BY AUTHORITY

ORDINANCE NO. **3015** COUNCILLOR'S BILL NO. 12

SERIES OF 2003 INTRODUCED BY COUNCILLORS

Hicks-McNally

A BILL

FOR AN ORDINANCE ESTABLISHING A PROGRAM FOR IDENTIFICATION, PRESERVATION AND USE OF CITY LANDMARKS

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Chapter 13 of Title XI of the Westminster Municipal Code is hereby adopted to read as follows:

11-13-1: DECLARATION OF POLICY AND PURPOSE:

(A) The Council finds that the pressures of population growth and development may result in the destruction, impairment or drastic alteration of the buildings, structures and areas important to the City's social, cultural, historic and architectural heritage. It is further found that the prevention of such destruction and impairment and the attendant preservation of the City's social, cultural, historic and architectural heritage is essential to the public health, safety and welfare.

(B) The purpose of this chapter is to promote the public health, safety and welfare through:

1. The protection, enhancement, perpetuation and use of buildings, structures, sites and areas that are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, 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 and 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 visitor trade and interest;

4. The preservation and enhancement of a City of varied architectural styles, reflecting the distinct phases of its history: cultural, social, economic, political and architectural;

5. The enrichment of human life in its spiritual, educational and cultural dimensions by fostering knowledge of the living heritage of the past; and

HISTORIC LANDMARK DISTRICT: A geographically definable area including a concentration, linkage or continuity of subsurface sites, cultural landscapes, buildings, structures, and/or objects. A district is related by a pattern of either physical elements or social activities. A term "district" may include, but is not limited to, neighborhoods, agricultural or commercial districts.

HISTORIC LANDMARK BOARD: The City Council or a citizen committee appointed by the City Council to make recommendations to the Council on the designation of historic landmarks and historic districts and to administer the City's historic landmark program, and hereinafter referred to as the "board." The board shall perform the various functions and duties provided for it in this chapter.

HISTORIC SITE: A landscape significant for its association with a historic event, activity or person.

HISTORIC SIGNIFICANCE: That which has a special historic or aesthetic interest or value as part of the development, heritage, cultural or historic character of the City, region, state or nation.

MAINTENANCE AND REPAIR: Any work, for which a building permit is not required by law, where the purpose and effect of such work is to correct any deterioration, decay of, or damage to a structure or any architecturally significant part thereof, and to restore or replace, as nearly as may be practicable, to its condition prior to the occurrence of such deterioration, decay or damage, and which work does not effect a significant change in the external appearance of the structure.

OVERWHELMING HISTORICAL SIGNIFICANCE means:

1. Possessing such unusual or uncommon significance that any structure's potential demolition or major alteration would diminish the character and sense of place in the City; or

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

OWNER: The person or persons listed in the records of the county clerk and recorder or county assessor as owner of a subject property.

PRESERVATION: The act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic landmark.

RECONSTRUCTION: The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

REHABILITATION: The act or process of making a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historic, cultural or architectural values.

RESTORATION: The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from other periods in its history.

(D) Develop and assist in public education programs including, but not limited to, school programs, walking tours, brochures, a marker program for historic properties, interpretive sites and programs, lectures, and conferences about the history of the local and regional community, the value of preserving historic properties, and the materials and methods of preservation.

(E) Review applications for and issue certificates of historic appropriateness pursuant to this chapter.

(F) Conduct surveys of historic properties, structures and areas in order to define those of historic significance, for the purpose of creating a preservation plan of historic properties and districts.

(G) Pursue financial assistance for preservation and history-related programs.

(H) Maintain records and files on all board actions and provide documentation as necessary to the State Historical Fund.

(I) Develop and modify as needed a checklist of activities critical to the maintenance of a historic landmark to be completed as a requirement for receiving a tax rebate.

(J) Identify and implement other incentives for owners of historic properties.

(K) Authorize and implement such steps as it deems desirable to recognize the merit of and to encourage the protection, enhancement, perpetuation, and use of any historic landmark or historic landmark district by, without limitation, issuing certificates of recognition and authorizing plaques to be affixed to the exteriors of such structures.

(L) Pursue these duties and any others required by state and federal law in order to qualify the City as a certified local government under applicable historic preservation laws.

(M) Foster civic pride and awareness of the unique heritage of the City.

