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**ARTICLE IX  
SPECIAL PROVISIONS**

**DIVISION 1           NONCONFORMING USES, LOTS, AND STRUCTURES**

**Section 9-100       Generally.**

This Division regulates lawful uses of land or buildings existing at the time of the adoption of these Land Use Regulations that, due to changes in the Regulations, do not conform to the regulations and would otherwise be declared illegal. Any use, structure, or parcel of land which was conducted, constructed, erected or created in violation of any previous zoning resolution shall not be considered as a legal, nonconforming use, structure, or lot and shall be required to comply with all provisions of these Land Use Regulations.

**Section 9-101       Nonconforming Use.**

- A.   Nonconforming Use Defined. A use of land that was lawfully established prior to the effective date of these Land Use Regulations or any subsequent amendment but by application of any provision of these Land Use Regulations would now be unlawful or fail to conform to the Land Use Regulations.
- B.   Sign Deemed a Structure and Not Use. For purposes of this Division, a sign shall be deemed a structure and not a use.
- C.   Rules Governing Nonconforming Use. A nonconforming use or activity, which was legal prior to enactment of current Land Use Regulations, shall be grandfathered. However, the grandfather provision shall not apply to any substantial change in the grandfathered use or activity. Such nonconforming use shall not be substantially enlarged, expanded, extended, increased, or moved, in such a manner which increases its nonconformity, to occupy an area of land or area in a structure which was not occupied before these Land Use Regulations were adopted or amended.

**Section 9-102       Nonconforming Structures.**

- A.   Nonconforming Structure Defined. A structure that was lawfully established prior to the effective date of these Land Use Regulations or any subsequent amendment but by application of any provision of these Land Use Regulations would now be unlawful or fail to conform to the Land Use Regulations. A nonconforming structure may be enlarged or altered provided that the enlargement or alteration does not increase its nonconformity.
- B.   Sign Deemed a Structure and Not Use. For purposes of this Division, a sign shall be deemed a structure and not a use.
- C.   Rules Governing Nonconforming Structures. A nonconforming structure may continue to exist, even though the structure would be prohibited, regulated, or restricted under the provisions of these Land Use Regulations or amendments, subject to the following provisions:
  - 1.   Such nonconforming structures shall not be enlarged or altered in a manner, which increases its nonconformity if the building was constructed under a different set of Land Use Regulations. A nonconforming structure may be

enlarged or altered provided that the enlargement of or alteration does not substantially increase its nonconformity. The restriction against enlarging or altering a nonconforming structure resulting in an increase of the nonconformity shall only apply to height and setback restrictions. Use and activity restrictions, which were legal prior to enactment of current Land Use Regulations, shall be grandfathered.

2. Any structure or portion thereof may be altered to decrease its nonconformity.
3. Should a legal nonconforming structure be damaged or destroyed through no fault of the owner by any means, it may be restored provided the reconstruction begins within four (4) years of the date the structure was damaged or destroyed and the reconstruction is completed within the time limits of the properly issued building permit.
4. Should a nonconforming structure be moved for any reason for any distance whatever, it shall conform to the provisions of the district in which it is located after the move.
5. Any nonconforming structure may be repaired and maintained for ordinary upkeep. Such repairs or maintenance shall not enlarge, expand, extend, or increase the height or setback nonconformity.

#### **Section 9-103            Nonconforming Lots.**

- A. Nonconforming Lot Defined. A Lot that was lawfully created or established prior to the effective date of these Land Use Regulations or any subsequent amendment but, by application of the zone district's minimum lot size or minimum frontage would now fail to conform to such minimum lot standards.
- B. Rules Governing Nonconforming Lots. A nonconforming lot may continue to exist, even though the lot would be prohibited, regulated, or restricted under the provisions of these Land Use Regulations or amendments, subject to the following provisions:
  1. A nonconforming lot may be developed to the same extent as a conforming lot in the same zone district only if such lot was lawfully created.
  2. All other regulations governing lots, including but not limited to, setbacks, building height, shall apply to a nonconforming lot.

