

BY AUTHORITY

ORDINANCE NO.

COUNCIL BILL NO.

SERIES OF 2006

COMMITTEE OF REFERENCE:

A BILL

For an ordinance relating to Chapter 30 (Landmark Preservation), to allow for landmark review of certain demolition applications.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. The title of Section 30-6, of Chapter 30 (Landmark Preservation), shall be amended by deleting the language stricken to read and be read as follows:

Sec. 30-6 Procedure to authorize erection, construction, reconstruction, alterations to, or demolition of structures designated for preservation or located in districts designated for preservation.

Section 2. Section 30-6(1), of Chapter 30 (Landmark Preservation), shall be amended by adding the language underlined and deleting the language stricken to read and be read as follows:

Sec. 30-6(1) Protection from dDemolition delay during designation proceedings and review of properties prior to demolition.

(a) ~~Issuance of a demolition permit for all or any part of a structure proposed for designation as a structure for preservation or in a district proposed for designation as a district for preservation shall be delayed for a period of up to ninety (90) days from the date of application for the demolition permit. Upon receipt by community planning and development (CPD) of an application for designation of a structure or a district for preservation, no demolition permit shall be issued for said structure or any structure in said district for a period of one hundred and twenty (120) days from the receipt of an application for demolition by CPD. An application shall not be considered received until the application fee is received by CPD. If the preservation commission denies the application for designation or if at the end of the one hundred and twenty (120) day period the structure or district has not been designated by council, the demolition permit shall be issued upon compliance with all Denver Building and Fire Code requirements. If the~~

1 structure has been designated prior to the end of the one hundred and twenty (120) day
2 period, the provisions of section 30-6(6) shall apply. The mailing of the written notice
3 required by section 30-4(5)(a) shall initiate the imposition of the following conditions on
4 the issuance of demolition permits:

5 (b) ~~During said ninety (90) day period, no demolition permit shall be issued except as~~
6 ~~provided in section 30-6(7) or unless accompanied by written approval of the preservation~~
7 ~~commission. For a structure that is not pending designation as a structure for preservation~~
8 ~~or as part of a district for preservation at the time an application for demolition is received~~
9 ~~by CPD, the demolition application shall be reviewed within ten (10) working days to~~
10 ~~determine whether the structure is eligible for designation. During the ten (10) working~~
11 ~~day review period no demolition permit shall be issued unless the structure is determined~~
12 ~~not to be eligible for designation by the manager of CPD or the manager's designee~~
13 ~~(hereinafter in this section "manager"). Any time after the manager makes a determination~~
14 ~~that the structure is not eligible for designation or if the ten working day period has~~
15 ~~elapsed without a determination that the structure may be eligible for designation, and~~
16 ~~provided no application for designation has been received by CPD, the demolition permit~~
17 ~~shall be issued upon compliance with all Denver Building and Fire Code requirements. If~~
18 ~~the manager determines that the structure may be eligible for designation the manager~~
19 ~~shall notify the person who applied for demolition, the property owner, the city council~~
20 ~~person in whose district the structure lies, the at-large council persons, the registered~~
21 ~~neighborhood organizations the boundaries of which encompass or are within two~~
22 ~~hundred (200) feet of the structure and appropriate historic preservation entities that the~~
23 ~~structure has been deemed potentially eligible for designation and there is a request for~~
24 ~~demolition pending. The property shall be posted for thirty (30) days requesting~~
25 ~~comments and information about the potential for designation of the property. No~~
26 ~~demolition permit shall be issued for a period of thirty (30) days from the date of the~~
27 ~~above notifications and posting. If an application for designation, along with the~~
28 ~~applicable fee, is received before the demolition permit is issued, the provisions of section~~
29 30-6(1)(a) shall apply.

30 (c) ~~This section 30-6(1) shall not affect any permits actually issued prior to the mailing of~~
31 ~~written notice as required by section 30-4(5)(a), or permits applied for after the structure~~

1 ~~or district is designated as a structure or district for preservation (which permits shall be~~
2 ~~governed by section 30-6(6)).~~ In order to provide certainty in the demolition process, an
3 owner of a structure that is not pending designation and is neither designated nor in a
4 district for designation may apply to the commission to have the structure officially
5 declared to be non-historic.

6 i. Upon receipt of a complete application and a fee of \$250, the manager shall notify the
7 city council person in whose district the structure lies, the at-large council persons, the
8 registered neighborhood organizations the boundaries of which encompass or are
9 within two hundred (200) feet of the structure and appropriate historic preservation
10 entities. The property shall be posted for thirty (30) days and notified entities shall
11 have thirty (30) days to provide comment to the manager.

