



Historic Property - Request for Change

General Information

The process for designating a landmark or historic district may be initiated by the City Council, the Planning Commission, or by any interested person who submits an application for designation to the City Manager. Historic property landmarks or significant resources in a historic district cannot be moved, demolished, altered or new construction started before a permit has been obtained first. In addition, no major public improvements can be made on a landmark site or in a historic district unless approved by the Planning Commission.

Submittal Requirements

- One (1) copy of the Historic Property – Request for Change application form with signatures of all property owners. Original signatures for all property owners must be provided. This information must be reproduced so please print clearly using black or blue ink.
- Written notification from SHPO regarding the applicants Historic Property Request for Change. (If applicable)
- Proof of legal and recorded ownership of the subject property. (subject to issuance of permit)
- One (1) copy of the written (legal) description of the boundaries of the proposed district or location of the proposed landmark.
- One (1) copy of the deed for each tax lot involved.
- One (1) copy of the title report for each tax lot involved
- Two (2) copies of a Map illustrating the boundaries of the proposed district or location of the proposed landmark showing all of the following:
 - Existing structures on properties involved
 - Existing and proposed property lines and dimensions
 - Existing easements and/or Proposed easements
 - Existing and Proposed areas of properties involved
 - The approximate location of existing streets and/or right-of-ways adjacent to the subject properties
 - Existing improvements on the property
 - Map and Tax Lot numbers or tax account numbers for subject property
 - North arrow
 - Scale (the preferred scale is 1 inch equals 20 feet) on paper a minimum size of 11 x 17
- Application Fee made payable to the City of Dayton.

Review Process

Historic Preservation Committee Review: All types of Historic Property Request of Change applications will be review by the Historic Preservation Committee. Completed applications shall be reviewed their next regular scheduled meeting. After reviewing the application the Committee may choose to make a written response in regards to their review of the application using the approval criteria as a guideline for their recommendation.

Planning Commission Action: Demolitions, Moving and some Alterations and New Construction requests require review from the Planning Commission. Completed applications will be included for consideration at the next available Commission Meeting. Demolitions and Moving require a Type II public hearing. Alterations and New Construction can be a City Manager decision or may require a public hearing per City Code 7.3.2.

Council Action: Designation requests require City Council Review under a Type III public hearing. Completed application requests will be included for consideration at the next available City Council Meeting.

Completion

Application decisions will be based on the criteria required for each type of action. It is the applicant's responsibility to make sure the State Historic Preservation Office (SHPO) is notified of application recommendations.



Historic Property Request for Change Application

16 Ferry St - PO Box 339
Dayton OR 97114
Ph # (503) 864-2221
Fax # (503) 864-2956
www.ci.dayton.or.us
cityofdayton@ci.dayton.or.us

For City of Dayton Use:

Date Application Received:	Received By:	<i>File Number:</i>
Public Hearing Date:	Receipt Number:	Fee:
Application Complete Date:	Date Approved:	Approved By:

TYPE OF ACTION REQUESTED:

- Addition of Designation
 Removal of Designation
 New Construction
 Alteration
 Relocation
 Demolition

Site Address: _____

Name of Applicant: _____

Mailing Address: _____ City: _____ ST: _____ Zip: _____

Telephone Number: _____ Cell Number: _____

Email Address: _____

Applicant Signature: _____ Date: _____

Property Owner (If different from Applicant): _____

Address: _____ City: _____ ST: _____ Zip: _____

Summary of Request (Please explain your request and reasons for the proposed adjustment)

The City of Dayton, Dayton Planning Commission and the Historic Preservation Committee will use the information provided below to analyze the merits of the application. A decision to approve or deny the application is made based on the criteria set forth in the Dayton Land Use and Development Code (Chapter 7 of the Dayton Municipal Code).

Consultants (please list all that apply)

1)

Planning Engineering Surveyor Other

Name:		Physical Address:	
Firm:	City:	ST	Zip
Mailing Address:		Telephone #:	
City:	ST:	Zip:	Cell Phone #:
Email Address:			

2)

Planning Engineering Surveyor Other

Name:		Physical Address:	
Firm:	City:	ST	Zip
Mailing Address:		Telephone #:	
City:	ST:	Zip:	Cell Phone #:
Email Address:			

3)

Planning Engineering Surveyor Other

Name:		Physical Address:	
Firm:	City:	ST	Zip
Mailing Address:		Telephone #:	
City:	ST:	Zip:	Cell Phone #:
Email Address:			

4)

Planning Engineering Surveyor Other

Name:		Physical Address:	
Firm:	City:	ST	Zip
Mailing Address:		Telephone #:	
City:	ST:	Zip:	Cell Phone #:
Email Address:			

For Office Use

Application Received by:		Date Received:	
Planner:	File #	Date Approved:	
Fee Amount:	Date Paid:	Receipt Number:	
Approved by:	<input type="checkbox"/> City Manager <input type="checkbox"/> City Planner <input type="checkbox"/> Public Works Director <input type="checkbox"/> City Engineer <input type="checkbox"/> City Council <input type="checkbox"/> Historic Preservation Committee <input type="checkbox"/> Fire Marshall		
Applicant Notification Date:	Comments:		

Please provide a written description of the boundaries of the proposed district or the location of the proposed landmark:

Provide a map illustrating the boundaries of the proposed district or the location of the proposed landmark:

Provide a statement explaining the following:

a) Reason(s) why the proposed district or landmark should be or not be designated under the Decision Criteria specified in Section 7.2.11.05(E) of the Dayton Municipal Code: _____

b) The reason(s) why or why not the boundaries of the proposed district are or are not appropriate for designation:

c) The potential impact, if any, which designation of the proposed district or landmark would have or not have on the residents or other property owners in the area: _____

d) Provide the information necessary to prove or disprove the decision criteria in Section 7.2.112.05.E:

CHAPTER 7: LAND USE AND DEVELOPMENT CODE
SECTION 7.2.112 HISTORIC PROPERTY OVERLAY ZONE

7.2.112.05 Landmark and District Designation (*Revised ORD 645; effective 02/12/20*)

- A. Process. The process for designating a landmark or historic district may be initiated by the City Council, the Planning Commission, or by any interested person who submits an application for designation to the City Manager. At the time of application the City Manager shall provide the property owner and applicant with information regarding the benefits and restrictions of designation.
- B. Information. The following information shall be required in an application:
 - 1. The applicant's name and address, and the applicant's signature;
 - 2. The owner's name and address, and evidence of legal and recorded ownership of the subject property and the owner's signature;
 - 3. A written description of the boundaries of the proposed district or the location of the proposed landmark;
 - 4. A map, drawn to scale, illustrating the boundaries of the proposed district, or a site plan, drawn to scale, indicating the location of structures on the subject property including the proposed landmark, and the dimensions of the structures and distances from the structures to the property lines.
 - 5. A statement explaining the following:
 - a. The reason(s) why the proposed district or Designated Landmark should be designated under the decision criteria specified in Sub-section 7.2.112.05, E.
 - b. The reason(s) why the boundaries of the proposed historic district are appropriate for designation;
 - c. The potential impact, if any, of the proposed historic district or Designated Landmark on the residents or other property owners in the area.
 - 6. Any other information deemed necessary by the City Manager to address the approval criteria.
- C. Historic Preservation Committee (HPC) Review: After the application is deemed complete, the Historic Preservation Committee shall review the application at a regularly scheduled meeting or at a special meeting. The Historic Preservation Committee shall provide to the Planning Commission and the City Council a written recommendation based on the approval criteria in Section 7.2.112.05, E. The Committee serves in an advisory capacity.
- D. Planning Council Action. After the application is deemed complete, the City Manager shall schedule the application to be considered at a Planning Commission meeting. The application shall be processed in accordance with the Type IV process pursuant to Section 7.3.2 (Administrative Procedures). The City Manager shall forward the application and any comments from the Historic Preservation Committee to the Planning Commission. The Planning Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Administrative Procedures), shall pass on an oral motion recommending the City Council approve or disapprove the application. The Planning Commission shall consider the Historic Preservation Committee's recommendation. The Planning Commission serves in an advisory capacity.
- E. City Council Action. After the application is deemed complete, the City Manager shall schedule the application to be considered at a City Council meeting. The application shall be processed in accordance with the Type IV process pursuant to Section 7.3.2 (Administrative Procedures). The City Manager shall forward the application, any comments from the Historic Preservation Committee and the Planning Commission's recommendation to the City Council. The City Council, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Administrative Procedures), shall approve or disapprove the application. The City Council shall consider the Historic Preservation Committee and Planning Commission recommendations.
- F. Decision Criteria. To approve the application the City Council shall consider the following criteria to determine if the proposed Designated Landmark or historic district should be approved:
 - 1. The property is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;
 - 2. The property is associated with the lives, persons, or groups of people, significant in local, state, or national history;
 - 3. The property embodies the distinctive characteristics of an architectural type, style, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction;
 - 4. The property yielded or is likely to yield information which is significant to local, state, or national history;
 - 5. The property is significant visual landmark;
 - 6. The property contributes significantly to the continuity or historic character of the street, neighborhood, and/or community;
 - 7. The resource is listed on the National Register of Historic Places.
- G. Removal of Designation. The process for removing a landmark designation or historic district designation may be initiated by the City Council, the Planning Commission, or by any interested person who submits to the City Manager an application for removal of the designation. The City Council may amend or rescind an existing designation by following the procedures set forth in Section 7.2.112.05 for designating a landmark or historic district, and determining the property no longer meets the criteria set forth in Section 7.2.112.05, F, including the adoption of findings.
- E. If the property is listed on the National Registry of Historic Places, the removal shall be completed in cooperation with the State Historic Preservation Office (SHPO) and according to federal statute under CFR Part 60.15.
- F. In accordance with Oregon Revised Statute 197.772;
 - 1. A property owner may refuse to consent to any form of historic property designation at any point during the designation process. Such refusal to consent shall remove the property from any form of consideration for historic property designation under ORS 358.480 to 358.545 or other law except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.).
 - 2. No permit for the demolition or modification or property removed from consideration for historic property designation under Subsection I, 1, or this section shall be issued during the 120-day period following the date of the property owner's refusal to consent.

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SECTION 7.2.112 HISTORIC PROPERTY OVERLAY ZONE

7.2.112.06 Demolition and Moving (*Revised ORD 645; effective 02/12/20*)

- A. **Planning Commission Approval.** No person shall move or demolish, or cause to be moved or demolished, an historic resource on the National Register of Historic Places, a Designated Landmark in the Historical Property Overlay Zone or in an historic district, unless approved by the Planning Commission. A Separate permit must be obtained from the Building Official to demolish or move the structure.
- B. **Application Process.** An application for moving or demolishing an historic resource on the National Register of Historic Places, a Designated Landmark in the Historic Property Overlay Zone or in an historic district shall be filed on a form provided by the City. The following information shall be required in an application:
 - 1. The applicant's name and address and the applicant's signature;
 - 2. The owner's name and address, and evidence of legal and recorded ownership of the subject property and the owner's signature;
 - 3. A written description of the proposed moving or demolition and an explanation of how the moving or demolition meets the approval criteria set forth in Section 7.2.112.06, E;
 - 4. A site plan, drawn to scale, indicating the location of structures on the subject property, the dimensions of the structures and the distances from the structures to the property lines;
 - 5. Statements indicating the intended re-use of the subject property;
 - 6. Any other information deemed necessary by the City Manager to address the approval criteria.
- C. **Historic Preservation Committee (HPC):** After the application is deemed complete, the Historic Preservation Committee shall review the application at a regularly scheduled meeting or at a special meeting. The Historic Preservation Committee shall provide to the Planning Commission a written recommendation based on the approval criteria. The Historic Preservation Committee serves in an advisory capacity.
- D. **Review Process.** Upon receipt of a completed application, the City Manager shall schedule the application to be considered at a Planning Commission meeting. The Planning Commission shall hold a Type II public hearing pursuant to Section 7.3.2 (Administrative Procedures). The Planning Commission shall consider the Historic Preservation Committee's recommendation.
- E. **Approval Criteria.** To approve the application to move or demolish a Designated Landmark, the Planning Commission must find one of the following criteria are met:
 - 1. No prudent and feasible alternative exists, or
 - 2. The Designated Landmark is deteriorated beyond repair; or
 - 3. The value to the community of the proposed use of the property outweighs the historical or architectural value of retaining the Designated Landmark.
- F. **Planning Commission Approval.** The Planning Commission may approve, or approve with conditions, the application where the application materials show at least one approval criterion is met. If no appeal is filed, the decision is effective on the day following the last day of the appeal period.
- G. **Planning Commission Denial.** The Planning Commission may deny the application where the application materials do not show at least one approval criterion is met. If no appeal is filed, the decision is effective on the day following the last day of the appeal period.
- H. **Planning Commission Continuance.** The Planning Commission may continue the final action in accordance with Subsection 7.2.112.06, K, below, and consistent with the State of Oregon 120-day rule for making a final decision on an application.
- I. **Appeals.** A decision by the Planning Commission to approve, approve with conditions or deny the application may be appealed to the City Council by an aggrieved party who appeared orally or in writing, in person or through an attorney at the Planning Commission hearing and presented or submitted testimony related to the application under consideration. The appeal shall comply with the requirements in Section 7.3.2. (Administrative Procedures).
- J. **Alternative Actions.** At the time a demolition or moving application is filed the City Manager shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.
- K. **Additional Requirements.** During a period of continuance, the Planning Commission may require the property owner to:
 - 1. List the resource for sale with a real estate agent for a period of time to allow for final decision within 120-days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days and over a period of time that allows for a final decision within 120 days.
 - 2. Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the City and be posted by the applicant in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for ensuring the sign is posted continuously within the time frame specified in Subsection 7.2.112.06, K, 1, above. (
 - 3. Prepare and make available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.
 - 4. Ensure the owner has not rejected the highest bona fide offer for sale and removal of the resource.
- L. **Press Notification.** Prior to issuance of a demolition permit, the City Manager shall issue a press release to local or state newspapers of general circulation in the county. The press release shall include, but is not limited to, a description of the significance of the resource, the reasons for the proposed moving or demolition, and possible options for preserving the resource.
- M. **Permit Conditions.** As a condition for approval of a demolition permit, the Planning Commission may:
 - 1. Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the City or other party determined appropriate by the Planning Commission.
 - 2. Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials or donate or sell them to the City or other party determined appropriate by the Planning Commission. The applicant shall be provided with a list of persons capable of salvaging the resource.
- N. **Dangerous Building.** Section 7.2.112 shall not be construed to make it unlawful for any person, without prior approval of the Planning Commission, to comply with an order by the City Council to remove or demolish Designated Landmark determined by the City Council to be dangerous to life, health, or property.

Who will verify that the alteration or new construction (if approved) has been completed according to the City's requirements?