## **DIVISION 2            VESTED RIGHTS**

### **Section 9-200            Purpose.**

This Division is enacted to:

- A.     Provide the procedures necessary to implement the provisions of Colorado's statutory vested property rights scheme set forth at C.R.S. §24-68-101, et. seq.; and
- B.     To effectuate local control over the creation of vested property rights to the fullest extent permitted under Colorado law.

### **Section 9-201            Definitions.**

- A.     Site Specific Development Plan. A Site Specific Development Plan is a plan, which has been submitted, to Park County by an Applicant describing with reasonable certainty the type and intensity of use for a specific Lot or parcel of property. A Site Specific Development Plan shall only include: a Major Subdivision Final Plat or any other plan, plat, or document identified and agreed upon by the County and an applicant. A license, map, variance, easement, or permit shall not constitute a Site Specific Development Plan.
- B.     Vested Property Right. The right to undertake and complete the development and use of property under the terms and conditions of a Site Specific Development Plan for a specified period of time.

### **Section 9-202            Application and Fees.**

- A.     An applicant for approval of a Site Specific Development Plan shall complete an application for such approval and submit that application with the Applicant's Site Specific Development Plan to the Planning Department.
- B.     In addition to any and all other fees and charges imposed by these Land Use Regulations, an applicant for approval of a Site Specific Development Plan shall be required to pay an additional application fee of \$1000.00 to cover the administrative costs incurred by the County as a result of the Site Specific Development Plan review process set forth in this Division.

### **Section 9-203            Establishment of Rights, Prohibitions, and Exceptions.**

- A.     Approval of a Site Specific Development Plan shall require notice and a public hearing before the Board of County Commissioners. Notice shall be by publication only. Notice may be combined with any other notice by referencing that the land use approval will vest a property right in accordance with the Land Use Regulations.
- B.     The County may by resolution approve a Site Specific Development Plan or may conditionally approve a Site Specific Development Plan upon such terms and conditions as are reasonably necessary to protect the public health, safety, and welfare. A vested property right shall be deemed established with respect to any property upon such approval or conditional approval of a Site Specific Development Plan.

- C. A vested property right, once established, shall attach and run with the applicable property.
- D. A vested property right, once established, shall preclude any zoning or land use action by the County which would alter, impair, prevent, diminish, or otherwise delay the development or use of the property as set forth in the Site Specific Development Plan, except:
  - 1. With the consent of the applicant;
  - 2. Upon the discovery of natural or man-made hazards on or in the immediate vicinity of the property, which hazards could not reasonably have been discovered at the time of the Site Specific Development Plan approval, and which hazards, if not corrected, would pose a serious threat to the public health, safety, and welfare; or
  - 3. To the extent that compensation is paid, as provided in C.R.S. §24-68-105(1)(c).
- E. The establishment of a vested property right shall not preclude the application of ordinances or regulations which are general in nature and applicable to all property subject to land use regulation by the County, including, but not limited to, building, fire, plumbing, electrical, mechanical, water and sewer codes and regulations.
- F. The effective date of the establishment of the vested property right shall be the effective date of the resolution effectuating the County's approval or conditional approval of the Site Specific Development Plan.
- G. Approval of a Site Specific Development Plan shall be subject to all rights of judicial review; except that the required number of days to commence such review shall not begin to run until a notice of approval and of the creation of a vested property right is published by the County, no later than 14 days after such approval, in a newspaper of general circulation within the County.
- H. Any document constituting an approved Site Specific Development Plan or any part of an approved Site Specific Development Plan shall, at the time of its approval, be marked with the following language: "This plan has been approved by Park County and creates a vested property right pursuant to C.R.S. §24-68-101, et. seq., as amended, and Division 1 of Article X of the Park County Land Use Regulations." Failure to contain this language shall not invalidate the creation of the vested property right.

