

ORDINANCE NO. 2010-4

AN ORDINANCE ESTABLISHING RULES AND REGULATIONS RELATING TO HISTORIC PRESERVATION IN THE TOWN OF SAGUACHE AND ESTABLISHING A HISTORIC PRESERVATION COMMISSION.

WHEREAS, Ordinance 2009-4, which was passed by the Town Board of Trustees of the Town of Saguache on May 18, 2009, created a Historic Preservation Commission, but did not provide criteria nor rules and regulations regarding historic preservation in the Town; and

WHEREAS, members of said commission have now developed, in conjunction with the Colorado Historic Society, such criteria, rules and regulations; and

WHEREAS, such matters should be combined and contained within one ordinance relating to Historic Preservation.

NOW THEREFORE, be it hereby ordained by the Board of Trustees of the Town of Saguache:

1. Ordinance 2009-4 is repealed in its entirety and re-enacted to read as follows:

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AN ORDINANCE ESTABLISHING RULES AND REGULATIONS RELATING TO HISTORIC PRESERVATION IN THE TOWN OF SAGUACHE AND ESTABLISHING A HISTORIC PRESERVATION COMMISSION

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Section I. Purpose.

A. The purpose of this ordinance is to promote the public health, safety and welfare through:

The protection and preservation of the Town of Saguache's historic and cultural heritage, as embodied in designated landmarks, contributing structures and districts by appropriate regulations;

The enhancement of property values, the stabilization of historic neighborhoods and streetscapes, and the promotion of harmonious growth and development of the Town;

The increase of economic and financial benefits through the Town's attractions to tourists and visitors;

The provision of educational opportunities to increase public appreciation of the Town of Saguache's unique heritage;

The encouragement of business and commercial development or uses in the Town of Saguache that are appropriate and compatible, and that truly reflect the spirit of this historic preservation ordinance.

B. The intention of this ordinance is to create a method to further the public interest in preserving the Town's unique historic character by ensuring that demolition of, moving, additions to, alterations to, and new construction of any type affecting designated landmarks, contributing structures and historic districts shall be carefully considered in terms of the impact of such work upon, and contribution to, the Town's heritage. In furtherance of this intention, the following unique characteristics of the Town's heritage shall be considered in the application of this ordinance:

1. The story of the Town's historic resilience and dignity in the face of hardship, and of the extraordinary hardiness and resourcefulness of its diverse and changing populations, is indelibly recorded in the physical structures still intact within the Town. However humble, even the least of these structures is a precious indicator that puts a human face on the early community's culture and legacy, and contributes a vital piece to our understanding of the wider history of the American Southwest. The purpose of this ordinance, therefore, is to honor and preserve this legacy as a living ingredient in the ongoing development of the community.

2. Saguache is fortunate to have a variety of buildings still standing that exemplify different periods in the Town's history. From early settlement construction materials and techniques, to significant—though diminutive—examples of classic architectural periods, there is an unusually broad range of historic themes, periods and economies represented. Unlike communities that can identify and base development guidelines on a dominant architectural period, the character of

Saguache emerges as a consequence of this historic diversity. The purpose of this ordinance is to protect, cultivate and foster this characteristic.

3. Because of this history, many of the Town's structures—and indeed the fabric of the historic core area itself—are particularly vulnerable to the impact of contemporary cultural and economic forces. Unless mitigated, these technologies function at a scale that can quickly dwarf and weaken the presence of the very factors that make Saguache historically unique. The purpose of this ordinance, therefore, is to encourage conscientious renovation and development that is sensitive to and compatible with:

(a) the density and scale of any landmark and/or historic district that may be designated through this ordinance;

(b) the broad eclectic diversity of architectural styles and treatments; and (c) the important contribution of small-scale, unpretentious and economically austere structures to the overall character of the Town.

4. In particular it is the purpose of this ordinance to establish guidelines to assure the visual subordination of new construction, including development on infill properties, to the existing character and scale of neighboring landmarks and contributing structures.

