

## Chapter 17.62

### HISTORIC PRESERVATION

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#### **17.62.010 Purpose.**

In accordance with the city's general plan and this title, the city council may from time to time initiate the process to designate a historic district, local landmarks, or initiate de-listing, all as defined in Section 17.62.040, within the municipality. The historic classification changes are for the purpose of meeting the land use needs of the residents of the city in conformance with the city's general plan.

A. It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of landmarks and historic districts is necessary to promote the economic, cultural, educational and general welfare of the public.

B. Inasmuch as the identity of a people is founded on its past, and inasmuch as Casa Grande has many significant historic, architectural and cultural resources that constitute its heritage, this act is intended to:

1. Protect and enhance the landmarks and historic districts that represent distinctive elements of the city's historic, architectural and cultural heritage;
2. Foster civic pride in accomplishments of the past;
3. Protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided; and
4. Ensure the harmonious, orderly and efficient growth and development of the city.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 2 (part), 2004)

#### **17.62.020 Applicability.**

This chapter applies to properties located within an area designated as a historic district and properties designated as individual local landmarks. The enforcement of, amendments to, and the administration of this chapter shall be

accomplished in accordance with the recommendations contained in the city's general plan, as adopted from time to time.

(Ord. 1397.17.47 § 3 (part), 2017)

### **17.62.030 Historic preservation commission.**

There is hereby established a historic preservation commission with the duties and responsibilities as set forth in Article IV of Chapter 17.08 of this title.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 § 2 (part), 2004)

### **17.62.040 Definitions.**

The following definitions shall apply specifically and exclusively to this chapter.

“Adaptive reuse” means the re-purposing of historic buildings to new economically viable uses.

“Alteration” means any construction or change of the exterior of a building, object, site or structure designated a landmark, or located within a historic district. For buildings, objects or structures, “alteration” shall include, but is not limited to, the changing of roofing or siding materials; changing, eliminating or adding doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, swings or other ornamentation, and the changing of paint color. “Alteration” shall not include “ordinary repair and maintenance” as defined below.

“Building” means a structure created to shelter any form of human activity, such as a house, barn, church, hotel or similar structure. “Building” may refer to a historically-related complex, such as a courthouse and jail or a house and barn.

“Cemetery” means any site that contains at least one burial, marked or previously marked, considered a dedicated cemetery under Arizona State Statutes, even though suffering neglect or abuse.

“Construction” means the act of adding an addition to a structure or the erection of a new principal or accessory structure on a lot or property.

“Contributing” means a classification applied to a building, site, structure or object signifying the individual contribution the resource brings to the community in representation of the qualities that give the community cultural, historic, architectural or archeological distinction. A contributing classification can be applied to either a landmark or to those properties within a historic district that are of individual importance.

“De-listing” means removing a landmark status from a building, site, sign, structure or object, or the elimination of a historic district.

“Demolition” means any act or process that partially or totally destroys a landmark or a structure within a historic district.

“Department” means the planning and development department of the city of Casa Grande.

“Design guideline” means a specific type of design criteria approved by the historic preservation commission, to be used to inform owners of landmark buildings, and buildings located within a historic district of the construction techniques that can be used in alteration, construction or demolition activities to achieve compliance with required certificate of appropriateness review criteria.

“Director” means the director of the planning and development department, or his or her designee.

“Historic district” means an area with definable boundaries designated as a “historic district” by the city council, and in which a substantial number of the properties, sites, structures or objects have a high degree of cultural, historic, architectural or archeological significance and integrity.

“HPC” means the historic preservation commission.

“Landmark” means a property, site, structure or object that is individually designated by the city council to be worthy of rehabilitation, restoration and preservation because of its exceptional cultural, historic, architectural or archeological significance to the city.

“New floor area” refers to any change in use to an existing eligible building proposed for adaptive reuse, located within the confines of the existing interior portion of the exterior walls and roof.

“Non-contributing” means a designation applied to a site, structure or object within a historic district, indicating that it is not a representation of the qualities that give the historic district cultural, historic, architectural or archeological significance as embodied in the criteria for designating a historic district.

“Ordinary maintenance and repair” means regular, customary or usual care, reconstruction or renewal of any part of an existing building, structure or object, for the purposes of preserving the property and maintaining it in safe and sanitary condition.

“Owner” means the property owner of record or their designated representative.