**Section 9-204            Duration of Vested Property Right.**

- A. A property right, which has vested pursuant to this Article, shall remain vested for a period of 3 years from its effective date as defined in Section 10-103.F. This vesting period may be extended by amendments to the Site Specific Development Plan pursuant to the procedures set forth in subsection (C) of this Section.
- B. Notwithstanding the provisions of subsection (A) of this section, the County may enter into development agreements with applicants which agreements may provide that the property rights shall vest for a period longer than 3 years where the longer vesting period is warranted in light of all relevant circumstances such as the size and phasing of the

development, economic cycles, and market conditions. These property rights shall be established pursuant to the procedures set forth in Section 10-103.B.

- C. Upon approval by the County, a property right vested for 3 years pursuant to subsection (A) of this section may be extended for a period exceeding the initial 3-year vesting period when such extension is deemed to be in the public interest and warranted in light of all relevant circumstances including, but not limited to, the size and phasing of the development, economic cycles, and market conditions. An applicant desiring such an extension of the vesting period must file, at least 45 days prior the expiration of the initial 3-year vesting period, an application for such extension with the Planning Department and pay an administrative fee of \$250.00 for such application. Upon receipt of the application, the Planning Department shall review the application and make a recommendation to the Board of County Commissioners that such extension be granted, granted with conditions, or denied. The Board of County Commissioners will then review the extension request and either grant, grant with conditions or deny such extension. Only one extension of the vesting period may be granted for a Site Specific Development Plan.

**Section 9-205 Termination of Vested Property Right.**

A vested property right granted pursuant to this Article shall terminate upon:

- A. Failure to abide by the terms and conditions of a conditionally approved Site Specific Development Plan will result in a forfeiture of vested property rights.
- B. Substantial failure to comply with a Site Specific Development Plan will result in a forfeiture of vested property rights.
- C. The expiration of the initial vesting period or, if applicable, upon the expiration of the vesting period as extended pursuant to Section 10-103.C.

**Section 9-206 Limitations.**

This Article is intended only to implement the provisions of C.R.S. §24-68-101, et. seq., as amended. If C.R.S. §24-68-101, et. seq., as amended, is repealed or judicially determined to be invalid or unconstitutional, this Division shall be deemed to be repealed and the provisions of this Article be no longer effective.

## **DIVISION 3                    LOCATION AND EXTENT DETERMINATIONS**

### **Section 9-300                    Intent and Applicability.**

This Division provides procedures for the timely review of the location and extent of public facilities or public uses as provided by C.R.S. §§30-28-110 *et seq.* For purposes of this Division, a public facility or public use is considered to be:

- A. Any public way, ground, space, building, structure, or utility the authorization or financing of which does not, under a specific provision of law governing the same, fall within the province of the Board of County Commissioners or other County official or body. Such facilities and uses are customarily and primarily funded by public taxes, are owned and operated by an entity which has the capacity to levy taxes, and are of benefit to the public such as airports, schools, parks, utilities, and other similar public areas or structures; or
- B. The acceptance, widening, removal, extension, relocation, narrowing, vacation, abandonment, change of use, or sale or lease of or acquisition of land for any road, park, or other public way, ground, place, property, or structure the authorization or financing of which does not, under a specific provision of law governing the same, fall within the province of the Board of County Commissioners or other County official or body.

### **Section 9-301                    General Requirements.**

- A. Planning Commission Review. The Planning Commission is required to review and approve the plans for public facilities and public uses subject to this Division prior to the authorization or construction of any such areas or facilities. Routine extensions of existing public utility lines and minor modifications to existing uses or facilities that do not increase the size or intensity of use shall not be subject to this procedure, if such extension or modification is first confirmed as routine or minor by the Planning Director.
- B. Other County Regulations Applicable. Other County review processes may be required in addition to the location and extent review and hearing, such as Conditional Use Review, rezoning, or 1041 Permit.