5. Further, this ordinance is intended to encourage and assist owners in the pursuit of property improvements of any size or scope, consistent with the purposes of this ordinance, and without the imposition of undue economic hardship on owners.

## Section II. Committee Established.

A. The Town of Saguache does hereby create a Historic Preservation Commission to undertake the functions and duties associated with historic preservation efforts within the Town limits, under the oversight and direction of the Town Board.

### B. Membership

The Saguache Historic Preservation Commission shall consist of seven (7) members. At least three of these members should if possible have education and/or experience in one of the following professions: history, architecture, landscape architecture, architectural history, archeology, planning, American studies, American civilization, cultural geography or cultural anthropology or other related fields. At least three members of the Commission shall be residents with demonstrated interest in historic preservation. One member shall be a Trustee designated by the Town Board or an individual designated by the Board of Trustees to fill this position.

Three members of the commission may reside outside the Town limits. Four members shall be bona fide residents of the town at the time of their appointment. If any of the four members with residency requirements cease to reside within the community, their membership on the commission shall automatically cease.

The terms of office for the six members who are not Town Board representatives shall be three years, and shall be staggered by making the initial terms of membership as follows: one (1) appointee shall serve a one (1) year term; two (2) appointees shall serve two (2) year terms; and three (3) appointees shall serve three (3) year terms. The term of the Town Board representative shall correspond to his or her official tenure.

All members of the commission shall serve without compensation.

C. Powers and Duties. In accordance with the provisions of this ordinance, the Saguache Historic Preservation Commission shall:

Be guided by the Secretary of the Interior's Standards for the Treatment of Historic Properties (as they may be amended from time to time);

Adopt criteria for review of historic resources and for review of proposals to alter, demolish or move designated resources;

Review resources nominated for designation as a historic district, landmark, or contributing structures (to a designated landmark or within historic districts); and recommend to the Town of Saguache Board of Trustees that it designate by ordinance those resources qualifying for such designation;

Review and make decisions on any application for alterations to a designated historic landmark, district or contributing structure within historic districts;

Review and make decisions on any application for moving or demolishing a historic landmark or contributing structure;

Advise and assist owners of historic properties on physical and financial aspects of preservation, renovation, rehabilitation and reuse, including nominations to the State and National Register of Historic Places;

Develop and assist in public education programs including, but not limited to, walking tours, brochures, marker programs for historic properties, lectures and conferences;

Conduct, update and maintain, or cause to be conducted, updated and maintained, surveys and official lists of historic landmarks, districts and contributing structures, as well as other properties, for the purpose of defining those of historic significance, and prioritizing their importance. The Commission shall be responsible for updating the surveys and official lists;

Advise the Town Board of Trustees and Town Planning Commission on matters related to preserving the historic character of the Town;

Review and make decisions and/or recommendations on any application for construction (whether such be new construction on vacant land or any other type of construction related to existing properties) within a historic district.

In addition, upon the request of an owner, the Commission may advise an owner of a property that has not yet achieved contributing or landmark status on appropriate treatments, alterations and additions that will sustain the character-defining features of the property and thus continue the prospect that the property may become eligible for contributing or landmark status in the future;

Make reasonable efforts to seek input from all appropriate parties (including neighbors, adjacent property owners and others) whose property may be affected by its decisions. Notification procedures are set forth in Section III.

Rules. The Commission shall approve Rules governing meeting schedule, meeting notice, quorum, voting and other aspects of a routine nature. These Rules shall be filed with the Town Clerk and shall be adhered to in all subsequent actions by the Commission. Rules may be modified by a majority vote of the Commission, and such amended Rules filed with the Town Clerk. Nothing in the Rules may be construed as replacing or superseding any provision of this ordinance.

### Section III. Designation of Historic Landmarks, Historic Districts and Contributing Structures.

#### Designation Authorized.

Pursuant to the procedures hereinafter set forth in this section, the Saguache Town Board of Trustees may, by ordinance:

designate as a historic landmark an individual property or other feature;

designate as a historic district, an area containing a number of properties or features having special historical or architectural value;

designate as a contributing structure within a historic district an individual property or other feature.