“Property” means land and improvements identified as a separate lot for purposes of city subdivision and zoning regulations.

“Structure” means anything constructed or erected, the use of which requires a permanent or semi-permanent location on or in the ground, including, without limitation, buildings, garages, fences, gazebos, advertising signs, billboards, antennas, satellite-sending or -receiving dishes, and swimming pools.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 § 2 (part), 2004)

#### **17.62.050 Recommendation on designation of landmarks or historic districts by the historic preservation commission.**

A. The HPC may recommend to city council that an individual property, site, sign, structure or object be designated as a landmark if it:

1. Possesses special character, historic or aesthetic interest or value as part of the cultural, political, economic or social history of the locality, region, state or nation; or
2. Is identified with historic personages; or
3. Embodies the distinguishing characteristics of an architectural style; or
4. Is the work of a designer whose work has significantly influenced an age; or
5. Because of a unique location or singular physical characteristic, represents an established and familiar visual feature of a neighborhood; and
6. The owner of the property, site, sign, structure or object concurs with the designation.

B. The HPC may recommend to the city council that a group of properties has been designated as an historic district if it:

1. Contains several pieces of property that meet one or more of the criteria for designation of a landmark; and
2. By reason of possessing such qualities, it constitutes a district section of the city; and
3. The owners of more than 50% of the property within the boundary of the proposed historic district concur with the designation.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 § 2 (part), 2004)

#### **17.62.060 Historic designation procedures.**

A. The HPC shall hold a public hearing prior to designation of a landmark or historic district.

1. Notice.

a. The HPC shall mail a notice of any proposed designation of a landmark or historic district to the owner(s) of the proposed landmark, or owners of real property within the proposed historic district, as well as all property owners within 300 feet of the landmark or district boundary. The notice shall describe the proposed designation and the date, time and location of the public hearing to be held by the HPC.

b. Notice shall be published at least once in a newspaper of general circulation at least 15 days prior to the date of public hearing.

2. The HPC shall hold a public hearing on the designation, at which time an opportunity will be provided for interested persons to present their views. The testimony or documentary evidence at the hearing will become part of a record regarding the historic, architectural or cultural importance of the proposed landmark or historic district. The public hearing record may also contain staff reports, public comments, or other evidence offered during the hearing.

B. The HPC shall recommend to city council that the designation be approved, approved with conditions, or denied. The HPC may postpone taking action on the designation; however, any postponement shall be limited to a maximum of 75 calendar days. This period may be extended with the written permission of the applicant. In the event it does not make a recommendation within this timeline, the HPC will be deemed to have recommended denial to the city council.

C. All decisions of the HPC shall specify how the designation complies or does not comply with the applicable review criteria. This requirement may be met by the minutes of the meeting if the recommendation is for approval, or may be met by a letter by the chairman, vice-chairman, or staff liaison assigned to the HPC, outlining the relevant criteria and applicability.

D. A copy of the decision shall be communicated in writing to the applicant, if any.

(Ord. 1397.17.47 § 3 (part), 2017)

#### **17.62.070 Decision on landmarks or historic designation by the city council.**

A. After receipt of the report and recommendation of the HPC, the city council shall consider the proposed designation of a landmark or historic district.

B. Notice of the time and place of the hearing shall be given in the time and manner as specified in Subsection 17.62.060(A)(1) of this chapter. During any public hearing on the matter, the city council shall consider oral or written statements from the applicant, city staff, the public, and its own members.

C. The city council may approve, approve with conditions, postpone or deny the proposed designation. Any postponement shall be limited to a maximum of 75 days. This period may be extended with the written permission of the applicant. In the event it does not take action within this timeline, the city council will be deemed to have determined that the designation was not in the best interest of the city, and the item or application will be denied.

D. If approved, the city council shall adopt an ordinance that results in the revision of the historic district or landmark map, and the ordinance shall be recorded with Pinal County recorder's office.

E. Signs designated as landmarks shall not be considered in determining a site's allocation of permitted attached or detached signs pursuant to the city's sign code.

(Ord. 1397.17.47 § 3 (part), 2017)

### **17.62.080 De-listing of landmarks or elimination of historic district designation.**

#### A. Initiation Process.

1. De-listing of a Landmark. The HPC, the city council or the property owner may initiate the de-listing process for an individual landmark property when the property has ceased to meet the criteria for a "landmark."