### **Section 9-302                    Application and Review Process.**

- A. Application Contents. The applicant shall deliver the following information and materials to the Planning Department.
  - 1. A completed application in the form approved by the Director;
  - 2. Payment of all required application fees and any review fee deposit;
  - 3. An executed Agreement for Payment of Development Review Expenses in the form required by Section 1-401 of these Land Use Regulations;
  - 4. Evidence of Ownership and Encumbrances as defined by Article IV of these Land Use Regulations;

5. A list of the names and mailing addresses, as this information appears of record with the Park County Assessor's Office, of all owners of adjacent property<sup>1</sup> to the property proposed for zoning map amendment;
  6. Location and Extent Plan and Report (see Section 10-203).
- B. Review Process. The application shall be reviewed by the Planning Director for completeness and the Applicant notified of any incomplete information. If the application is incomplete, the application shall not be scheduled for a Planning Commission review.
  - C. Completeness Determination and Submittal Date. Once the application is determined to be complete the application shall be deemed officially submitted ("date of official submittal") for purposes of County review. Staff shall prepare a staff report evaluating the planning and land use issues raised by the application and shall schedule a public hearing before the Planning Commission to be held within thirty (30) days of the date of official submittal, unless an extension of time is agreed to by the applicant. Staff shall notify the applicant via telephone or in writing not less than five (5) days of the date and time of public hearing. No other notice is required.
  - D. Planning Commission Review. The Planning Commission shall evaluate the application, staff report, and any public testimony, and shall approve, conditionally approve, table for further study, or reject the location and extent of the proposed use for specific reasons. In the case of a rejection, the Planning Commission shall forward its findings and recommendation to the Board of County Commissioners.
  - E. Planning Commission to Act Timely. Unless the applicant has agreed to an extension of time for review, the failure of the Planning Commission to act within thirty (30) days after the date of official submission shall be deemed unconditional approval.

**Section 9-303            Location and Extent Plan and Report.**

A Location and Extent Plan and Report shall be prepared on 24" X 36" paper at a scale of 1" = 50' or other scale sufficient to illustrate the necessary location and extent of the proposal as approved by staff, which at a minimum shall address or detail the following:

- A. Name of proposed use/facility together with a narrative describing the purpose of the improvements, the range of impacts, and these impacts are addressed.
- B. A complete legal description of the property proposed for zoning map amendment prepared by a licensed registered Colorado land surveyor.
- C. Vicinity map a 1-mile radius superimposed on a Park County map maintaining the same scale.
- D. Existing and proposed access to the site, surfacing and width of road – identify all easements and drainage ways, loading, parking and outdoor storage areas.

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<sup>1</sup> See Article IV, Definitions, "Adjacent Property"

- E. Existing and proposed topography shown at 2-foot contour intervals, or another contour interval approved by Staff (show existing with dashed lines and proposed with solid lines).
- F. The location and dimension of all existing and proposed structures, the use of the structure, the building elevation (ground floor), and building height.
- G. Source and availability of water and method of waste disposal.
- H. An illustrative landscape plan, showing all proposed landscape – materials, fences, walls, planters and any other landscape features.
- I. Utility lines and appurtenances.
- J. A narrative or traffic study describing the transportation network establishing the availability and adequacy of the system.
- K. A proposal for the method of guarantee of financing (letter of credit or performance bond) and a timetable for construction of public improvements.
- L. Additional information may be requested by the staff as appropriate to the request; information required above may be waived by the Planning Director when deemed unnecessary.

## **DIVISION 4            HISTORIC PRESERVATION.<sup>2</sup>**

### **Section 9-400            Purpose.**

The purpose of this Division is to promote the public health, safety and welfare through:

- A.     The protection and preservation of the historic and cultural heritage of Park County by providing for the designation of historic buildings, structures, landscapes, sites and districts (collectively referred to hereinafter as "Landmarks") in accordance with this Division; and
- B.     The enhancement of property values, and the stabilization of historic communities, neighborhoods, farms, ranches, and sites of historic significance; and
- C.     The application for and receipt of grants and other similar funding sources to assist in the preservation of designated landmarks and the administration of the Historic Preservation Advisory Commission; and
- D.     The increase of economic and financial benefits as a result of the attraction of tourists and visitors to Park County; and
- E.     The provision of educational opportunities to increase public appreciation of Park County's unique heritage.