Name: _____ Title: _____ Relationship to Project: _____

Name: _____ Title: _____ Relationship to Project: _____

Name: _____ Title: _____ Relationship to Project: _____

Provide a written description/explanation of the proposed exterior alteration or new construction: _____

Provide a Site Plan indicating the location or proposed location of structures on the subject property: _____

Provide photographs, other pictorial/schematics, sample materials/colors (if available) to represent the proposed changes or additions for a new or to a remodeled structure: _____

Provide a written explanation of the intended alteration in comparison with the City's 1993 Advisory Guidelines and the US Secretary of Interior Guidelines. (Review US guidelines on-line at: www.nps.gov/history/hps/tps/standguide/index.htm)

Provide any other information necessary to address the approval criteria: _____

CHAPTER 7: LAND USE AND DEVELOPMENT CODE
SECTION 7.2.112 HISTORIC PROPERTY OVERLAY ZONE

7.2.112.07 Exterior Alteration and New Construction (*Revised ORD 645; effective 02/12/20*)

- A. City Manager or Planning Commission Approval. No person shall alter the exterior of an historic resource on the National Register of Historic Places, or a Designated Landmark in the Historical Property Overlay Zone or in an historic district nor shall any new building or structure be constructed on a property on the National Register of Historic Places, or in the Historical Property Overlay Zone or in an historic district where the City Manager determines it is minor unless approved by the City Manager. No person shall alter the exterior of an historic resource on the National Register of Historic Places, or a Designated Landmark in the Historical Property Overlay Zone or in an historic district nor shall any new building or structure be constructed on a property on the National Register of Historic Places, or on a Designated Landmark site in the Historical Property Overlay Zone or in an historic district where the City Manager refers the application to the Planning Commission unless approved by the Planning Commission. A Building Permit may be required for certain exterior alterations and new construction. In addition, no major public improvements shall be made on a property on the National Register of Historic Places, or on a Designated Landmark site or in an historic district unless approved by the Planning Commission.
- B. Application Process. An application for the exterior alteration of a Designated Landmark or new construction on property on the National Register of Historic Places, or in the Historical Property Overlay Zone, or in an historic district shall be filed on a form provided by the City. The following information shall be required in an application:
1. The applicant's name and address, and the applicant's signature;
 2. The owner's name and address, and evidence of legal and recorded ownership of the subject property and the owner's signature;
 3. Name of the person(s), title, or relationship to the project who will verify that the exterior alteration or new construction, if approved, has been completed according to the City's requirements;
 4. A written description and explanation of the proposed exterior alteration or new construction;
 5. A site plan, drawn to scale, indicating the location or proposed location of structures on the subject property, the dimensions of the structures and the distances from the structures to the property lines;
 6. Photographs, other pictorial and schematics information, sample materials and colors, if available, to represent the proposed exterior alterations or new construction;
 7. Written explanation of the proposed exterior alteration or new construction in comparison with the City's 1993 Advisory Guidelines and the US Secretary of Interior Guidelines. (An on-line copy of the latter document is available for review at the following site: www.nps.gov/history/hps/tps/standguide/index.htm). At the site, click on the tab "Education and Training," then click on "Online Training," then click on "Illustrated Rehabilitation Guidelines."
 8. Any other information deemed necessary by the City Manager to address the approval criteria.
- C. Historic Preservation Committee (HPC): After the application is deemed complete, the Historic Preservation Committee shall review the application at a regularly scheduled meeting or at a special meeting. The Historic Preservation Committee shall provide a written recommendation based on the approval criteria to the City Manager and the Planning Commission. The Historic Preservation Committee serves in an advisory capacity.
- D. City Manager Decision. Where the City Manager determines the application meets at least one of the following criteria 1, 2 or 3, for a minor exterior alteration or new construction, the City Manager may approve, approve with conditions, or deny the application. The City Manager shall consider the Historic Preservation Committee's recommendation.
1. No change in the exterior appearance or material of the Designated Landmark as it exists or the proposed work is building maintenance; or
 2. The proposed exterior alteration or new construction duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials; or
 3. The exterior alteration is on a side or rear elevation of a Designated Landmark or is not visible from public rights-of-way, or the new construction is not visible from public rights-of-way.
- E. Planning Commission Action. Where the City Manager determines the application is not a minor exterior alteration or is not minor new construction, the City Manager shall forward the application and the Historic Preservation Committee's recommendation to the Planning Commission. The Planning Commission shall consider the Historic Preservation Committee's recommendation. The Planning Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Administrative Procedures) shall approve, approve with conditions or deny the application.
- F. Decision Criteria. To approve the application for exterior alteration of a Designated Landmark or new construction on property on the National Register of Historic Places, or in the Historical Property Overlay Zone, or in an historic district the Planning Commission shall consider the following criteria:
1. The proposed new use is similar to the historical use of the property or the proposed new use requires minimal change to the Designated Landmark's or its property's distinctive materials, features, spaces, and spatial relationships.
 2. Historic character of the property is retained and preserved. The relocation of distinctive materials or alterations of exterior features, spaces, and spatial relationships that characterize the property shall be avoided.
 3. Use of the property recognizes the physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
 4. Changes acquiring historic significance in their own right are retained and preserved.
 5. Alterations preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the property.
 6. Historic features are repaired versus replaced. Where 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.
 7. Use of chemical and physical treatments, if appropriate, are undertaken by the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
 8. Alteration, including new additions, exterior alterations, or related new construction, do 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 proportions, and massing to protect the integrity of the property and environment
 9. New additions and adjacent or related new construction on the subject property are undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment are unimpaired.
 10. Consider design guidelines such as applicable sections of the City's 1993 Advisory Guidelines or the U.S. Secretary of Interior's Standards; (www.nps.gov/history/hps/tps/standguide/index.htm).
- G. Repair and Maintenance Provisions. No provision of Section 7.2.112 shall be construed to prevent the ordinary maintenance or repair of a Designated Landmark including, but not limited to an exterior architectural feature which does not involve a change in design, material or appearance of such feature. The City Manager shall determine if the proposed activity is required for the public safety due to an unsafe or dangerous condition.
- H. Building Code Leniency. Property owners may request the City Building Official or designee grant leniency for non-conforming exterior alterations, repairs, additions, and changes of occupancy for existing Designated Landmark structures in accordance with the current Oregon Structural Specialty Code, or Oregon Residential Specialty Code. In accordance with the statute, the Building Official or designee may seek guidance from the Oregon State Historic Preservation Office in the application of this provision.

TITLE 7: LAND USE AND DEVELOPMENT CODE
SECTION 7.3.2
ADMINISTRATIVE PROCEDURES

7.3.201 GENERAL PROVISIONS

7.3.201.01 Multiple Applications

Applications for more than one land use action for the same property may, at the applicant's discretion, be heard or reviewed concurrently.

7.3.201.02 Multiple Processing Types

Multiple land use requests involving different processing Types shall be heard and decided at the higher processing Type. For example, an application involving a Subdivision (Type II) with a Minor Variance (Type I) shall be reviewed and decided as a Type II request.

7.3.201.03 Generalized Area

Applications involving a generalized area may be aggregated if in the opinion of the City Manager a better understanding of the entire land use proposal is served by combining requests. A final decision shall be granted for each request and each request is appealable individually. *Amended ORD 608 effective 10/06/11*

7.3.201.04 Time Limit

If for any reason it appears that such final action may not be completed within the 120 day period, unless the time period is voluntarily extended by the applicant, the following procedures shall be followed regardless of other processes set forth elsewhere in this Code.

- A. The City staff shall notify the City Council of the timing conflict by the 95th day. The City Council shall, in accordance with its own procedures, set a time for an emergency meeting within the 120 day period.
- B. Public notice shall be mailed to affected parties as specified in Section 7.3.204.
- C. The City Council shall hold in a public hearing on the specified date, in accordance with the provisions of Section 7.3.206 and render a decision approving or denying the request within the 120 day period. Such action shall be the final action by the City on the application.

7.3.201.05 Performance Bonding

Whenever practical, all conditions of approval required by the City shall be completed prior to the issuance of an occupancy permit. When an applicant provides information which demonstrates that it is not practical to fulfill all conditions prior to issuance of such permit, the City may require a performance bond or other guarantee to ensure compliance with zoning regulations or fulfillment of required conditions.

