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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 Uses.

- 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. Such a nonconforming use shall not be enlarged, expanded, extended, increased, or moved to occupy an area of land or area in a structure that was not occupied before these Land Use Regulations were adopted or amended. A legal nonconforming use that has ceased operations for more than two years may not be resumed. This shall be an administrative decision by the Planning Director subject to appeal in accordance with Division 2, Article III of these Land Use Regulations.

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.
- 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 as defined above 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:

NOTE: Accessory Structures constructed on parcels without principle dwelling units prior to the adoption of these Land Use Regulations are considered legal non-conforming structures.

- 1. Such nonconforming structures shall not be enlarged or altered in a manner that increases their nonconformity. A nonconforming structure may be enlarged or altered provided that the enlargement of or alteration does not increase its nonconformity.
- 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 a building permit is properly issued 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 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 any provision of these land use regulations would now fail to conform to such minimum lot standards.
- B. Rules Governing Nonconforming Lots. A nonconforming lot as defined above 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, and individual sewage disposal regulations 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 that 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 by completion of the application process described in this division.
- 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 \$500.00 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 2 of Article IX 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 9-203 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 9-203.
- 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 9-204 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 property¹ to the property proposed for the use/facility;

¹ See Article IV, Definitions, "Adjacent Property"

6. Location and Extent Plan and Report (see Section 9-303).
- 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 on the next available hearing date that meets planning department notice and review requirements. Staff shall notify the applicant in writing not less than ten (10) 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 the hearing 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 commonly used engineering 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 how these impacts are addressed.
- B. A complete legal description of the property containing the proposed use/facility prepared by a licensed registered Colorado land surveyor.
- C. Vicinity map showing the location of the property in relation to commonly known features such as terrain and roads.
- D. Existing and proposed access to the site, including surfacing and width, all easements and drainage ways, and all loading, parking and outdoor storage areas.
- 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 locations, dimensions, and uses of all existing and proposed structures and the location and type of all exterior lighting.
- G. Source and availability of water and method of waste and wastewater disposal.
- H. An illustrative landscape plan, showing all proposed landscaping materials, fences, walls, planters and any other existing and proposed features.
- I. Utility lines and appurtenances.

- J. A traffic study describing the transportation network and establishing the adequacy or inadequacy of the network to accommodate additional traffic generated by the proposed use/facility. if the network cannot accommodate the additional traffic the study shall describe the improvements necessary to maintain an acceptable level of service.
- 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 to ensure compliance with this or any other applicable regulation or statute. Any information required above may be waived by the Planning Director when deemed unnecessary.

DIVISION 4 HISTORIC PRESERVATION.²

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, objects, cemeteries and burials, 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 through the Park County Office of Historic Preservation 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 (hereafter referred to as PCHPAC). 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: PCHPAC 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.
 - 1. Members may 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 PCHPAC. Appointments to fill vacancies on PCHPAC shall be made by the Board of County Commissioners following receipt of a recommendation by PCHPAC.
 - 2. All members of PCHPAC shall serve without compensation. Members may accept a stipend for attendance and reimbursement for expenses related to serving on PCHPAC as allowed by the Board of County Commissioners.

² This Division is an unofficial codification of Park County Resolution No. 2012-30 with renumbering and formatting changes only to facilitate consistency with the Land Use Regulations. References contained in Resolution No. 2012-30 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. 2012-30 for the actual text of the Resolution.

