

## Sample Conservation District Ordinance Provisions

*Neighborhood conservation district programs have been established in many communities in the United States. These programs, often housed within a city or town's historic preservation or planning department, provide special protection for older neighborhoods that may not be able to qualify for historic designation. Typically enacted as overlays to underlying zoning restrictions, conservation district laws employ a variety of tools to preserve a neighborhood's character defining features such as design review and the application of development controls that address mass and scale, such as set-back, lot coverage, F.A.R. and height allowances. By tailoring the zoning and design restrictions to respond to the specific concerns of a neighborhood, local jurisdictions can protect the special characteristics that a neighborhood would like to preserve.*

*Set forth below are examples of conservation district ordinance provisions that have been adopted by communities around the United States. These ordinances provide authority to establish conservation districts and regulate physical changes within those areas. Specific guidelines are generally developed as part of a neighborhood conservation district plan. For detailed information on neighborhood conservation districts, see "Protecting Older Neighborhoods through Conservation District Programs," published at 21 PLR 1001 (Jan-Mar. 2002-03). Further information on these and other conservation district programs is located at the end of this report.*

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### Boise, Idaho

*The Boise Conservation District Ordinance authorizes the establishment of a "Neighborhood Conservation District" as an overlay zone through the adoption of a designating ordinance. Review authority may be delegated to the Planning & Zoning Commission, the Historic Preservation*

*Commission, Design Review Committee, or other board or commission, as appropriate. Boise established the Near North End Conservation District, located near the city's downtown, in 2001. Among other things, the conservation district seeks to preserve the area's residential character and curtail the demolition of existing structures for parking lots and new office development. Both ordinances are reprinted below.*

**Boise Municipal Code  
Chapter 11-19**

**NEIGHBORHOOD CONSERVATION DISTRICTS**

**Section 11-19-01 CONSERVATION DISTRICTS**

Conservation Districts are usually applied to residential neighborhoods with certain identifiable attributes embodied in architecture, use, urban design, geography or history. They can be used to protect neighborhoods from changes that would otherwise be allowed by the underlying zoning. A Conservation District accomplishes its purpose by serving as an overlay zone which augments the standards of the base zone for new construction, major alterations or additions to existing buildings and structures or lands.

**11-19-01.01 General Purpose and Intent**

The purpose of this chapter is to provide a land use or zoning tool to preserve the character of selected neighborhoods and to protect unique areas of the city from inappropriate development. Conservation Districts may have provisions that modify any portion of the regulations of the underlying base zone. Such provisions may apply additional requirements or allow exceptions to the standard regulations of the base zone. (6081, Added, 08/21/2001)

**Section 11-19-02 DESIGNATION OF CONSERVATION DISTRICTS**

Conservation districts shall be designated by ordinance and in accordance with the following requirements:

A. Neighborhoods or areas selected for consideration for a Conservation District designation shall meet one of the following criteria:

1. Has a distinctive character with identifiable attributes, embodied in architecture, use, urban design or history that make it a unique and integral part of the city's identity.
2. Has a recognized neighborhood identity and a definable physical character that may have a high artistic value or may have a relationship to urban centers or historic districts which makes the area's conservation essential to the city's history or function.

B. The Planning and Zoning Commission, either upon its own initiative, or upon the request of the City Council, or upon the request of one or more property owners residing in the area, or upon a request from staff, may recommend the designation of one or more Conservation District(s). Prior to recommending an area for designation as a Conservation District, the Commission shall conduct any necessary studies, research or investigations based on the relevant criteria outlined in Section 11-19-02.A, as well as an assessment of neighborhood and landowner support. Thereafter, the Commission shall prepare a report containing recommendations concerning the area or areas to be included in the proposed Conservation Dis-

tricts(s).

C. Copies of the report shall be transmitted for review and recommendation to relevant bodies which may include, not limited to, the Historic Preservation Commission, the Design Review Committee or the City Council. Within sixty (60) days after the date of transmittal of such report, the Planning & Zoning Commission shall hold a public hearing thereon. Notice of the time, place and purpose of such hearing shall be given at least fifteen (15) days prior to such hearing by one publication in a newspaper of general circulation in the City and by a written notice of such hearing by mail to the applicant and to property owners, purchasers of record and residents within the proposed district(s).

D. After such public hearing, the Planning & Zoning Commission shall submit a final report with its recommendations and a draft of the proposed ordinance to the City Council.

E. The City Council shall act upon the report and recommendation in accordance with the provisions of Section 11-02-08 of the Boise City Code. (6081, Added, 08/21/2001)

#### **Section 11-19-03 ESTABLISHMENT OF CONSERVATION DISTRICTS**

A. Each Conservation District must be established by a separate ordinance as may be approved by the City Council. Before adopting a Conservation District Ordinance in a district that may be of historic significance, the Historic Preservation Commission shall have the opportunity to review and comment on any such proposed ordinance.

B. Conservation Districts may have provisions that modify any portion of the regulations of the underlying base zone. The provisions may apply additional requirements or allow exceptions to the standard regulations of the base zone.

C. Depending upon the purpose and intent of a designated Conservation District, proposal for new development or redevelopment on properties or structures within such district may be reviewed by the Planning & Zoning Commission, the Historic Preservation Commission, Design Review Committee, or other board or commission as may be appropriate and will be designated within the specific Conservation District Ordinance. (6081, Added, 08/21/2001)

#### **Section 11-19-04 ADOPTED CONSERVATION DISTRICTS**

The following conservation districts have been adopted by the City of Boise: Encompassing the area from the north side of W. Franklin Street, north to the south side of Fort Street, and from the east side of 17th Street to the west side of 4th Street. (6081, Added, 08/21/2001)

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### **Boise Municipal Code Chapter 11-20**

#### **NEAR NORTH END CONSERVATION DISTRICT**

##### **Section 11-20-01 NEAR NORTH END CONSERVATION DISTRICT**

The intent of the Near North End Conservation District (CD) shall be to encourage continued residential uses; protect the historical and architectural character of the neighbor-

hood using adaptive reuse methods; encourage redevelopment and/or renovation of established historic institutional uses; allow for adaptive reuse of existing structures for multi-family residential and office uses; minimize demolition of structures for parking lots or new office developments; and to maintain the Near North End as a transitional area between the commercial intensity of downtown and the predominant single-family residential neighborhoods of the north end.

#### **11-20-01.01 Near North End Conservation District Boundaries**

The Near North End Conservation District Boundary is as depicted on the map in Figure (1), [not reproduced] and as described herein:

Encompassing the area from the north side of W. Franklin Street, north to the south side of Fort Street and from the east side of 17th Street to the west side of 4th Street.

#### **11-20-01.02 Near North End Conservation District Overlays and Zones**

The base zones within the Near North End CD shall remain unless otherwise rezoned by ordinance amendment. The Conservation District provides additional zoning allowances and restrictions beyond those that are contained within the existing base zones, as needed, to achieve the intent of the General Purpose. Any parcel of land lying within the conservation district shall also lie within one or more of the existing base zones provided by the Zoning Ordinance. The effect shall be the creation of new zoning districts consisting of the regulations and requirements of both the underlying base zones and the conservation district. (6080, Added, 08/21/2001)

#### **Section 11-20-02 DEFINITIONS**

Adaptive Reuse: The modification of an existing building (most typically a single family dwelling) for use as either an office or a multi-family dwelling unit or a historic institutional use, while maintaining the architectural integrity of the original structure; or the conversion of any such structure back to its original use as a single family dwelling.

Conservation District (CD): Conservation Districts are usually residential neighborhoods with certain identifiable attributes, embodied in architecture, urban design, geography, development patterns, and/or history, that are subject to special zoning and/or land-use regulations.

Historic Institutional Use: Any school (public or private), church (including synagogue, temple or other house of worship), commercial service or office use within the District that is significant to the history, architecture or culture of the District.

Parking—Off-Site: Any required parking space that is separated from the site of the principle use by either an intervening lot, a public roadway or a public alley.

Parking—On-Site: Any required parking space that is located on the same site as the principle use for which the parking is intended.

Parking Overlay District: A Parking Overlay District (“P”) is designed to accommodate the need for off-street parking ratio alternatives in accordance with the special needs of a designated area.

Public Parking Garage: A building or portion thereof consisting of one or more levels at, below, or above grade, designed to be used for the parking of automobiles and commercial vehicles that is available to the public, whether for compensation, free or as an accommodation to clients or customers.

Surface Parking Lot: An open, graded and surfaced area, other than a street or public way, to be used for limited periods of time and for the parking of passenger automobiles and commercial vehicles that is available to the public, whether for compensation, free or as an accommodation to clients or customers. A surface parking lot shall not include a parking structure or garage of one or more levels at, below or above grade.

Tandem Parking Space: A parking space designed to accommodate two vehicles parked in tandem (one behind the other) which meets all the parking space dimensional standards as outlined in Section 11-10-04: Table 12. (6080, Added, 08/21/2001)

### **Section 11-20-03 RESTRICTIONS AND ALLOWANCES IN THE R-3 ZONE**

The following restrictions and allowances beyond the requirements of the R-3 zone shall apply within the Near North End R-3 zone.

#### **Section 11-20-03.01 Prohibited Uses in the R-3 Zone**

- a) New off-site parking lots, except on parcels demonstrated to have been vacant on or before the effective date of this ordinance. This prohibition shall not preclude the use of existing on-site parking lots as “for rent” off-site parking.
- b) On-site surface parking lots larger than 2,500 square feet, unless incorporated within a new residential use or within and as part of the renovation, redevelopment or expansion of a historic institutional use. As used in this Section the phrase “incorporated within” shall mean the interior or rear yard of a development so that it is not visible from the public street.
- c) New office construction on lots larger than 2,500 square feet, except on parcels demonstrated to have been vacant on or before the effective date of this ordinance, or when provided by means of the adaptive reuse of an existing structure.
- d) All other uses prohibited in the R-3 zone.

#### **Section 11-20-03.02 Parking Allowances for Adaptive Reuse in the R-3 Zone**

Adaptive reuse of a single-family structure for office or multi-family residential or historic institutional use may be granted the following allowances for parking requirements:

1. Tandem parking in the rear yard, with alley access, is permitted.
2. The use of shared parking agreements and parking joint use agreements will be encouraged. (6080, Added, 08/21/2001)

### **Section 11-20-04 RESTRICTIONS AND ALLOWANCES IN THE L-O ZONE**

The following restrictions and allowances beyond the requirements of the L-O zone shall apply within the NNE Conservation District.

#### **Section 11-20-04.01 Prohibited Uses in the L-O Zone**

- A) New off-site surface parking lots, except on parcels demonstrated to have been vacant on or before the effective date of this ordinance. This prohibition shall not preclude the use of existing on-site parking lots as “for rent” off-site parking.
- B) All other uses prohibited in the L-O zone.

#### **Section 11-20-04.02 Parking Allowances for Adaptive Reuse in the L-O Zone**

Adaptive reuse of a single-family structure for office or multi-family residential or historic institutional use may be granted the following allowances for parking requirements:

1. Tandem parking in the rear yard, with alley access, is permitted. (6080, Added, 08/21/2001)

**Section 11-20-05 ADAPTIVE REUSE LIMITATIONS FOR ADDITIONS**

Buildings which are adaptively reused pursuant to the provisions of this section may be expanded in size up to 50% of their square footage as existed at the time of adoption of this ordinance, provided:

1. The expanded portion is in keeping with the architecture of the existing building;  
and
2. The site is large enough to accommodate the required number of off-street parking spaces without the granting of a variance for setbacks and/or landscape. (6080, Added, 08/21/2001)

**Section 11-20-06 OFF-SITE PARKING STRUCTURE ALLOWANCES FOR HISTORICAL INSTITUTIONAL USES**

Off-site parking structures (garages) that are designed to blend with the predominate architectural theme of the surrounding area and which include a significant residential component, may be considered by the Commission through the Conditional Use Permit process. (6080, Added, 08/21/2001)

## **Boulder County, Colorado**

*Boulder County, Colorado places high emphasis on neighborhood consensus. Initiation of the designation process requires the consent of at least 50 percent of the owners within a proposed conservation district. Sixty percent approval is then required before the proposed district is adopted. As part of the designation process, the county's planning department staff works with the neighborhood to develop a "neighborhood conservation plan" that details the policies intended to protect the character and valued features of the proposed neighborhood conservation overlay district.*

### **Boulder County Land Use Code**

#### **Section 4-118 Neighborhood Conservation Overlay District**

##### **(A) Purpose**

- (1) To preserve and protect the character or valued features of established neighborhoods.
- (2) To recognize the diversity of issues and character in individual neighborhoods in the unincorporated parts of Boulder County.
- (3) To reduce conflicts between new construction and existing development in established neighborhoods.
- (4) To provide knowledge and reliance about the parameters of neighborhood character.
- (5) To allow neighborhoods to work together with the County to formulate a plan that defines their community of common interest and that fosters a defined community character consistent with County zoning, the Land Use Code, and the Comprehensive Plan.
- (6) To complement the County's Site Plan Review process in neighborhoods that have defined their community character pursuant to these regulations.