### **Section 9-401            Historic Preservation Advisory Commission**

- A.     Commission Established. A historic preservation advisory board is hereby created to be known as the Park County Historic Preservation Advisory Commission (the "Commission"). The term "historic" in this Division is meant to include districts, sites, buildings, structures, objects, archeological resources, cultural landscapes, museum objects, and ethnographic resources from all periods of human occupation.
- B.     Membership: The Commission shall consist of seven (7) members, at least five of which shall be full-time residents or property owners in Park County. The members shall be appointed by the Board of County Commissioners. The Board of County Commissioners' appointments of the Commission members should provide for diversity in geographic representation of Park County. To the degree possible, at least three members of the Commission shall have professional qualifications as defined in the Secretary of the Interior's Standards.
- C.     Terms of Office: Members of the Commission shall serve a three-year term from the date of their appointment.
  - 1.     In order to stagger the initial terms of membership, the original members shall serve as follows:

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<sup>2</sup>     This Division is an unofficial codification of Park County Resolution No. 99-1 with renumbering and formatting changes only to facilitate consistency with the Land Use Regulations. References contained in Resolution No. 99-1 to "this section," "this Resolution" etc., are modified in this codified version to permit ease of reference within this codified version. Please refer to Resolution No. 99-1 for the actual text of the Resolution.

Three appointees shall be appointed to serve three-year terms;  
Three appointees shall be appointed to serve two-year terms;  
One appointee shall be appointed to serve a one-year term.

2. Members shall continue to serve until their successors have been appointed. Members may be appointed to successive terms without limitation. Official public notice shall be made of vacancies on the Commission. Appointments to fill vacancies on the Commission shall be made by the Board of County Commissioners following receipt of a recommendation by the Commission.
  3. All members of the Commission shall serve without compensation.
  4. Any member of the Commission may be removed by the BOCC at any time without cause or reason.
- D. Quorum and Voting. A quorum for the Commission shall consist of a majority of the members of the Commission excluding vacant seats. A quorum is necessary for the Commission to hold a meeting or to take official action. A roll call vote shall be taken upon the request of any member. A tie vote shall be deemed denial of the motion or recommended action.
- E. Officers. The Commission shall, by majority vote, elect one (1) of its members to serve as chairperson to preside over the Commission's meetings, one (1) member to serve as vice-chairperson, one (1) member to serve as secretary, and one (1) member to serve as treasurer. The members so designated shall serve in these capacities for terms of one (1) year, and may serve successive terms.
- F. Meetings. The Commission shall hold at least one regularly scheduled meeting per calendar quarter. Agendas for Commission hearings will be published according to standard County procedures. Minutes shall be kept of all Commission meetings and be available to the public. The Board shall comply with all requirements of the Open Public Meetings Act (C.R.S. §24-6-401 et seq.) applicable to "local public bodies" as defined in the Act.
- G. Powers and Duties. The Commission shall:
1. As soon as reasonably possible after the appointment of the initial members of the Commission and from time to time thereafter, review the criteria for the designation of landmarks set forth in Section 9-402 of this Division and make recommendations to the Board of County Commissioners for amendments thereto which the Commission believes appropriate or necessary.
  2. Review applications for designation of properties as being landmarks pursuant to this Division and make recommendations to the Board of County Commissioners as to whether the Board of County Commissioners should, by Resolution, designate the property described in Section 9-402 of this Division and any subsequent amendments.
  3. Review and make a recommendation to the Planning Commission, Board of County Commissioners, or other body exercising land use approval on any application or proposal for altering, moving, or demolishing any historic property.

4. Appoint volunteers and utilize County staff members as reasonably needed to complete the designation and review process under this Division. With the Board of County Commissioners approval, the Commission may work with consultants in the administration and exercise of the Commission's power and authority. Day-to-day liaison with all County functions shall occur through the Department of Planning or other department or office designated by the Board of County Commissioners.

