



# CITY OF PENDLETON

Planning Department (541) 966-0204 Fax (541) 966-0251  
500 SW Dorion Avenue, Pendleton, OR 97801

## **HISTORIC PRESERVATION APPLICATION** File No. HP \_\_\_\_\_ Fee \$ \_\_\_\_\_

**NOTICE TO APPLICANT:** Applicants are advised to review the list of submittal requirements indicated on each application form prior to submitting an application. **Incomplete applications will not be acted upon or scheduled for a public hearing until the Planning Department receives all required submittal materials and fees. Failure to provide complete and/or accurate information may result in delay or denial of your request.**

**APPLICANT** \_\_\_\_\_

**Mailing address** \_\_\_\_\_

**Phone** \_\_\_\_\_ **Fax** \_\_\_\_\_ **Email** \_\_\_\_\_

**Applicant's interest in property** \_\_\_\_\_

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**PROPERTY OWNER** \_\_\_\_\_

**Mailing address** \_\_\_\_\_

**Phone** \_\_\_\_\_ **Fax** \_\_\_\_\_ **Email** \_\_\_\_\_

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

*If same as applicant, mark SAME.* If there is more than one property owner, please attach additional sheets as necessary.

**SITE LOCATION AND DESCRIPTION** **Zoning** \_\_\_\_\_

Tax Map #(S) \_\_\_\_\_ Tax Lot #(s) \_\_\_\_\_

Tax Map #(S) \_\_\_\_\_ Tax Lot #(s) \_\_\_\_\_

Frontage street or address \_\_\_\_\_ Nearest cross street \_\_\_\_\_

**SPECIFIC REQUEST. Describe in brief** the proposed alteration, remodel or new construction and how it is consistent with the historic character of the structure. Please provide additional text, pictures, drawings, etc. to further detail the proposed work.

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**OFFICE USE ONLY.**

This institution is an equal opportunity provider and employer.

120 day time limit	Accepted as complete _____	Final decision by _____
DLCD 45-day notice required	Y/N Date mailed _____	Date of first hearing _____
Planning Commission hearing date	_____	Notice mailed _____
Notice to media	Publication date _____	Emailed _____
Notice of Decision	Date mailed _____	Appeal deadline _____
Associated applications	_____	_____

## SUBMITTAL REQUIREMENTS

The following items must be received in order to deem an application complete and schedule it for a hearing before the Planning Commission. If you need assistance completing the forms, please contact the Planning Department. If you do not have a copy of the deed to your property to verify ownership, contact the Umatilla County Office of County Records at (541) 278-6236 or [www.co.umatilla.or.us/records.htm](http://www.co.umatilla.or.us/records.htm).

1. Original, signed **Application form**. This information is public record and must be reproduced so please type or write clearly using dark ink.
2. All information required above and below, unless specifically waived by the Director.
3. The appropriate **fee**.
4. **10 copies** of all submittal materials for staff and Historic Preservation Commission distribution.

**Use additional sheets as necessary. Electronic submittals to accompany this application form are encouraged. All text submittals should be provided in Microsoft Word; plans and other images should be formatted as a pdf.**

### City of Pendleton Unified Development Code Article VII. Overlay Zones

#### 7.02 Historic Preservation

##### 7.02.1 Applicability.

- A. This Section applies to historic resources on the Local Landmarks Register (i.e., resources identified in by the State Historic Preservation Office (1976), the Pendleton Comprehensive Plan Inventory of Historic Sites, Structures and Districts (Lynch, 1985) and the South Main Street National Historic District (1986).
  1. This Section does not apply to demolished historic landmarks.
  2. This Section potentially applies to historic resources that may be added to the Local Landmarks Register in accordance with the provisions of this Section.
- B. Exemptions. No provision of this Section shall be construed to prevent the ordinary maintenance of a Landmark when such action does not involve a change in design, materials, or appearance. No provision in this Ordinance shall be construed to prevent the alteration, demolition, or relocation of a Landmark when the Building Official certifies that such action is required for public safety. At his or her discretion, the Building Official may find that under state law and Section 7.02.6.E. a Landmark does not meet current Building Code but is not dangerous.

##### 7.02.2 Definitions. The following definitions apply to terms used in Section 7.02 only. Terms not defined have their commonly construed meaning:

**Alteration:** An addition, removal, or reconfiguration that changes the appearance of a Landmark. Painting and ordinary maintenance are excluded from this definition.

**Certificate of Appropriateness (COA):** A document issued by the Historic Preservation Officer indicating that the applicant has satisfactorily met the provisions of this Ordinance for the alteration, relocation, or demolition of a Landmark.

**Demolition:** The complete destruction or dismantling of sixty-five (65) percent of, or greater, of the entirety of a Landmark.

**District:** A significant concentration, linkage, or continuity of sites, buildings, structures, or objects united historically or aesthetically by plan or physical development.

**Eligible/Contributing:** A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties strengthen the historic integrity of an existing or potential historic district.

**Eligible/Significant:** A building, structure, object, or site originally constructed within the applicable period of significance that retains and exhibits sufficient integrity

(location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties strengthen the historic integrity of an existing or potential historic district, and are likely individually eligible for listing in the Local Landmark Register.

**Exceptional Significance:** The quality of historic significance achieved outside the usual norms of age, association, or rarity.

**Historic Integrity:** The quality of wholeness of historic location, design, setting, materials, workmanship, feeling, and/or association of a historic resource, as opposed to its physical condition.