- A. Types of Guarantees - Performance guarantees may be in the form of performance bond payable to the City of Dayton, cash, certified check, time certificate of deposit, or other form acceptable to the City. The form must be approved by the City Attorney and appropriate documents filed with the City Recorder.
- B. Amount of Guarantee - The amount of the guarantee must be equal to at least one-hundred-ten percent (110%) of the estimated cost of the performance. The applicant must provide a written estimate acceptable to the City, which must include an itemized estimate of all materials, labor, equipment and other costs of the required performance.
- C. Completion of Performance - All improvements shall be completed within one year of filing the performance guarantee. This time limit may be extended for additional one year periods by the City Manager. *Amended ORD 608 effective 10/06/11*

7.3.202 PROCEDURES

7.3.202.01 Procedure for Type I Review

- A. Upon receipt of an application for a Type I land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be reviewed until all required information has been submitted by the applicant.
 - 2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of issuing a staff report and related timing provisions either:
 - 1. Upon receipt of the additional information to complete the application; or
 - 2. If the applicant refuses to submit the information the application shall be deemed complete for review purposes on the 31st day after the original submittal.
- C. Referrals may be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies at the Manager's option. When a land use development has either direct access or creates an additional 20% average daily traffic on a county road or state highway, then a referral shall be sent to the Yamhill County Public Works Department or ODOT, as appropriate. *(Amended ORD 608 effective 10/06/11)*
- D. Within thirty (30) days of receipt of a complete application, staff shall review the application and shall make a decision based on an evaluation of the proposal and on applicable criteria as set forth in this Code.
- E. Approvals of a Type I action may be granted subject to conditions and performance agreement requirements.
- F. Notice of the decision shall comply with the provisions in Section 7.3.204.
- G. A Type I land use decision may be appealed to the Planning Commission, by either the applicant or persons receiving notice of the decision. The appeal shall be filed within 15 days from the date of the final decision, pursuant to the provisions of Section 7.3.207.

7.3.202.02 Procedures for Type II and Type III Actions

- A. Upon receipt of an application for Type II or Type III land use action, the City staff shall review the application for completeness.
 - 1. Incomplete applications shall not be scheduled for Type II or Type III review until all required information has been submitted by the applicant.

2. If incomplete, the applicant shall be notified and provided additional time of up to 30 days to submit supplemental information as necessary.
- B. The application shall be deemed complete for the purposes of scheduling the hearing and all related timing provisions either:
1. Upon receipt of the additional information to complete the application; or,
 2. If the applicant refuses to submit the information, the application shall be deemed complete for scheduling purposes only on the 31st day after the original submittal.
- C. Referrals will be sent to affected agencies such as City departments, police and fire departments, school district, utility companies, and applicable state agencies. When a land use development has either direct access or creates an additional 20% average daily traffic on a county road or state highway, then a referral shall be sent to the Yamhill County Public Works Department or ODOT, as appropriate. *(Amended by Ordinance 589 – Effective 4/2/09)*
- D. The Public Hearing shall be scheduled and notice shall be mailed to the applicant and adjacent property owners. Notice requirements shall comply with Section 7.3.204.
- E. Staff shall prepare and have available within 7 days of the scheduled hearing a written recommendation concerning the proposed action. This report shall be mailed to the applicant and available at City Hall for all interested parties.
- F. The public hearing before the Planning Commission shall comply with the provisions in Section 7.3.205.
- G. Approvals of any Type II or Type III action may be granted subject to conditions and performance agreement requirements.
- H. The applicant shall be notified, in writing, of the Planning Commission's decision or recommendation. In addition, notice of the Commission's decision or recommendation shall be mailed to individuals who request such notice at the public hearing, or, by those individuals who submitted a written request for notice prior to the public hearing.
- I. A Type II land use decision may be appealed to the City Council by either the applicant, persons receiving notice of the decision or the Manager. The appeal shall be filed within 15 days from the date of the decision, pursuant to the provisions of Section 7.3.207. Type III land use applications are automatically reviewed by the City Council. *(Amended ORD 608 effective 10/06/11)*

7.3.203 TYPE IV ACTIONS

7.3.203.01 Initiation

Type IV may be initiated by:

- A. Majority vote of the City Council.
- B. Majority vote of the Planning Commission.
- C. Recommendation by the City Manager subject to majority approval by the City Council or Planning Commission. *Amended ORD 608 effective 10/06/11*

7.3.203.02 Procedure for Type IV Actions

A. Public Hearings by Planning Commission:

1. A public hearing shall first be held by the Planning Commission on all Type IV requests. Where a recommendation is provided by the Historic Preservation Committee regarding amendments to Section 7.2.112, Historic Property Overlay Zone, the Planning Commission shall consider the recommendation. *(Revised ORD 645 – effective 02/12/20)*
2. The Planning Commission may continue any hearing in order to make a reasonable decision. Amendments to the original request may be considered and acted upon by the Planning Commission.
3. A Type IV Planning Commission action shall be in the form of a recommendation to the City Council.

B. Public Hearing by City Council:

1. Following the Planning Commission action, the City Council shall hold a public hearing to consider the Planning Commission's recommendation, and where a recommendation is provided by the Historic Preservation Committee regarding amendments to Section 7.2.112, Historic Property Overlay Zone, the City Council shall consider the recommendation. *(Revised ORD 645 – effective 02/12/20)*
2. The City Council may continue any hearing to make a reasonable decision. Amendments to the original request or the Planning Commission's recommendation, or the Historic Preservation Committee's recommendation regarding the amendments to Section 7.2.112, Historic Property Overlay Zone, may be considered and acted upon by the City Council. *(Revised ORD 645 – effective 02/12/20)*
3. An approved Type IV City Council action shall be in the form of an Ordinance. *(Revised ORD 645 – effective 02/12/20)*

7.3.204 PUBLIC NOTICE REQUIREMENTS

7.3.204.01 Type I Action. Consistent with State statutes, written notice of a Type I decision shall be mailed to the applicant and all property owners, including county and state agencies responsible for road and highways, within 100 feet of the subject property. Written notice for a Type I Action shall include the following: *(Amended by Ordinance 589 – Effective 4/2/09)*

1. Summary of the request.
2. Relevant decision criteria.
3. Findings of fact indicating how the request does or does not comply with the decision criteria.
4. Conclusionary statement indicating approval or denial of the request including (where appropriate) conditions of approval.
5. Information regarding the appeal process including who may appeal, where appeal must be submitted, fees and the appeal deadline.

7.3.204.02 Type II and Type III Actions

Written notice of any public hearing shall be mailed at least 20 days prior to the hearing date to the applicant and owners of property, including county and state agencies responsible for roads and highways, within 200 feet of the boundaries of the subject property. *(Amended by Ordinance 589 – Effective 4/2/09)*

7.3.204.03 Type IV Actions

Written notice of a hearing before the Planning Commission or City Council hearings shall be given by publication of a notice in a newspaper of general circulation in the City not less than 10 days prior to the date of the hearing before the Planning Commission and City Council.

7.3.204.04 Notice for Appeals

An appeal to either Planning Commission or City Council shall include written notice at least 10 days prior to hearing to the appellant, the applicant and any other individuals who received notice of the original decision.

7.3.204.05 Public Hearing Notice Requirements

Notice for any public hearing, including appeals, shall include the following:

- A. Explain the nature of the application and the proposed use or uses which could be authorized.
- B. Cite the applicable criteria from the Code and the plan which apply to the application at issue.

- C. Set forth the street address or other easily understood geographical reference to the subject property.
- D. State the date, time and location of the hearing.
- E. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide sufficient detail to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Appeals Board of Appeals.
- F. Include the name and phone number of the City representative where additional information may be obtained.
- G. State that a copy of the application, all documents and evidence relied upon by the applicant and application criteria are available for inspection at no cost and a copy will be available at reasonable cost.
- H. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and a copy will be provided at reasonable cost.
- I. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of hearing.

7.3.205 PUBLIC HEARING BEFORE THE PLANNING COMMISSION

7.3.205.01 General Provisions

- A. Land use actions which require a public hearing by the Planning Commission under the provisions of this Code shall be initially heard within sixty (60) days of the receipt of an application or appeal.
- B. The Planning Commission may continue a public hearing for additional, information, testimony or for decision only, to its next regular meeting or to a special meeting. In no instance, however, shall the decision be continued more than sixty (60) days beyond the initial hearing date.
- C. Unless there is a continuance, if a participant so requests before the conclusion of the initial evidentiary hearing, the record shall remain open for at least seven days after the hearing.
- D. Appeal of a Type I action shall be heard by the Planning Commission. The decision of the Commission on such appeal shall be final unless further appealed to the City Council.
- E. The decision of the Planning Commission on applications for Type II actions shall be final unless appealed to the City Council pursuant to Section 7.3.207.
- F. The recommendations of the Planning Commission on applications for Type III or Type IV actions shall be referred to the City Council for final determination.
- G. An issue which may be the basis for an appeal to the Land Use Board of Appeals (LUBA) may be raised not later than the close of the record at or following the final evidentiary hearing on the proposal before the City. Such issues shall be raised with sufficient specificity so as to afford the decision authority, and affected parties, an adequate opportunity to respond to each issue.