Each designating ordinance shall include a description of the characteristics of the historic landmark, historic district or contributing structure which justify its designation, a description of the particular features that should be preserved and a legal description of the location and boundaries of the landmark, district or contributing structure. The designating ordinance may also indicate alterations which would have a significant impact upon, or be potentially detrimental to, the landmark, district or contributing structure.

#### Procedures for Designating Landmarks, Districts and Contributing Structures for Preservation.

A nomination for designation may be made by filing of an application with the Town of Saguache Clerk by any owner(s) of a proposed landmark, district or contributing structure, any resident of the Town of Saguache or any Historic Preservation Commission member. Such application shall be made on a form supplied by the Commission and shall include indication of whether the nomination is being made with or without the consent of the owner(s). The Town

Clerk shall refer the application for nomination to the chairperson of the Historic Preservation Commission within five (5) business days upon receiving such application.

Application fees. The Commission shall recommend a fee schedule and submit the schedule to the Town Board for approval. Initial nomination fees are established at \$25 with the owner's consent and \$50 without the owner's consent. Amendments to such fees and additional fees shall be established by Resolution of the Town Board. The approved fee schedule shall be printed on the application form.

Commission review with owner's consent. The Commission shall contact by mail the applicants and owner(s) of the nominated landmark, district or contributing structure, outlining the reasons and effects of such designation. The letter shall include the process that will be followed in considering the nomination. Signs shall also be posted on the nominated property no later than seven (7) days before the public meeting on the nomination. The Commission shall also notify the Town of Saguache Planning Commission.

The Commission shall hold a public meeting on the application no more than sixty (60) days after the filing of the application. The Commission shall review the application for conformance with the established criteria for designation and with the purposes of the section. Within thirty (30) days after the conclusion of the public meeting, but in no event more than sixty (60) days after the meeting date first set, unless mutually agreed by the Commission, the applicant, and the owner(s) other than the applicant, the Commission shall recommend either approval, approval with modification(s), or disapproval of the proposal to the Town Board, which shall take final action on the proposal within sixty (60) days of receipt of the recommendation from the Commission.

The Commission shall forward with its recommendation the findings of fact that constitute the basis for its recommendation. Such findings of fact shall also become part of the Commission's minutes.

Commission review without owner's consent. It is the intent of the Commission and the Town Board to work with property owners on the designation process whenever possible. In cases where a nomination is made without the consent of the owner(s), the Commission and Board shall use the following criteria in addition to the nomination standards listed for "Commission review with owner's consent," above:

The property has overwhelming historic importance to the community. The term overwhelming significance shall, for purposes of this ordinance, encompass:

Possessing such unusual or uncommon significance that the property's potential demolition or major alteration would diminish the character and sense of place in the community of Saguache.

Possessing superior or outstanding examples of the architectural, social or geographic historic significance criteria outlined in the standards and criteria. The term "superior" shall mean excellence of its kind and the term "outstanding" shall mean marked by eminence and distinction.

If the owner of the property nominated for designation does not consent to the nomination, the Commission shall hold a public hearing on the proposal not more than sixty (60) days after the filing of the application.

Notice of time, date and place of such hearing, and a brief summary or explanation of the subject matter of the hearing, shall be given by two (2) publications in a newspaper of general circulation within the town, the first not less than fifteen (15) days prior to the date of the hearing and the second not less than seven (7) days prior to the date of the hearing. In addition, at least fifteen (15) days prior to the hearing date, the Commission shall:

Post the property in the application indicating that a landmark or historic district designation has been applied for and the date and place of the hearing; and

Send written notice of the hearing by certified mail to the owner(s) of record, as reflected by the records of the County Assessor, of all property included in the proposed designation. Failure to send notice by mail to any such property owner where the address of such owner is unknown and not a matter of public record shall not invalidate any proceedings in connection with the proposed designation.