##### **(B) General Provisions**

- (1) Each Neighborhood Conservation Overlay District must be established by a separate resolution that shall include a map defining the overlay boundaries, and the Neighborhood Conservation Plan (as specified in this Article 4-118(F)), and shall become a part of the Boulder County Land Use Code.
- (2) An approved Neighborhood Conservation Overlay District does not replace the underlying zoning of the area, which remains as the source of minimum, applicable restrictions on structures, uses, and development. Any approved Neighborhood Conservation Overlay District may further appropriately limit, but may not expand, the uses and development allowed in the zoning districts in which the subject parcels are mapped.
- (3) All new development, additions, changes, and expansions to existing structures must comply with the regulations associated with the Neighborhood Conservation Overlay District.
- (4) Neighborhood Conservation Overlay Districts must be consistent with the Boulder County Comprehensive Plan, applicable intergovernmental agreements,

and the Boulder County Land Use Code.

(5) Neighborhood Conservation Overlay Districts may contain requirements related to only the following issue areas: the location of proposed buildings or additions; uses; height; size; exterior materials; exterior color; exterior lighting; neighborhood character and compatibility; view preservation of or from specific locations, particularly from public lands and right of ways; visual impact on natural features or neighborhood character; compatibility with topography and vegetation; landscaping and screening; geologic hazards; wildfire mitigation; riparian areas, wetland areas, or drainage patterns; plant communities or wildlife habitat; migration corridors; geologic, geomorphic, paleontological, or pedologic features; agricultural lands; historic or archaeological resources; site disturbance; avoidance of development on visually exposed portions of the property; runoff, erosion, and sedimentation; and impact on Natural Landmarks or Natural Areas.

(6) Site Plan Review will not be required in an approved Neighborhood Conservation Overlay District to the extent that the approved Neighborhood Conservation Plan covers the relevant site plan review criteria of Article 4-806 of the Boulder County Land Use Code.

(7) The area of each Neighborhood Conservation Overlay District:

(a) shall include a minimum of 15 adjacent privately-owned parcels, unless the area proposed is an extension of the boundaries of an approved Neighborhood Conservation Overlay District.

(b) shall include privately-owned parcels that are closely settled and of similar size, and which are associated by common characteristics of geography, development, services, and interests.

(c) should consider other adjacent privately-owned parcels having shared distinguishing characteristics that could be found to comprise a logical neighborhood unit, when determining the boundaries of a Neighborhood Conservation Overlay District.

(d) shall exempt privately-owned parcels of five acres or greater, unless the owner of the parcel agrees to inclusion of that parcel into the Neighborhood Conservation Overlay District.

(8) Uses and structures legally existing at the time of adoption of a Neighborhood Conservation Overlay District under these regulations, shall not become nonconforming solely by virtue of adoption of the district. Notwithstanding this provision, any changes or additions to uses or structures in the district that occur after the date of adoption of the district, shall comply with the provisions of the adopted district.

(a) In Neighborhood Conservation Overlay Districts creating a size limitation or floor area restriction, the Board of County Commissioners, through adoption of the NCOD, may allow an additional 10% of floor area for parcels near or above the designated size limitation.

### **(C) Initiation of Neighborhood Conservation Overlay District**

(1) The establishment of a Neighborhood Conservation Overlay District may be initiated by a group of 50% of the property owners within the proposed boundaries demonstrating interest in the Neighborhood Conservation Overlay District.

(2) Neither the Board of County Commissioners nor the Planning Commission shall initiate the establishment of a Neighborhood Conservation Overlay District.

### **(D) Pre-application Conference**

A pre-application conference as defined in Article 3-201 of the Boulder County Land



Use Code shall be held prior to the submission of an application for a Neighborhood Conservation Overlay District.

**(E) Application and Submittal Requirements**

An application for a Neighborhood Conservation Overlay District must include the following:

- (1) Statement of Purpose that addresses the following issues:
  - (a) what the proposed Neighborhood Conservation Overlay District wants to accomplish and why
  - (b) description of neighborhood character and valued features to be protected in the neighborhood
  - (c) why the proposed Neighborhood Conservation Overlay District boundaries make sense as a defined "neighborhood" (for example: consider utility and services providers in area; school attendance; transportation links)
- (2) Map that indicates the boundaries of the proposed Neighborhood Conservation Overlay District, and identifies the parcels within it
- (3) Description of the neighborhood, detailing land use, development, and distinguishing characteristics of neighborhood
- (4) Description of the history and evolution of the neighborhood
- (5) A petition that is (i) affirmatively signed by at least 50% of the property owners of parcels within the proposed district, indicating those owners' support for the County to proceed with processing of the application, and (ii) signed by all of the other owners of parcels in the proposed district indicating whether the property owner is AGAINST, UNDECIDED, or HAS NO COMMENT on the application, except that if the signature of such an owner cannot be obtained, the applicant may substitute a signed affidavit stating that the applicant has attempted in good faith to obtain the signature of such owner but has been unable to do so. Owners of record will be based on currently available Assessor's information.
- (6) The name and phone number of a designated representative for the neighborhood, who has the power to withdraw the application at any time
- (7) A list of all homeowner associations or other parties with an interest in the proposed Neighborhood Conservation Overlay District. This list should include information as to the number of members and the officers' names, mailing addresses, and phone numbers

**(F) Neighborhood Conservation Plan Formulation**

The Neighborhood Conservation Plan shall detail the policies intended to protect the neighborhood character and valued features identified in the proposed Neighborhood Conservation Overlay District. The Neighborhood Conservation Plan shall be drafted in cooperation with the neighborhood and County staff, based on the neighborhood application, land use analysis of the neighborhood, and input from neighborhood meetings.

- (1) County staff will conduct a land use analysis of the neighborhood and will present it at the neighborhood meetings. The land use analysis should include at least the following elements:
  - (a) zoning of area
  - (b) lot sizes and configuration
  - (c) land uses in the neighborhood
  - (d) description of housing and other uses: size, height, etc.
  - (e) previous Land Use reviews completed in the neighborhood
  - (f) subject to availability, aerial maps of neighborhood showing structure lo-

- cations or other applicable maps
- (2) Neighborhood Meetings
    - (a) At a minimum, two neighborhood meetings will be conducted in conjunction with County staff as part of the Neighborhood Conservation Plan formulation process:
      - (i) an initial meeting to discuss the land use analysis, the boundaries of the proposed overlay district, and what the neighborhood wants to accomplish with the Neighborhood Conservation Overlay District
      - (ii) a final meeting to present and discuss the final proposed Neighborhood Conservation Plan
    - (b) All property owners within the proposed Neighborhood Conservation Overlay District boundaries will be notified by the County of the meeting date and time, and will be sent information about the proposal.
  - (3) Neighborhood Conservation Plan shall include:
    - (a) a map indicating the properties affected and the proposed boundaries of the Neighborhood Conservation Overlay District. These boundaries may change from those initially submitted or proposed, based on land use analysis and input from neighborhood meetings
    - (b) the proposed land use standards and requirements for the Neighborhood Conservation Overlay District
    - (c) other guidelines or background information related to the Neighborhood Conservation Overlay District
    - (d) any pertinent items in the Development Report (Article 3-203(F) of Boulder County Land Use Code) not otherwise addressed in the Neighborhood Conservation Plan
    - (e) a statement indicating the extent to which the proposed Neighborhood Conservation Plan includes exemption from Site Plan Review

**(G) Standards and Conditions for Approval of a Neighborhood Conservation Overlay District**

The Neighborhood Conservation Overlay District shall be approved only if the Board of County Commissioners finds that:

- (1) the proposed Neighborhood Conservation Overlay District is an established area with shared distinguishing characteristics, which may include geography, development, services, and interests.
- (2) the proposed Neighborhood Conservation Overlay District is a logical neighborhood unit with a closely settled development pattern on similar sized parcels.
- (3) the Neighborhood Conservation Plan complies with the standards and conditions specified by Article 4-1102 and Article 16 of the Boulder County Land Use Code.

**(H) Agency and Public Review**

Review of a Neighborhood Conservation Plan shall proceed through the following steps:

- (1) Referral Requirements and Agency Review as specified by Article 3-204 of the Boulder County Land Use Code
- (2) Planning Commission Review as specified by Article 3-205(B) of the Boulder County Land Use Code
- (3) The written consent of 60% of the owners of record of the parcels within the

proposed Neighborhood Conservation Overlay District, with each property not allowed more than one vote, must be obtained prior to review of the Neighborhood Conservation Overlay District by the Board of County Commissioners. Owners of record will be based on currently available Assessor's information.

(4) Board of County Commissioners Review as specified by Article 3-205(C) of the Boulder County Land Use Code

(a) Resolution of Approval shall include the Neighborhood Conservation Plan, and the specific site plan review criteria covered by the Neighborhood Conservation Plan that are exempt from future Site Plan Review.

**(I) Amendments to an Approved Neighborhood Conservation Overlay District**

(1) Any proposal to add or subtract 15 or fewer parcels (without change to the text of the Neighborhood Conservation Plan) to an approved Neighborhood Conservation Overlay District shall be subject to the requirements of this Article 4-118(D), (E)(1)(b), (E)(1)(c), (E)(1)(e), (E)(1)(f), (E)(1)(g), (F)(1), (F)(3)(a), (G), and (H) of the Boulder County Land Use Code.

(2) Any proposal to add or subtract more than 15 parcels to an approved Neighborhood Conservation Overlay District, including the dissolution of the Neighborhood Conservation Overlay District, or any proposed modification to an approved Neighborhood Conservation Plan, is subject to the requirements of this Article 4-118.

**(J) Waivers From the Terms of an Approved Neighborhood Conservation Overlay District**

Waivers from a specific term or terms of an approved Neighborhood Conservation Overlay District for a particular proposed development on a parcel included within the district, may be granted if 60% of the property owners of the parcels included within the district (excluding the owners of the parcel requesting the waiver) agree in accordance with the voting requirements of Section (H)(3) above, and if the BOCC subsequently decides at a public hearing that the waiver does not conflict with the stated conservation purposes of the district under the unique circumstances of the particular parcel in question (or reasonable mitigation measures can be imposed on the development such that a conflict does not result). The BOCC shall provide public notice of its hearing by mailing notice of the date, place, time, and subject of the hearing to all record owners of property within the district, and by publishing notice of the hearing in a newspaper of general circulation in the County, at least 14 days prior to the scheduled public hearing date.