**Historic Preservation Officer:** The city official responsible for the administration of this Ordinance.

**Historic Resource:** A building, structure, object, site, or district that is at least fifty (50) years old or is of exceptional significance and potentially meets the age, integrity, and significance criteria for listing in the Local Landmark Register, but may not necessarily be recorded in the Historic Resource Survey.

**Historic Resources of Statewide Significance:** Buildings, structures, sites, objects, and districts that are listed in the National Register.

**Historic Resource Survey:** The record of buildings,

structures, objects, and sites recorded by the City of Pendleton used to identify historic resources potentially eligible for listing in the Local Landmark Register.

**Historic Significance:** The physical association of a building, structure, site, object, or district with historic events, trends, persons, architecture, method of construction, or that have yielded or may yield information important in prehistory or history.

**Landmark:** A building, structure, site, object, or district listed in the City of Pendleton Local Landmark Register.

**Local Landmark Register:** The list of historic resources officially recognized by the City of Pendleton as important to its history and afforded the protection under this Ordinance.

**National Register of Historic Places:** The nation's official list of buildings, structures, sites, objects, and districts important in the nation's history and maintained by the National Park Service in Washington, D.C., and hereinafter referred to as the "National Register." Historic resources listed in the National Register are referred to as "Historic Resources of Statewide Significance" in Oregon Revised Statutes.

**Non-Contributing:** A building, structure, object, or site originally constructed within the applicable period of significance that does not retain or exhibit sufficient integrity (location, design, setting, materials, workmanship, feeling, and association) to convey a sense of history. These properties do not strengthen the historic integrity of an existing or potential historic district in their current condition.

**Not in Period:** A building, structure, object, or site that was originally constructed outside the applicable period of significance.

**Object:** A construction that is largely artistic in nature or is relatively small in scale and simply constructed in comparison to buildings or structures, including a fountain, sculpture, monument, milepost, etc.

**Ordinary Maintenance:** Activities that do not remove materials or alter qualities that make a historic resource eligible for listing in the Local Landmark Register, including cleaning and limited replacement of siding, trim, and window components when such material is beyond repair and where the new piece is of the same size, dimension, material, and finish as that of the original historic material. Excluded from this definition is the replacement of an entire window sash or more than twenty (20) percent of the siding or trim on any one side of a Landmark at any one time within one (1) calendar year.

**Period of Significance:** The time period, from one to several years or decades, during which a Landmark was associated with an important historic event(s), trend(s), person(s), architecture, or method(s) of construction.

**Record of Designation:** The official document created by the Historic Preservation Officer that describes how a Landmark meets the criteria for listing in the Local Landmark Register.

**Rehabilitation:** The process of returning a Landmark to a state of utility through repair or alteration, which makes possible an efficient use while preserving those portions and features of the Landmark and its site that convey its historic significance.

**Relocation:** The removal from or moving of a Landmark from its original location noted in the Record of Designation.

**Site:** The location of a significant event, prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of any existing building, structure, or object.

**Streetscape:** The physical parts and aesthetic qualities of a public right-of-way, including the roadway, gutter, tree lawn, sidewalk, retaining walls, landscaping and building setback

7.02.3 Identification and Evaluation of Historic Resources. The Historic Resource Survey (Woodruff Minor, Technical Memorandum 11.3, June 30, 2012) lists, describes, and determines the eligibility of historic resources for listing in the Local Landmark Register. Not all properties listed in the Historic Resource Survey are necessarily eligible for listing in the Landmarks Register. A property need not be first listed in the Historic Resource Survey before being nominated to the Local Landmark Register.

- A. The Historic Preservation Commission shall determine and periodically revise priorities for the identification and evaluation of historic resources based on the community's needs and interests.
- B. Before commencing inventory studies or updates, the Historic Preservation Commission shall provide public notice describing the inventory, its purposes, and invite public participation. Notification may include public notices, mailings, web postings, etc.
- C. Surveyed properties shall be identified as Eligible/Significant (ES), Eligible/Contributing (EC), Non-Contributing (NC), or Not in Period (NP). Evaluation and documentation of properties in the Historic Resource Survey shall meet the requirements of the document "Guidelines for Historic Resource Surveys in Oregon, 2010" or most recent guidance for such efforts published by the SHPO and be supplied to the agency within six (6) months of the completion of the study.
- D. The Historic Resource Survey shall be maintained as a public record with the exception of archaeological sites, which is prohibited by State law.
- E. Citizens shall have the opportunity to review and correct information included in the Historic Resource Survey. Any member of the public may place a property in the Historic Resource Survey; however, the Historic Preservation Commission retains the authority to determine the property's eligibility for listing in the Local Landmark Register.
- F. The Historic Preservation Commission may collect further information including, but not limited to, current photographs, architectural descriptions from on-site observations, or archival documentation for properties already

listed in the Local Landmark Register or National Register for the purposes of administering this Ordinance pursuant to the provisions of this Section.