The Commission shall review the application for conformance of the proposed designation with the established criteria for designation and the standards set out in this ordinance. Within thirty (30) days after the conclusion of the public hearing, but in no event more than sixty (60) days after the hearing date first set, unless mutually agreed by the Commission, the applicant, and the owner(s) other than the applicant, the Commission shall recommend either approval, approval with modification(s), or disapproval of the proposal to the Town Board, which shall take final action on the proposal within sixty (60) days of receipt of the recommendation from the Commission.

The Commission shall hold a public meeting (with notice at least ten [10] days prior to such meeting) on the proposal no more than sixty (60) days after the filing of the application. The Commission shall review the application with conformance with the established criteria for designation and with the purposes of this ordinance. Within thirty (30) days after conclusion of the public meeting, but in no event more than sixty (60) days after the meeting date first set, unless otherwise mutually agreed by the Commission, the applicant and the owner(s), the Commission shall approve, modify or disapprove the proposal. Within thirty (30) days after the date of any referral by the Commission to the Town Board. The Town shall set the matter on its agenda at a regularly scheduled Town Board meeting. The matter shall be treated procedurally the same as any other proposed ordinance.

#### Section IV: Criteria for Designation of Historic Landmarks, Historic Districts and Contributing Structures within Historic Districts.

The Commission and the Town Board will consider the following criteria in reviewing nominations of properties for designation.

Landmarks and Contributing Structures.

Landmarks and contributing structures must generally be fifty (50) years old and meet two or more of the criteria for architectural, social or geographic/ environmental significance as described below. Exemption from the age standard could be found if the properties or features are found to be exceptionally important in other significant criteria. Landmarks and contributing structures shall meet two or more of the following:

#### Architectural

Exemplifies specific elements of an architectural style or period;

Example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally or locally;

Demonstrates superior craftsmanship or high artistic value;

Represents an innovation in construction, materials or design or a style particularly associated with the Saguache area;

Represents a built environment of a group of people in an era of history;

Is a pattern or grouping of elements representing at least one of the above criteria;

Is a significant historic remodel.

#### B. Social

Is the site of a historic event that had an effect upon society;

Exemplifies cultural, political, economic or social heritage of the community;

Is associated with a notable person or the work of a notable person;

#### Geographic/environmental

Enhances a sense of identity of the community;

Is an established and familiar natural setting or visual feature of the community.

All properties will be evaluated for their physical integrity using the following criteria (a property need not meet all of the criteria):

Shows character, interest or value as part of the development, heritage or cultural characteristics of the community, region, state or nation;

Retains original design features, materials and/or character;

Has the original location or same historical context after having been moved;

Has been accurately reconstructed or restored based on documentation.

#### Districts.

For the purposes of this ordinance, a district is a geographically definable area including a concentration, linkage or continuity of subsurface sites, buildings, vacant land, structures and/or objects. The district is related by a pattern of either physical elements or social activities. Significance is determined by applying criteria to the pattern(s) and unifying element(s). District boundaries will be defined by visual changes, historical documentation of different associations or patterns of development, or evidence of changes in site type or density as established through testing or survey.

Historic districts shall meet the same criteria as outlined above for landmarks and contributing structures. Within a district there may also be identified noncontributing structures which shall be those properties not declared to be contributing within the district, and supporting properties as defined in Section V.

Recordation of notice of designation. Within fifteen (15) days following expiration of any applicable period of appeal, or the final conclusion of any appeal, the Town Clerk shall record with the Clerk and Recorder for Saguache County the Town Board's written decision of approval and notice of the designation of the property as a landmark, or as a district in the event of district designation. The form of notice shall be approved by the Town and County attorneys and shall place future owners of record on notice that the property is designated as a landmark, or as a property within a historic district.

Final notification to owner(s). Within fifteen (15) days after the recording of the ordinance or the notice of designation as a historic landmark or historic district, the Secretary of the Historic Preservation Commission shall send to the owner(s) of each property so designated by certified mail a letter outlining the reasons for such designation and the obligations and restrictions by such designation.