## Cambridge, Massachusetts

*Conservation districts in Cambridge are part of the city's historic preservation program and are established upon the recommendation of the Cambridge Historical Commission. As is typically the case, individual districts are designated by the adoption of a special ordinance. Upon designation, the city manager has authority to appoint a neighborhood conservation district commission, which must include a member of the historical commission as well as residents in the district. Neighborhood Conservation District Commission determinations on applications to construct a new building, to demolish an existing structure if a demolition permit is required, to construct a parking lot as a principal use, and to construct an addition to an existing structure that would increase the structure's gross floor area are binding. Certain categories of alterations may be exempt from review. For further information on the city's conservation district program and individually-designated districts, visit the Historical Commission's website at: <http://www.ci.cambridge.ma.us/~Historic/>.*

### **Section 2.78.139A Article III. Establishment of Neighborhood Conservation Districts and Protected Landmarks**

#### **Section 2.78.140 Purpose.**

The City Council finds it necessary to enact this article under Section 6 of the Home Rule Amendment in order to preserve, conserve and protect the beauty and heritage of the City and to improve the quality of its environment through identification, conservation and maintenance of neighborhoods, areas, sites and structures which constitute or reflect distinctive features of the architectural, cultural, political, economic or social history of the City; to resist and restrain environmental influences adverse to this purpose; to foster appropriate use and wider public knowledge and appreciation of such neighborhoods, areas or structures; and by furthering these purposes to promote the public welfare by making the City a more attractive and desirable place in which to live and work. To achieve these purposes, the City may designate neighborhood conservation districts and landmarks to be administered as set forth in this article. (Ord. 1002 (part), 1983: prior code § 2-147(k) (1))

#### **Section 2.78.150 Definitions for Article III.**

In addition to the terms defined in Section 2.78.080 of this chapter, the following terms, when used whether or not capitalized in this subsection, shall have the meanings set forth in this section, unless the context otherwise requires:

A. "Demolition" means the act of pulling down, destroying, removing or razing structures, or commencing the work of total or substantial destruction with the intent of completing the same.

B. "Exterior architectural features" means and includes such portion of the exterior of a structure as is open to view from a public street, way, park or body of water, including but not limited to the architectural style and general arrangement and setting thereof, the kind, material and texture of exterior building materials, and the type and style of windows, doors, lights, signs and other appurtenant exterior fixtures.

C. "Historic district" means an area so established under the authority of Chapter

40C of the General Laws.

D. "Landmark" means any property within the City so designated in accordance with Section 2.78.180 of this article.

E. "Neighborhood conservation district" means any area within the City so designated in accordance with Section 2.78.180 of this article.

F. "Neighborhood conservation district commission" or "district commission" means a commission provided for by Section 2.78.160 of this article.

G. "Structure" means a combination of materials including a building, sign, fence, wall, terrace, walk, driveway, street, bridge, statue, monument or other manmade feature.

H. "Gross floor area" means the floor area so defined in Article 2.000 of the Zoning Ordinance of the City of Cambridge. (Ord. 1166 §§7, 16, 1995; Ord. 1002 (part), 1983; prior code § 2-147(k)(2))

**Section 2.78.160 Neighborhood conservation district commission--Established--Membership requirements.**

A. Upon designation as provided in Section 2.78.180 of this article of any neighborhood conservation district, and unless the designation provides that the Historical Commission itself shall exercise authority with respect thereto, the City Manager shall appoint a neighborhood conservation district commission to consist of five members and three alternates. The members shall include three residents of the neighborhood, not less than two of whom shall be homeowners; one neighborhood property owner (who may or may not be a neighborhood homeowner); and one member or alternate of the Cambridge Historical Commission. The three alternates shall all be neighborhood property owners. The neighborhood conservation district commission shall act solely in the exercise of those functions described in this article which are applicable to the district under its administration.

B. Any member or alternate of the Historical Commission may be appointed to a neighborhood conservation district commission for a term coterminous with such person's term as a member or alternate of the Historical Commission. Members and alternates of a neighborhood conservation district commission who are not members of the Historical Commission shall by reason of experience or education have demonstrable knowledge and concern for improvement, conservation and enhancement of the district, and at least two of the members or alternates shall have professional qualifications related to real estate or architecture or historic preservation. The members of the neighborhood conservation district commission shall be appointed by the City Manager with regard to the diverse viewpoints expressed in the creation of the district. Such members shall serve for a term of three years, except that the initial appointments shall be for one member to serve one year and one member to serve two years, and vacancies shall be filled for the unexpired term of office. Each member and alternate shall continue in office after expiration of his or her term until a successor is duly appointed and qualified, except that no member shall serve more than two consecutive terms.

C. The neighborhood conservation district commission shall elect annually a Chairman and Vice-Chairman from its own number. In the case of absence, inability to act, or unwillingness to act because of self-interest on the part of a member, his or her place shall be taken by an alternate member designated by the Chairman, if available, otherwise by the Vice-Chairman if available, otherwise by a majority vote of the members and alternate members of the Commission present. The person exercising the function of Executive Director of the Historical Commission shall serve as secretary of each neighborhood conservation district commission. Persons serving as members or alternate members of a neighborhood conservation district commission shall, as a result of

such service, be considered as "special municipal employees" for purposes of Chapter 268A of the General Laws. (Ord. 1166 §8, 1995; Ord. 1002 (part), 1983: prior code § 2-147(k)(3))

**Section 2.78.170 Powers and duties.**

The Historical Commission and each neighborhood conservation district commission shall have like powers, functions and duties with respect to each landmark and neighborhood conservation district over which it has jurisdiction as is provided Historic District Commissions under clauses (a) through (g) under Section 10 of Chapter 40C of the General Laws with respect to historic districts, including without limitation with respect to the approval and disapproval of certificates of appropriateness, nonapplicability and hardship, the dating and signing of such certificates, the keeping of records and adoption of rules and regulations, the filing with the City Clerk and Building Department of certificates and determinations of disapproval by it, and the determination of designs of appurtenances (excluding colors) which will meet the requirements of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (9))

**Section 2.78.180 Designation procedures.**

A. The Historical Commission by majority vote may recommend for designation as a landmark any property within the City being or containing a place, structure, feature or object which it determines to be either (1) importantly associated with one or more historic persons or events, or with the broad architectural, aesthetic, cultural, political, economic or social history of the City or the Commonwealth or (2) historically or architecturally significant (in terms of period, style, method of construction or association with a famous architect or builder) either by itself or in the context of a group of structures; may recommend for designation as a neighborhood conservation district any area within the City containing places and structures which it determines are of importance to the architectural, aesthetic, cultural, political, economic or social history of the City, and which considered together cause such area to constitute a distinctive neighborhood or to have a distinctive character in terms of its exterior features; and may recommend amendments to any designation of landmark or neighborhood conservation district theretofore made.

B. Prior to the recommendation of designation or amendment of designation of any landmark or neighborhood conservation district an investigation and report on the historical, architectural and other relevant significance thereof shall be made. The report shall recommend the boundaries of any proposed landmark or neighborhood conservation district and shall recommend for incorporation in the order of the City Council designating each landmark or neighborhood conservation district general and/or specific standards and appropriate criteria consistent with the purposes of this article and the provisions of Section 2.78.190 of this article that are to be applied in making any determination of the type referred to in Sections 2.78.170, 2.78.210 and 2.78.220 of this article, with respect to the designated landmark or within the designated neighborhood conservation district.

C. In the case of a landmark, the report shall be prepared by the Historical Commission. In the case of a neighborhood conservation district, the report shall be prepared by a study committee consisting of three members or alternates of the Historical Commission and four persons appointed by the City Manager, including at least one person who resides in the district under consideration, at least one person who owns property in the district under consideration, and one person who owns property or resides elsewhere in the City and has demonstrated knowledge and concern for conservation and en-

hancement of those exterior features of the City which are important to its distinctive character.

D. Any ten registered voters of the City may petition that the Historical Commission initiate, or the Historical Commission on its own may initiate, the process of designating a landmark or neighborhood conservation district or amending or rescinding any such designation theretofore made. The Commission shall within forty-five days following the filing of such request or petition hold a preliminary hearing and arrange for the preparation of a report and, if required, request the appointment of a study committee. The Historical Commission shall not reconsider a proposed designation, amendment or rescission of designation within one year of its previous hearing thereon, unless two-thirds of all its members vote to do so. No later than forty-five days after the transmittal of a report to the Commission pertaining to a proposed designation, the Commission shall hold a public hearing. The Commission shall give not less than fourteen days notice of such public hearing by publication in a newspaper of general circulation in the City and by mailing notice thereof to the owner of the proposed landmark and to every owner abutting the proposed landmark or within the proposed neighborhood conservation district, each such owner to be determined from the then current records of the Assessing Department, and to the City Manager, the Planning Board and the City Clerk.

E. Prior to the public hearing, the Commission shall transmit copies of the report to the Planning Board for its consideration and recommendations.

F. The recommendation of the Historical Commission with regard to any designation, amendment or rescission shall be transmitted to the City Manager and to the City Clerk with a copy of the approved designation report. Designation of a landmark or a neighborhood conservation district or amendment or rescission of designation shall be by order of the City Council. In the case of a designation, the order shall include a statement of the reasons for such designation and a statement of standards which the Historical Commission or neighborhood conservation district commission is to apply under Sections 2.78.170 and 2.78.190 through 2.78.220 of this article.

G. No designation, amendment or rescission of designation shall become effective until a map setting forth the boundaries of the landmark or neighborhood conservation district or change in the boundaries thereof, has been filed with the City Council and has been recorded with the Registry of Deeds for the South District of Middlesex County.

H. If the order establishing or amending a neighborhood conservation district contains provisions for both regulatory and educational/incentive programs, the regulatory provisions of the order shall not be effective unless and until the educational/incentive provisions of the order are funded.

I. Following acceptance of a designation petition by the Historical Commission, no application for a building permit for new construction or alterations on the premises of a property being considered for designation shall be granted until reviewed by the Commission as though the property were designated as a landmark or a neighborhood conservation district under this Article III. Beginning with the acceptance of a designation petition and until (a) the Historical Commission makes a negative recommendation on a proposed designation, (b) the City Council determines not to enact the proposed designation, or (c) one year has elapsed, whichever is less, the Commission shall review all proposed construction, demolition, or alteration that affects the exterior architectural features, other than color, of the structures on the premises of a proposed landmark or within a proposed neighborhood conservation district. (Ord. 1166 §§9, 10, 17, 18, 1995; Ord. 1009A (part), 1984; Ord. 1002 (part), 1983; prior code § 2-147(k)(4))

#### **Section 2.78.190 Review procedures.**

A. Except as the order designating or amending a landmark or neighborhood con-

servation district may otherwise provide in accordance with this article, the Historical Commission or neighborhood conservation district commission having jurisdiction shall review all construction, demolition or alteration that affects the exterior architectural features, other than color, of any landmark or within any neighborhood conservation district.

B. The order designating or amending a landmark or neighborhood conservation district may provide that the authority of the Historical Commission or neighborhood conservation district commission having jurisdiction shall not extend to the review of one or more of the following categories of structures or exterior architectural features of the landmark or within the neighborhood conservation district in which event the structures or exterior architectural features so excluded may be constructed or altered without review by the Commission:

1. The application of exterior wall material in a manner that does not require the removal or enclosure of any cornice, fascia, soffit, bay, porch, hood, window or door casing, or any other protruding decorative element;
2. Alterations to the exterior of existing structures that do not increase or diminish the size and location of windows and doors, cause the removal of any bay, porch, hood, window or door casing or any other protruding decorative element, or alter the appearance of a roof;
3. The exterior appearance of a new structure that does not require a variance or special permit under the zoning ordinance then in effect;
4. Signs, temporary structures, lawn statuary, or recreational equipment, subject to such conditions as to duration of use, dimension, location, lighting, removal and similar matters as the Commission may reasonably specify;
5. Terraces, walks, driveways, sidewalks and similar structures substantially at grade level;
6. Walls and fences;
7. Storm doors and windows, screens, window air conditioners, lighting fixtures, antennae, trelliswork and similar appurtenances.

C. The Historical Commission or a neighborhood conservation district commission may determine from time to time after a public hearing that certain categories of exterior architectural features or structures, including, without limitation, any of those enumerated in this section, if the provisions of the applicable order do not limit the authority of such commission with respect thereto, may be constructed or altered without review by such commission without causing substantial derogation from the intent and purposes of this article.