7.3.205.02 Public Hearing Procedures

The public hearings before the Planning Commission shall be conducted according to hearings procedures adopted by City Council resolution.

7.3.205.03 Evidence

- A. All evidence offered and not objected to may be received unless excluded by the Planning Commission on its own motion. Evidence may be received subject to a later ruling as to its admissibility.
- B. The Planning Commission may exclude irrelevant, unduly repetitious, immaterial or cumulative evidence; but erroneous admission of evidence by the Commission shall not preclude action or cause reversal on appeal unless shown to have substantially prejudiced the rights of a party. Any part of the evidence may be received in written, recorded, video tape or other suitable form.

- C. All evidence shall be offered and made part of the public record.
- D. Every party is entitled to an opportunity to be heard and to present evidence.
- E. All interested persons shall be allowed to testify.

7.3.205.04 Record of Hearing

A verbatim record of the proceeding shall be made by written, mechanical or electronic means, which record need not be transcribed except upon review of the record.

7.3.205.05 Limits on Oral Testimony

The Planning Commission Chair may set consistent, reasonable time limits for oral presentations to the end that parties are encouraged to submit as much evidence as possible in writing prior to the hearing.

7.3.205.06 Exhibits

All exhibits received shall be marked so as to provide identification upon review. Such exhibits shall be retained by the City.

7.3.206 REVIEW AND PUBLIC HEARINGS BY CITY COUNCIL.

7.3.206.01 General Provisions

- A. Appeals. The City Council shall hear appeals of the Planning Commission actions. The appeal hearing shall be conducted in a manner consistent with Section 7.3.204.
- B. Action on Type III Reviews. The City Council shall hear all Type III actions; the City Council action on such requests shall be the final action by the City.
- C. All hearings or reviews required by the City Council shall be heard within sixty (60) days of the Planning Commission's written decision or appeal request.
- D. The decision shall be made by the City Council and written findings prepared listing findings for approval or denial, and any conditions of approval, within two weeks of the hearing by the City Council.

7.3.206.02 Hearings by City Council

- A. All public hearings shall be conducted pursuant to the City Council's adopted rules of procedure. The City Council shall allow the opportunity for all parties to be heard and may accept new evidence.
- B. Decisions of the City Council may be appealed to the State Land Use Board of Appeals (LUBA), subject to the provisions in ORS 197.805-855.

7.3.206.03 Appeal Review by City Council

- A. Review on Record: The City Council review of an appeal on an action by the Planning Commission shall be confined to the record of the initial proceeding. Parties may offer testimony regarding alleged errors in the prior decision. The meeting shall be conducted as set forth in the City Council's adopted rules of procedures. The record of the initial proceeding shall include:
 - 1. All materials, pleadings, memoranda, stipulations and motions submitted by any party to the proceeding and received or considered by the Planning Commission as evidence.
 - 2. All materials submitted by the City Staff with respect to the application.
 - 3. The minutes of the hearing.
 - 4. The findings and action of the Planning Commission and the notice of decision.
- B. Submission of New Testimony and De Novo Hearings: The City Council may admit additional testimony and other evidence by holding a de novo hearing. Upon the decision to admit additional testimony or other evidence and to hear the entire matter de novo, the presentation of such testimony and evidence shall

be governed by the procedures applicable to the presentation of such matters at the initial hearing.

- C. City Council Action. The City Council may affirm, rescind or amend the action of the Planning Commission. The Council may also remand the matter back to the Planning Commission for additional information, subject to the agreement of the applicant to extend the 120 day review period.

7.3.207 APPEAL PROVISIONS

7.3.207.01 Appeal Period

- A. The decision of the City Manager shall be final for a Type I land use decision unless a notice of appeal from an appropriate aggrieved party is received by the City within 15 days of the date the final written notice is mailed. An appeal stays the proceedings in the matter appealed until the determination of the appeal. *Amended ORD 608 effective 10/06/11*
- B. The decision of the Planning Commission for a Type II land use decision, or the appeal of a Type I decision, shall be final unless a notice of appeal from an aggrieved party is received by the City within 15 days of the date the final written notice is mailed. An appeal stays the proceedings in the matter appealed until the determination of the appeal.

7.3.207.02 Form of Appeal

Appeal requests shall be made on forms provided by the City. Appeals shall state the alleged errors in the original action.

7.3.207.03 Notice Requirements

Notice of public hearings by the Planning Commission or City Council on an appeal shall be as specified in Section 7.3.204.

7.3.208 FEES

7.3.208.01 Purpose. Fees are for the purpose of defraying administrative costs.

7.3.208.02 General Provisions

- A. Fees shall be payable at the time of application and shall be as set forth by Ordinance or Resolution of the City Council. There shall be no fee required for an application initiated by the Planning Commission or the City Council.
- B. The failure to submit the required fee with an application or notice of appeal, including return of checks unpaid or other failure of consideration, shall be a jurisdictional defect resulting in the dismissal of the case.
- C. Fees are not refundable unless the application is withdrawn prior to the completion of a staff report for a Type I action or notification of the hearing for Type II and III actions.
- D. The City Council may reduce or waive the fees upon showing of just cause to do so.

CHAPTER 7: LAND USE AND DEVELOPMENT CODE

SECTION 7.2.1 - LAND USE ZONING

7.2.112 HISTORICAL PROPERTY OVERLAY ZONE (HPO)

7.2.112.01 Purpose

The purpose of this Overlay Zone is to:

- A. Promote the historic, educational, architectural, cultural, economic, and general welfare of the public through the preservation, restoration and protection of those buildings, structures, sites, districts, and objects of historic interest within the city;
- A. Foster civic pride in the accomplishments of the past;
- C. Carry out the provisions of the Dayton Comprehensive Plan; and *(Added ORD 645; effective 02/12/20)*
- A. Carry out the provisions of the Land Conservation and Development Commission, Statewide Planning Goal 5.
- B. Provide an Historical Property Overlay Zone that applies to each Designated Landmark site individually. *(Added ORD 645; effective 02/12/20)*

7.2.112.02 Conformance Required

No land shall be used, and no building, site, object, district, or structure of significance, or part thereof, shall be demolished, moved, or altered, nor shall any new construction take place within a district or on a landmark site except in conformity with this Code.

7.2.112.03 Definitions

The following definitions shall apply to this Section:

Affirmative Maintenance: Maintaining a building in such a manner as to not create deterioration of the structure and/or dwelling unit. See Deterioration, Prohibited.

Alteration: An addition, removal, or reconfiguration which significantly changes the exterior character (including windows and doors) of an historic resource.

Archaeological Artifact: An item being at least 75 years old and is the physical record of an indigenous or other cultures or the material remains of past human life or activity.

Archaeological Site: A site with 10 or more artifacts or a feature likely to have been generated by patterned cultural activity.

Archaeological Site of Significance: An archaeological site that is currently, or potentially eligible to be included on the National Register of Historic Places, or any archaeological site that has been on the National Register of Historic Places, or any archaeological site that has been determined significant by any of Oregon's nine federally designated Native American Tribes.

Cultural Resource Survey and Inventory: The record of information about resources evaluated for listing in the Designated Landmarks Register or National Register of Historic

Places within the City of Dayton.

Demolition: The razing, destruction, or dismantling of a resource to the degree that its historic character is substantially obliterated.

Designated Landmark: Any site, object, building, or structure officially recognized and designated by the City Council under Section 7.2.112.05. *(Revised ORD 645; effective 02/12/20)*

Designated Landmarks Register: The list of historic building or sites and archeological resources identified as “significant” and the record of information about properties officially recognized by the City of Dayton as important in its prehistory and history.

Deterioration, Prohibited: Prohibited conditions of deterioration include, but are not limited to moisture infiltration through the exterior roof, walls, openings and foundations; unchecked damage by animals or vandalism, un-maintained or unsafe mechanical, electrical, or plumbing systems, and any conditions on the property that endangers the resource. See Affirmative Maintenance.