11-13-5: CRITERIA FOR DESIGNATION: The board will consider the following criteria in reviewing nominations of properties for designation:

(A) Properties receiving historic designations shall be at least fifty (50) years old except as otherwise provided herein and possess architectural, social, or geographical/environmental importance by meeting one or more of the following:

1. Exemplifies specific elements of an architectural style or period;

2. Is an example of the work of an architect or builder who is recognized for expertise nationally, statewide, regionally, or locally;

3. Demonstrates superior craftsmanship or high artistic value;

4. Represents an innovation in construction, materials or design;

5. Represents a style particularly associated with the Westminster area;

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

boundaries of the historic property. Any such designation shall be in furtherance of and in conformance with the purposes and standards of this chapter.

11-13-7: PROCEDURES FOR DESIGNATION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS:

(A) Application:

1. Any completed application for designation, once reviewed by the director, shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

2. Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

3. The director shall review the proposed designation with respect to: a) its relationship to the comprehensive plan; b) the effect of the designation on the surrounding neighborhood; c) the criteria set forth in this chapter; and d) such other planning considerations as may be relevant to the proposed designation. The director shall provide written comments and recommendations regarding the proposed designation to the board no less than seven (7) days before the hearing.

(B) Public hearings shall be conducted as quasi-judicial hearings, following procedures comparable to those used by City Council, unless specific procedures are provided by board bylaw.

(C) The board recommendation to the City Council shall be made after the board has heard all interested parties and relevant evidence. With the consent of the nominating party, the board may continue the hearing from time to time as necessary to gather all relevant evidence to make its recommendation. The board shall consider the conformance or lack of conformance of the proposed designation with the purposes, standards and criteria of this chapter. The board shall either recommend approval, modification and approval, or disapproval of the proposal and shall promptly refer the proposal, with a copy of its report and recommendations, to the Council. If the landowner is not satisfied with the recommendation to the Council, the landowner may withdraw the application, or withdraw consent to the application made by another nominating party, prior to the Council's action on the proposed designation.

(D) Proceedings Before The Council:

1. Within thirty (30) days after the date of any referral from the board, the Council shall hold a public hearing on the proposed designation. Notice of the public hearing shall be published and posted at least four (4) days prior to the hearing.

2. The Council shall, by resolution, approve, modify and approve, or disapprove the proposed designation and shall issue written findings in accordance with and after considering the criteria as set forth for historic landmarks and historic landmark districts. Such designating resolution shall include a description of the characteristics of the site that justify its designation and a description of the features that should be preserved or enhanced, and shall include a legal description of the location and boundaries of the historic landmark. The designating resolution may also indicate alterations that would have a significant impact upon, or be potentially detrimental to, the historic landmark. The owner(s) of the property nominated shall be notified of Council's decision. Once designated, the landmark shall be

8. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

(B) Before an owner is cited for failure to maintain the historic landmark or structure in a historic landmark district, the board shall notify the property owner, lessee, or occupant of the need to repair or maintain, and shall assist the owner, lessee, or occupant in determining how to preserve the property, and shall give the owner a reasonable time to perform such work, which time shall not exceed one hundred twenty (120) days. The board may grant extensions of the time period for good cause.

11-13-10: CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) A certificate of historic appropriateness shall be required for any work other than maintenance and repair on a property subject to a historic designation. It shall be unlawful for any person to perform any work, other than maintenance and repair without having first obtained a certificate of historic appropriateness.

(B) The director shall maintain a current record of: (1) designated historic landmarks; (2) historic landmark districts; and (3) all pending proposed designations.

(C) Upon any application for a permit to carry out any construction, alteration, removal or demolition of a building or other designated feature to a historic landmark or in a historic landmark district, which would materially alter the exterior of such a building, site or structure, or that involves more than ordinary maintenance and repair, the Department of Community Development shall not issue the requested permits until approved as provided herein, and shall promptly forward such application to the board.

(D) The board shall review any permit applications so forwarded to it to determine whether a certificate of historic appropriateness for the work proposed should be issued.

(E) Applications shall contain such information as is required by the board, so as to assure full presentation of pertinent facts for proper consideration of the application. The application shall be accompanied by plans and specifications showing the proposed exterior appearance, including color, texture of materials and architectural design and detail. Drawings or photographs showing the property in the context of its surroundings shall also be required. In addition, the applicant shall file with his/her application the names and addresses of abutting property owners, including properties across the street from the property.

(F) An application shall be promptly referred to the board. The board shall hold a public hearing on the proposal not less than thirty (30) days, nor more than sixty (60) days after the filing of the application to consider the adoption of the designation resolution. The hearing may be held less than thirty (30) days after submission of the application, upon mutual consent of the applicant and the board.

(G) Notice of the public hearing shall be published and posted at least ten (10) days prior to the hearing.

(H) In determining whether to issue a certificate of historic appropriateness the board shall consider:

1. The effect of the proposed change on the general architectural and/or historic character of the structure or district;

6. New additions, exterior alterations or related new construction shall not destroy historic materials that characterize the property and shall be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic landmark and its environment would be unimpaired. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale and architectural features to protect the historic integrity of the property and its environment.