D. If the order establishing or amending a neighborhood conservation district provides, the determination of a neighborhood conservation district commission shall be binding only with regard to applications to construct a new building, to demolish an existing structure if a demolition permit is required, to construct a parking lot as a principal use, and to construct an addition to an existing structure that would increase its gross floor area, and in all other cases the determinations of a commission shall be advisory only and not binding on an applicant. In no case shall a building permit be issued until the commission has made a determination under the applicable provisions of this article. (Ord. 1002 (part), 1983: prior code § 2-147(k)(5))

### **Section 2.78.200 Maintenance, repair and reconstruction.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance, repair or replacement of any exterior architectural feature of a landmark or within a neighborhood conservation district which does not involve a change in design or material or the outward appearance thereof, nor to prevent landscaping with plants, trees or



shrubs, nor construed to prevent the meeting of requirements certified by duly authorized public officer to be necessary for public safety because of an unsafe or dangerous condition, not construed to prevent any construction or alteration under a permit duly issued prior to the effective date of the order which designates that landmark or district, nor construed to prevent the reconstruction, substantially similar in exterior design, of a structure or exterior architectural feature damaged or destroyed by fire, storm or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence. (Ord. 1002 (part), 1983: prior code § 2-147(k) (6))

**Section 2.78.210 Certificates of appropriateness, nonapplicability or hardship.**

A. Except as the order establishing or amending a landmark or neighborhood conservation district may otherwise provide, no structure designated a landmark or within a neighborhood conservation district shall be constructed or altered in any way that affects exterior architectural features unless the Historical Commission or neighborhood conservation district commission having jurisdiction shall first have issued a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship with respect to such construction or alteration.

B. Any person who desires to obtain a certificate from the Historical Commission or neighborhood conservation district commission shall file with the Commission an application for a certificate of appropriateness, a certificate of nonapplicability or a certificate of hardship, as the case may be, in such form as the commission may reasonably determine, together with such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application.

C. No building permit for alteration of an exterior architectural feature of a landmark or construction of a structure or for alteration of an exterior architectural feature within a neighborhood conservation district and no demolition permit for demolition or removal of a landmark or of a structure within a neighborhood conservation district shall be issued by the City or any department thereof until the certificate required by this article has been issued by the Historical Commission or neighborhood conservation district commission having jurisdiction. (Ord. 1166 §§11, 12, 1995; Ord. 1002 (part), 1983: prior code § 2-147(k)(7))

**Section 2.78.220 Factors considered by Commissions.**

A. In passing upon matters before it, the Historical Commission or neighborhood conservation district commission shall consider, among other things, the historic and architectural value and significance of the site or structure, the general design, arrangement, texture and material of the features involved, and the relation of such features to similar features of structures in the surrounding area. In the case of new construction or additions to existing structures a commission shall consider the appropriateness of the size and shape of the structure both in relation to the land area upon which the structure is situated and to structures in the vicinity, and a Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable provision of the zoning ordinance. A Commission shall not consider interior arrangements or architectural features not subject to public view.

B. A Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects, architectural significance or the distinctive character of the landmark or neighborhood conservation district. (Ord. 1002 (part), 1983: prior code § 2-147(k) (8))

**Section 2.78.230 Public meetings and hearings.**

The Historical Commission and each neighborhood conservation district commission shall adopt rules for the reasonable conduct of its meetings and public hearings, which rules shall not be inconsistent with the procedures provided for meetings of and hearings by historic district commissions under Section 11 of Chapter 40C of the General Laws; and in the absence of the adoption of any such rules, meetings and public hearings of the Historical Commission and of each neighborhood conservation district commission shall be in conformity with the provisions of Section 11 of Chapter 40C applicable to historic district commissions. (Ord. 1002 (part), 1983: prior code § 2-147(k) (10))

**Section 2.78.240 Appeal procedure.**

Any person aggrieved by a designation of a landmark or district may appeal to the superior court within thirty days after such designation. Any applicant aggrieved by a determination of a neighborhood conservation district commission or ten registered voters of the City opposing a determination under this article may appeal to the Historical Commission within twenty days after the filing of the notice of such determination with the City Clerk. The Historical Commission may overrule the determination and return it for reconsideration consistent with that finding. If the applicant is aggrieved by the determination of the Historical Commission, or if action is not taken by the Historical Commission within thirty days of filing for review, the applicant may appeal to the superior court. Appeal from a Historical Commission determination shall be taken within thirty days of the formal decision; appeal from a failure to act shall be taken within sixty days after the filing for review. The superior court may reverse a determination if it is not supported by substantial evidence in the record. In all other respects, the appeal shall be made in the same manner as provided under Section 12A of Chapter 40C of the General Laws. (Ord. 1166 §13, 1995; Ord. 1002 (part), 1983: prior code § 2-147(k)(11))

**Section 2.78.250 Historical Commission authority not limited.**

No provisions of this article shall alter or diminish the duties and functions of the Historical Commission under the authority of Chapter 40, Section 8D and Chapter 40C of the General Laws, or apply to any historic district currently administered by such commission, or restrict the establishment of any future historic district under Chapter 40C of the General Laws. (Ord. 1002 (part), 1983: prior code § 2-147(k) (13))

**Section 2.78.260 Limitation on applicability.**

The provisions of Article II of this chapter (relative to procedures for demolition permits for significant buildings) shall not be applicable with respect to the demolition of any structure within a neighborhood conservation district if the appropriate neighborhood conservation district commission has issued a certificate of appropriateness or a certificate of hardship permitting the demolition of such structure. (Ord. 1002 (part), 1983: prior code § 2-147(k) (14))

**Section 2.78.270 Enforcement and remedies.**

The Historical Commission and any neighborhood conservation district commission are each specifically authorized to institute any and all actions, proceedings in law and in equity, as they deem necessary and appropriate to obtain compliance with the requirements of this article or to prevent a threatened violation thereof. Any violation of any provision of this article may be punished to the like extent provided in Section 13 of Chapter 40C of the General Laws for a violation of said Chapter 40C. In addition to the foregoing, no building permit shall be issued, with respect to any premises upon which a

landmark or a structure within any neighborhood conservation district has been voluntarily demolished otherwise than pursuant to a certificate granted after compliance with the provisions of this article, for a period of two years after the date of the completion of such demolition (the word "premises" for the purposes of this sentence referring to the parcel of land upon which the demolished structure was located and all adjoining parcels of land under common ownership or control.) (Ord. 1002 (part), 1983: prior code § 2-147(k) (12)).

## Chapel Hill, North Carolina

*Chapel Hill provides for the establishment of conservation districts in its distinctive, older residential neighborhoods. These areas may be designated based on their own significance or because of their relationship to existing historic districts or landmarks. While commercial properties may be included in a district, the overall character must be residential. The city's planning board is charged with administering the designation process. However, reviews of proposed actions are performed by the town manager. Review may encompass a wide range of activities, including the size and design of proposed alterations, additions, and new construction, as well as street furniture, signage, landscaping, and other activities that may affect a district's character.*

### **Land Use Management Ordinance**

*ARTICLE 3.6.5 January 27, 2003*

#### **3.6.5 Neighborhood Conservation District**

Purpose Statement: Within the Town of Chapel Hill there are unique and distinctive older intown residential neighborhoods or commercial districts which contribute significantly to the overall character and identity of the Town and are worthy of preservation and protection. Some of these districts are designated as historic districts, others may lack sufficient historical, architectural or cultural significance at the present time to be designated as Historic Districts. As a matter of public policy, the Town Council aims to preserve, protect, enhance, and perpetuate the value of these residential neighborhoods or commercial districts through the establishment of Neighborhood Conservation Districts. The purposes of a Neighborhood Conservation District in older Town residential neighborhoods or commercial districts are as follows:

- to promote and provide for economic revitalization and/or enhancement
- to protect and strengthen desirable and unique physical features, design characteristics, and recognized identity, charm and flavor;
- to protect and enhance the livability of the Town;
- to reduce conflict and prevent blighting caused by incompatible and insensitive development, and to promote new compatible development;
- to stabilize property values;
- to provide residents and property owners with a planning bargaining tool for future development;
- to promote and retain affordable housing;
- to encourage and strengthen civic pride; and
- to encourage the harmonious, orderly and efficient growth and redevelopment of the Town.

#### **(a) Designation criteria**

To be designated a Neighborhood Conservation District, the area must meet the following criteria:

- (1) The area must contain a minimum of one block face (all the lots on one side of a

block);

- (2) The area must have been platted or developed at least 25 years ago;
- (3) At least 75% of the land area in the proposed district is presently improved; and
- (4) The area must possess one or more of the following distinctive features that create a cohesive identifiable setting, character or association;
  - A. scale, size, type of construction, or distinctive building materials;
  - B. lot layouts, setbacks, street layouts, alleys or sidewalks;
  - C. special natural or streetscape characteristics, such as creek beds, parks, gardens or street landscaping;
  - D. land use patterns, including mixed or unique uses or activities; or
  - E. abuts or links designated historic landmarks and/or districts.
- (5) The area must be predominantly residential in use and character. Any designated Historic Overlay District shall be deemed to satisfy the criteria listed above.

**(b) Zoning Authority**

Separate ordinances are required to designate each district. Ordinances designating each Neighborhood Conservation District shall identify the designated district boundaries, and specify the individual purposes and standards for that district.

- (1) Overlay district.

Neighborhood Conservation Districts are designed as overlays to the regular zoning districts. Property designated within these districts must also be designated as being within one of the General Use Districts. Authorized uses must be permitted in both the General Use District and the overlay district. Property designated as a Neighborhood Conservation District may have additional designations. Such property shall comply with all applicable use restrictions.

- (2) Zoning designation.

- A. The zoning designation for property located within a Neighborhood Conservation District shall consist of the base zone symbol and the overlay district symbol (CD) as a suffix. Neighborhood Conservation Districts shall be numbered sequentially to distinguish among different districts, i.e., R-4 (CD-1), R-1 (CD-2), etc.
- B. The designation of property within a Neighborhood Conservation District places such property in a new zoning district classification and all procedures and requirements for zoning/rezoning must be followed.
- C. In the event of a conflict between the provisions of a specific Neighborhood Conservation District ordinance and the General Use District regulations, the provisions of the Neighborhood Conservation District ordinance shall control.
- D. Except as modified by this Section, the procedures for zoning changes set forth in Section 4.4 shall otherwise apply to the designation of an area as a Neighborhood Conservation District.
- E. Upon designation of an area as a Neighborhood Conservation District, the

Town Council shall cause notice of such designation to be recorded in the official public records of real property of Orange County.

**(c) Application Procedures**

- (1) A proposal for designation as a Neighborhood Conservation District may be initiated:
  - A. at the direction of Town Council, or
  - B. at the request of owners representing 51% of the land area within the proposed district, or
  - C. at the request of 51% of property owners in a proposed district.
  
- (2) Following initiation for designation of a Neighborhood Conservation District, the Planning Board shall develop a neighborhood conservation plan for the proposed district that includes:
  - A. maps indicating the boundaries, age of structures and land use of the proposed district;
  - B. maps and other graphic and written materials identifying and describing the distinctive neighborhood and building characteristics of the proposed district; and
  - C. design standards for new construction, additions or alterations to the street facades of existing buildings or structures within the proposed district.
  
- (3) All property owners within the proposed district shall be afforded the opportunity to participate in drafting the conservation plan. A conservation plan shall be approved as part of a Zoning Atlas Amendment creating a Neighborhood Conservation District.

**(d) Design Standard**

- (1) The conservation plan approved as part of the zoning ordinance creating a Neighborhood Conservation District shall include design standards for new construction or placement of any building, structure, foundation, sign, public art or outdoor apparatus or equipment (including visible utility boxes or mechanical equipment; trucks; lawn or landscaping equipment, but not including lawnmowers or hand tools; playground equipment; or sports equipment), and any additions, alterations, relocation or rehabilitation to the street facades of existing buildings, structures, foundations, sign, public art, or outdoor apparatus or equipment.
  
- (2) The conservation plan, and requisite design standards shall not apply to those activities which constitute ordinary repair and maintenance, i.e., using the same material and design.
  
- (3) The Design Standards for the Neighborhood Conservation District shall include the minimum following elements governing the physical characteristics and features of all property (public or private) within the proposed district:
  - A. building height, number of stories;
  - B. building size, massing (frontage, entrance location/features);
  - C. lot size, coverage;

- D. front and side yard setbacks;
- E. off-street parking and loading requirements;
- F. roof line and pitch;
- G. paving, hardscape covering.