#### 7.02.4 Local Landmark Register.

- A. The Historic Preservation Commission may nominate historic resources to the Local Landmark Register as a means of providing recognition of their significance and providing incentives and guidelines for their preservation. The Local Landmark Register shall be maintained by the Historic Preservation Officer and made available to the public.
- B. Historic resources within the City of Pendleton Urban Growth Boundary and listed in the National Register, including all National Register-listed historic districts in their entirety may be listed in the Local Landmark Register using the procedures outlined in Section D, but need not be documented as outlined in Section C. In such cases, the National Register nomination shall serve as the Record of Designation. As Historic Resources of Statewide Significance, all National Register-listed properties, including individual properties in recognized National Register-listed historic districts, are subject to the regulations in Section 7.02.5.E, pursuant to Oregon State Law.
- C. Criteria for Designating Historic Resources to the Local Landmark Register. Any building, structure, object, site, or district may be designated to the Local Landmark Register if it meets all the Criteria of Section 7.02.5.B or all of the criteria listed below:
  1. The property is located within the City of Pendleton Urban Growth Boundary.
  2. The property is more than fifty (50) years of age or of exceptional importance, or in the case of a district, the majority of the properties are more than fifty (50) years old or have exceptional significance.
  3. The property possesses sufficient historic integrity, in that there are no major alterations or additions that have obscured or destroyed the significant historic features. Major alterations that may destroy the historic integrity include, but are not limited to, changes in pitch of the main roof, enlargement or enclosure of windows on principal facades, addition of upper stories or the removal of original upper stories, covering the exterior walls with non-historic materials, moving the resource from its original location to one that is dissimilar to the original, additions which significantly detract from or obscure the form and appearance of the historic resource when viewed from the public right-of-way.
  4. The property has historic significance as demonstrated by meeting at least one of the following criteria:
    - a. Association with events that have made a significant contribution to the broad patterns of our history; and/or
    - b. Association with the lives or persons significant in our past; and/or
    - c. Embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; and/or
    - d. Have yielded, or may be likely to yield, information important in prehistory or history.
- D. Nomination Procedure. Any person, group, or government agency including the Historic Preservation Commission itself, may nominate a property for listing in the Local Landmark Register. The nomination procedures are as follows:
  1. There is no fee associated with nominating a historic resource to the Landmark Register.
  2. The nomination of a historic resource to the Local Landmark Register must include a description of the boundaries of the proposed nominated area and the structures, objects, and sites contained therein, and a statement explaining how the historic resource(s) meet(s) the criteria under B of this Section. Any structures or portions of the property not designated for protection shall be included in the description. The Historic Preservation Officer may establish additional standards for a complete application.
  3. Prior to setting the proposed nomination on the agenda for the next Historic Preservation Commission meeting, the Historic Preservation Officer shall inform property owners in writing of the nomination process pursuant to local and state law. To be listed in the Local Landmark Register, the property's legal owner(s) shall provide to the City a written statement acknowledging that the owner understands the nomination process and the results of such a designation, and wishes to have their property listed in the Local Landmark Register. Within locally-designated historic districts a boundary may be established, but only those that submit a statement as described above will be listed in the Local Landmark Register. In cases where multiple persons or entities own a single property, a simple majority of the property owners must submit a written statement. The City of Pendleton may not object to the listing of a historic resource in City ownership. This provision does not apply to individual historic resources and historic districts listed in the National Register.
  4. Upon acceptance of a complete application and receipt of written owner consent, the Historic Preservation Officer shall schedule a public hearing before the Historic Preservation Commission pursuant to applicable state and local laws.
  5. The Historic Preservation Commission shall review the documentation for completeness, accuracy, and compliance with the "Criteria for Designating Historic Resources to the Local Landmark Register" of this Section. The Historic Preservation Commission may make a recommendation to approve, deny, or table the

application pending further testimony, or to allow for the petitioner to provide additional information as requested by the Historic Preservation Commission. The Historic Preservation Commission shall develop written findings to support its decisions.

6. Decisions by the Historic Preservation Commission to designate a Historic Resource shall be final unless appealed to the City Council.
  7. Upon final approval, the Historic Preservation Officer shall prepare a Record of Designation that includes the original nomination materials, and any testimony or additional materials considered during the nomination process that establishes the eligibility of the historic resource for listing in the Local Landmark Register.
  8. Historic Resources designated as Landmarks shall be noted as such in the Local Landmark Register. The designation shall apply to the entirety of the recognized Landmark as described in the Record of Designation regardless of future property division or ownership.
  9. A Record of Designation may be amended through the same process used for nomination. The Historic Preservation Officer may administratively add additional materials gathered under the provisions of Section 7.02.3 to keep the record current or elaborate on established facts in the Record of Designation. Notice of such an action shall be provided to the Historic Preservation Commission at their next regular meeting.
- E. Results of listing in Local Landmark Register. Historic resources listed in the Local Landmark Register receive the following benefits:
1. All uses and restrictions established by the underlying zoning, existing conditional use permits, and other applicable design standards shall remain in effect unless changed through due process.
  2. Landmarks are protected under the provisions of this ordinance.
  3. Approval of variances and/or conditional use permits is encouraged in order to promote use and preservation of Landmarks.
  4. The local Building Official shall consider waiving certain code requirements in accordance with the state Existing Building Code.
  5. Property owners of Landmarks may seek assistance from the Historic Preservation Commission in applying for grants or tax incentives for rehabilitating their properties as resources and funds are available.
  6. Property owners of Landmarks are eligible to apply for City-funded grants and loans to assist with the preservation of their buildings as resources and funds become available.

7.02.5 Historic Resources listed in the Local Landmark Register. The Historic Preservation Commission shall use the provisions of this Section to preserve the exterior character-defining features of individual Landmarks; the exterior of individual buildings in Landmark historic districts; and exteriors and interior public spaces of city-owned Landmarks.