Historic District: A geographically defined area possessing a significant concentration of buildings, objects, and/or sites which are unified historically by plan or physical development, the boundaries of which have been adopted by the Council under Section 7.2.112.05.

Historic Preservation Committee (HPC): A committee established by the City Council under Ordinance No. 592 (October 2009) to work with the Planning Commission and City Council to make recommendations that will ensure the City continues to preserve, protect, and identify properties with historic value.

Historic Property Overlay Zone: An overlay zone applying regulations related to historic resources which is applied to properties with a Designated Landmark. *(Added ORD 645; effective 02/12/20)*

Historic Resource: A building, structure, object, site, or district which meets the significance and integrity criteria for designation as a landmark. Resource types are further described as:

Building: A construction made for purposes of shelter or habitation, e.g. house, barn, store, theater, garage, school, and etc.

Structure: A construction made for functions other than shelter or habitation, e.g. bridge, dam, highway, boat, and etc.

Object: A construction which is primarily artistic or commemorative in nature and not normally movable or part of a building or structure, e.g. statue, fountain, milepost, monument, sign, and etc.

Site: The location of a significant event, use, or occupation which may include associated standing, ruined, or underground features, e. g. battlefield, shipwreck, campsite, cemetery, natural feature, garden, food-gathering area, and etc.

District: See Historic District above.

Major Public Improvement: The expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of a Designated Landmark on property within the Historical Property Overlay Zone, or on property within an historic district, except for the repair or maintenance of existing public improvements.

7.2.112.04 Cultural Resource Survey and Inventory

- A. The Planning Commission and/or Historic Preservation Committee shall periodically survey and inventory resources potentially eligible for listing in the Designated Landmarks Register and/or National Register of Historic Places with the City of Dayton.
 - 1. Survey and inventory documents shall be maintained, periodically updated, and open to the public.
 - 2. Survey and inventory documents and processes shall be compatible with the practices of the Oregon State Historic Preservation Office for maintaining the Oregon Inventory of Historic Sites.
 - 3. Records concerning archeological sites shall NOT be made available to the public.
 - 4. Properties included in the Cultural Resource Inventory are not subject to the provisions of 7.2.112.02 (Conformance Required), 7.2.112.06 (Demolition and Moving), 7.2.112.07 (Exterior Alteration and New Construction), or 7.2.112.08 (Notice of Public Hearing) of this Land Use and Development Code unless they are already listed on the National Register.

7.2.112.05 Landmark and District Designation

- A. Process. The process for designating a landmark or historic district may be initiated by the City Council, the Planning Commission, or by any interested person who submits an application for designation to the City Manager. At the time of application the City Manager shall provide the property owner and applicant with information regarding the benefits and restrictions of designation. *(Revised ORD 645; effective 02/12/20)*
- B. Information. The following information shall be required in an application:
 - 1. The applicant's name and address, and the applicant's signature; *(Revised ORD 645; effective 02/12/20)*
 - 2. The owner's name and address, and evidence of legal and recorded ownership of the subject property and the owner's signature; *(Revised ORD 645; effective 02/12/20)*
 - 3. A written description of the boundaries of the proposed district or the location of the proposed landmark;
 - 4. A map, drawn to scale, illustrating the boundaries of the proposed district, or a site plan, drawn to scale, indicating the location of structures on the subject property including the proposed landmark, and the dimensions of the structures and distances from the structures to the property lines. *(Revised ORD 645; effective 02/12/20)*
 - 5. A statement explaining the following:
 - a. The reason(s) why the proposed district or Designated Landmark should be designated under the decision criteria specified in Sub-section 7.2.112.05, E. *(Revised ORD 645; effective 02/12/20)*

- b. The reason(s) why the boundaries of the proposed historic district are appropriate for designation; *(Revised ORD 645; effective 02/12/20)*
 - c. The potential impact, if any, of the proposed historic district or Designated Landmark on the residents or other property owners in the area. *(Revised ORD 645; effective 02/12/20)*
 - 6. Any other information deemed necessary by the City Manager to address the approval criteria.
- C. Historic Preservation Committee (HPC) Review: After the application is deemed complete, the Historic Preservation Committee shall review the application at a regularly scheduled meeting or at a special meeting. The Historic Preservation Committee shall provide to the Planning Commission and the City Council a written recommendation based on the approval criteria in Section 7.2.112.05, E. The Committee serves in an advisory capacity. *(Revised ORD 645; effective 02/12/20)*
- D. Planning Council Action. After the application is deemed complete, the City Manager shall schedule the application to be considered at a Planning Commission meeting. The application shall be processed in accordance with the Type IV process pursuant to Section 7.3.2 (Administrative Procedures). The City Manager shall forward the application and any comments from the Historic Preservation Committee to the Planning Commission. The Planning Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Administrative Procedures), shall pass on an oral motion recommending the City Council approve or disapprove the application. The Planning Commission shall consider the Historic Preservation Committee's recommendation. The Planning Commission serves in an advisory capacity. *(Revised ORD 645; effective 02/12/20)*
- E. City Council Action. After the application is deemed complete, the City Manager shall schedule the application to be considered at a City Council meeting. The application shall be processed in accordance with the Type IV process pursuant to Section 7.3.2 (Administrative Procedures). The City Manager shall forward the application, any comments from the Historic Preservation Committee and the Planning Commission's recommendation to the City Council. The City Council, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Administrative Procedures), shall approve or disapprove the application. The City Council shall consider the Historic Preservation Committee and Planning Commission recommendations. *(Revised ORD 645; effective 02/12/20)*
- F. Decision Criteria. To approve the application the City Council shall consider the following criteria to determine if the proposed Designated Landmark or historic district should be approved: *(Revised ORD 645; effective 02/12/20)*
 - 1. The property is associated with events that have made a significant contribution to the broad patterns of local, state, or national history;
 - 2. The property is associated with the lives, persons, or groups of people, significant in local, state, or national history;
 - 3. The property embodies the distinctive characteristics of an architectural type, style, period, or method of construction, or that represents the work of a master, or that possesses high artistic values, or that represent a significant

and distinguishable entity whose components may lack individual distinction;
(Revised ORD 645; effective 02/12/20)

4. The property yielded or is likely to yield information which is significant to local, state, or national history; (Revised ORD 645; effective 02/12/20)
 5. The property is significant visual landmark; (Revised ORD 645; effective 02/12/20)
 6. The property contributes significantly to the continuity or historic character of the street, neighborhood, and/or community; (Revised ORD 645; effective 02/12/20)
 7. The resource is listed on the National Register of Historic Places.
- G. Removal of Designation. The process for removing a landmark designation or historic district designation may be initiated by the City Council, the Planning Commission, or by any interested person who submits to the City Manager an application for removal of the designation. The City Council may amend or rescind an existing designation by following the procedures set forth in Section 7.2.112.05 for designating a landmark or historic district, and determining the property no longer meets the criteria set forth in Section 7.2.112.05, F, including the adoption of findings. (Revised ORD 645; effective 02/12/20)
- E. If the property is listed on the National Registry of Historic Places, the removal shall be completed in cooperation with the State Historic Preservation Office (SHPO) and according to federal statute under CFR Part 60.15.
- F. In accordance with Oregon Revised Statute 197.772; (Added ORD 645; effective 02/12/20)
1. A property owner may refuse to consent to any form of historic property designation at any point during the designation process. Such refusal to consent shall remove the property from any form of consideration for historic property designation under ORS 358.480 to 358.545 or other law except for consideration or nomination to the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 et seq.).
 2. No permit for the demolition or modification or property removed from consideration for historic property designation under Subsection I, 1, or this section shall be issued during the 120-day period following the date of the property owner's refusal to consent.