In addition, the Design Standards may include, but shall not be limited to, the following elements:

- A. building orientation;
- B. general site planning (primary, ancillary structures);
- C. density;
- D. floor area ratio;
- E. signage;
- F. architectural style and details;
- G. building materials;
- H. garage entrance location;
- I. front window, dormer size and location;
- J. landscaping;
- K. fences and walls;
- L. entrance lighting;
- M. driveways and sidewalks;
- N. satellite dishes, utility boxes;
- O. street furniture;
- P. public art;
- Q. demolition (see subsection (e)).

**(e) Administration of Ordinance**

- (1) No building permit shall be issued for new construction or an alteration or addition to the street facade of an existing building or structure within a designated Neighborhood Conservation District without the submission and approval of design plans and the issuance of a Zoning Compliance Permit by the Town Manager.
- (2) The Town Manager shall review the design plans to determine compliance with the design standards contained in the neighborhood conservation plan adopted for the district.
- (3) If the Town Manager determines that the design plans are in conformance with the design standards adopted for the district, the Town Manager shall approve the plans and issue a Zoning Compliance Permit and the Department of Building Inspections may issue a building permit.
- (4) If the Town Manager determines that the design plans are not in conformance with the design standards adopted for the district, the Town Manager shall not approve the plans, and will issue Notification of Non-Compliance, identifying the specific Design Standards violated.
- (5) The applicant may appeal the Town Manager's determination to the Board of Adjustment for a final determination.

## Dallas, Texas

*The Dallas Conservation District Ordinance, codified as section 51A-4.505 of the Dallas Development Code, Part II, sets forth the criteria and procedures for designation as a conservation district. The actual standards for review (including both development standards and design guidelines) are included in the ordinance establishing the district. These ordinances may be viewed at [http://www.dallascityhall.com/dallas/eng/html/conservation\\_ordinances.html](http://www.dallascityhall.com/dallas/eng/html/conservation_ordinances.html).*

*Dallas emphasizes the importance of neighborhood involvement in the designation process, placing the burden of conducting a CD feasibility study on the neighborhood itself. The city has designated over 10 conservation districts thus far. The designation of other districts is currently pending and requests for designation by several other neighborhood groups are in the works. The popularity of the city's program has been attributed to its grass roots approach in the formation of these districts.*

### **SEC. 51A-4.505. CONSERVATION DISTRICTS.**

(a) Definitions. In this section:

- (1) ARCHITECTURAL ATTRIBUTES means those physical features of buildings and structures that are generally identified and described as being important products of human thought and action characteristic of a population or community.
- (2) BLOCK means an area bounded by streets on all sides.
- (3) BLOCKFACE means all of the lots on one side of a block.
- (4) CD means conservation district.
- (5) CD FEASIBILITY STUDY means a study conducted by the director to determine whether or not a particular area of the city is eligible for conservation district classification.
- (6) CD ORDINANCE means the ordinance establishing a particular conservation district.
- (7) CULTURAL ATTRIBUTES means all of those physical features of an area that, either independently or by virtue of their interrelationship, are generally identified and described as being important products of human thought and action characteristic of a population or community. Accordingly, the term "cultural attributes" necessarily includes "architectural attributes" as that term is defined in this section. The term "cultural attributes" does not refer to the characteristics or beliefs of people who may reside in or frequent a particular area.
- (8) STABLE means that the area is expected to remain substantially the same over the next 20 years with continued maintenance of the property. While some changes in structures, land uses, and densities may occur, all such changes are expected to be compatible with surrounding development.
- (9) STABILIZING means that the area is expected to become stable over the next 20-year period through continued reinvestment, maintenance, or remodeling.

(b) Purpose. Article 1011a, Vernon's Texas Civil Statutes, authorizes the city of



Dallas to regulate and restrict the construction, alteration, reconstruction, or razing of buildings and other structures in "designated places and areas of historic, cultural, or architectural importance and significance." Whereas the city has historic districts containing such regulations and restrictions for historic places and areas, the conservation district is established to provide a means of conserving an area's distinctive atmosphere or character by protecting or enhancing its significant architectural or cultural attributes.

(c) General provisions.

(1) Each conservation district must be established by a separate CD ordinance. Before adopting a CD ordinance, the city council shall approve a conceptual plan for the district in accordance with this section. Each CD ordinance must be consistent with the conceptual plan approved for the district by the city council.

(2) If the director determines that, due to the sensitivity of the area, or due to the nature of the proposed regulations for the area, a special administrative procedure should be established for the review of proposed work in a conservation district, he may recommend that such a procedure be incorporated into the conceptual plan for the district. Unless such a procedure is considered by the commission and approved by the city council as part of the conceptual plan for the district, there shall be no administrative review of proposed work in a conservation district other than the customary review for compliance with all applicable city codes, ordinances, rules, and regulations which occurs at the time a person makes application for a building permit.

(3) For purposes of determining the applicability of regulations in this chapter triggered by adjacency or proximity to another zoning district, an identifiable portion of a conservation (CD) district governed by a distinct set of use regulations is treated as though it were a separate zoning district. If the CD district or a portion of the district is limited to those uses permitted in an expressly stated zoning district, the CD district or portion of the district is treated as though it were that expressly stated zoning district; otherwise it is treated as though it were:

- (A) a TH-3(A) zoning district if it is restricted to single family and/or duplex uses;
- (B) an MF-2(A) zoning district if it is restricted to residential uses not exceeding 36 feet in height and allows multifamily uses;
- (C) an MF-3(A) zoning district if it is restricted to residential uses and allows multifamily uses exceeding 36 feet in height; or
- (D) a nonresidential zoning district if it allows a nonresidential use.

(d) Initiation.

(1) A CD feasibility study may be initiated by a group of persons who collectively own:

- (A) more than 50 percent of the land, excluding streets and alleys, within the area of request; and
- (B) more than 50 percent of the building sites within the area of request.

(2) An agent of a group that satisfies the requirements of Subsection (d)(1) may file an application for a CD feasibility study with the director on a form furnished by the department. Each person in the group must sign the application.

(3) An application for a CD feasibility study must include the following:

- (A) The application fee.

- (B) Map(s) showing the existing zoning and land uses on all of the land in the area of request, and on all of the land within 200 feet, including streets and alleys, measured from the boundary of the area of request.
  - (C) A list of the names and addresses of all property owners and residents in the area of request.
  - (D) A list of all neighborhood associations or other organizations representing the interests of property owners in the area of request. This list should include information as to the number of members and the officers' names, mailing addresses, and phone numbers.
  - (E) A statement of justification. This statement should:
    - (i) point out the factors which render the area of request eligible for CD classification; and
    - (ii) explain in detail how and why such a classification would be in the best interest of the city as a whole.
  - (F) A description of the prevalent architectural and cultural attributes of the area.
  - (G) Any additional information that the director determines to be necessary for the study.
- (4) A CD feasibility study may also be initiated by the commission or the city council.

(e) Determination of eligibility.

- (1) When a CD feasibility study is initiated under Subsection (d), the director shall determine the eligibility of the area for CD classification in accordance with this subsection.
- (2) The director's determination of eligibility must be based on a consideration of the standards in this subsection. An area is not eligible for CD classification unless it satisfies all of the following criteria:
  - (A) The area must contain at least one blockface.
  - (B) The area must be either "stable" or "stabilizing" as those terms are defined in this section.
  - (C) The area must contain significant architectural or cultural attributes as those terms are defined in this section.
  - (D) The area must have a distinctive atmosphere or character which can be conserved by protecting or enhancing its architectural or cultural attributes.
- (3) If the director determines that the area is not eligible for CD classification, he shall notify the applicant of this fact in writing. Notice is given by depositing the notice properly addressed and postage paid in the United States mail. The notice must be sent to the address shown on the application. The decision of the director that an area is not eligible for CD classification may be appealed to the commission by the applicant.
- (4) An appeal under Subsection (e)(3) is made by filing a written request with the director. The request must be filed within 30 days of the date written notice is given to the applicant of the director's decision. In considering the appeal, the sole issue shall be whether or not the director erred in his determination of eligibility, and, in this connection, the commission shall consider the same standards that were required to be considered by the director in making his determination.
- (5) The commission's determination of eligibility on appeal is final. If the commission determines that the area is not eligible for CD classification, no

further applications for CD classification may be considered for the area of request for two years from the date of its decision. A property owner in the area of request may apply for a waiver of the two-year limitation pursuant to Section [51A-4.701\(d\)\(3\)](#).

(6) If the director determines that the area is eligible for CD classification, he shall proceed to formulate a conceptual plan for the area in accordance with Subsection (f). The decision of the director that an area is eligible for CD classification may not be appealed.

(f) Conceptual plan formulation and review.

(1) If the area is determined to be eligible for CD classification pursuant to Subsection (e), the director shall schedule a public meeting for the purpose of informing property owners in the proposed district of the nature of the pending request. The director shall send notice of the time and place of the meeting by mail to all addresses of property owners and residents shown on the application, and to any additional addresses of properties in the proposed district shown on the last approved city tax roll.

(2) The director shall prepare a conceptual plan for the proposed district and schedule a public hearing before the commission to receive public comment regarding the plan. The director shall send written notice of the public hearing to all owners of real property in the proposed district and within 200 feet of its boundaries. The measurement of the 200 feet includes streets and alleys. The notice must be given not less than 10 days before the date set for the hearing. Notice is given by depositing the notice properly addressed and postage paid in the United States mail to the property owners as evidenced by the last approved city tax roll.

(3) After the public hearing, the commission shall make a recommendation regarding the plan and forward it to the city council for further action.

(4) The city council shall hold a public hearing before it makes a decision regarding the plan. The city secretary shall give notice of the public hearing in the official newspaper of the city at least 15 days before the hearing.

(5) After the city council holds the public hearing, it shall make a decision regarding the plan. The council may make minor changes in the plan without sending it back to the commission; however, if the changes are substantial, the council shall send the plan back to the commission for another public hearing.

(6) No conservation district may be established in the city unless the city council first approves a conceptual plan for the district in accordance with this subsection.

(g) CD ordinance preparation and review.

(1) The director shall hold public meetings as necessary for the purpose of receiving input from property owners regarding the content of the CD ordinance.

(2) The city attorney shall prepare a CD ordinance based on the approved or proposed conceptual plan, the reports and recommendations of the city staff, and input received from property owners at the public meetings held by the director. The ordinance must contain regulations governing permitted uses, heights of buildings and structures, lot size, floor area ratio, density, setbacks, off-street parking and loading, environmental performance, signs, landscaping, and nonconforming uses and structures, and may further contain any additional regulations, special exceptions, or procedures that the city council con-

siders necessary to conserve the distinctive atmosphere or character of the area, or to minimize potential adverse impacts which could result from creation of the district.

(3) After preparation of the ordinance by the city attorney, the commission shall hold a public hearing to allow all citizens to present their views regarding the proposed ordinance. If the commission so desires, it may hold this public hearing on the same day that it holds the public hearing on the conceptual plan. Notice of this public hearing must be given as required by law for a change in zoning district classification.

(4) After the public hearing, the commission shall make a recommendation regarding the proposed ordinance. The commission shall not recommend approval of the ordinance unless it determines that the ordinance is consistent with the conceptual plan.

(5) After the commission makes its recommendation on the proposed ordinance, the director shall forward the recommendation and ordinance to the city council for further action. The city council shall hold a public hearing before taking any action on the ordinance. If the city council so desires, it may hold this public hearing on the same day that it holds the public hearing on the conceptual plan. Notice of this public hearing must be given as required by law for a change in zoning district classification.

(6) Each CD ordinance must be approved by the affirmative vote of a majority of city council members present; except, the favorable vote of three-fourths of all members of the city council is required if:

(A) the commission recommends against adoption of the ordinance; or

(B) a written protest against adoption of the ordinance has been signed by the owners of 20 percent or more of either the land in the area of request or land within 200 feet, including streets and alleys, measured from the boundary of the area of request and the protest has been filed with the director.