#### Revocation of designation.

If a property or a special feature of a designated landmark or contributing structure was lawfully removed or demolished, the Commission may recommend revocation of the designation to the Town Board. The Commission may recommend revocation of a designation if, after following the procedures set out in this ordinance, it determines that without the demolished property or feature the site as a whole no longer meets the purposes and standards of a designated landmark or contributing structure.

Upon learning of unauthorized alteration, demolition, movement or removal of a site that has been designated as historic pursuant to this ordinance, or a violation of this ordinance, the Commission shall, following at least fifteen (15) days written notice via certified mail to the then current owners of the designated property, with return receipt requested, conduct a hearing to determine whether it should recommend to the Town Board that the landmark designation of the property be removed.

Upon the Commission's decision to recommend revocation of a designation, the Commission shall so recommend via written communication to the Town Board for the adoption of an ordinance revoking designation. The Town Board shall within sixty (60) days thereafter determine whether to accept the recommendation and remove the designation.

Limitation on resubmission and reconsideration of proposed designation. Whenever the Commission or Town of Saguache Board of Trustees disapproves a proposed designation, no person shall submit an application that is the same or substantially the same for at least six (6) months from the effective date of the final action on the original purpose.

Amendment of designation. Designation of a landmark, district or contributing structure may be amended to add features or property by following the same procedures prescribed in this ordinance for initial designation.

Listing and mapping. The Commission and Town Board shall cause to be maintained a list and map of designated landmarks and districts with sufficient information to permit reasonable identification of the landmarks and districts by the public. A copy of the current list and map shall be made available for public inspection during normal business hours at the Saguache Town Hall.

#### Section V. Recognition of "Properties of Merit" and "Supporting Properties."

The Commission may approve a list of properties of historical or architectural merit ("properties of merit") that have not been designated as landmarks and are not situated in designated historic districts, to which the Commission may add from time to time, in order to recognize and encourage the protection, enhancement and use of such properties. In addition, the Commission may approve a list of properties of historical or architectural merit that have not been designated as contributing structures within a historic district as a whole ("supporting properties"). Nothing in this ordinance shall be construed to impose any regulations or controls upon, or to provide incentives or awards to properties of merit or supporting properties solely because they are so designated. After identifying any properties of merit or supporting properties, the Commission may, but is not required to, authorize plaques to be affixed to the exteriors of such properties with the consent of the owner(s), the cost of which may be borne by the owner(s) or the Town as appropriate in the circumstances. Such properties of merit or supporting properties shall be regularly reviewed, in no event at intervals longer than seven years, to determine whether they should be designated historic landmarks or contributing structures.

#### Section VI. Alteration Certificates for Historic Landmarks, Historic Districts and Contributing Structures within Historic Districts.

Alteration certificate required.

Within a designated historic district or on a designated historic landmark or contributing structure within a historic district, no person shall carry out or permit to be carried out any new construction or alteration, removal or demolition of a building or other designated feature without first obtaining an alteration certificate for the proposed work as well as first obtaining any other permits required by the ordinances or codes of the Town of Saguache. Without

limiting the foregoing, this provision shall apply to vacant land within the designated historic district(s).

No person shall receive a permit to construct a new property or to alter, remove or demolish any structure or other feature on a property that has been proposed to be a designated landmark or contributing structure in a proposed historic district after the date an application has been filed with the Town Clerk to designate such property a landmark or contributing structure. No applications for building or other permits filed after an application for historic designation shall be approved while proceedings are pending on such designation application. Any work that takes place on a property which is subject to a filed application that removes historic fabric, or alters the character of the property through the process of demolition, addition or change shall be deemed to be in violation of this ordinance as if the status of the subject property were already designated to be a landmark or contributing structure.