7.2.112.06 Demolition and Moving

- A. Planning Commission Approval. No person shall move or demolish, or cause to be moved or demolished, an historic resource on the National Register of Historic Places, a Designated Landmark in the Historical Property Overlay Zone or in an historic district, unless approved by the Planning Commission. A Separate permit must be obtained from the Building Official to demolish or move the structure. (Revised ORD 645; effective 02/12/20)
- B. Application Process. An application for moving or demolishing an historic resource on the National Register of Historic Places, a Designated Landmark in the Historic Property Overlay Zone or in an historic district shall be filed on a form provided by the City. The following information shall be required in an application: (Revised ORD 645; effective 02/12/20)

1. The applicant's name and address and the applicant's signature; *(Revised ORD 645; effective 02/12/20)*
 2. The owner's name and address, and evidence of legal and recorded ownership of the subject property and the owner's signature; *(Revised ORD 645; effective 02/12/20)*
 3. A written description of the proposed moving or demolition and an explanation of how the moving or demolition meets the approval criteria set forth in Section 7.2.112.06, E; *(Revised ORD 645; effective 02/12/20)*
 4. A site plan, drawn to scale, indicating the location of structures on the subject property, the dimensions of the structures and the distances from the structures to the property lines; *(Revised ORD 645; effective 02/12/20)*
 5. Statements indicating the intended re-use of the subject property;
 6. Any other information deemed necessary by the City Manager to address the approval criteria. *(Revised ORD 645; effective 02/12/20)*
- C. Historic Preservation Committee (HPC): After the application is deemed complete, the Historic Preservation Committee shall review the application at a regularly scheduled meeting or at a special meeting. The Historic Preservation Committee shall provide to the Planning Commission a written recommendation based on the approval criteria. The Historic Preservation Committee serves in an advisory capacity. *(Revised ORD 645; effective 02/12/20)*
- D. Review Process. Upon receipt of a completed application, the City Manager shall schedule the application to be considered at a Planning Commission meeting. The Planning Commission shall hold a Type II public hearing pursuant to Section 7.3.2 (Administrative Procedures). The Planning Commission shall consider the Historic Preservation Committee's recommendation. *(Revised ORD 645; effective 02/12/20)*
- E. Approval Criteria. To approve the application to move or demolish a Designated Landmark, the Planning Commission must find one of the following criteria are met: *(Revised ORD 645; effective 02/12/20)*
1. No prudent and feasible alternative exists, or
 2. The Designated Landmark is deteriorated beyond repair; or *(Revised ORD 645; effective 02/12/20)*
 3. The value to the community of the proposed use of the property outweighs the historical or architectural value of retaining the Designated Landmark. *(Revised ORD 645; effective 02/12/20)*
- F. Planning Commission Approval. The Planning Commission may approve, or approve with conditions, the application where the application materials show at least one approval criterion is met. If no appeal is filed, the decision is effective on the day following the last day of the appeal period. *(Revised ORD 645; effective 02/12/20)*
- G. Planning Commission Denial. The Planning Commission may deny the application where the application materials do not show at least one approval criterion is met. If no appeal is filed, the decision is effective on the day following the last day of the appeal period. *(Revised ORD 645; effective 02/12/20)*

- H. Planning Commission Continuance. The Planning Commission may continue the final action in accordance with Subsection 7.2.112.06, K, below, and consistent with the State of Oregon 120-day rule for making a final decision on an application. *(Revised ORD 645; effective 02/12/20)*
- I. Appeals. A decision by the Planning Commission to approve, approve with conditions or deny the application may be appealed to the City Council by an aggrieved party who appeared orally or in writing, in person or through an attorney at the Planning Commission hearing and presented or submitted testimony related to the application under consideration. The appeal shall comply with the requirements in Section 7.3.2. (Administrative Procedures). *(Revised ORD 645; effective 02/12/20)*
- J. Alternative Actions. At the time a demolition or moving application is filed the City Manager shall review alternatives to demolition or moving with the owner of the resource, including local, state and federal preservation programs.
- K. Additional Requirements. During a period of continuance, the Planning Commission may require the property owner to:
1. List the resource for sale with a real estate agent for a period of time to allow for final decision within 120-days. The real estate agent shall advertise the resource in local and state newspapers of general circulation in the area for a minimum of 10 days and over a period of time that allows for a final decision within 120 days.
 2. Give public notice by posting the hearing notice on-site in addition to a "For Sale" sign which shall read: HISTORIC BUILDING TO BE MOVED OR DEMOLISHED - FOR SALE. Lettering on the sign shall be at least one foot in height. The sign shall be provided by the City and be posted by the applicant in a prominent and conspicuous place within ten feet of a public street abutting the premises on which the resource is located. The applicant is responsible for ensuring the sign is posted continuously within the time frame specified in Subsection 7.2.112.06, K, 1, above. *(Revised ORD 645; effective 02/12/20)*
 3. Prepare and make available any information related to the history and sale of the property to all individuals, organizations, and agencies who inquire.
 4. Ensure the owner has not rejected the highest bona fide offer for sale and removal of the resource.
- L. Press Notification. Prior to issuance of a demolition permit, the City Manager shall issue a press release to local or state newspapers of general circulation in the county. The press release shall include, but is not limited to, a description of the significance of the resource, the reasons for the proposed moving or demolition, and possible options for preserving the resource. *(Revised ORD 645; effective 02/12/20)*
- M. Permit Conditions. As a condition for approval of a demolition permit, the Planning Commission may:
1. Require photographic documentation, preparation of architectural drawings, and other graphic data or history as it deems necessary to preserve an accurate record of the resource. The historical documentation materials shall be the property of the City or other party determined appropriate by the Planning Commission. *(Revised ORD 645; effective 02/12/20)*

2. Require that specific artifacts, materials, or equipment be protected and saved. The owner may keep all such materials or donate or sell them to the City or other party determined appropriate by the Planning Commission. The applicant shall be provided with a list of persons capable of salvaging the resource. *(Revised ORD 645; effective 02/12/20)*

N. Dangerous Building. Section 7.2.112 shall not be construed to make it unlawful for any person, without prior approval of the Planning Commission, to comply with an order by the City Council to remove or demolish Designated Landmark determined by the City Council to be dangerous to life, health, or property. *(Revised ORD 645; effective 02/12/20)*

7.2.112.07 Exterior Alteration and New Construction

A. City Manager or Planning Commission Approval. No person shall alter the exterior of an historic resource on the National Register of Historic Places, or a Designated Landmark in the Historical Property Overlay Zone or in an historic district nor shall any new building or structure be constructed on a property on the National Register of Historic Places, or in the Historical Property Overlay Zone or in an historic district where the City Manager determines it is minor unless approved by the City Manager. No person shall alter the exterior of an historic resource on the National Register of Historic Places, or a Designated Landmark in the Historical Property Overlay Zone or in an historic district nor shall any new building or structure be constructed on a property on the National Register of Historic Places, or on a Designated Landmark site in the Historic Property Overlay Zone or in an historic district where the City Manager refers the application to the Planning Commission unless approved by the Planning Commission. A Building Permit may be required for certain exterior alterations and new construction. In addition, no major public improvements shall be made on a property on the National Register of Historic Places, or on a Designated Landmark site or in an historic district unless approved by the Planning Commission. *(Revised ORD 645; effective 02/12/20)*

B. Application Process. An application for the exterior alteration of a Designated Landmark or new construction on property on the National Register of Historic Places, or in the Historical Property Overlay Zone, or in an historic district shall be filed on a form provided by the City. The following information shall be required in an application: *(Revised ORD 645; effective 02/12/20)*

1. The applicant's name and address, and the applicant's signature; *(Revised ORD 645; effective 02/12/20)*
2. The owner's name and address, and evidence of legal and recorded ownership of the subject property and the owner's signature; *(Revised ORD 645; effective 02/12/20)*
3. Name of the person(s), title, or relationship to the project who will verify that the exterior alteration or new construction, if approved, has been completed according to the City's requirements; *(Revised ORD 645; effective 02/12/20)*
4. A written description and explanation of the proposed exterior alteration or new construction;