- (h) Board of adjustment fee waiver. The board of adjustment may waive any filing fee for an appeal from a decision of the building official interpreting a CD ordinance, or for a variance or special exception to a CD ordinance requirement when the board finds that payment of the fee would result in substantial financial hardship to the applicant. The applicant may either pay the fee and request reimbursement as part of his appeal or request that the matter be placed on the board's miscellaneous docket for predetermination. If the matter is placed on the miscellaneous docket, the applicant may not file his appeal until the merits of the request for waiver have been determined by the board. (Ord. Nos. 19455; 19930; 20037; 20308)

## Knoxville, Tennessee

*In Tennessee, conservation districts are established under the city's historic preservation program. In Knoxville, however, the importance of zoning criteria in the preservation of conservation districts is explicitly recognized in the city's enabling ordinance for conservation districts. Designation as a conservation district requires review and recommendation by the city's Metropolitan Historic Zoning and Planning Commissions (along with the consent of a majority of the property owners within the district). Accompanying guidelines may alter underlying zoning restrictions (excluding use) in addition to establishing design review standards. Certificates of appropriateness for new construction, alterations, and demolitions are issued by the Historic Zoning Commission.*

### **Knoxville Zoning Ordinance Article 4: Specific Districts Regulations**

#### **SEC. 22 NC-1 NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT**

**A. GENERAL DESCRIPTION:** The Neighborhood Conservation Overlay District recognizes that older Knoxville neighborhoods need to be conserved for their cultural, historic and housing values, as provided in T.C.A. Subsection 13-7-401 et seq. The purposes of the district are: 1) to permit development which conforms to the size, orientation and setting of the buildings of the neighborhood; 2) to avoid the need for zoning variances for building setbacks, lot dimensions and related physical characteristics; and, 3) to regulate demolition. The Neighborhood Conservation District is intended to foster new construction that is in harmony with the scale and physical character of the original buildings of the neighborhood through the use of Design Guidelines

**B. PERMITTED USES:** This district is not intended to regulate the use of land, buildings or structures. Property and buildings in an NC-1 Neighborhood Conservation Overlay District may be used for the purpose permitted by the base zoning district in effect at the time of neighborhood conservation zoning or subsequent zoning districts legislatively approved for the district.

**C. AREA REGULATIONS-HEIGHT REGULATIONS-AND OFF-STREET PARKING:** Lot sizes, front, side and rear yard setbacks, and off-street parking are to be in accordance with design guidelines adopted at the time a Neighborhood Conservation Overlay District is created. Minimum lot sizes specified by the design guidelines may be smaller than those required by the base zone. If the guidelines do not specify any particular area, setback, height, or parking requirements, the requirements of the base zoning district shall be applicable. Intensity of use for multi-family residential development shall be determined by the base zoning district.

1. The district is located in an area where the general pattern of development, including streets, lots and buildings, was established prior to 1950.
2. The area possesses unifying, built environmental characteristics that create an identifiable setting, character, and association.
3. The designated area must be ten (10) or more acres in size. Areas of less than ten

(10) acres may be designated if they abut an existing Neighborhood Conservation Overlay District.

**D. NC-1 NEIGHBORHOOD CONSERVATION OVERLAY DISTRICTS**

**DEFINED - SELECTION CRITERIA:** A Neighborhood Conservation District (NC-1) shall be a geographically definable area that has a significant concentration, linkage or continuity of sites which are united by physical development or history, and possesses the following general characteristics:

**E. CREATION OF NC-1 NEIGHBORHOOD CONSERVATION OVERLAY DISTRICTS.**

1. The Historic Zoning Commission and the Metropolitan Planning Commission shall submit written recommendations to the City Council of Knoxville regarding the creation of Neighborhood Conservation Overlay Districts.
2. The responsibilities of the Historic Zoning Commission are to review the applications for Neighborhood Conservation Overlay Districts for conformance to the selection criteria.
3. The recommendation of the Historic Zoning Commission shall include the design guidelines they have approved for the district. The Historic Zoning Commission shall adopt a set of standards for the creation of design guidelines.
4. The Metropolitan Planning Commission shall review the application for its planning and zoning implications. The City Council of Knoxville or appropriate governmental authority may initiate an application for Neighborhood Conservation Overlay District designation. The City Council of Knoxville shall make final determination of designation after reviewing the recommendations of the Historic Zoning Commission and the Metropolitan Planning Commission.
5. Applications may be initiated by petition when signed either by the owners of 51% of the property or by at least 51% of the property owners within the proposed district.

**F. ADMINISTRATIVE PROCEDURES**

1. An application for a Neighborhood Conservation Overlay District (NC-1) shall include:
  - a. A map designating the boundaries of the proposed district, depicting both the developed and undeveloped parcels.
  - b. A description of the historical and physical development of the proposed district, including black and white photographs of architecture representative of the neighborhood; and
  - c. Development guidelines for improvements to the neighborhood buildings and physical setting.
    - 1) The guidelines may address the appearance of new construction, including primary and accessory buildings and the addition of habitable living space to existing buildings, with provisions for setback, rhythm and orientation of new structures, their height, scale and massing, the proportion of doors and windows, roof shapes and the height of foundation. The appearance of exterior wall coverings may also be addressed.
    - 2) Following the Historic Zoning Commission's approval of the design guidelines and the creation of a Neighborhood Conservation Overlay District by the Knoxville City Council, the design guidelines shall guide the issuance of Certificates of Appropriateness.

3) The Historic Zoning Commission may delegate the authority to approve Certificates of Appropriateness to MPC staff.

2. Certificates of Appropriateness will be issued as outlined below:

a. All applications for Certificates of Appropriateness within a Neighborhood Conservation Overlay District shall be reviewed by the Historic Zoning Commission, which shall have the power to issue or deny Certificates of Appropriateness. When Certificates are approved by staff under authority delegated by the Historic Zoning Commission, a report summarizing staff actions shall be presented to the Historic Zoning Commission at its next monthly meeting. When Certificates are issued by staff, staff's approval or denial of Certificates may be appealed to the Historic Zoning Commission within forty-five (45) days after the staff decision.

b. No permit shall be issued for the following activities within a Neighborhood Conservation Overlay District without issuance of a Certificate of Appropriateness by the Knoxville Historic Zoning Commission: 1) demolition; 2) construction of a primary or accessory building, structure or other additions to real estate; 3) the addition of space to an existing primary or accessory building.

3. The Historic Zoning Commission shall, within thirty (30) days following the availability of sufficient data, grant a Certificate of Appropriateness with or without attached conditions or deny said Certificate, and shall state the reasons for denial or the conditions attendant with the granting of a Certificate in writing.

**G. APPEAL OF HISTORIC ZONING COMMISSION DECISIONS:**

Anyone who may be aggrieved by any final order or judgment of the Historic Zoning Commission may have such order or judgment reviewed by the courts by the procedure of statutory certiorari, Chapter 8, Title 27 of the Tennessee Code Annotated.

## Napa, California

*The City of Napa, California combines its historic preservation and neighborhood conservation designation and review requirements into a single ordinance. A "Neighborhood Conservation Area" is a delineated geographic area that has "special character or aesthetic value which serves as an established neighborhood or distinct section of the city" and possesses "buildings or structures united aesthetically by plan, or by physical development." The area need not have historical significance. A "Landmark District" is a delineated geographic area that has "historical significance, special character or aesthetic character which serves as an established neighborhood, community center or distinct section of the city," and possesses "a significant concentration of cultural resources united historically or aesthetically by plan or by physical development, and which the city council designates by resolution as worthy of protection."*

*In neighborhood conservation areas, substantial construction, alterations, additions that are visible from a public way, and demolitions must be approved by the city's Cultural Heritage Commission. The standards governing the review of certificates of appropriateness focus on mass and scale, construction materials, building orientation and alignment, and the preservation of "major character-defining features." Set forth below are excerpts from the Napa ordinance pertaining specifically to neighborhood conservation areas. Information on the entire ordinance is located at the end of this issue.*

### **HISTORIC PRESERVATION AND NEIGHBORHOOD CONSERVATION Napa Municipal Code, Chapter 15.52 (excerpts)**

#### **15.52.010 Findings and purpose.**

##### **A. Findings.**

1. The City of Napa Historic Preservation and Neighborhood Conservation Ordinance embodies General Plan policy and implements important preservation and neighborhood conservation concepts. It defines the role of the cultural heritage commission, cultural resources, appropriate conservation criteria and processes for new investment in Central Napa, exceptions to the protections of the Historic Preservation and Neighborhood Conservation Ordinance, preservation incentives and enforcement procedures.

2. The Historic Preservation Ordinance supports five key concepts. These are as follows:

a. The quality of Napa's traditional neighborhoods will be protected through implementation of General Plan policies.

b. Central Napa's traditional neighborhoods have a preponderance of cultural resources and other desirable features of urban design and will be treated as neighborhood conservation areas.

c. The City of Napa will define the boundaries, guidelines and standards for local landmark districts.



d. Appreciation for Napa's cultural resources will be furthered by educational opportunities and incentives for preservation.

e. The cultural heritage commission will provide the expertise and leadership for historic preservation throughout the city and for maintaining character in landmark districts and neighborhood conservation areas.

**B. Purposes and Objectives.**

1. The identification, protection, enhancement, perpetuation and use of buildings, structures, sites or areas that have important associations with past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past or are Landmarks in the history of architecture, or which are unique and irreplaceable assets to the city and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived;

2. The development and maintenance of appropriate settings and environments for such buildings or structures, and in such sites and areas;

3. The enhancement of property values, the stabilization of neighborhoods and areas of the city, the increase of economic and financial benefits to the city and its inhabitants and the promotion of tourist trade and interest;

4. The encouragement of compatible contemporary designs and construction;

5. The preservation and encouragement of a city of varied architectural styles, reflecting the distinct phases of its history: cultural, social, economic, political and architectural;

6. The enrichment of human life in its educational and cultural dimensions in order to serve spiritual, as well as material, needs by fostering knowledge of the living heritage of the past;

7. The continuance of the fundamental traditional design characteristics of Central Napa neighborhoods; and

8. The promotion of livable neighborhoods in Central Napa. (Ord. No. O99 31, Repealed and Replaced, 11/02/1999)

**15.52.020 Definitions.**

**15.52.030 Cultural heritage commission.**

**E. Powers and Duties.**

The commission shall have the following powers and duties, subject to the direction and control of the city council: . . .

4. Neighborhood Conservation Areas.

a. Recommend to the city council the designation of neighborhood conservation areas in accordance with this chapter.

b. Promote the maintenance and traditional character of these areas.

5. Make recommendations to the commission, planning commission and city council regarding proposed projects (including those for landmarks or for buildings or structures in a landmark district or a neighborhood conservation area).

6. Take such steps, including training, as are necessary for the city to remain a certified local government.

7. Determine the completeness of a proposed project application.

8. Perform such other functions provided in this chapter, commission by-laws or any other applicable law. (Ord. No. O99-31, Repealed and Replaced, 11/02/1999)

**15.52.040 Designation of cultural resources, landmarks and neighborhood conser-**

**vation areas.**

C. Neighborhood Conservation Properties and Neighborhood Conservation Areas.

1. Any property designated with an HP or HPR zoning overlay as of October 19, 1999, may be designated as a neighborhood conservation property by the city council.

2. An individual cultural resource may be designated as a neighborhood conservation property by resolution of the city council upon recommendation of the commission if:

a. The property represents an established and familiar visual feature of a neighborhood, community or of Central Napa; or

b. The property has historic, architectural or engineering significance.

3. A group of cultural resources may be designated as a neighborhood conservation area by resolution of the city council upon the recommendation of the commission if:

a. The majority of the properties represent established and familiar visual features of a neighborhood, community or of Central Napa; or

b. The majority of the properties convey a sense of cohesiveness through their design, setting, materials or association; or

c. The majority of the properties reflect significant geographical patterns, including those associated with different eras of settlement and growth, particular transportation modes or distinctive examples of park or community planning; or

d. The character of the neighborhood is defined by similarities in basic elements of urban design, such as uniform alignment of porches along the street, or a similarity in building scale, materials and landscapes.