- A. Activities not subject to the provisions of this Section.
1. Alterations to building interiors, excepting those owned by The City of Pendleton.
  2. Application of exterior paint color.
  3. Alterations to landscape features not specifically identified as historically significant in Record of Designation.
- B. No Landmark or exterior landscape or archaeological element noted as significant in the Record of Designation shall be altered, relocated, or demolished, or a new building or structure constructed within the area defined in the Record of Designation without a Certificate of Appropriateness signed and issued by the Historic Preservation Officer. Certificates must be presented to the Building Official before a building or demolition permit is issued.
1. An application for a Certificate of Appropriateness must include a description of the proposed activity, accompanying maps, photographs, drawings, and other documentation. The Historic Preservation Officer may establish additional standards for a complete application, including defining different criteria for a complete application under provisions C, D, and E of this Section.
  2. Upon acceptance of a complete application, the Historic Preservation Officer shall decide within five working days if the proposed work is subject to provisions C, D, or E of this Section.
  3. The Historic Preservation Officer shall prepare a staff report that summarizes the proposed project, notes the criteria specified in this Ordinance under which the application shall be considered, and make a recommendation to the Historic Preservation Commission to approve, approve with conditions, or deny the application for a Certificate of Appropriateness. Materials that may be used in the preparation of the staff report include, but are not limited to:
    - a. The original Record of Designation;
    - b. National Register nomination;
    - c. Archival photos and maps;
    - d. On-site observations;
    - e. Inspections from the public-right-of way to document historic appearance or alteration over time;
    - f. Any other documentary evidence specific to the subject property;
    - g. Documents and publications of the National Park Service or SHPO.
    - h. Documents that are not available from the City at the time of application for a Certificate of Appropriateness shall be made available to the applicant at least ten (10) calendar days before a public hearing is held or administrative decision is made.

4. The Historic Preservation Commission shall review and act upon applications for the alteration, relocation, and demolition of a Landmark. Applications for the alteration of a Landmark may be approved, approved with conditions, or denied. Applications for the relocation or demolition of a Landmark may be approved, approved with conditions, or the action delayed for up to one year. The Historic Preservation Commission shall develop written findings to support its decisions. The Historic Preservation Officer shall include any conditions imposed by the Historic Preservation Commission in the Certificate of Appropriateness pursuant to this Section.
  5. A Certificate of Appropriateness issued for the alteration of a Landmark shall be effective for a period of two (2) years from the date of its issuance. A Certificate of Appropriateness issued for the relocation or demolition of a historic resource shall be effective for a period of one (1) year.
  6. A Landmark may be altered, relocated, or demolished without a Certificate of Appropriateness if the Building Official attests in writing that the condition of a Landmark poses a clear and immediate hazard to public safety. The comments of the Building Official with sufficient evidence to support his or her conclusions shall be provided to the Historic Preservation Officer within fifteen (15) days of making his or her decision. The Historic Preservation Officer will make these materials available to the Historic Preservation Commission at their next regular meeting. The property owner(s) must submit an application for a Certificate of Appropriateness as required under this Ordinance within thirty (30) days of the Building Official submitting his or her written statement to the Historic Preservation Officer.
- C. The Historic Preservation Officer may issue a Certificate of Appropriateness for the alteration of a Landmark without a public hearing when the proposed alteration will not significantly change the qualities that merited the listing of the Landmark in the Local Landmark Register. A completed Certificate of Appropriateness must be presented to the Building Official before a permit is issued. The Historic Preservation Officer shall make a list of certificates issued in this manner available to the Historic Preservation Commission at each regular meeting.
- D. A public hearing before the Historic Preservation Commission and a signed Certificate of Appropriateness shall be required for all activities not exempted in this Section.
1. Prior to submitting an application for a permit pursuant to this Section, proponents are encouraged to request a pre-application conference to review concepts and proposals. The Historic Preservation Commission may also form ad-hoc committees for this purpose. Historic Preservation Commission members participating in pre-application conferences shall disclose all ex-parte contact at the time of a public hearing on the proposal.
  2. Upon acceptance of a complete application the Historic Preservation Officer shall schedule a public hearing pursuant to applicable local and state laws.
  3. In order to approve an application for the alteration of a Landmark, the Historic Preservation Commission must find that the proposal meets the following guidelines as applicable:
    - a. A property shall be used as it was historically or be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships;
    - b. The historic integrity of a property shall be retained and preserved. The relocation of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property shall be avoided;
    - c. A property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or elements from other historic properties, shall not be undertaken;
    - d. Changes to a property that have acquired historic significance in their own right shall be retained and preserved;
    - e. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved;
    - f. Deteriorated historic features shall be repaired rather than replaced. The severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and, where possible, materials. Replacement of missing features shall be substantiated by documentary and physical evidence;
    - g. Chemical and physical treatments, if appropriate, shall be undertaken using the gentlest means possible. Treatments that cause damage to historic materials shall not be used;
    - h. Archeological resources shall be protected and preserved in place. If such resources must be disturbed, mitigation measures shall be undertaken;
    - i. New additions, exterior alterations, or related new construction shall not destroy historic materials, features, and spatial relationships that characterize the property. The new work shall be differentiated from the old and shall be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment;
    - j. New additions and adjacent or related new construction shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
  4. In addition to meeting the applicable guidelines in 3(a) through 3(j) of this Section, in order to approve an application for the alteration of a Landmark the Historic Preservation Commission must find that the proposal

meets the following design standards as applicable:

- a. Vacant buildings shall be weather- and vandal-proofed in order to minimize further deterioration and the threat to public safety;
  - b. Rehabilitation work, especially on the exterior and the principal facades shall preserve the existing historic features or replace them if absolutely necessary with features and materials known to have existed on the building through verifiable evidence such as photographs. Alterations to Landmarks shall not be based on speculation, but instead on documentary evidence;
  - c. New additions shall be subordinate to the original building, meaning lower in height, attached to the rear or set back along the side, smaller in scale, and have less architectural detail;
  - d. Height, width, setback, roof shape, and the overall scale and massing of new buildings within historic districts and on lots with existing Landmarks, or additions to Landmarks shall be compatible with the existing historic building(s) and, in the case of historic districts, the overall streetscape;
  - e. In historic districts and on lots with existing Landmarks, materials on at least the primary façade(s) of new buildings shall be similar in size, shape, color, and texture to the original materials on the facades of surrounding historic buildings;
  - f. Architectural details on new construction (including wood or metal trim, porches, cornices, arches, and window and door features, etc.) shall be complementary to the original structure(s);
  - g. Window and door opening should be similar in size and orientation (vertical to horizontal) to openings on historic buildings and shall take up about the same percentage of the overall façade as those on surrounding historic buildings;
  - h. In historic districts and on lots with existing Landmarks, the relationship of the width to the height of the principal elevations for new buildings and additions to existing Landmarks shall be in scale with the surrounding structures and streetscape. Wider new building can be divided into segments that more closely resemble the façade widths of historic buildings;
  - i. In historic districts and on lots with existing Landmarks, the roof shape of new buildings and additions to existing Landmarks shall be visually compatible with the surrounding structures and streetscape. Unusual roof shapes, materials, and pitches are discouraged;
  - j. Moving Landmarks shall be avoided, especially to create artificial groupings;
  - k. The demolition of Landmarks shall be avoided whenever possible;
  - l. Any applicable design guidelines adopted by the Historic Preservation Commission pursuant to Section 7.02.3.
- E. A public hearing before the Historic Preservation Commission and a signed Certificate of Appropriateness shall be required to relocate or demolish a Landmark or any property listed in the National Register of Historic Places individually or as part of a historic district.
1. In order to approve an application for the relocation of a Landmark, the Historic Preservation Commission shall find that:
    - a. The applicant has completed a replacement plan for the site, including drawings approved by the Building Official. Plans must be submitted for review by the Historic Preservation Commission pursuant to standards for new construction; and
    - b. The Building Official determines and states in writing that the building may be safely removed from the site; and
    - c. The value to the community of the proposed use of the property outweighs the value of retaining the Landmark at the original location. Public testimony shall be considered when making this determination.
  2. In order to approve an application for the demolition of a Landmark, the Historic Preservation Commission must find the conditions in Section 7.02.6 have been met as applicable; and the property owner can demonstrate an Economic Hardship.
  3. In approving an application for the relocation or demolition of a Landmark, the Historic Preservation Commission may impose the following conditions:
    - a. Applicant/property owner shall provide photo, video, and/or other documentation of the Landmark in its original location;
    - b. Relocated structures shall be sited to match the previous setbacks and orientation to the extent possible;
    - c. Applicant/property owner shall attempt to obtain permission from the National Park Service to relocate structures listed in the National Historic Register in order to retain the property's listing and/or assume all responsibility and cost of removing the structure(s) if permission cannot be obtained;
    - d. Other reasonable mitigation measures.
  4. At the hearing of an application to relocate or demolish a Landmark the Historic Preservation Commission may, in the interest of exploring reasonable alternatives, delay issuance of a Certificate of Appropriateness for up to one hundred eighty (180) calendar days from the date of the hearing. Not more than sixty (60) and not less than thirty (30) calendar days prior to the expiration of the delay period, the Historic Preservation Officer shall schedule a public hearing pursuant to local and state laws to allow the Historic Preservation Commission to consider if there are still reasonable alternatives to explore, and if the group will request in writing that the

City Council continue the delay for an additional period of up to one hundred eighty (180) calendar days.

5. The Historic Preservation Commission may not delay the relocation or demolition of a Landmark for more than three-hundred sixty (360) calendar days subject to the provisions of this Section. At the end of the waiting period, the Historic Preservation Officer shall issue a Certificate of Appropriateness for the relocation or demolition of the Landmark.
6. Upon issuing a Certificate of Appropriateness for the demolition of a Landmark, the Historic Preservation Officer shall post a legal notice on the property and in a local newspaper of general circulation announcing the demolition, and invite the public to provide alternatives to the demolition for consideration by the Historic Preservation Commission within 12 days of posting.
7. Relocated Landmarks shall remain listed in the Local Landmark Register unless removed under Section 7.02.6.
8. Demolished Landmarks shall be removed from the Local Landmark Register using the procedures described in Section 7.02.6.

7.02.6 Removal of Landmarks from the Local Landmark Register. A public hearing before the Historic Preservation Commission and a signed Certificate of Appropriateness shall be required to remove a Landmark from the Local Landmark Register.

- A. Landmarks concurrently listed in the Local Landmark Register and National Register will be considered for removal from the Local Landmark Register only after the Landmark is removed from the National Register and the SHPO has provided written evidence of the removal to the Historic Preservation Officer.
- B. Any individual or group, including the Historic Preservation Commission acting on its own initiative, may initiate the removal of a Landmark or individual property within a historic district from the Local Landmark Register by submitting a complete application to the Historic Preservation Officer.
- C. The Historic Preservation Officer shall establish standards for a complete application for the removal of a Landmark from the Local Landmark Register. Upon acceptance of a complete application, the Historic Preservation Officer shall schedule a public hearing pursuant to applicable local and state laws.
- D. In order to approve an application for the removal of a Landmark from the Local Landmark Register the Historic Preservation Commission must find the following:
  1. The Landmark has ceased to meet the criteria for listing in the Local Landmark Register because the qualities which caused it to be originally listed have been lost or destroyed; or
  2. The applicant requesting removal from the Historic Preservation Inventory presented written or documented oral testimony in opposition to the property's being listed in the Local Register during the public hearing at which the property was so listed.
- E. Landmarks accidentally destroyed by natural or accidental act or demolished under the provisions of Section 7.02.5 and meeting the definition of "demolished" as defined in this Ordinance may be removed administratively from the Local Landmark Register by the Historic Preservation Officer. Notice of this action and written evidence documenting the demolition of the Landmark shall be provided to the Historic Preservation Commission at their next regular meeting. This same documentation shall be provided to the SHPO. If a Landmark is also listed in the National Register, the Historic Preservation Commission shall request that the SHPO remove the property from the National Register if not requiring the owner to do so under Section 7.02.5.E.4.