An owner within a historic district or property designated as a landmark or a contributing structure located in a historic district may apply for a landmark alteration certificate. The owner shall submit with the application any and all information that the Commission determines is necessary to consider the application, including without limitation, plans and specifications showing the proposed exterior appearance (texture, materials and architectural details) and the names and addresses of adjacent property owners. The Commission shall review all applications for landmark alteration certificates within thirty (30) days after a complete application is filed to determine if the proposed work would have a significant impact to the landmark, contributing structure or historic district. If it is determined that there would be no significant impact or potential detriment, the Commission shall issue a certificate to the applicant. If the Commission determines that the proposed work would create a significant impact or potential detriment, it shall process the application in the same manner as an initial application for designation under provisions of this ordinance.

Issuance of an alteration certificate.

Upon an owner's application for any building permit or any other permit that affects the alteration, removal or demolition of any property in the Town of Saguache or would allow new construction within a historic district, or associated with a designated landmark or contributing structure, the Town Clerk shall determine if the proposal is subject to the rules and regulations of this ordinance. The Town Clerk shall find that the provisions of this ordinance apply to the proposed work if the affected property is a designated landmark or contributing structure or if the property is situated within a designated historic district and shall refer the matter to the Commission which shall require the applicant to comply with the requirements for applying for an alteration certificate as described in this ordinance.

If required to have an alteration certificate, the applicant must apply for such a certificate within sixty (60) days of the date of the application for the building permit or other permit. The Town shall issue an alteration certificate if approved by the Commission or the Town Board as authorized in this ordinance, and such certificate shall be valid for a term of one hundred twenty (120) days, during which work must be initiated. If there is no progress or substantial progress within one hundred eighty (180) days, the alteration certificate becomes null and void unless extended, upon written request, by the Town in the same manner as extensions for building

permits under the Uniform Building Code as adopted by the Town. If the Commission or Town disapproves an application, no person may submit a subsequent application for the same construction, alteration, removal or demolition within six (6) months from the date of the final action upon the earlier application.

Criteria to review an alteration certificate.

The Commission shall issue an alteration certificate for any proposed work on a designated landmark, on a contributing structure in a historic district only if the Commission can determine that the proposed work would not detrimentally alter, destroy, or adversely affect any architectural or landscape feature which contributes to its original historical designation. The Commission must find that the proposed work is visually compatible with designated historic landmarks and/or contributing structures in terms of design, finish, material, scale, mass and height. When the subject is a historic district, the Commission must also find that the proposed development is visually compatible with the development on adjacent properties. For the purposes of this ordinance, the term “compatible” shall mean consistent with, harmonious with, and/or enhances the mixture of complementary architectural styles either of the architecture of an individual or the character of the surrounding properties.

The Commission will use the following criteria to determine compatibility:

The effect upon the general historical and architectural character of the property or district;

The architectural styles used on the existing and proposed properties and their relation and compatibility with other properties;

The size of the property, its setbacks, its site, location, and the appropriateness thereof, when compared to existing properties and the site and the district;

The compatibility of accessory structures and fences with the main structure on the site, with other properties and with those in a district;

The effects of the proposed work in creating, changing, destroying or otherwise impacting the exterior architectural features of the property upon which such work is done;

The condition of existing improvements and whether they are a hazard to public health and safety;

The effects of the proposed work upon the protection, enhancement, perpetuation and use of the property.

Criteria to review relocating a property. In addition to the alterations criteria outlined above, the Commission will use the following criteria in considering alteration certificate applications for relocating a landmark or contributing structure onto a landmark site, or a structure onto property in a historic district:

For consideration of the original site, the Commission will review for compliance with all of the following criteria:

Documentation from a qualified professional in architectural engineering or contractor licensed to provide services in Colorado showing the property cannot be rehabilitated or reused in its original site to provide for any reasonable beneficial use of the property;

The contribution the property makes to its present setting;

Whether plans are specifically defined for the site to be vacated;

If the property can be moved without significant damage to its physical integrity and the applicant can show the relocation activity is the best preservation method for the character and integrity of the property;

Whether the property has been demonstrated to be capable of withstanding the physical impacts of the relocations and re-siting;

Whether a structural report submitted by a licensed structural engineer adequately demonstrates the soundness of the property proposed for relocation;

Whether what is proposed to replace the building being removed will tend to re-establish or reinforce the established streetscape or historic building patterns of the district.