4. Properties considered for designation as a neighborhood conservation property or neighborhood conservation area need not have historic significance. (Ord. No. O99-31, Repealed and Replaced, 11/02/1999)

**15.52.050 Certificate of appropriateness.**

A. Certificate of Appropriateness Required.

2. Neighborhood Conservation Property and Neighborhood Conservation Area.

a. No person, owner or other entity shall, without first having applied for and obtained a certificate of appropriateness, do, allow, undertake or permit any proposed project on a neighborhood conservation property or in a neighborhood conservation area including, but not limited to, any of the following:

(1) Any substantial construction visible from a public way.

(2) Any substantial alteration or addition visible from a public way.

(3) Demolition of a building or structure.

b. No city permit shall be issued for the proposed work until it has been approved by the commission and then shall be issued only in conformity with such approval.

3. Historic Resources Inventory.

a. No person, owner or other entity shall, without first having applied for and obtained a certificate of appropriateness, do, allow, undertake, or permit any demolition of any building or structure listed on the Historic Resources Inventory.

b. No certificate of appropriateness for demolition shall be issued for any proposed project while a cultural resource is being considered for listing in the inventory.

D. Findings for a Certificate of Appropriateness on a Neighborhood Conservation Property or in a Neighborhood Conservation Area.

No certificate of appropriateness shall be issued unless the following findings are made:

1. Mass and Scale - The traditional mass and scale of the area shall be maintained.
2. Building Form - A building shall have basic roof and building forms that are similar to those seen traditionally in a neighborhood.
3. Construction Materials - Building materials shall contribute to the visual continuity of the neighborhood.
4. Building Orientation - The traditional patterns of building orientation shall be maintained.
5. Building Alignment - The distance from the street or property line to the front of the building shall be similar to that seen traditionally in the neighborhood.
6. Project Context - The project shall be compatible with those neighborhood characteristics that result from common ways of building. This sense of setting shall be preserved.
7. Character-Defining Features - Major character-defining features of the property under review shall not be destroyed.

## Phoenix, Arizona

*Phoenix provides for the conservation and revitalization of its older neighborhoods through the creation of "special planning districts." Accomplished under its planning process, individual districts are established by the adoption of a "special district plan." Each plan includes specific measures designed to improve the overall character of an area by, among other things, encouraging the remodeling of existing buildings and compatible new development on vacant lots, identifying necessary zoning changes and areas requiring public investment, and addressing the need for specific social services.*

### Phoenix Zoning Ordinance Section 402. Area plans

#### A. Special Planning (SP) District.

1. **Purpose.** The Special Planning District is intended as a means for property owners to initiate and implement programs for the conservation or revitalization of neighborhoods. The district takes effect through the adoption of a precise plan and set of regulations, called the special district plan, specifically intended, in each case, to facilitate maintenance and upgrading of the neighborhood, to encourage development of vacant or under-used lots, to ameliorate the adverse effects of incompatible mixtures of uses, and to encourage neighborhood residents and owners to take positive steps for the improvement and orderly development of the neighborhood.

2. **Special district plan.** In any Special Planning District the regulations governing the uses of land and structures, the height of buildings and requirements for lot area, width and yards, shall be as set forth in the underlying zoning district except as may be expressly modified by the special district plan for that district. There will be a separate and specific special district plan for each Special Planning District.

##### a. Initiation of a Special Planning District.

(1) A petition requesting the establishment of the district, bearing the signatures of the owners of not less than fifty percent of the property within the area proposed to be included in the special planning district, may be submitted to the Planning Department. For the purpose of this requirement, the signature of one cotenant, or, if community property, the signature of either spouse is sufficient to count the petition if no objection is made by the other cotenant or spouse. If the signature is so protested, the petition shall be counted only to the extent of the signer's interest in the property. The petition shall set forth the preliminary boundaries of the area proposed to be included and shall be on a form prepared and provided by the Planning Department. Such preliminary boundaries shall be natural or rectangular in configuration, subject to City Council approval.

(2) A citizens' committee shall be formed for the purpose of circulating petitions and other such purposes as are specified in this section. The committee

shall designate the name of the proposed Special Planning District which shall appear on all petitions. Membership on the committee shall be open to all property owners and residents within the proposed district. The citizens' committee shall work with City staff during preparation of the plan, be responsible for conducting informational meetings within the area during preparation of the plan and disseminating information on the plan upon its completion.

**b. Public hearing.**

(1) Upon initiation of proceedings as set forth in section 402.A the Planning Commission shall call a public hearing at a location in or convenient to the area proposed to be included in the district, for the purpose of explaining the purpose and operation of a Special Planning District and to determine the degree of interest in the establishment of such district, as well as to receive any suggestions regarding the content of the special district plan or the boundaries of the Special Planning District.

(2) Following the public hearing, the Planning Commission may recommend to the City Council that the Planning Department proceed with the preparation of a special district plan as set forth herein, and the Planning Commission shall recommend to the City Council the boundaries of the proposed district, or it may recommend the termination of the proceedings if it determines that the plan will not serve the purposes for which the Special Planning District is intended. If the Commission recommends initiation of the district, they shall be the applicant for the request.

(3) The City Council may without further hearing concur in the recommendation of the Planning Commission or make such recommendations that they desire and so instruct the Planning Department. If the City Council instructs the Planning Department to prepare a special district plan, the Council shall also specify the boundaries for the proposed district.

**c. Preparation of the special district plan.**

When so instructed by the City Council, the Planning Department shall prepare a special district plan in accord with direction from the citizens' committee which shall consist of a detailed plan of land uses and related regulations in substantial conformity with the Phoenix General Plan. The special district plan may:

(1) Indicate proposed changes, if any, to permitted land uses within the Special Planning District. The plan may contain recommendations for which other administrative procedures are established, including but not limited to street closures or abandonments, improvement districts, rezoning, or special assessment districts. Implementation of such actions shall be through the normal procedures established for each.

(2) Contain a schedule of proposed changes, if any, to density, coverage, height, and other requirements applicable to buildings or structures.

(3) Contain specific regulations for the remodeling of existing buildings and structures, application of performance standards and application of site plan review procedures.

(4) Contain proposals for social services to be furnished in the area and plans for capital improvements by all public agencies and utilities in the area.

**d. Establishment of the Special Planning District.**

- (1) Upon completion of the Special Planning District plan, the Planning Department shall reproduce and distribute the plan to all property owners and residents in the proposed district with the assistance of the citizens' committee.
- (2) After distribution of the plan, the Planning Department shall conduct a poll of all property owners within the proposed district to determine if there is support for the plan. If seventy percent of those responding indicate support for the plan the Planning Department shall notify the Planning Commission who shall:
  - (a) Set a date for a public hearing on the plan and the establishment of a district and post notice of and publicize such hearing in accordance with section 506.
  - (b) Mail notices to the owners of all property within the district fifteen days prior to the hearing.
  - (c) Conduct the public hearing solely in regard to the plan that has been prepared by the Planning Department.
- (3) The percentage of support shall be determined in the same manner as are petitions for the initiation of a district.
- (4) Upon completion of the public hearing, the Planning Commission may recommend to the City Council the adoption or modification and adoption of the special district plan and recommend the establishment of the Special Planning District. The plan shall contain both a special district plan and a Special Planning District zoning overlay coterminous with the boundaries of the plan. The special district plan shall also contain all special zoning criteria applying within the district.
- (5) Upon receipt of a recommendation from the Planning Commission, the City Council shall conduct a public hearing in accordance with section 506. Following the public hearing the City Council may approve, deny, or modify the special district plan and the Special Planning District.
- (6) Applications for amendments to the plan shall be in accordance with section 506.
- (7) Special Conservation Districts which the City Council has approved prior to the effective date of this ordinance shall be deemed to be Special Planning Districts pursuant to this ordinance. Proposed Special Conservation Districts for which City Council has authorized preparation of a neighborhood conservation plan prior to the effective date of this ordinance shall be deemed to be Special Planning Districts pursuant to this ordinance and shall be subject to section 402.A.2.d(4) through (7).

## Raleigh, North Carolina

*Individual neighborhood plans developed by the neighborhoods themselves control development within Raleigh conservation districts. To encourage new development that is consistent with historical patterns, a plan may address land use and zoning issues such as setbacks, building height, lot sizes, lot frontage and orientation of houses to the street.*

### **Raleigh Code of Ordinances Div. II, Part 10, Chapter 2, Article C**

#### **Sec. 10-2054. NEIGHBORHOOD CONSERVATION OVERLAY DISTRICT.**

##### **(a) Approval.**

If the use requires a site plan, as set forth in §10-2132.2, approval of a site plan is required by either the administrative staff, the Planning Commission, or the City Council; see §10-2132.2(b) and (c). If the use requires a plot plan, as set forth in §10-2132.1, administrative approval is required.

(Ord. No. 1997-137-TC-153, §2, TC-18-96, 1-14-97)

##### **(b) Permitted Uses.**

Subject to the provisions of §10-2054 and other overlay districts, all general uses, conditional uses, and special uses that are allowed in the underlying district by the Schedule of Permitted Uses in Zoning Districts, §10-2071 are allowed in the Neighborhood Conservation Overlay District. In addition, any street design, greenway standard, street right-of-way requirement, and built environmental regulation contained in the Neighborhood Plan, which may be more stringent or less stringent than those of the underlying zoning district shall control notwithstanding any contrary regulation of the underlying districts.

##### **(c) Prohibited Uses.**

Except for improvements made pursuant to Part 10 chapter 3 of this Code, any use not explicitly allowed by both the underlying district by the Schedule of Permitted Land Uses in Zoning Districts §10-2071 and subsection (b) above is prohibited. If a use is prohibited in either an overlay district or the underlying district, that use is prohibited even if one (1) of these districts allows the use. The enumeration of expressly prohibited uses shall not be deemed exclusive or all-inclusive. Prohibited uses include:

- All uses prohibited in the underlying zoning district
- Built environmental characteristics, street design, greenways and street rights-of-way established or modified after the application of this Overlay District except in conformance with the terms, conditions, plans, and provisions of the Neighborhood Plan unless approved by the Board of Adjustment in accordance with §10-2146.3(a)(7).

(Ord. No. 1999-616-TC-181, §13, TC-3-99, 8-3-99)

**(d) Area, Density, Bulk, Yard, and Height Requirements.**

**(1) Area, density, and bulk.**

a. Subject to any other applicable overlay district, the required minimum net area for any dwelling unit and equivalent dwelling unit shall be that established in the Neighborhood Plan. If the minimum net lot area in the underlying district conflicts with the minimum net lot area standard of the Neighborhood Plan, the Plan shall control. Whenever the Neighborhood Plan fails to adopt a minimum net lot area, those of the underlying zoning district shall be applied to lots.

b. The maximum residential density per net acre shall be that established in the Neighborhood Plan. If the maximum density in underlying district conflicts with the density standard of the Neighborhood Plan, the Plan shall control. Whenever the Neighborhood Plan fails to adopt a density or minimum net lot area standard, those of the underlying zoning district shall be applied to the property.

All minimum net lot areas and residential densities shall be calculated in accordance with §10-2073(c) and are subject to the exceptions listed in §10-2073(d).

**(2) Yard.**

The minimum district yard setbacks shall be those established in the Neighborhood Plan. If the district yard setbacks of the underlying district conflict with any yard setback standard of the Neighborhood Plan, the Plan shall control. Whenever the Neighborhood Plan fails to adopt yard setbacks, those of the underlying zoning district shall be applied to the property.

See §10-2075 for other yard areas required by this Code, method of calculating, exceptions and reductions to yard areas, and illustrations.

**(3) Height.**

Buildings and structures may be constructed to any height established in the Neighborhood Plan. If the height regulations of the underlying district conflict with the height regulations of the Neighborhood Plan, the Plan shall control. Whenever the Neighborhood Plan fails to adopt height limitations, those of the underlying zoning district shall be applied to the property.

See §10-2075 for method of height calculation, exceptions, and illustrations.