In addition to the above duties, the Commission may, at its discretion:

5. Advise and assist owners of historic properties on the physical and financial aspects of preservation, renovation, rehabilitation, and reuse including nomination to Colorado and National Registers of Historic Places.
  6. Develop and assist in public education programs including but not limited to walking tours, brochures, and a marker program of historic properties, lectures, and conferences.
  7. Conduct surveys of sites for the purpose of defining those of historic significance, and prioritizing the importance of identified historic sites.
  8. Advise the Board of County Commissioners on matters related to preserving the historic character of the County.
  9. Participate in Planning and Building and Zoning Departments processes as advocates for preservation issues.
  10. Apply for and pursue grants, gifts, donations, and other financial assistance for preservation-related programs and other matters within the scope of the Commission's power and authority. The Commission shall notify the BOCC in writing of its plans to seek any federal or state-funded grant. Any grant application that requires a commitment of "matching funds," or a financial or "in-kind" contribution of any kind from the County or its departments shall be subject to the prior approval of the BOCC.
- H. Rules and Procedures for Commission. The Commission may establish additional rules of operation and definitions that are consistent with its duties as enumerated in this Division.

#### **Section 9-402            Criteria for Designation of Landmarks.**

In order to qualify for designation as a landmark pursuant to this Division, the property must be determined by the Commission to have historic significance due to one or more of the following factors:

- A. Its character, interest, or value as part of the development, heritage or cultural characteristics of Park County, State of Colorado, or the United States;
- B. Its location as the site of a significant local, county, state, or national event;

- C. Its identification with a person(s) who significantly contributed to the culture and development of Park County, State of Colorado or the United States;
- D. Its exemplification of the cultural, economic, social or historic heritage of Park County, State of Colorado or the United States;
- E. Its portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;
- F. Its embodiment of distinguishing characteristics of an architectural type or specimen;
- G. Its identification as the work of an architect or master builder whose individual work has influenced the development of Park County, State of Colorado or the United States;
- H. Its embodiment of elements of design, detail, materials or craftsmanship that represent a significant architectural innovation;
- I. Its relationship to other distinctive areas that are eligible for preservation according to a plan based on a historic, cultural, or architectural motif; or
- J. Its unique location or singular physical characteristics representing an established and familiar visual feature of a neighborhood, community, landscape, or Park County.

**Section 9-403            Designation of Landmarks.**

Landmarks may be declared eligible for designation by the Commission or may be formally designated as landmarks by application of an owner in accordance with this section.

- A. Determination of Eligibility. The Commission may, by written recommendation approved by the BOCC, propose that property be determined as eligible for designation as a landmark upon satisfying or meeting the criteria set forth in Section 9-402 of this Division. A determination of eligibility shall be made as follows:
  - 1. Form of Declaration of Eligibility. Each determination of eligibility for designation shall be made by recommendation of the Commission and shall include a description of the characteristics of the property, which justify its designation and shall include a legal description of the location and boundaries of the landmark. The determination of eligibility may also identify alterations, which would have a significant impact upon, or be potentially detrimental to, the historic features of the property.
  - 2. Notice Required. Notice shall be provided to the owner of property included in any review for eligibility for designation.
  - 3. Procedures for Determining Eligibility. Properties identified as significant through surveys pursuant to Section 9-401(G)(7), and according to the criteria in Section 9-402, may be declared eligible for designation as landmarks. The Commission shall notify the owner by certified mail return receipt at the address listed in the County Assessor's records of the property's eligibility for designation and the notice shall offer assistance in applying for formal designation.