2. Elimination of a District. The HPC or the city council may initiate elimination of an existing historic district. Property owners of more than 50% of the area of an existing historic district may initiate the elimination of a historic district with the submittal of a petition.

B. Application. An application shall be filed with the department for the de-listing or district elimination, which will be forwarded to the HPC for consideration.

C. Review Criteria. The HPC shall hold a public hearing on all properly filed de-listing or district elimination applications, and make a recommendation in accordance with the following review criteria.

1. District Elimination. The district has lost its special characteristics or historic features so that it no longer contributes to the historic character of the community.

#### 2. Landmark De-listing.

a. The landmark has lost its special characteristics or historic features to the extent that it no longer contributes to the historic character of the community; or

b. The building, structure, object, sign or site has been substantially damaged or destroyed by a catastrophic event such that it no longer meets the criteria for designation as a local landmark or placement on the state or national historic register.

#### D. HPC Public Hearing Notification Requirements and Recommendation.

1. Notification of the public hearing shall be in accordance with Subsection 17.62.060(A)(1).

2. The HPC shall recommend to city council that the application be approved, approved with conditions, or denied. The HPC may postpone taking action on the application; however, any postponement shall be limited to a maximum of 75 days. This period may be extended with the written permission of the applicant. In the event it does not make a recommendation within this timeline, the HPC will be deemed to have recommended denial to the city council.

3. All decisions of the HPC shall specify how the designation complies or does not comply with the applicable review criteria. This requirement may be met by the minutes of the meeting if the recommendation is for approval, or may be met by a letter by the chairman, vice-chairman, or staff liaison assigned to the HPC, outlining the relevant criteria and applicability.

4. A copy of the decision shall be communicated in writing to the applicant.

E. City Council Consideration. City council shall hold a public hearing and make a decision on all requests to eliminate a historic district or de-list a landmark in accordance with the procedures set forth in Section 17.62.070.

(Ord. 1397.17.47 § 3 (part), 2017)

### **17.62.090 Modification of contributing or non-contributing property or landmark designation.**

A. An owner of a contributing property, located within an historic district, may request that their property be re-classified as a non-contributing property. This reclassification shall be automatically approved by the director upon receipt of a completed application requesting the re-classification.

B. An owner of a non-contributing property, located within an historic district, may request that their property be re-classified as a contributing property in accordance with the following procedures.

1. If the property had previously been classified as contributing, but re-classified at the owner's request, the change back to the contributing status shall be automatic if no additions were constructed to the property while classified as non-contributing. The reclassification shall be automatically approved by the director upon receipt of a completed application.

2. If the property had never been classified as contributing, or was a prior contributing property that had building additions added while classified as non-contributing, then the application form requesting reclassification shall be accompanied by a historic survey prepared by a qualified historic preservation consultant. The application shall require review and approval by

the HPC.

C. Upon complete destruction or demolition of a contributing property, it shall be automatically reclassified as a non-contributing property, and any landmark designation shall be automatically removed by administrative action of the director.

(Ord. 1397.17.47 § 3 (part), 2017)

#### **17.62.100 Certificate of no effect or certificate of appropriateness required.**

A. No modifications to the exterior paint color may be made to a non-contributing property until a certificate of no effect is approved.

B. No person shall carry out any exterior alteration, restoration, reconstruction, demolition, new construction, or moving of a landmark, or a contributing property within a historic district; nor shall any person make any material change in the appearance of such a property, including windows, doors, security doors, roofs, light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public street, which affect the appearance and cohesiveness of the historic landmark or historic district, without first obtaining a certificate of no effect from the department or a certificate of appropriateness from the HPC.

C. This section shall not be deemed to prohibit the city from undertaking any abatement activities pursuant to Title 8 of this code or from requiring the city to obtain a certificate of no effect or a certificate of appropriateness for any abatement undertaken pursuant to Title 8.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 2 (part), 2004)

#### **17.62.110 Certificate of no effect application procedure.**

A. Prior to the commencement of any work requiring a certificate of no effect, the owner shall file an application for such a certificate with the department.

B. No permit shall be issued for such proposed work until a certificate of no effect has first been issued by the department. The certificate of no effect required by this act shall be in addition to, and not in lieu of, any permit that may be required by any other city ordinance, rule or regulation.

C. The director shall approve, approve with modifications, request additional information, or refer the certificate of no effect within ten business days after submission of a complete application.