3. Any member of PCHPAC may be removed by the BOCC at any time without cause or reason.
- D. Officers. PCHPAC shall, by majority vote, elect one (1) of its members to serve as chairperson to preside over PCHPAC 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. Whereas the Director of the Office of Historic Preservation acts to fulfill the duties normally performed by a secretary and treasurer, the duties of the secretary and treasurer will only be required to be performed by members of PCHPAC subject to the approval of the Board of County Commissioners during such time as the position of Director of the Park County Office of Historic Preservation should remain vacant for a period of at least two months.
- E. Meetings. PCHPAC shall hold at least one regularly scheduled meeting per calendar quarter. Agendas for PCHPAC hearings will be published according to standard County procedures. Minutes shall be kept of all PCHPAC 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.
- F. Quorum and Voting. A quorum for PCHPAC shall consist of a majority of the members of PCHPAC excluding vacant seats. A quorum is necessary for PCHPAC to hold a meeting or to take official action. Electronic attendance and voting is acceptable for voting on any matters other than recommendation to the Board of County Commissioners for designation of Park County Historic Landmarks and Districts and for determination of Certificates of Appropriateness for listed properties. 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.
- G. Powers and Duties. PCHPAC shall:
1. As soon as reasonably possible after the appointment of the initial members of PCHPAC and from time to time thereafter, review the criteria for the designation of landmarks and landmarks set forth in Section 9-402 of this Division and make recommendations to the Board of County Commissioners for amendments thereto which PCHPAC believes appropriate or necessary.
 2. Review applications for designation of historic buildings, structures, objects, cemeteries and burials, landscapes, and sites as being Park County Historic Landmarks or Park County Historic Landmark Districts 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 historic buildings, structures, objects, cemeteries and burials, landscapes, and sites 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. The Director of the Office of Historic Preservation will appoint volunteers and utilize County staff members as reasonably needed to assist PCHPAC to complete the designation and review process under this Division. Through the Director of the Office of Historic Preservation, and with the Board of County Commissioners approval, PCHPAC may work with consultants in the administration and exercise of PCHPAC'S power and authority. Day-to-day liaison with all County functions shall occur through the Office of Historic Preservation or other department or office designated by the Board of County Commissioners.

In addition to the above duties, PCHPAC may, in conjunction with the Office of Historic Preservation and 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 including the review of applications for permits, conditional use, and rezoning of property that may have an effect on historic Landmarks or Districts, or the interests of historic preservation in Park County.
 10. The Office of Historic Preservation will, with the recommendation of PCHPAC, apply for and pursue grants, gifts, donations, and other financial assistance for preservation-related programs and other matters within the scope of PCHPAC'S power and authority. The Director of the Office of Historic Preservation, representing the recommendation of PCHPAC shall notify the Board Of County Commissioners in writing of plans to seek any privately, federally 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 Board Of County Commissioners.
 11. The Board of County Commissioners may make available to the Office of Historic Preservation a yearly fund, the amount of which shall be at its discretion, that shall be available for matching other grants for preservation of designated Landmarks or Districts, or for other purposes for the promotion of historic preservation in park county. The director of the office of historic preservation will present applications for grants from this fund to PCHPAC for its recommendation for or against approval. Final decisions upon such grant requests are at the discretion of the board of county commissioners or their appointed county representative.
- H. Rules, Definitions, and Procedures for PCHPAC. PCHPAC may establish additional rules of operation that are consistent with its duties as enumerated in this Division.

Section 9-402 Criteria for Designation of Landmarks.

- A. In order to qualify for designation as a Park County Historic Landmark pursuant to this Resolution, the historic building, structure, object, historic cemetery or burial, landscape, or site, must demonstrate sufficient integrity and be determined by PCHPAC to have significance based on one or more of the following criteria:
1. Its character, interest, or value as part of the development, heritage, or cultural characteristics of Park County, State of Colorado, or the United States;
 2. Its location as the site of a significant local, county, state, or national event;

