

Sec. 146-96. - CHD - Commercial Historic **Overlay district.**

(a) Purpose. The “CHD” -- commercial historic **overlay** district is intended to ensure the development, redevelopment, and renovations within the downtown area are consistent with the historic character of the city's original business district and the surrounding area. The boundaries of the “CHD” -- commercial historic **overlay** district are delineated on the official boundary map herein (see appendix C to this chapter).

~~(b) Land use. Land uses within the commercial historic district are described in the schedule of uses in the appendixes, illustrations, and schedule of uses to this Code and in the notes following said schedule.~~

~~(c) Space limits. The following space limits shall apply to the CHD commercial historic district:~~

~~(1) All other space limits identified as being applicable to the “CHD” -- Commercial Historic District in appendix F of the zoning ordinance.~~

~~(d) Parking requirements. Refer to section 146-130, except as provided herein:~~

~~(1) Off-street parking shall be provided for all uses established in this zone.~~

~~(2) One off-street parking space per fulltime employee who works more than 30 hours per week shall be provided.~~

~~(3) Any parking adjacent to a public street, wherein the maneuvering is done on the public street, shall not be classified as off-street parking in computing the parking requirements.~~

~~(4) All required off-street parking areas shall be located within two city blocks of the subject property.~~

~~(e) Off-street loading.~~

~~(1) Uses within the district are not required to provide off-street loading spaces.~~

~~(2) Loading spaces that are provided must be screened in accordance with the screening requirements of section 146-132~~

~~(f)~~ (b) Permits.

- (1) Historic preservation officer. The historic preservation officer shall administer this section and advise the city council on matters related to it.
- (2) Certificate of appropriateness. No person shall carry out any exterior alteration, restoration, reconstruction, new construction or moving of a landmark or property within ~~an~~ the "CHD" -- commercial historic overlay district; nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public right-of-way or adjacent property, which affect the appearance and cohesiveness of the historic landmark or district, without first obtaining a certificate of appropriateness from the planning department. A building permit must be obtained from the chief building official after the certificate of appropriateness has been approved before any work may commence. Nothing in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within the "CHD" -- commercial historic overlay district, which does not involve a change in design, material, color or outward appearance.
- (3) Criteria for approval. All requests for a certificate of appropriateness within the "CHD" -- commercial historic overlay district shall be approved by the historic preservation officer. The historic preservation officer shall have ten working days after a completed application is received by the planning department in which to approve or deny a certificate of appropriateness application. The historic preservation officer shall follow the secretary of the interior's standards for the rehabilitation of historic buildings in the consideration of all applications for a certificate of appropriateness within the "CHD" -- commercial historic overlay district. These standards shall be made available to the property owners within the "CHD" -- commercial historic overlay district.
- (4) Painting. A building permit and the approval of the historic preservation officer, shall be required to paint the exterior of a building any color other than the existing color. Any person wishing to repaint the exterior of their building the same color as that which exists at the time of this section shall not be required to obtain a building permit.
- (5) Demolition permit. A permit for the demolition of a historic landmark or property within the "CHD" -- commercial historic overlay district, including secondary buildings or landscape features, shall not be granted by the chief building official without review of a completed application and issuance of a certificate of appropriateness for demolition by the historic preservation officer.

(gc) Economic hardship for demolition in “CHD” -- commercial historic overlay district.

(1) Criteria. An applicant whose demolition permit has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant shall establish that all three of the following criteria have been met:

- a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
- b. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
- c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(2) Application procedure.

- a. After receiving written notification from the historic preservation officer of the denial of a certificate of appropriateness for demolition, an applicant may, within ten working days, commence the hardship process. No building permit or demolition permit shall be issued unless the city council makes a finding that a hardship exists.
- b. The city council shall consider the request on the hardship application at the first available city council meeting, at which time an opportunity will be provided for proponents and opponents of the application to represent their views.
- c. The applicant shall consult in good faith with the historic preservation officer, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in the preservation of the property.
- d. A copy of the city council's decision shall be sent to the applicant and a copy filed with the planning department for public inspection. The city council's decision shall state the reasons for granting or denying the hardship application.

(hd) Demolition by neglect. No owner or person with an interest in real property designated as a landmark or included within the “CHD” -- commercial historic overlay district shall permit the property to fall into a serious state of disrepair

so as to result in the deterioration of any exterior architectural feature, which would, in the judgment of the historic preservation officer, produce a detrimental effect upon the character of the “CHD” -- commercial historic overlay district as a whole or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roofs or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration or crumbling of exterior stucco or mortar;
- (5) Ineffective waterproofing of exterior walls, roofs or foundations, including broken windows or doors; and
- (6) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for public safety.

(e) Administration.

- (1) Conformance. All work performed pursuant to the issuance of a certificate of appropriateness, building permit or a demolition permit issued under this section shall conform to any requirements included therein. It shall be the duty of the chief building official to inspect periodically any such work to ensure compliance. In the event work is found that is not being performed in accordance with the state provisions, the chief building official shall issue a stop work order; and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.
- (2) Penalties. Any person, firm or corporation who shall violate any of the provisions of this section or who shall fail to comply with the provisions hereof shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed the maximum permissible fine allowed by state law; and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly.
- (3) Appeals. Any person aggrieved by a decision of the historic preservation officer, relating to the issuance of a certificate of appropriateness, may, within ten working days of receipt of the written decision, file a written application with the planning department for review of the decision. The city council shall consider the application at the next available city council meeting.

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