7. All historic or contributing buildings, structures, and sites shall be recognized as products of their own time and place. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, site or environment. These changes may have acquired significance in their own right, and shall be retained and preserved. Alterations that have no historical basis and which seek to create an earlier or non-local appearance shall be discouraged.

8. Every reasonable effort shall be made to provide a compatible use for a property that requires minimal alteration to the defining characteristics, as identified in the application for designation, of the building, structure, or site and its environment, or to use the property for its originally intended purpose.

(J) Board Action: The board shall approve or disapprove the application in whole or in part. Any decision of the board approving or disapproving a certificate of historic appropriateness shall be final in thirty (30) days. The board shall issue a Certificate of Historic Appropriateness for any proposed work on a designated historical landmark only if the board can determine that the proposed work would not detrimentally alter, destroy, or adversely affect any feature that was found by the board in the original designation to contribute to the designation of the property as a landmark.

11-13-11: RELOCATION OF AN HISTORIC LANDMARK: It shall be unlawful for any person to relocate a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district without having first obtained a certificate of historic appropriateness. In addition to the alterations criteria in this chapter, the board shall apply the following criteria in considering applications for relocating a historic landmark, a contributing structure on a historic site, a building or structure within a historic landmark district; a structure onto a historic site; or a structure onto property in a historic landmark district:

(A) With regard to the original site, the board will review for compliance with all of the following criteria:

1. Documentation showing the structure cannot be rehabilitated or reused on its original site to provide for any reasonable beneficial use of the property;

2. Whether the structure makes a substantial contribution to its present setting;

3. Whether plans are specifically defined for the site to be vacated and have been approved by City Staff;

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

(c) Any impact to the architectural integrity of the remaining structure(s) located on the property and adjacent properties.

5. In the case of archeological sites, consideration will be given to whether information can be recovered as part of the demolition process.

(B) Review Criteria For Partial Demolition:

1. The partial demolition is required for the renovation, restoration or rehabilitation of the structure; and

2. The applicant must mitigate, to the greatest extent possible:

(a) Impacts on the historic importance of the structure(s) located on the property.

(b) Impacts on the architectural integrity of the structure(s) located on the property.

11-13-13: ACTION OF BOARD UPON DENIAL OF CERTIFICATE OF HISTORIC APPROPRIATENESS:

(A) If the proposed certificate of historic appropriateness to alter, relocate or demolish is denied, the board, acting with all due diligence, shall explore with the applicant available means for substantially preserving the historic landmark that was affected by the determination. These investigations may include by way of example and not of limitation:

1. Feasibility of modification of plans.

2. Feasibility of any alternative use of the structures that would substantially preserve the original character.

(B) One year after denial of a certificate of historic appropriateness for demolition, if no feasible use or ownership is found for the structure, the owner may request a waiver of all or a part of the restraint of demolition. The board will include the following factors in their consideration of the request:

1. Documented evidence of applications and written correspondence, including written consultations, illustrating efforts made by the property owner to make necessary repairs, to find an appropriate user, or to find a purchaser for the property; and

2. The adequacy of the property owner's efforts to locate available assistance for making the property functional without demolition.

11-13-14: HARDSHIP EXEMPTION: The board may exempt a property from the requirement of obtaining a certificate of historic appropriateness if the board finds that the property owner has shown the historic designation creates or would create an undue hardship.

(A) An exemption based on non-economic hardship may be found by the board when designation creates a situation substantially inadequate to meet the applicant's needs because of specific health and/or safety issues.

(B) In addition:

1. Alterations to a designated historic landmark or historic landmark district without an approved certificate of historic appropriateness will result in a one-year moratorium on all building permits for the subject property.

2. Moving or demolishing or allowing demolition by neglect of a designated structure without an approved certificate of historic appropriateness will result in a five (5) year moratorium on all moving, demolition, or building permits for the structure and for the property at the structure's original location.

3. In addition to the other remedies provided in this chapter, the City Attorney may commence an action at law or equity in any court of competent jurisdiction to enforce the provisions of this chapter.

11-13-17: CITY COUNCIL REVIEW OF DESIGNATION, ALTERATION, REMOVAL AND DEMOLITION: Nothing in this Chapter shall prevent the City Council from revoking a historic landmark designation in order to carry out specified public purposes with benefits to the public that outweigh the benefits of maintaining the historic landmark designation.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this _____ day of _____, 2003.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this _____ day of _____, 2003.

_____
Mayor

ATTEST:

_____
City Clerk