3. Its identification with a person(s) or group(s) who significantly contributed to the culture, history, or development of a local community, Park County, State of Colorado, or the United States;
 4. Its exemplification of the cultural, economic, social, or historic heritage of a local community, Park County, State of Colorado, or the United States;
 5. Its embodiment of distinguishing characteristics of an architectural style, type, or form valuable for the study of a group of people, period, method of construction, or use of indigenous materials and craftsmanship;
 6. Its historical, architectural, or cultural value as a particularly fine or unique example of a utilitarian structure including, but not limited to, bridges, barns, sheds, bunkhouses, water towers, windmills, arrastras, and flumes;
 7. Its identification as the work of an architect, landscape architect, designer, or master builder whose individual work has influenced the development of a local community, Park County, State of Colorado, or the United States;
 8. Its embodiment of elements of design, detail, materials, or craftsmanship that represent a significant architectural achievement or innovation;
 9. Its unique location or singular physical characteristics that make it an established or familiar visual feature of a neighborhood, community, landscape, or Park County;
 10. It has yielded, or may be likely to yield, information important in prehistory or history;
 11. It is listed on the Colorado State Register of Historic Properties or National Register of Historic Places.
- B. A District shall be considered for designation by the BOCC if PCHPAC determines and recommends to the BOCC that the proposed district consists of at least two or more structures within a clearly defined boundary and meets one or more of the following criteria:
1. Its character, interest, or value as a geographically definable area which exemplifies or reflects the particular cultural, political, economic, or social history of a community or neighborhood;
 2. Its character as a geographically definable area possessing a significant concentration, linkage, or continuity of historically, architecturally, or culturally significant sites, buildings, objects or structures united by past events or aesthetically by plan or physical development;
 3. Its character as an established and geographically definable neighborhood, united by culture, architectural style, or physical plan and development.
 4. Its exemplification of a significant geographical pattern, including those associated with past eras of settlement and growth.
 5. Its identification with persons, groups, or events important in local, county, state, or national history;
 6. Its embodiment of the distinguishing characteristics of an architectural style or type inherently valuable for the study of a group of people, period, method of construction, or use of indigenous materials and craftsmanship;

7. Its unique location or singular physical characteristics that make the area an established or familiar visual feature of a neighborhood, community, landscape, or Park County;
8. Its identification as the work of an architect, landscape architect, designer, or master builder whose individual work has influenced the development of a local community, Park County, State of Colorado, or the United States;
9. Its embodiment of the effects of past human activity on a natural landscape; or the ways in which a natural landscape has historically shaped human activity;
10. It is designated as a National Historic Landmark District.

Section 9-403 Designation of Landmarks.

Landmarks may be declared eligible for designation by PCHPAC or may be formally designated as landmarks by application of an owner, non-profit historic preservation group, or the Office of Historic Preservation, with written owner consent, in accordance with this section.

- A. Determination of Eligibility. PCHPAC 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 PCHPAC and shall include a description of the characteristics of the property that 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 that 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. PCHPAC 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 PCHPAC 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 Landmarks and Districts.

Nominations and application for designation may be made by an owner, non-profit historic preservation group or by the Office of Historic Preservation subject to the rules and procedures of this chapter and must include written support for such application as indicated below.

Determination of support for designation of a Landmark shall be the inclusion with the application of a signed owner consent form including at least fifty-one percent (51%) of the owners of the property. In the case of Districts, nominations must include documentation demonstrating notification of owners of property included within the boundaries of the District by certified mail with returned receipts. Included with the letters of notification will be a copy of a form supplied by the Office of Historic Preservation explaining that historic designation in Park County is honorary only and has no effect on property rights and allowing for a means of indicating support or non-support of the nomination. If owners of more than 51 percent of contributing properties represented within the boundaries of the proposed District return a signed form indicating non-support for the designation of the historic district, the application for nomination must be withdrawn.

Applications for designation must be made to PCHPAC. PCHPAC 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. Staff Review. The Director of the Office of Historic Preservation, acting as staff for PCHPAC 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 Director shall forward the application with a written recommendation, and directions to the location of the potential Landmark or District to PCHPAC prior to the meeting in which the application is to be considered.
2. PCHPAC Review. PCHPAC shall review and consider the application at a regularly scheduled or special PCHPAC meeting after the completion of staff review. Members shall make every effort to visit the site of the potential Landmark or District previous to the meeting in which the application for designation is to be considered. PCHPAC'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 which are relevant to the proposed designation. PCHPAC 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, PCHPAC shall either recommend approval, conditional approval, or disapproval of the application and such recommendation shall be made in writing. The Director of the Office of Historic Preservation shall transmit PCHPAC'S written recommendation to the BOCC. PCHPAC'S recommendation shall be advisory only.
3. 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 PCHPAC and compliance with all applicable law and regulations. Such unauthorized actions upon the property or properties to be considered for designation may result in voiding the application.
4. BOCC Action. Unless an application is withdrawn by the applicant within sixty (60) days of the date on which the Board of County Commissioners is advised of any decision of