5. A site plan, drawn to scale, indicating the location or proposed location of structures on the subject property, the dimensions of the structures and the distances from the structures to the property lines; *(Revised ORD 645; effective 02/12/20)*
 6. Photographs, other pictorial and schematics information, sample materials and colors, if available, to represent the proposed exterior alterations or new construction; *(Revised ORD 645; effective 02/12/20)*
 7. Written explanation of the proposed exterior alteration or new construction in comparison with the City's 1993 Advisory Guidelines and the US Secretary of Interior Guidelines. (An on-line copy of the latter document is available for review at the following site: (www.nps.gov/history/hps/tps/standguide/index.htm). At the site, click on the tab "Education and Training," then click on "Online Training," then click on "Illustrated Rehabilitation Guidelines." *(Revised ORD 645; effective 02/12/20)*
 8. Any other information deemed necessary by the City Manager to address the approval criteria.
- C. Historic Preservation Committee (HPC): After the application is deemed complete, the Historic Preservation Committee shall review the application at a regularly scheduled meeting or at a special meeting. The Historic Preservation Committee shall provide a written recommendation based on the approval criteria to the City Manager and the Planning Commission. The Historic Preservation Committee serves in an advisory capacity. *(Revised ORD 645; effective 02/12/20)*
- D. City Manager Decision. Where the City Manager determines the application meets at least one of the following criteria 1, 2 or 3, for a minor exterior alteration or new construction, the City Manager may approve, approve with conditions, or deny the application. The City Manager shall consider the Historic Preservation Committee's recommendation. *(Revised ORD 645; effective 02/12/20)*
1. No change in the exterior appearance or material of the Designated Landmark as it exists or the proposed work is building maintenance; or *(Revised ORD 645; effective 02/12/20)*
 2. The proposed exterior alteration or new construction duplicates or restores the affected exterior features and materials as determined from historic photographs, original building plans, or other evidence of original features or materials; or *(Revised ORD 645; effective 02/12/20)*
 3. The exterior alteration is on a side or rear elevation of a Designated Landmark or is not visible from public rights-of-way, or the new construction is not visible from public rights-of-way. *(Revised ORD 645; effective 02/12/20)*
- E. Planning Commission Action. Where the City Manager determines the application is not a minor exterior alteration or is not minor new construction, the City Manager shall forward the application and the Historic Preservation Committee's recommendation to the Planning Commission. The Planning Commission shall consider the Historic Preservation Committee's recommendation. The Planning Commission, after notice and public hearing held in accordance with provisions in Section 7.3.2 (Administrative Procedures) shall approve, approve with conditions or deny the application. *(Revised ORD 645; effective 02/12/20)*

- F. Decision Criteria. To approve the application for exterior alteration of a Designated Landmark or new construction on property on the National Register of Historic Places, or in the Historical Property Overlay Zone, or in an historic district the Planning Commission shall consider the following criteria: *(Revised ORD 645; effective 02/12/20)*
1. The proposed new use is similar to the historical use of the property or the proposed new use requires minimal change to the Designated Landmark's or its property's distinctive materials, features, spaces, and spatial relationships. *(Revised ORD 645; effective 02/12/20)*
 2. Historic character of the property is retained and preserved. The relocation of distinctive materials or alterations of exterior features, spaces, and spatial relationships that characterize the property shall be avoided. *(Revised ORD 645; effective 02/12/20)*
 3. Use of the property recognizes the physical record of its time, place, and use. Changes that create a false sense of historic development, such as adding conjectural features or elements from other historic properties, shall not be undertaken.
 4. Changes acquiring historic significance in their own right are retained and preserved.
 5. Alterations preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the property.
 6. Historic features are repaired versus replaced. Where 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.
 7. Use of chemical and physical treatments, if appropriate, are undertaken by the gentlest means possible. Treatments that cause damage to historic materials shall not be used.
 8. Alteration, including new additions, exterior alterations, or related new construction, do 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 proportions, and massing to protect the integrity of the property and environment
 9. New additions and adjacent or related new construction on the subject property are undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment are unimpaired. *(Revised ORD 645; effective 02/12/20)*
 10. Consider design guidelines such as applicable sections of the City's 1993 Advisory Guidelines or the U.S. Secretary of Interior's Standards; (www.nps.gov/history/hps/tps/standguide/index.htm). *(Revised ORD 645; effective 02/12/20)*
- G. Repair and Maintenance Provisions. No provision of Section 7.2.112 shall be construed to prevent the ordinary maintenance or repair of a Designated Landmark

including, but not limited to an exterior architectural feature which does not involve a change in design, material or appearance of such feature. The City Manager shall determine if the proposed activity is required for the public safety due to an unsafe or dangerous condition. *(Revised ORD 645; effective 02/12/20)*

- H. Building Code Leniency. Property owners may request the City Building Official or designee grant leniency for non-conforming exterior alterations, repairs, additions, and changes of occupancy for existing Designated Landmark structures in accordance with the current Oregon Structural Specialty Code, or Oregon Residential Specialty Code. In accordance with the statute, the Building Official or designee may seek guidance from the Oregon State Historic Preservation Office in the application of this provision. *(Revised ORD 645; effective 02/12/20)*

7.2.112.08 Notice and Public Hearing

- A. Application Process. In accordance with section 7.3.101.01, D, an application for a minor exterior alteration or minor new construction on a property on the National Register of Historic Places, or on the site of a Designated Landmark in the Historical Property Overlay Zone or in an historic district, is a Type I process. In accordance with Section 7.3.101.02, F, an application for a major exterior alteration or major new construction on a property on the National Register of Historic Places, or on the site of a Designated Landmark in the Historical Property Overlay Zone or in an historic district, is a Type II process. *(Revised ORD 645; effective 02/12/20)*

7.2.112.09 Affirmative Maintenance.

Designated Landmarks and their sites shall be maintained. See 7.2.112.03, Definitions—Affirmative Maintenance and Deterioration, Prohibited.

Properties with Designated Landmarks deemed deficient in maintenance are subject to the violation provisions and other applicable ordinances of the City. (See Land Use and Development Code, Section 7.1.102.06, Violations, and the Municipal Code, Section 4.5, Dangerous Buildings.) *(Revised ORD 645; effective 02/12/20)*

7.2.112.10 Enforcement of State Preservation Laws

The City of Dayton City Council, Planning Commission, and the Historic Preservation Committee shall support the enforcement of all State laws relating to historic preservation. These include but are not limited to ORS 197.772 (Consent for designation as historic property), ORS 358.653 (Conservation Programs, Leases), and ORS 358.475 through 358.541 (Special Assessment). *(Revised ORD 645; effective 02/12/20)*

SECTION 2: LAND USE AND PLANNING

City of Dayton Land Use and Planning Fees

Resolution: 2016/17-01

Effective: September 6, 2016

Adopted: September 6, 2016

TYPE OF LAND USE ACTION	APPLICATION FEE
Annexation	\$1500
Appeal from Planning Commission Decision	\$250
Appeal from Administrative Decision	\$250
Boundary/Lot Line Adjustment	\$300
Comprehensive Plan Amendment	\$1,500
Comprehensive Plan or Zoning Ordinance Text Amendment	\$1,500
Conditional Use Permit	\$1,850
Development Agreements	\$700
Historic Landmark Clearance / Building Alteration	\$100
Historic Landmark Notice of Delay	No Fee
Manufactured Home Park	\$4,300
Multiple Applications	100% of most expensive + 50% of all others
Nonconforming Use	\$450
Partition - Major	\$1,300
Partitions - Minor (Administrative)	\$1,250
Planned Development	\$4,000
Planned Development Amendment	\$300
Pre-Application Meeting	No Fee
Reimbursement District	\$1,000
Restricted Development Review	\$500
Sign Permit - Exterior	\$100
Similar or Temporary Use Permit	\$450
Site Plan/Design Review	\$1,200
Subdivision	\$4,000 +\$20 per/lot
Time Extensions	50% of original application cost
Transcripts	Actual costs of time to prepare
Urban Growth Boundary Amendment	\$2,100
Variance - Major	\$700
Variance - Minor (Administrative)	\$350
Zone Change	\$2,000

Note: The above fees and deposits are an estimate of the costs to process land use applications. **Applicants are responsible for paying the actual costs associated with processing their application,** including but not limited to, time for initial review by staff, costs of required public notices, City Planner review, Engineering and Public Works review and/or inspection and legal services.