For the consideration of the new location, the Commission will review for compliance with all of the following criteria:

Whether the building or property is compatible with its proposed site and adjacent properties, and if the receiving site is compatible in nature with the property or properties proposed to be moved;

The property's architectural integrity and its consistency with the character of the neighborhood;

Whether the relocation of the historic property would diminish the integrity or character of the neighborhood of the receiving site;

Whether the relocated property will tend to re-establish or reinforce an existing streetscape and historic street building patterns.

Criteria to review demolition of a property. Applicants requesting an alteration certificate for total or partial demolition must provide data to clearly demonstrate that the situation meets all of the following criteria:

The property or part of a property proposed for demolition is not structurally sound despite evidence of the owner's good faith efforts to properly maintain the property; and

The property cannot be rehabilitated or reused on site to provide for any reasonable beneficial use of the property; and

The property cannot be practically moved to another site in Saguache; and

The applicant demonstrates that the proposal mitigates to the greatest extent practicable the following:

Any impacts that occur to the visual character of the neighborhood and district where the demolition is proposed to occur;

Any impact on the historic importance of the property(s) located on the property or adjacent properties;

Any impact to the architectural integrity of the property(s) located on the property or adjacent properties.

Exemptions from an alteration certificate. If an application for an alteration certificate does not conform to the applicable criteria set forth in this section, the applicant may request an exemption from the usual alteration certificate requirements. The applicant may be required to attend a public finding of fact hearing and must provide adequate documentation and/or testimony to establish qualification for an exemption. The data shall be provided by either a professional in an applicable field or through documentation of how the information was obtained. The Commission may request additional information from the applicant as necessary to make informed decisions and may approve, modify or reject the applicant's plans as it deems appropriate. Any request for an exemption must be approved by at least two-thirds (2/3) of the members of the Commission.

Unsafe or dangerous conditions exempted. Nothing in this ordinance shall be construed to prevent any measures of construction, alteration, removal or demolition necessary to correct the unsafe or dangerous condition of any property, other feature or parts thereof where such condition is declared unsafe or dangerous by the Town and where the proposed measures have been declared necessary by the Town to correct the condition, provided that only such work that is absolutely necessary to correct the condition is performed. Any temporary measures may be taken without first obtaining an alteration certificate but can only be undertaken after the Town has declared the condition to be unsafe or dangerous. An alteration certificate is required for permanent alteration, removal or demolition. Any temporary measures or repairs are authorized for no longer than ninety (90) days after the Town has declared the unsafe or dangerous condition to be in existence, after which time the property must be in a state of permanent repair or condition that has removed the unsafe or dangerous condition and that conforms to all the regulations of the Town as well as this ordinance.

Property maintenance required. No owner, lessee or occupant of any landmark or contributing structure shall fail to prevent deterioration of the exterior of the property or special feature beyond the condition of the property as exists on the effective date of the designating ordinance. This shall include measures taken to secure a property, including the boarding up of windows.

The intention of this ordinance is to preserve from deliberate or inadvertent neglect the exterior portions of designated landmarks and other contributing structures and all interior portions thereof whose maintenance is necessary to prevent deterioration of any exterior portion. Examples of such neglect shall include, but not be limited to, deteriorated or inadequate foundations; walls or other vertical supports that are insufficient to carry imposed loads with safety; fireplaces or chimneys that list or bulge or settle due to defective material or deterioration; deteriorated or crumbling or loose plaster; deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors; and defective or lack of weather protection for exterior wall covering, including lack of painting, or weathering due to lack of paint or other protective covering.

The Commission need not review and an alteration certificate is not required for normal maintenance work, which would include, but not be limited to: repainting existing features, repair of minor defects that do not include removal of historic fabric, roofing where the roof surfaces are not visible from a public walk, path or street, interior modifications, revamping of existing light fixtures, repainting of existing signage with the same color and lettering, and landscaping.