PCHPAC, the Board Of County Commissioners shall review and consider the application, any evidence and documentation presented to PCHPAC, and PCHPAC'S recommendation as an administrative matter (no notice or hearing required). The Board Of County Commissioners may remand any issue or matter to PCHPAC for additional proceedings and public hearing. Following the conclusion of its review, the Board Of County Commissioners shall approve, conditionally approve, or disapprove the proposed designation. The Director of the Office of Historic Preservation shall return a copy of the form establishing the Landmark or District, or return a written report of the Board of County Commissioners' disapproval of designation to the Director of the Office of Historic Preservation for presentation to PCHPAC and will be filed in the Office of Historic Preservation records and will be available for public reference.

5. Appeals. The Board Of County Commissioners' decision on any application shall be final and subject to review by the district court pursuant to C.R.C.P. 106(a)(4).
6. Recordation of Notice of Designation. Following expiration of any applicable period of appeal or the final conclusion of any appeal, the Board Of County Commissioners' 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, or as a property located within a District, in accordance with this Division.
7. Listing and Mapping. PCHPAC shall cause to be maintained a list and map of designated and eligible Landmarks and Districts 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 Board Of County Commissioners 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 Board Of County Commissioners' final action on the original application.

Section 9-405 Reserved.

Section 9-406 Amendment of Designation.

Designation of a Landmark or District 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 PCHPAC 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 PCHPAC or the Board Of County Commissioners. PCHPAC shall promptly review such applications and notify the Department of Planning or Department of Building and Zoning of any recommendations 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.

PCHPAC 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. PCHPAC 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 current Park County 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 Office of Historic Preservation.

- C. Relocation and Demolition. In all cases it shall be the preference of PCHPAC 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 is required.
4. When a governmental entity exercises power of eminent domain, PCHPAC shall first consider relocating before demolishing and shall request a Section 106 (Federal Regulations 36 CFR 800 of National Historic Preservation Act of 1966 (NHPA)) or an equivalent, be filed with the Office of Historic Preservation for its review prior to any action on the landmark or district. The results of that review will be communicated to PCHPAC, and the Director's review and any comments from PCHPAC shall be communicated to the Board of County Commissioners.
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, including photographs, of the property or properties prior to relocation or demolition shall be made and deposited with the Office of Historic Preservation.

Section 9-408 Revocation of Designation.

Upon receipt of an application from the then-current owner(s) of a designated Landmark pursuant to this Division for revocation of that designation, the Director of the Office of Historic Preservation shall advise the Board of County Commissioners of such application. The Board of County Commissioners 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, PCHPAC shall, following at least fifteen (15) days written notice via certified mail with return receipt requested to the then current owner(s) of the designated property and following review by the Director of the Office of Historic Preservation, conduct a hearing to determine whether it should recommend to the Board of County Commissioners that the Landmark designation of the property be removed. Following such hearing, PCHPAC shall transmit its written recommendation to the Board of County Commissioners who shall, within sixty (60) days thereafter, determine whether to accept the recommendation and remove the designation. The Board of County Commissioners shall notify PCHPAC of its 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 Board of County Commissioners pursuant to law.

Section 9-409 Appeals of Decisions.

Decisions of PCHPAC may be administratively reviewed by or administratively appealed to the Board of County Commissioners. Appeals by persons other than any member of the Board of County Commissioners shall be filed by delivering to the Chief Administrative Officer a written notice of appeal within fifteen (15) days after the date of PCHPAC'S decision. Upon receipt of a timely filed appeal, the Board of County Commissioners shall consider the appeal at a hearing at which the party seeking the appeal shall be entitled to notice and a reasonable opportunity to present such information and evidence to support the appeal. The Board of County Commissioners' decision on any appeal shall be final and subject to review by the district court pursuant to C.R.C.P. 106(a)(4).