12 ii. The landmark staff shall review the application together with all comments received
13 and shall either approve the structure as being non-historic or forward the application
14 to the commission.

15 iii. In order to certify the property as being non-historic, the commission or staff shall find
16 that the property is less than thirty (30) years old and does not have extraordinary
17 importance to the historical development of Denver or does not meet one or more
18 criteria in at least two of the three categories listed in section 30-3.

19 iv. If the structure is found to be non-historic the owner shall be issued a certificate
20 indicating that the property is non-historic. Said certificate shall be valid for a period of
21 five (5) years from date of issuance. Such a certificate, if presented with an
22 application for demolition, shall allow the permit application to be processed without
23 further review as to it's historic status and there shall be no demolition delay pursuant
24 to this section 30-6(1).

25 (d) ~~This section 30-6(1) shall affect all permits applied for but not issued prior to the mailing~~
26 ~~of written notice as required by section 30-4(5)(a), and all permits applied for after the~~
27 ~~mailing of written notice as required by section 30-4(5)(a) but prior to the final action on~~
28 ~~the proposed structure or district for preservation.~~ The city may develop a list of
29 potentially historic properties for all or any portion of the city. Said list or lists shall list
30 properties which are the potentially historic properties for a specific area. These lists may
31 be submitted to the commission which shall determine their accuracy based upon the

1 criteria of section 30-3. Upon approval by the commission such lists shall become official.
2 Such lists may be reviewed and modified as necessary by the commission. For the
3 purpose of processing demolition permits, any structure listed as historic on an official list
4 shall be treated in the same manner as a structure which has been reviewed and
5 determined to be potentially historic under section 30-6(6)(b). For the purpose of
6 processing demolition permits, all structures not listed as potentially historic in an area
7 which has been reviewed and listed shall be treated in the same manner as a structure
8 which has received a certificate indicating it is non-historic under the provisions of 30-
9 6(1)(c), above.

10 ~~(e) After ninety (90) days have elapsed from the date of the application for a demolition, if the~~
11 ~~structure or district has not been designated a structure or district for preservation, then~~
12 ~~the demolition permit may be issued without the approval of the preservation commission.~~
13 On [date five years from passage of the ordinance] section 30-6(1)(b), above, shall be
14 automatically repealed, except insofar as it provides review procedures for listed
15 structures under the provisions of 30-6(6)(d) above.

16 ~~(f) Within seven (7) days of receipt of an application for a demolition permit for a structure~~
17 ~~proposed for designation or for a structure in a district proposed for designation, the~~
18 ~~building inspection division shall transmit to the commission a copy of said application.~~

19 **Section 3.** Section 30-6(6)(f), of Chapter 30 (Landmark Preservation), shall be
20 repealed and deleted as indicated by the language stricken as follows:

21 **Sec. 30-6(6)(f)** ~~— If the application for demolition of a structure for preservation, which is not in~~
22 ~~a district for preservation, is denied, provisions of section 30-6 notwithstanding, the applicant~~
23 ~~may file for a demolition permit twelve (12) months after the initial denial, provided a building~~
24 ~~permit for a replacement structure has been obtained. During the delay period, the applicant is~~
25 ~~urged to work with the commission or other interested parties to develop an acceptable~~
26 ~~alternative solution.~~

27 **Section 4.** Section 30-6(6)(g), of Chapter 30 (Landmark Preservation), shall be
28 amended by changing the section number to 30-6(6)(f) and adding the language underlined and
29 deleting the stricken section number g to read and be read as follows:

30 **Sec. 30-6(6)(gf)** If the application for demolition is denied, the applicant may seek relief
31 through the economic hardship process, defined in section 30-6(8).

1 COMMITTEE APPROVAL DATE: _____.

2 MAYOR-COUNCIL DATE: _____.

3 PASSED BY THE COUNCIL _____ 2006

4 _____ - PRESIDENT

5 APPROVED: _____ - MAYOR _____ 2006

6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9

10 NOTICE PUBLISHED IN THE DAILY JOURNAL _____ 2006; _____ 2006

11 PREPARED BY: Kerry A. Buckey, Assistant City Attorney 5/17/2006

12 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of
13 the City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
14 ordinance. The proposed ordinance is not submitted to the City Council for approval pursuant to
15 § 3.2.6 of the Charter.
16

17 Cole Finegan, City Attorney

18 BY: _____, _____ City Attorney Date: _____