Certificate of Appropriateness. Notice of application shall be posted on the property at least ten days before the date set for the public hearing. The HP Officer shall review the application in light of the standards set forth in Section 812.D. below and the evidence presented at the hearing, and shall either grant or deny the application, or grant it with stipulations.
  - b. Any person aggrieved by the HP Officer's decision may, within five days of the action, appeal to the HP Commission. If appealed, the matter shall be set on the next available agenda of the Commission. Notice of the hearing shall be mailed to the applicant at least fourteen days prior to the hearing and shall be posted on the property at least ten days prior to the hearing.
  - c. The HP Commission may uphold, reverse, or modify the decision of the HP Officer. The Commission's decision shall be final unless appealed by either the applicant or any aggrieved person within five days of the action. If appealed, the matter shall be set for a public hearing before the City Council at their next available meeting. The hearing shall be noticed and the property posted in accordance with Section 812.C.3.b.

- d. In the event the initial hearing on an appeal to the HP Commission is not held within sixty days of the date the appeal was filed, the application shall be deemed approved.

D. Standards for Consideration of a Certificate of Appropriateness:

- 1. The proposed work will be compatible with the relevant historic, cultural, educational or architectural qualities characteristic of the structure, site or district and shall include but not be limited to elements of size, scale, massing, proportions, orientation, surface textures and patterns, details and embellishments and the relation of these elements to one another.
- 2. Conformance with the guidelines approved by the HP Commission.

E. Any person aggrieved by a decision of City Council on a Certificate of No Effect or a Certificate of Appropriateness may file a special action in Superior Court in accordance with the law, to have the court review that decision.

F. No change shall be made in the approved plans of a project after issuance of a Certificate of No Effect or a Certificate of Appropriateness without resubmittal to the Historic Preservation Officer and approval of the change in the same manner as provided above.

G. All certificates approved in accordance with this section expire one year from the date of issuance unless work is started within that time.

### **SECTION 813. DEMOLITION OR MOVING OF STRUCTURES.**

It is the intent of this ordinance to preserve the historic and architectural resources within HP Districts. However, it is recognized that there can be circumstances beyond the control of the owner, or situations involving public health, safety, and welfare which may result in the necessary demolition of a structure within an HP District. These situations include a building which constitutes a danger to the public health, safety and welfare, or which involves a resource whose loss does not diminish or adversely affect the integrity of the district, or which imposes an economic hardship on its owners.

- A. No permit shall be issued by the Building Official to move or demolish all or any part of a house, building, or other structure in an Historic Preservation District without a demolition approval authorized by the HP Officer, HP Commission or City Council.
- B. Requests for demolition approval shall be considered in the following manner:
  - 1. The Building Official shall refer applicants for demolition permits to the

HP Officer.

2. Within three days of receiving the application, the HP Officer shall make a determination if a demolition approval can be issued. Criteria used to make this determination shall be:
  - a. The structure is of no historic or architectural value or significance and does not contribute to the historic value of the property, and
  - b. Loss of the structure would not adversely affect the integrity of the HP District or the historic, architectural or aesthetic relationship to adjacent properties and its demolition shall be inconsequential to historic preservation needs of the area.
3. If a demolition approval cannot be granted, the applicant for the demolition permit may request a public hearing. If filed, such application shall contain a completed request for Certification of Economic Hardship.
4. Upon receipt of a request for a demolition approval hearing, the HP Officer shall review the application and conduct a public hearing within twenty days. Notice of the application shall be posted on the property at least ten days before the date set for the public hearing. The HP Officer shall review the application in light of Section 814 and Sections 813.B.2.a. and b. above, and the evidence presented at the hearing, and shall either grant or deny the demolition approval.
5. Any person aggrieved by the HP Officer's decision may, within five days of the action, appeal to the HP Commission. If appealed, the matter shall be set on the next available agenda of the Commission. Notice of the hearing shall be mailed to the applicant at least fourteen days prior to the hearing and shall be posted on the property at least ten days prior to the hearing.
6. The Commission's decision shall be final unless appealed by either the applicant or any aggrieved person within five days of the action. If appealed, the matter shall be set for a public hearing before the City Council at their next available meeting. The hearing shall be noticed and the property posted in accordance with Section 813.B.5.
7. In the event the initial hearing on an appeal to the HP Commission is not held within sixty days of the date the appeal was filed, the application shall be deemed approved.
8. The City Manager or designee shall give written notice to the HP

Officer that a building located in an HP District is the subject of a proposed demolition pursuant to a legal hearing process. The City Manager or designee shall provide such notice at the same time that notice of a hearing on the demolition is given to the owner and any lienholders of the building. Upon receipt of such notice, the HP Officer shall give notice to any person who has requested to be notified of such pending demolition hearings. The HP Officer shall also place an item on each agenda of the HP Commission to discuss any demolition notices in an HP District. The notice provisions of this Section shall not apply if the City Manager or designee is entitled as a matter of law to order that a building be demolished in whole or in part without notice and hearing because the condition of the building is so dangerous, and harm to the public is so imminent that time will not permit a notice and hearing process. The City Manager or designee shall also give notice to the HP Officer in writing that a demolition order has been issued for the building by the City Manager or designee or by the City of Phoenix Rehabilitation Appeals Board because the building constitutes a danger to the public health, safety and welfare.