4. Advice from Commission. Preservation guidance and advice shall be available from the Commission for all eligible properties. Assistance with nominations, application for grants, or for other monetary support shall be provided only for properties that the majority of owners have agreed to designate as landmarks.
  5. Eligibility Does Not Affect Property. A declaration of eligibility for designation shall not affect the property or the alteration, relocation, or demolition of the property.
- B. Formal Designation as Landmark. Applications for designation must be made to the Commission. The Commission shall promulgate a standard form of application for use by all applicants. The application form shall identify the documentation and information that must accompany each application in order to permit a review of the criteria for designation provided by this Division. An application fee, if required and approved by the BOCC, must accompany all applications. Complete applications shall meet the following requirements and be processed as follows:
1. Owner Support Required. Each application must be supported for designation by at least fifty-one percent (51%) of the property owners of the landmark or district for which an application for designation is submitted.
  2. Staff Review. The staff shall review the completed application for conformance with the criteria for designation established in Section 9-402 of this Division. Such review shall be concluded within thirty (30) days following the filing of a complete application for designation. The staff shall forward the application and its written recommendation, if any, to the Commission.
  3. Commission Review. The Commission shall review and consider the application at a regularly scheduled or special meeting of the Commission after the completion of staff review. The Commission's review and consideration shall be conducted as a public hearing at which the applicant and any interested persons shall be provided a reasonable opportunity to provide testimony and documentary materials to the Commission which are relevant to the proposed designation. The Commission may continue any hearing for not more than 30 days in order to permit greater public participation or the presentation of additional information concerning the application and the proposed designation. At the conclusion of the hearing or within a reasonable time thereafter, the Commission shall either recommend approval, conditional approval, or disapproval of the application and such recommendation shall be made in writing. The Commission shall transmit its written recommendation to the BOCC. The Commission's recommendation shall be advisory only and not subject to appeal.
  4. Stay of Activity. During the application, review and approval process, no modifications, alterations, or demolition shall occur on the property without express written consent of the Commission and compliance with all applicable law and regulations.
  5. BOCC Action. Unless an application is withdrawn by the applicant within sixty (60) days of the date on which the BOCC is advised of any decision of the Commission, the BOCC shall review and consider the application, any evidence

and documentation presented to the Commission, and the Commission's recommendation as an administrative matter (no notice or hearing required). The BOCC may remand any issue or matter to the Commission for additional proceedings and public hearing. Following the conclusion of its review, the BOCC shall approve, conditionally approve, or disapprove the proposed designation. The BOCC shall advise the Board in writing of their decision regarding the designation.

6. Appeals. The BOCC's decision on any application shall be final and subject to review by the district court pursuant to C.R.C.P. 106(a)(4).
7. Recordation of Notice of Designation. Following expiration of any applicable period of appeal or the final conclusion of any appeal, the BOCC's written decision of approval or conditional approval and notice of the designation of the property as a landmark shall be recorded with the Clerk and Recorder for Park County. The form of notice shall be approved by the County Attorney and shall place future owners of record on notice that the property is designated as a landmark in accordance with this Division.
8. Listing and Mapping. The Commission shall cause to be maintained a list and map of designated and eligible landmarks with sufficient information to permit reasonable identification and location of the landmarks by the public. A copy of the current list and map shall be made available for public inspection during normal business hours at the office of the County Clerk or County Assessor and in the planning and building departments.

**Section 9-404            Limitation on Resubmission and Reconsideration of Proposed Designations.**

Whenever the BOCC disapproves an application for designation of a landmark, no person shall submit an application that is the same or substantially the same for at least six (6) months from the effective date of the BOCC's final action on the original application.

**Section 9-405            Reserved.**

**Section 9-406            Amendment of Designation.**

Designation of a landmark may be amended to add features to or enlarge the boundaries of the property under the procedures prescribed in this Division for initial designations.

**Section 9-407            Standards for Moving, Altering or Demolishing.**

The County shall forward to the Commission for review and comment any building permit, subdivision, zoning, or other land use application or request that reasonably affects designated or eligible landmarks or landmarks for which applications are pending before the Commission or the BOCC. The Commission shall promptly review such applications and notify the Department of Planning or Department of Building and Zoning of any decisions regarding disposition of zoning and permit applications that affect designated landmarks. The Commission shall meet all reasonable deadlines for review and comment set by the County.