1. A copy of any decision shall be communicated in writing to the applicant.

2. If the decision is to request additional information, modify the application, or deny the application, a written explanation, setting for the basis of the decision, shall be communicated in writing to the applicant.

3. If a certificate of no effect is referred, within 30 days the application will be forwarded to the historic preservation commission for consideration as a certificate of appropriateness.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 § 2 (part), 2004)

#### **17.62.120 Exterior modifications eligible for a certificate of no effect.**

A. Changing of exterior paint colors on a non-contributing property.

B. The following exterior modifications to contributing or landmark properties shall be considered minor work that is eligible for review under a certificate of no effect.

1. Re-painting to a color like or similar to the existing exterior paint color.

2. Re-roofing with materials that are similar in color and materials to existing roofing.

3. Installing or replacing any of the following:

a. Exterior light fixtures;

b. Windows that are similar in design to existing windows;

c. Doors that are similar in design to existing doors;

d. Security screen doors;

e. Sun shades to windows;

f. Solar panels.

4. Other similar work of a minor nature.

(Ord. 1397.17.47 § 3 (part), 2017)

#### **17.62.125 Review criteria for a certificate of no effect.**

The director shall issue a certificate of no effect if:

- A. It is determined to be compatible with the historic character of the subject property, as well as with the historic character of the surrounding district, if applicable.
- B. In any case the proposed work will not diminish, eliminate or adversely affect the historic character of the landmark, subject property, or district.
- C. Prior, unapproved exterior alterations shall not be used as a basis for certificate of no effect approval.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 2 (part), 2004)

**17.62.130 Certificate of appropriateness application procedure.**

- A. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the department. The application shall not be required in the case of a certificate of no effect that is referred to the HPC. Certificate of appropriateness applications for demolition of unsafe structures may be initiated by the director or the property owner. Notices of proposed certificate of appropriateness applications shall be mailed to surrounding property owners within 300 feet of the subject property, informing them of the opportunity to review and comment on the application.
- B. No permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the HPC. The certificate of appropriateness shall be in addition to, and not in lieu of, any permit that may be required by any other city ordinance, rule or regulation.
- C. The HPC shall notice and hold a public hearing on the application in accordance with the procedures set forth in Subsection 17.62.060(A).
- D. The HPC shall approve, approve with conditions, postpone, request additional information, or deny the certification of appropriateness. Any postponement shall be limited to a maximum of 75 days. This period may be extended with the written permission of the applicant. In the event the HPC does not make a recommendation within this timeline, the HPC will be deemed to have approved the application.
- E. All decisions of the HPC shall be communicated to the applicant in writing, and specify whether the application was found to be in compliance with the relevant certificate of appropriateness review criteria. This requirement may be met by the minutes of the meeting if the recommendation is for approval, or may be met by a letter by the chairman, vice-chairman or staff liaison assigned to the HPC, outlining the relevant criteria and applicability. All decisions shall also be communicated by the director to the city council.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 2 (part), 2004)

**17.62.140 Criteria for approval of a certificate of appropriateness.**

- A. In its review of a certificate of appropriateness application, the HPC decision shall be based upon the following principles of compatibility.
  1. Properties that contribute to the character of the historic district shall be retained, with their historic features altered as little as possible.
  2. New exterior construction shall be compatible with the district in which it is located.
  3. Any exterior alteration of existing historic landmark properties shall be compatible with their historic character.
- B. In applying the principles of compatibility, the HPC shall consider the following factors:
  1. The general design, character and appropriateness of the proposed alteration or new construction;
  2. The scale of proposed alteration or new construction in relation to the property itself, surrounding properties, and the neighborhood;
  3. The texture, materials and color, and their relation to similar features of other properties in the neighborhood;
  4. Visual compatibility with surrounding properties, including proportion of the property's front facade, proportion and arrangement of windows and other openings with the facade, roof shape, and the rhythm of spacing of properties on streets, including setback;
  5. The importance of historic, architectural or other features to the significance of the property; and
- 6. As a guide to rehabilitation work, the commission shall utilize the current edition of the Secretary of the Interior's standards for rehabilitation.
- C. In considering an application for a certificate of appropriateness for a contributing property, the HPC shall consider the following criteria and economic conditions.
  1. For applications involving alterations to the exterior of the building or signs, the following shall apply:
    - a. The cost of the required modifications to the materials, product or design proposed by the applicant. The cost shall include materials, labor, maintenance, water and energy.