#### Section VII. Signage.

The Commission shall adopt signage guidelines that take into account the Town of Saguache's diverse architectural heritage. Provisions shall apply to all exterior signage and similar informational properties as well as to interior signage that is visible from the exterior. Any and all signs must be approved by the Commission, which will take into account permits, colors, textures and finish, materials, design, location and size. Any proposed signage should consider the character of the historic landmark, district or contributing structure, and consider the location within a district or effect on the general streetscape. This section on signage includes any and all exterior lighting.

#### Section VIII. Legal Description Discrepancies.

If the legal description used in the designation of the landmark, district or contributing structure describes such property or lot in a manner that causes ambiguity as to whether such property or lot was to be included in the designation, it is the intent of this ordinance to include that property or lot regardless of such ambiguity.

#### Section IX. Severability.

If, for any reason, a section, provision, procedure or clause of this ordinance shall be declared invalid by a court of competent jurisdiction, the remaining sections, provisions, procedures and clauses shall continue to be in full force and effect.

#### Section X. Enforcement and Penalties.

This ordinance shall be enforced by Town staff or others designated by the Town of Saguache Board of Trustees. Failure to comply with any provision of this ordinance shall constitute an offense and upon conviction is punishable by a fine not to exceed three hundred dollars (\$300) or

imprisonment for not more than 90 days or by both such fine and imprisonment. Each day that a violation continues shall be considered a separate offense.

#### Section XI. Definition of Terms.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this Section:

Alteration shall mean any act or process changes one (1) or more of the exterior architectural features of a designated historic property.

Board shall mean the Board of Trustees of the Town of Saguache.

Commission shall mean the Historic Preservation Commission created in Section II.

Construction shall mean the erection of any on-site improvements on any parcel of ground located on a historic site, whether the site is presently improved or unimproved, or the erection of a new principal or accessory structure on such property.

Contributing structure shall mean a building within a designated historic district that contributes to the district. For example, if the district is defined as residential homes built from 1870-1900, an infill project from 1980 would not be contributing, but a Victorian built in 1889 would likely be contributing. In order to be considered contributing, a building doesn't necessarily have to be individually eligible for designation.

Day shall mean calendar day, including Saturdays, Sundays and holidays.

Demolition shall mean any act or process that destroys in part or in whole a landmark or a property upon a historic site.

Exterior architectural feature shall mean the architectural design, style, general arrangement and components of all the outer surfaces of a structure or improvement, including but not limited to the color, texture, materials, type and style of all windows, doors, lights, signs and other fixtures appurtenant to said structure or improvement.

Historic district shall mean any legally defined area within the Town of Saguache designated as a historic district by the Commission.

Landmark shall mean any property designated by the Historic Preservation Commission as a landmark.

Owner shall mean any person or persons having such right to title to, or interest in, any improvement so as to be legally entitled, upon obtaining the required permits and approvals from the city agencies having jurisdiction over building construction, to perform with respect to such property any construction, alteration, removal, demolition or other work as to which such person seeks the authorization or approval of the Historic Preservation Commission or the Town Board.

HEALTH and SAFETY CLAUSE: The Board of Trustees of the Town of Saguache specifically finds that this Ordinance is necessary for the immediate preservation of the public peace, health and safety due to the danger of destruction of properties of historic significance in the Town and shall become effective and shall be enforced upon, from, and after this 16<sup>th</sup> day of February, 2010.

Introduced, read in full, adopted, approved and signed this 16<sup>th</sup> day of February, 2010.

\_\_\_\_\_  
Milton Jones, Mayor

ATTEST:

\_\_\_\_\_  
Therese Garcia, Town Clerk

#### CERTIFICATION

I hereby certify that the within Ordinance was introduced, read in full, approved and adopted at the regular meeting of the Board of Trustees of the Town of Saguache, Colorado on the \_\_\_\_ day of February, 2010, and published by title in the Saguache Crescent, a legal newspaper in the Town of Saguache on \_\_\_\_\_.

\_\_\_\_\_  
Therese Garcia, Town Clerk