7.02.7 Economic Hardship. The Historic Preservation Commission may grant a Certificate of Appropriateness for a relocation, demolition, or, at the Historic Preservation Commission's discretion, modify or exempt a property from the requirements of Section 7.02.5 if the applicant can demonstrate that complying with the provisions of this Ordinance creates an economic hardship that prevents the profitable use of the subject property.

- A. Separate standards for demonstrating an economic hardship are established for investment or income-producing and non-income-producing properties:
  1. Economic hardship for an income-producing property shall be found when the property owner demonstrates that a reasonable rate of return cannot be obtained from the Landmark if it retains its historic features, buildings, or structures in either its present condition or if it is rehabilitated.
  2. Economic hardship for a non-income-producing property shall be found when the property owner demonstrates that the Landmark has no beneficial use as a single-family dwelling or for an institutional use in its present condition or if rehabilitated.
- B. Property owners seeking a Certificate of Appropriateness for economic hardship must provide sufficient information, as determined by the Historic Preservation Officer, to support the application for the Certificate. Demonstration of an economic hardship shall not be based on or include any of the following circumstances:
  1. Willful or negligent acts by the owner; and/or
  2. Purchase of the property for substantially more than market value; and/or
  3. Failure to perform normal maintenance and repairs; and/or
  4. Failure to diligently solicit and retain tenants; and/or
  5. Failure to provide normal tenant improvements.

- 7.02.8 Application Procedure. Any application submitted or processed pursuant to this Article shall follow the procedures listed below.
- A. Type II (Staff consideration and approval)
    - 1. Alterations of landmarks that will not "significantly change the qualities that merited the listing"
  - B. Type III (Historic Preservation Commission consideration and approval)
    - 1. Nomination of landmarks to the register.
    - 2. Alteration of landmarks that will "significantly change the qualities that merited the listing."
    - 3. Demolition of landmarks.
    - 4. Re-location of landmarks.
    - 5. Removal of landmarks from the register.
    - 6. Appeals of Type II decisions to the HP Commission.
- 7.02.9 Appeals. Decisions of the Historic Preservation Commission are appealable to the City Council pursuant to the standards for appeal of a Type III decision. Decisions of City Council are appealable to the Oregon State Land Use Board of Appeals.
- 7.02.10 Re-submittal of an Application Previously Denied. An application for a Certificate of Appropriateness which has been denied or an application which was denied and which on appeal has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission, or the courts, may not be resubmitted for the same or a substantially similar proposal or for the same or substantially similar action for a period of at least 365 days from the date the final city action is made denying the application unless there is a substantial change in the facts or a change in city policy which would change the outcome.

### **Article XIII. Land Use Application Procedure**

#### 13.01 Application Submittal and Completeness Review

The City of Pendleton provides a consolidated procedure by which an applicant may apply at one time for all land use permits needed for a development project.

##### 13.01.1 Application Forms and Checklists

- A. The Director shall supply land use application forms pursuant to the standards contained in the applicable state law, comprehensive plan, and implementing ordinance provisions. All applications provided for in this Ordinance shall be made on the application forms prescribed by the City.
- B. The Director shall supply checklists or information sheets for applications, which shall detail the specific information which must be contained in the application, including format and number of copies. Such checklists may be incorporated into the application forms.

##### 13.01.2 Who May Apply

- A. An application for a Special Permit may be filed by:
  - 1. The owner or the contract purchaser of the subject property, or any person authorized in writing to act as agent of the owner or contract purchaser.
  - 2. The City Council, Planning Commission, City Manager, or the City Manager's designee, as to property owned by the City, including public right of way and easements, or which the City intends to acquire.
  - 3. Public agencies that own the property or have passed a resolution declaring that they intend to exercise their statutory authority to condemn the property.

##### 13.01.3 Classification of Applications

- A. All applications shall be subject to the procedure type specified in this Code. If the Code does not specify a procedure type for a given application and another procedure is not required by law, the Director shall determine the appropriate procedure based on the following guidelines. Where two or more procedure types could be applied to a particular application, the selected procedure will be the type providing the broadest notice and opportunity to participate.
  - 1. A Type I (Ministerial) application is subject to non-discretionary criteria or criteria that require the exercise of professional judgment only about technical issues.
  - 2. A **Type II (Ministerial)** application is subject to criteria that require the exercise of limited discretion about non-technical issues and about which there may be limited public interest.
  - 3. A **Type III (Quasi-Judicial)** application is subject to criteria that require the exercise of substantial discretion and about which there may be broad public interest, although the application applies to a limited number of land owners and properties.
  - 4. A Type IV (Legislative) procedure typically involves the adoption, implementation or amendment of policy or law by ordinance. The subject of a Type IV procedure generally applies to a relatively large geographic area containing many property owners.