- b. Historic landmark signs located on the premises do not count toward the maximum total sign area.
- 2. For applications involving the demolition of a structure, the following shall apply:
  - 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, that could result in a reasonable return;
  - c. Efforts have been made to find a purchaser interested in preserving the property; and
  - d. The applicant has consulted in good faith with the department, local preservation groups, and interested parties, in a diligent effort to seek an alternative that will result in preservation of the property.
- D. Prior, unapproved exterior alterations shall not be used as a basis for certificate of appropriateness approval.
- E. In reviewing an application for a certificate of appropriateness, the HPC shall not consider changes to interior spaces, but shall encourage property owner(s) to maintain any interior features that may have historical interest.
- F. No member of the HPC shall advise or express an opinion about a proposed certificate of appropriateness outside of a regular meeting.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 § 2 (part), 2004)

#### **17.62.145 Naming/re-naming of city facilities**

- A. The historic preservation commission shall conduct a public hearing in regard to all naming and renaming proposals. The commission shall give notice of public hearings in accordance with the procedures set forth in Section 17.62.060.
- B. The historic preservation commission shall only accept proposals for naming opportunities when council determines there is a naming opportunity available, or the historic preservation commission may submit for council's approval a naming opportunity.
- C. If the naming opportunity affects any other city board, i.e. naming of a park, the historic preservation commission will refer the naming proposal to the specific board that has jurisdiction for the facility for their recommendation. This commission will consider this recommendation at the public hearing held pursuant to subsection A above.
- D. After holding the public hearing, and considering any recommendations from other boards, the historic preservation commission shall use the criteria as adopted by city council pursuant to Section 17.08.170(J) to make a recommendation to City Council concerning the naming/renaming of the city facility.

(Ord. 1397.17.57 § 2, 2022)

#### **17.62.150 Appeal procedure.**

- A. The applicant may appeal a decision by the HPC to the city council. The city council may review the record of proceedings before the HPC, but city council review and decision will be de novo on all matters.
- B. Any appeal application shall be filed within 30 days after the date of the HPC decision and not thereafter.
- C. No building permit or demolition permit shall be issued unless the city council has made a final decision to approve the appeal.
- D. The city council shall hold a public hearing on the appeal application within 60 days of filing an appeal application that has been determined to be administratively complete. The notice and procedures for the hearing shall be in accordance with the provisions of Subsection 17.62.060(A)(1).
  - 1. If the appeal is denied, the city council's decision shall state the reasons for the denial.
  - 2. A copy of any decision shall be communicated in writing to the applicant.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 2 (part), 2004)

#### **17.62.160 Maintenance and repair required.**

- A. Nothing in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, color or outward appearance.
- B. No owner or person with an interest in real property designated as a landmark or included within a historic 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 that would, in the judgment of the director, produce a detrimental effect upon the character of the historic 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;
6. Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.

C. Upon making a determination that a person has violated subsection B of this section, the director shall order, in writing, the correction of any violation. Such order shall state the nature of the violation, the provision violated, and the time by which the violation must be corrected. A decision of the director may be appealed to the board of adjustment in accordance with Article VI of Chapter 17.68 of this title.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 2 (part), 2004)

#### **17.62.170 Adaptive reuse.**

A. Purpose. The purpose of adaptive reuse is to provide flexibility in the development standards applicable to landmarks or commercially zoned properties located within a historic district. This process is intended to provide incentives that allow these types of buildings to be modified so that they can remain as economically viable uses while preserving their historical integrity.

B. Adaptive reuse proposals shall either be considered a minor or major adaptive reuse, as determined by the following.

1. Minor Adaptive Reuse. Adaptive reuse of a landmark or commercially zoned properties shall be minor if the adaptive reuse proposal:

a. Is to convert a non-residential use to another use;

b. Proposes a structural modification that results in the addition of net floor area not to exceed 25% of the square footage of the structure existing as of the effective date established in Section 17.62.180; or

c. Proposes an increase in height beyond the maximum height permitted in the zoning district by no more than 25% of the structure existing as of the effective date established in Section 17.62.180.

2. Major Adaptive Reuse. Adaptive reuse of a landmark or commercially zoned properties shall be major unless specifically designated as a minor adaptive reuse.