Commission review of applications for alterations, removal, or demolition, and of building permit or zoning applications shall be undertaken according to the following standards which are based upon the current Secretary of the Interior's Standards for Treatment of Historic Properties:

- A. Archeological resources shall be protected and preserved in place or, where this is not possible, mitigation measures shall be undertaken.
- B. Alterations. The Commission shall acknowledge the need to alter or add to a historic property to meet continuing or changing uses while retaining the property's historic character.
  - 1. Attempts shall be made to use the property in a manner consistent with its original use or a compatible purpose, consistent with current county ordinances.
  - 2. The historic character of the property shall be retained by avoiding the removal of, or alteration of, features and spaces important to the character.
  - 3. Repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation or continued use of a designated historic building or structure may be made without conformance to all the requirements of the Uniform Building Code and Americans with Disabilities Act when authorized by the building official, provided that any unsafe conditions as described in this code are corrected, and the restored building or structure will be no more hazardous based on life safety, fire safety and sanitation than the existing building, and provided that every reasonable attempt has been made to provide physical or programmatic access to the disabled.
  - 4. Each property shall be recognized as a physical record of its time. The use of original materials shall be encouraged. Distinctive and unique features, finishes, materials and examples of craftsmanship should be retained and preserved. If deteriorated, they should be repaired. Repairs and replacement of such features should match the original in color, shape, texture, and design. Chemical or physical treatments, if appropriate, shall be undertaken using the gentlest means possible.
  - 5. New additions and expansions shall, where possible, be differentiated from the existing building to protect its historic integrity. New additions and constructions shall also be undertaken in such a manner that their removal in the future would not destroy the form or integrity of the original property. Designs that attempt to portray new construction as historic, and that were never executed historically at the property in question, shall not be allowed. The addition of conjectural features or elements from other historic properties shall be discouraged.
  - 6. A documentary record of the property prior to rehabilitation shall be made and deposited with the Commission.
- C. Relocation and Demolition. In all cases it shall be the preference of the Commission to keep structures intact and at their original sites. Criteria for relocation and demolition of historic structures shall include:

1. For relocation, demonstration that such relocation is consistent with historical patterns of reuse within Park County.
2. For relocation or demolition, documentation showing rehabilitation or reuse on its present site cannot provide safe or reasonable beneficial use of the property.
3. For demolition, certification from a licensed structure engineer demonstrating that the structure cannot withstand the physical impacts of relocation and re-siting, and documentation that rehabilitation or relocation is economically impractical.
4. When a governmental entity exercises power of eminent domain, the Commission shall first consider relocating before demolishing.
5. The effect of the relocation of the historic structure on the integrity or character of the neighborhood of the receiving site, and whether the receiving site is compatible in nature with the structure or structures proposed to be moved.
6. A documentary record of the property prior to relocation or demolition shall be made and deposited with the Commission.

#### **Section 9-408            Revocation of Designation.**

Upon receipt of an application from the then-current owner(s) of property, which has been designated as a landmark pursuant to this Division for revocation of that designation, the Commission shall advise the BOCC of such application. The BOCC may remove the designation upon a demonstration of the owner that the designation prevents reasonable use of the property and the removal of the designation would not violate or conflict with applicable law or regulation. In addition, upon learning of the unauthorized alteration, demolition, movement, or removal of a site which has been designated as historic pursuant to this Division, or a violation of this Division, the Commission shall, following at least fifteen (15) days written notice to the then current owner(s) of the property subject to the designation and following staff review, conduct a hearing to determine whether it should recommend to the BOCC that the landmark designation of the property involved be removed. Following such hearing, the Commission shall transmit its written recommendation to the BOCC who shall, within sixty (60) days thereafter, determine whether to accept the recommendation and remove the designation. The BOCC shall notify the Commission of their decision regarding revocation of the landmark designation. The authority and remedies provided by this section are not exclusive and shall be in addition to and supplement any other powers of enforcement or other remedies available to the County or the BOCC pursuant to law.

#### **Section 9-409            Appeals of Decisions.**

Decisions of the Commission may be administratively reviewed by or administratively appealed to the BOCC. Appeals by persons other than any member of the BOCC shall be filed by delivering to the County Administrator a written notice of appeal within fifteen (15) days after the date of the Historic Preservation Advisory Commission's decision. Upon receipt of a timely filed appeal, the BOCC shall consider the appeal at a hearing at which the party seeking the appeal shall be entitled to notice and a reasonable opportunity not to exceed 45 minutes to present such information and evidence to support the appeal. The BOCC's decision on any appeal shall be final and subject to review by the district court pursuant to C.R.C.P. 106(a)(4).