9. An application for a demolition permit shall be exempt from the demolition review requirements of Sections 813.A. and B. if the City Manager or designee notifies the HP Officer in writing as required in Section 813.B.8.
- C. If a demolition approval is not granted, then no demolition permit shall be issued for a period of one year from the date on which the request for demolition approval was denied by the Historic Preservation Officer, unless a subsequent demolition approval has been requested and granted pursuant to Section 813.B.2. of this ordinance.
1. Upon denial of a demolition approval, the HP Officer shall contact the property owner to determine what available assistance might be feasible to place the property into productive use.
  2. If a feasible rehabilitation plan or use is not found for the property, the HP Officer shall investigate methods of private or public acquisition of the property.
- D. For properties designated landmarks, the restraint of demolition shall be three years. Review upon request by the owner may be made after two years. Procedures shall be as follows: two years after denial of a demolition approval, if no feasible use or ownership is found for the structure, the owner may request of the HP Commission a waiver of all or a part of the balance of the restraint of demolition. Factors to be considered by the Commission shall include:

1. Efforts made by the property owner to make necessary repairs, to find an appropriate user, or to find a purchaser for the property, and
2. Efforts made by the HP Officer to locate available assistance and make that known to the owner as well as the use which was made by the owner of that assistance.

E. If a demolition approval is:

1. Granted on any basis other than that of economic hardship; or
2. Denied, and the restraint of demolition under Sections 813.C. or 813.D. above has expired,

Then the Building Official shall not issue a demolition permit until a redevelopment or reuse plan for the property has been filed with the HP Officer. The plan may be filed at any time following denial of the demolition request and shall be in compliance with existing zoning, the General Plan and any adopted Specific Plan, and the HP design guidelines applicable to the property. Vacant or non-use shall not be responsive to this requirement. Upon notification from the HP Officer that an approved reuse or redevelopment plan has been filed, the Building Official may issue a demolition permit at any time within one year from the date of the expiration of the demolition restraint or the grant of approval for demolition by the HP Officer. If the applicant fails to obtain a demolition permit within the one year period authorized above, the HP Officer may grant an extension of up to six months due to unforeseeable conditions preventing or inhibiting demolition. If demolition is not completed within the one year period, or any extension thereof, the Building Official shall not issue a demolition permit until the applicant has made a new application for demolition approval as provided in Section 813.B.

- a. The filing of a reuse or redevelopment plan shall not be required when demolition of the building in whole or in part will occur pursuant to an order of the City Manager or designee or the City Rehabilitation Appeals Board to protect the public health, safety and welfare.
- b. The requirement for filing a redevelopment or reuse plan shall be waived by the HP Officer if, following demolition, no historic feature will remain in the HP district and upon a finding that such requirement is unnecessary to assure compatibility with other HP designated properties in the vicinity.

- c. The HP Officer shall make a decision on a request for a waiver within three days of receipt of the request. The applicant or an aggrieved person may appeal the decision of the HP Officer within five days of the action. Upon receipt of an appeal, it shall be placed on the next available agenda of the HP Commission who shall conduct a public hearing. Notice of the hearing shall be mailed to the applicant at least fourteen days prior to the hearing and shall be posted on the property at least ten days prior to the hearing. At the hearing, the Commission shall either grant or deny the request. The Commission's decision shall be final unless appealed by the applicant or an aggrieved person within five days of the action. If appealed, the matter shall be set for a public hearing before the City Council on its next available agenda. Notice of the hearing shall be mailed to the applicant at least fourteen days prior to the hearing and shall be posted on the property at ten days prior to the hearing. If a waiver is approved, the Commission shall, upon demolition or removal of the structure, initiate an application to remove the HP designation from the property.
  
- F. Any new development on the property shall be in conformance with the plan submitted in conjunction with the demolition approval. Any changes from the plan shall require a Certificate of Appropriateness.
  
- G. A demolition approval may be conditioned on stipulations which provide for rights of access to the property for the purposes of documentation or for agreed upon removal of artifacts.

#### **SECTION 814. ECONOMIC HARDSHIP.**

Separate standards for obtaining Certification of Economic Hardship are established for investment or income producing and non-income producing properties. Non-income properties shall consist of owner-occupied single-family dwellings and non-income producing institutional properties.

- A. The basis to establish economic hardship for an income producing property shall be that a reasonable rate of return cannot be obtained from a property that retains its historic features or structures in either its present condition or if its features or structures are rehabilitated.
  
- B. Economic hardship in regard to a non-income producing property shall be found when the property owner demonstrates that the property has no beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.
  
- C. Demonstration of an economic hardship shall not be based on or include any

of the following circumstances:

1. Willful or negligent acts by the owner.
2. Purchase of the property for substantially more than market value.
3. Failure to perform normal maintenance and repairs.
4. Failure to diligently solicit and retain tenants.
5. Failure to provide normal tenant improvements.

**SECTION 815. PHOENIX HISTORIC PROPERTY REGISTER.**

A. The Phoenix Historic Property Register is hereby established for the purpose of recording the historic sites, structures, buildings, objects and areas which exist in the City of Phoenix.

B. The Register shall consist of historic sites, structures, buildings, objects and areas which are zoned "Historic Preservation District" by the City Council and shall forthwith be listed on the Phoenix Historic Property Register by the Historic Preservation Officer.

**SECTION 816. ENFORCEMENT; VIOLATIONS; PENALTIES.**

Any violation of the provisions of this chapter is a violation of the zoning ordinance and is subject to enforcement and penalties prescribed by Section 1004 of the Zoning Ordinance.