5. When an applicant submits more than one complete application for a given proposal, where each application addresses a separate set of code requirements and the applications are subject to different procedure types, all of the applications are subject to the procedure type of the application which requires the broadest notice and opportunity to participate. For example, a Type II application will be consolidated with a Type III application for the same proposal on the same site, in which case, the Type II application will be reviewed by the decision making authority of the Type III application. The decision making authority's action on the Type II application will be based on the approval criteria governing the Type II application.
- B. In the event that the completed applications involve applications where the decision making authority is a combination of the Director and the Planning Commission, the decision making authority will be the Planning Commission.
- C. Notwithstanding any other provision and at no cost to the applicant, the Director may choose to combine multiple applications for the same development as a way to increase the efficiency of development review.
- D. For applications within the Historic District, the Director shall determine the appropriate decision-making authority between the Façade Committee, the Landmarks Commission and the Planning Commission. Such determination will be based upon the characteristics of the proposal and the associated application, if any.

#### 13.01.4 Application Submittal

- A. Applications for development permits shall be submitted upon forms supplied by the Director. Partial submittal of applications will not be accepted. All of the following items must be submitted to initiate the completeness review:
  1. Applications for Type I and Type II actions which do not require a public hearing shall be processed administratively in the order they are received. One copy of the application and all attachments shall be submitted.
  2. All applications for **Type III quasi-judicial** actions shall be submitted to the Planning Department no less than 28 days before the next scheduled meeting of the Planning Commission. Ten complete sets of the application and all attachments shall be submitted.
  3. Any proposal for a Type IV Legislative action to amend the City of Pendleton Comprehensive Plan or any City of Pendleton land use regulation or to adopt a new land use regulation shall be submitted a minimum of 50 days prior to the first evidentiary hearing, consistent with the standards contained in ORS 197.760. Twenty complete sets of the application and all attachments shall be submitted.
  4. In no instance shall an application be scheduled for a public hearing if local or State notice requirements cannot be met. Applications submitted after applicable deadlines shall be scheduled for the next available hearing date upon determination of completeness.
- B. **All applications shall provide the following minimum information, unless specifically waived by the Planning Director:**
  1. Application form, including required notarized signature(s) that demonstrate consent of all owners of the affected property;
  2. Deed, title report or other proof of ownership;
  3. Completed checklist provided for each type of application, including all required materials;
  4. A narrative summarizing the project, including (but not limited to) such information as: the nature of the structure(s) and/or activities proposed (Residential, Commercial, Industrial, Institutional, Mixed Use, etc.) number of dwellings/employees/ students/participants, hours of operation, and any other information to assist staff and the public in understanding the proposal. If negative impacts are anticipated, please identify them and provide a proposal for mitigation.
  5. Plans and specifications, drawn to scale, showing the following:
    - a. The actual shape and dimensions of the lot or site to be built upon. Site drawings should be provided at a scale of 1" = 20' or 1" = 40' unless a large site dictates a more appropriate scale, which shall in all cases be consistent with a U.S. Standard Engineer scale.
    - b. The sizes and locations of all structures on the site (existing and proposed), including all setbacks.
    - c. Elevations of any proposed buildings, if part of or relevant to the application.
    - d. The number of dwelling units, if any, that exist on the site or are proposed for construction.
    - e. The relationship of the property to the surrounding area.
    - f. Documentation of the public improvements abutting the site (streets, curb/gutter, sidewalks, etc.).
    - g. Elevation Certificate and/or topographic map prepared by a registered land surveyor to show compliance with floodplain standards, if applicable.
    - h. Any other information deemed necessary by the Planning Director to determine conformance with this Ordinance or compatibility with the general neighborhood or zone.
  6. Special reports or plans required to demonstrate that the specific proposal and its site constraints comply with applicable codes. These are noted on the application checklist.
  7. Application narrative to address each applicable approval criteria and standards.
  8. Any mitigation proposed to address actual or potential negative impacts.
  9. A Trip Generation study or Traffic Impact Analysis, if deemed necessary pursuant to this Ordinance and/or the

10. Electronic copies of all submittal materials, if possible.

11. Payment for the appropriate land use application fee(s) and deposit(s), based on the fee schedule in effect on the date of application submittal.

#### 13.01.5 **Completeness Review**

- A. The Director shall review the application submittal and advise the applicant in writing whether the application is complete or incomplete within thirty (30) calendar days after the city receives the application submittal.
- B. Incompleteness shall be based solely on failure to pay required fees, failure of the applicant's narrative to address the relevant criteria or development standards, or failure to supply the required information listed in the checklist and shall not be based on differences of opinion as to quality or accuracy. Determination that an application is complete indicates only that the application contains the information necessary for a qualitative review of compliance with the Development Code standards.
- C. Submittal and/or acceptance of the required fees shall not constitute acceptance of a complete application.
- D. Failure to provide necessary or relevant information may result in delay or denial of an application.
- E. If the application was complete when first submitted or the applicant submits additional information within 180 days of the date the application was first submitted, and a decision has not been issued, approval or denial of the application shall be based upon the standards and criteria that were in effect at the time the application was first submitted.
- F. If an application is incomplete, the Director shall prepare a notice of incompleteness. The notice shall list what information is missing and allow the applicant to submit the missing information. The completeness notice shall include a form, to be returned to the Director by the applicant, indicating whether or not the applicant intends to amend or supplement the application.
- G. The application will be deemed complete for purposes of this Section upon receipt by the city of:
  - 1. All of the missing information;
  - 2. Some of the missing information and written notice from the applicant that no other information will be provided; or
  - 3. Written notice from the applicant that no additional information will be provided.
- H. The application will be deemed void if the application has been on file with the city for more than 180 calendar days and the applicant has not met the obligations of subsection G. above.
- I. The City shall take final action on an application for a permit, limited land use decision or zone change consistent with the standards contained in ORS 227.178, including resolution of all appeals under ORS 227.180, within 120 days after the application is deemed complete. The 120 calendar day time limit may be extended pursuant to subsection J. below or as may otherwise be permitted under State law.
- J. The 120 calendar day time line may be extended at the written request of the applicant. The total of all extensions may not exceed 245 calendar days, for a total of 365 days from the date the application is deemed complete.