**(e) Supplementary Regulations.**

All uses and activities are also subject to Article H, other overlay zoning districts, conditional use zoning districts, and supplementary regulations of Article E. Supplementary regulations include:



**Table Inset:**

(1)	Off-street parking	see §10-2081
(2)	Landscaping	see §10-2082
(3)	Signage	
	on-premise signs	see §10-2083
	off-premise signs	see §10-2084

**(4) Neighborhood Plan.**

No building, structure, street, right-of-way, or greenway shall be constructed, moved, altered, changed, or increased in size within a Neighborhood Conservation Overlay District except in conformity with the adopted Neighborhood Plan. The Plan may contain standards which are more stringent or less stringent than the underlying district; in the event of any conflict, the Plan shall control. Nothing contained in the Neighborhood Plan shall be construed to affect the Planning and Development Regulations, Part 10 of this Code, except as it involves greenways, street rights-of-way, street design, and built environmental characteristics.

**(5) Existing lots and structures.**

All lots and structures existing at the time that the Neighborhood Conservation Overlay District is first applied to the property shall not be deemed a zoning nonconformity solely because of this Overlay District. For example, replacement of existing structures with like structures that otherwise conform to the requirements of the underlying district are allowed. All additions, changes, expansions, and alterations to such existing structures must comply with the regulations of the Neighborhood Conservation Overlay District unless the Board of Adjustment in accordance with §10-2146.3(a)(7) approves the addition, change, expansion or alteration, as if the existing structure were made nonconforming by the Overlay District.

(Ord. No. 1999-616-TC-181, §14, TC-3-99, 8-3-99)

**(f) Designation of a Neighborhood Conservation Overlay District and adoption of a Neighborhood Plan.**

**(1) Locational guidelines.**

The general characteristics desired of land placed in the Neighborhood Conservation Overlay District are the following:

- a. It is located in an area in which development began at least twenty-five (25) years prior to application of the Neighborhood Conservation Overlay District.
- b. At least seventy-five (75) per cent of the land within the area is developed.
- c. The area contains at least fifteen (15) (contiguous) acres unless either it is

an extension of any existing Neighborhood Conservation Overlay District, or the application is authorized by City Council to amend the Official Zoning Map to the Neighborhood Conservation Overlay District.

d. The area possesses unifying distinctive elements of either exterior features or built environmental characteristics that create an identifiable setting, character and association.

Cross reference: Petition to Zone Property Neighborhood Conservation Overlay District, §10-2165(d)(3).

**(2) Neighborhood Plan.**

A Neighborhood Plan shall be completed prior to the application of the Neighborhood Conservation Overlay District. No Neighborhood Plan shall be approved by the City Council until after a recommendation thereon has been made by the Planning Commission. At least ten (10) days before the Planning Commission makes its recommendation, a copy of the Neighborhood Plan shall be mailed to the property owners within the proposed Neighborhood Conservation Overlay District. The Neighborhood Plan shall be approved prior to or in conjunction with the zoning of any area as a Neighborhood Conservation Overlay District. The Neighborhood Plan records neighborhood-specific policies to promote the well being of the neighborhood. The Neighborhood Plan shall include at least these elements:

- a. Neighborhood history and evolution
- b. Land use inventory
- c. Description of housing; existing, new development and maintenance
- d. Inventory of built environmental characteristics
- e. Lot size and configuration
- f. Open space and recreation
- g. Commercial development revitalization
- h. Circulation/transportation
- i. Capital improvement needs

Cross references: Procedure for adopting a Neighborhood Plan, §10-2165 (d) (3) b. Lot size in Neighborhood Conservation Overlay District, §10-3022(b).

(Ord. No. 1988-292-TC-328, §3, TC-22-88, 1-3-89; Ord. No. 1995-760-TC-122, §5, TC-20B-95, 11-21-95)

## Jurisdictions with Conservation District Programs

*Set forth below is a list of 25 jurisdictions that currently operate conservation district programs.*

**Annapolis, MD:** Enabling legislation for the city's conservation district overlays is located under Title 21 of the Code and Charter of the City Annapolis. See <http://municipalcodes.lexisnexis.com/codes/annapolis/>. Legislation governing its residential overlay districts is promulgated under chapters 21.69 and 21.69A. The Eastgate Conservation District Overlay is promulgated as Chapter 21.69B. (The Annapolis code is currently undergoing revision and therefore these citations are likely to change.)

**Atlanta, GA:** The city's conservation district program is operated by the Urban Design Commission as part of its preservation program. See <http://www.ci.atlanta.ga.us/citydir/URBAN/urban.htm>. Information governing the Brookwood Hills Conservation District is located at <http://www.ci.atlanta.ga.us/citydir/URBAN/brookwo.htm>. Procedures governing the designation process may be viewed at <http://www.ci.atlanta.ga.us/citydir/URBAN/Forms/conservation%20district%20doc.pdf>. The city's preservation ordinance is available at <http://livepublish.municode.com/9/lpext.dll?f=templates&fn=main-j.htm&vid=10376>.

**Austin, TX:** Older neighborhoods in Austin may seek protection from incompatible development through the adoption of a Neighborhood Conservation Combining District Overlay. See <http://www.ci.austin.tx.us/zoning/npcd.htm>.

**Boise, ID:** The city's "Neighborhood Conservation District" law and an ordinance establishing the "Near North End Conservation District" is reproduced above. For further information visit the Boise Department of Planning and Development Services' website at <http://www.cityofboise.org/pds/neighbor.shtml>.

**Boston, MA:** Architectural Conservation Districts are designated by the Boston Landmarks Commission. Guidelines governing individually-designated districts may be viewed at <http://www.cityofboston.gov/environment/downloads.asp#historic>. See also <http://brighton02135.tripod.com/arca/id8.html>.

**Boulder County, CO:** Boulder established a conservation district program in 2002. The Neighborhood Conservation District Overlay zoning amendment is reproduced above. See also <http://www.co.boulder.co.us/lu/lucode/amendments/dc0201approved.pdf>.

**Cambridge, MA:** Legislation governing the city's neighborhood conservation districts is reproduced above. Additional information about the program is located at the Cambridge Historical Commission's website at <http://www.ci.cambridge.ma.us/~Historic/districts.html>.

**Chapel Hill, NC:** The city's newly established conservation district law is reproduced above and is also located on the web at [http://townhall.townofchapelhill.org/planning/planning\\_development/pdfs/lumo\\_TOC.pdf](http://townhall.townofchapelhill.org/planning/planning_development/pdfs/lumo_TOC.pdf).

**Dallas, TX:** The Dallas Conservation District Ordinance is reproduced above. For information on the city's conservation district program and individually-designated districts contact the city's planning office at [http://www.dallascityhall.com/dallas/eng/html/planning\\_and\\_development.html](http://www.dallascityhall.com/dallas/eng/html/planning_and_development.html).

**Davis, CA:** Provisions governing the city's "Downtown and Traditional Neighborhood Overlay District," § 40.13A of the city's zoning code, are located at <http://www.cityofdavis.org/cmo/citycode>. Design guidelines for designated areas may be viewed at <http://www.city.davis.ca.us/pb/design/>.

**Huntington Beach, CA:** The city's enabling law for its neighborhood conservation district program is available at [http://www.ci.huntington-beach.ca.us/files/users/city\\_clerk/chp224.htm](http://www.ci.huntington-beach.ca.us/files/users/city_clerk/chp224.htm).

**Indianapolis, IN:** Information on the city's conservation district program, including individual conservation plans, is available at <http://www.indygov.org/histpres/districts.htm>. Individual plans are highly detailed and provide recommendations for housing, public infrastructure, zoning, and traffic as well as design review.

**Iowa City, IA:** Iowa City's "Conservation District Overlay Zone" law can be viewed at <http://66.113.195.234/IA/Iowa%20City/index.htm>. Detailed information on the city's conservation districts is available in its "Historic Preservation Handbook," posted on the web at <http://www.icgov.org/documents/HPChandbook.pdf>. A recently adopted conservation district overlay zone ordinance is located at <http://66.113.195.234/IA/Iowa%20City/index.htm>.

**Jackson, TN:** Conservation District Design Guidelines adopted by the Jackson-Madison County Historic Zoning Commission are posted at <http://www.cityofjackson.net/departments/planning/GConsv.PDF>.

**Knoxville, TN:** Conservation districts in Knoxville are established under Article 2, Section 22 of the city's zoning ordinance. See <http://www.knoxmcp.org/zoning/cityzone/a4s22.htm>. As with other conservation district programs in Tennessee, districts are designated by the city and administered by the Historic Zoning Commission.

**Manhattan Beach, CA:** Enabling legislation for the city's conservation district program, promulgated under chapter 10.40 of city's municipal code may be viewed at <http://www.ci.manhattan-beach.ca.us/commdev/zoning/10-40.htm>

**Memphis, TN:** The city designates conservation districts as part of its historic preservation program. Information on the Memphis Landmark Commission's conservation districts is located at [http://www.co.shelby.tn.us/county\\_gov/divisions/plann\\_dev/planning/landmark/index.htm](http://www.co.shelby.tn.us/county_gov/divisions/plann_dev/planning/landmark/index.htm).

**Napa, CA:** Napa's Historic Preservation and Conservation Ordinance is reproduced above. Residential Design Guidelines adopted by the City of Napa in January 2003 may be viewed at <http://www.cityofnapa.org/Departments/Planning/WebPages/Planning/Post/Guideline.pdf>.

**Nashville, TN:** Nashville's conservation district program is operated by the Metropolitan Historic Zoning Commission (serving both Nashville and Davidson County) under its historic preservation program. Neighborhood Conservation District Overlays are established under § 17.36.110 of the Code of Laws of the Metropolitan Government of Nashville and Davidson County, Tennessee. See [http://municipal-codes.lexisnexis.com/codes/nashvill/ DATA/TITLE17/Chapter 17 36 OVERLAY DISTRICTS/17 36 110 Historic overlay\\_dis.html](http://municipal-codes.lexisnexis.com/codes/nashvill/ DATA/TITLE17/Chapter 17 36 OVERLAY DISTRICTS/17 36 110 Historic overlay_dis.html). Specific information on the conservation district program is located at the Commission's website at <http://www.nashville.gov/mhc/cv.htm>.

**Oklahoma City, OK:** Oklahoma City operates an Urban Conservation District program. The city's conservation district ordinance is promulgated as § 59-4300 of the City's Municipal Code, which is located under Article 4, Chapter 59. The city's code may be viewed at [www.municode.com](http://www.municode.com).

**Oregon City, OR:** Conservation districts in Oregon City are established through the city's preservation program. Authority to establish a conservation district overlay is established under Chapter 17.40 of the City's Municipal Code. See <http://ordlink.com/codes/oregonci/index.htm>.

**Phoenix, AR:** Phoenix operates a conservation district program through its planning office. Legislation providing authority to establish "special planning districts" is located under § 402 of the Phoenix Zoning Ordinance. <http://livepublish.municode.com/20/lpext.dll?f=templates&fn=main-j.htm&vid=13534>. Information on the city's program is available at <http://phoenix.gov/NRG/nrg12.pdf>.

**Portland, OR:** Ordinance provisions governing the designation of conservation districts and the review of properties within such districts is located at [http://www.planning.ci.portland.or.us/zoning/ZCTest/400/445\\_Historic.pdf](http://www.planning.ci.portland.or.us/zoning/ZCTest/400/445_Historic.pdf) and [http://www.planning.ci.portland.or.us/zoning/ZCTest/800/846\\_Historic\\_reviews.pdf](http://www.planning.ci.portland.or.us/zoning/ZCTest/800/846_Historic_reviews.pdf) correspondingly. Specific guidelines may be viewed at [http://www.planning.ci.portland.or.us/bop\\_library.html](http://www.planning.ci.portland.or.us/bop_library.html). Information on the city's conservation districts is located at [http://www.planning.ci.portland.or.us/mp\\_hist.html](http://www.planning.ci.portland.or.us/mp_hist.html).

**Raleigh, NC:** Raleigh's conservation district enabling legislation is reproduced above. Information on the city's "Neighborhood Conservation Overlay District" program is available at <http://www.raleigh-nc.org/planning/CP/Neighborhoods2.htm>.

**Springfield, MO:** Springfield operates an Urban Conservation District program through its planning department. The ordinance governing the establishment of conservation districts is located at § 4-2300 of the city's zoning ordinance. See [www.municode.com](http://www.municode.com). Individual plans may be viewed at <http://www.ci.springfield.mo.us/egov/planning/nco/orgs.html#pna>.