#### C. Development Standards

##### 1. Minor Adaptive Reuse.

###### a. Setbacks.

i. Structural additions shall be allowed to encroach into the minimum setbacks of the zoning district in which they are located without the need for a variance or administrative allowance, as long as the additions do not encroach into the required setbacks more than the existing structure does as of the effective date established in Section 17.62.180.

ii. Structural additions proposed to be located closer to the property boundaries than the existing structure may encroach into the minimum setbacks without the need for a variance, subject to approval of an administrative allowance in accordance with Subsection 17.62.170(C)(3).

###### b. Height.

i. Structural additions shall be allowed to exceed the maximum height of the zone district in which they are located without the need for a variance or administrative allowance, as long as the additions do not exceed the maximum building height more than the existing structure does as of the effective date established in Section 17.62.180.

ii. Structural additions proposed to have a height exceeding the height of the existing structure may exceed the maximum building height without the need for a variance, subject to approval of an administrative allowance in accordance with Subsection 17.62.170(C)(3).

###### c. Parking.

i. New parking spaces shall not be required, provided that the number of all existing on-site spaces is maintained and not reduced.

ii. The location and construction of new parking areas must be designed and located in accordance with the requirements of the zoning ordinance, except that both tandem parking spaces and those that back directly out into the street may be approved if the director finds them to be safe and appropriate.

d. Access and Driveways. Existing access and driveways shall be permitted to remain despite the adaptive reuse, unless the city engineer, or his or her designee, determines that the existing access points or driveways create an unsafe traffic condition.

e. Open Space and Landscaping. The amount of open space and landscaping required may be reduced or an alternative compliance approach used, which may be approved by the director when it is determined that all reasonable

attempts to fulfill the requirements have been exhausted, and the development is not able to accommodate the landscape or open space requirements due to the urban infill or historic characteristic of the development site.

f. Nonconforming Uses or Structures. Notwithstanding Chapter 17.64, minor adaptive reuse buildings or structures classified as legal nonconforming uses may be continued, expanded, modified or relocated in accordance with Subsection 17.62.170(C)(1), without losing their status as legal nonconforming uses, solely as a result of the minor adaptive reuse.

2. Major Adaptive Reuse.

a. Setbacks. May be granted up to 20% reduction in minimum required setbacks, subject to approval of an administrative allowance in accordance with Subsection 17.62.170(C)(3).

b. Height. May be granted up to 10% increase in maximum building height, subject to approval of an administrative allowance in accordance with Subsection 17.62.170(C)(3).

c. Parking. Parking requirements may be reduced by up to 20%, subject to approval of an administrative allowance in accordance with Subsection 17.62.170(C)(3).

d. Open Space and Landscaping. Open space and landscaping requirements may be reduced or modified in accordance with Subsection 17.62.170(C)(1)(e).

3. Administrative Allowance Procedures. Relief from specific setback and parking requirements, as well as limited height increases, may be granted by the historic preservation commission in conjunction with the review of a certificate of appropriateness associated with an adaptive reuse application, upon finding the following criteria are met:

- a. Relief from the requirements is necessary to make the adaptive reuse project economically viable;
- b. The modification can achieve compatibility with the surrounding development;
- c. The proposed relief will allow the new construction to complement the historical character of the development; and
- d. The allowance will not result in a material adverse impact to surrounding properties.

D. Construction Standards. All structures proposed for adaptive reuse require a building permit, and must comply with the city's adopted building codes in place at the time of the issuance of a building permit.

(Ord. 1397.17.47 § 3 (part), 2017)

**17.62.180 Effective date.**

The provisions of this chapter shall be effective on December 6, 2017.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 3, 2004)

**17.62.190 Penalty.**

A. Any person found guilty of violating any provision of this chapter shall be guilty of a Class 2 misdemeanor, and shall be punished in accordance with Section 1.08.010 of this code; provided, however, that prior to any prosecution for a violation of this chapter, the city must have followed the procedures set forth in Sections 17.72.020 and 17.72.030.

B. Any person who demolishes, alters, constructs or permits a designated property to fall into a serious state of disrepair in violation of this chapter shall be required to restore the property and its site to its appearance prior to the violation.

1. Any action to enforce this subsection may be brought by the city attorney.
2. This civil remedy shall be in addition to, and not in lieu of, any criminal prosecution.

(Ord. 1397.17.47 § 3 (part), 2017; Ord. 1397.17.32 4, 2004)