#### 13.01.6 **Withdrawal of an Application**

- A. An applicant may withdraw an application at any time before the application is deemed complete.
  - 1. An applicant may withdraw an application previously deemed complete at any time prior to adoption of a final City decision if the Director determines that:
  - 2. The owners or contract purchasers or the interest holders in the property consent in writing to withdraw the application.
- B. No violation of this Code has been identified on the subject property and processing of the application would not correct the identified violation.
- C. The City Manager or his designee may withdraw any City-initiated application at any time.
- D. If an application is withdrawn after public notice has been mailed, the Director shall send written notice stating the application has been withdrawn to all persons to whom notice of the application or hearing has been sent. This provision shall not apply to legislative applications that require Citywide mailed notice.
- E. Once an application has been withdrawn, the application fees shall be refunded by the following formula:
- F. Application withdrawn prior to being deemed complete: 85%.
- G. Application withdrawn prior to publication or distribution of public notice: 50%.
- H. Application withdrawn after publication or distribution of public notice: no refund.
- I. There shall be no refund of fees for appeal of a Type III/Planning Commission decision; appeal fees may be refunded if the appellant prevails in an appeal of a Type II decision pursuant to ORS 227.175.

**Please refer to Section 13.04 *Type III Procedure (Quasi-Judicial)* of the Unified Development Code for procedural language for all Type III applications.**

### **13.06 Burden of Proof**

The following language shall be included with all decisions for Type II, III and IV actions.

The specific findings made in granting a Permit shall be factual and supported by substantial evidence. The burden of producing substantial evidence to support the requisite findings is on the applicant seeking the approval of the Permit. If no evidence is produced by the applicant concerning any of the findings, the application may be denied based upon improper or inadequate findings. All evidence produced must be recited in the findings relating to approval or denial of an application.

- A. The applicant has the burden of proof regarding all requests affecting a subject property, and the applicant recognizes that it is the sole obligation of the applicant to substantiate the request.
- B. If any administrative review, suit or action is instituted in connection with any appeal of a decision, the applicant shall be required to either (1) reimburse the City for all costs incurred in defending this action, including but not limited to attorney fees, staff costs, any materials and other related costs, or (2) notify the City that the applicant does not desire to undertake such costs and will drop its request.
- C. The applicant shall notify the City Manager within five (5) days from City's receipt of any notice of appeal by delivering a written statement to the City Manager within said five (5) days advising the City Manager whether the applicant will reimburse the City for all costs as described above or desires to drop the request.
- D. In the absence of written communication from the applicant within the allotted five (5) days the City may at its option presume the applicant desires to drop the request and the City shall have no obligation to defend the appeal.
- E. In appeals involving questions of City-wide significance, the City Council may determine to participate in part of the costs specified herein. Nothing in this condition shall affect applicant's right to retain independent counsel in making their own legal appearance upon appeal.
- F. If any suit or action, including rescission, is instituted by the applicant in connection with any controversy arising out of a request, there shall be taxed and allowed to the City as a part of the costs of the action, a reasonable amount to be fixed by the court as attorney fees in such suit or action, both at trial and upon appeal. In addition, the City may charge a fee for preparation of a written transcript, not to exceed the actual cost of preparing the transcript, up to \$500 plus one-half the actual costs over \$500.

## **Article XV. Administrative Provisions**

### **15.03 Compliance with Ordinance Provisions**

- 15.03.1 The provisions of this Ordinance shall be deemed minimum requirements for the preservation of the public safety, health, convenience, comfort, prosperity and general welfare of the people of the City of Pendleton.
- 15.03.2 A lot may be used and a structure or part of a structure may be constructed, reconstructed, altered, occupied or used only as this Ordinance permits.
- 15.03.3 No lot area, yard or other open space existing on or after the effective date of this Ordinance shall be reduced below the minimum required for it by this Ordinance.
- 15.03.4 No lot area, yard or other open space which is required by this Ordinance for one use shall be used as the required lot area, yard, or open space for another use.
- 15.03.5 Development shall not commence until the applicant has received all of the appropriate land use and development permits (including but not limited to a Development Permit and building permits).

### **15.14 Violation of Conditions**

The Planning Commission, on its own motion, may revoke any Permit for noncompliance with conditions set forth in the granting of said permit after first providing notice and holding a public hearing pursuant to the standards for a Type III application. The foregoing shall not be the exclusive remedy, and it shall be unlawful and punishable hereunder for any person to violate any condition imposed by a Permit.

### **15.15 Agreements for Conditional Approvals**

Conditions imposed upon rezoning approvals, discretionary permits, land divisions, or any other authorizations to applicants pursuant to this Ordinance, may be incorporated into an agreement which shall be binding on the applicant and the applicant's successors, heirs and assigns as a continuing obligation running with the property which is the subject of such authorization. The Mayor and City Recorder are hereby authorized to execute such agreements when approved by the Planning Commission in the case of discretionary permits, or by the City Council in the case of rezoning ordinances, appeals on discretionary permits, or other authorizations requiring Council action.

Where the conditions imposed by any provision of this Ordinance are less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other ordinance, the provisions which are more restrictive shall govern.