

**Selected Provisions of the Code of the City of Austin:  
Historic Preservation**

**Code Provisions as of July 9, 2013**

**Prepared by  
Preservation Austin**

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**This packet contains only the most relevant provisions relating to the historic preservation programs and processes of the City of Austin. There are certainly other provisions, especially those related generally to zoning that would be useful as well, but are not included. The selected provisions are presented in order as they appear in Code, as follows:**

- 1. Sec. 2-1-147; Establishing and charging the Historic Landmark Commission.**
- 2. Sec. 11-1-21; The tax abatement program and process for individual historic landmarks and Local Historic Districts.**
- 3. Sec. 25-1-46; The land use commission charged with review of Local Historic Districts.**
- 4. Sec. 25-2-171; Establishing the purposes of individual historic landmarks and Local Historic District designations.**
- 5. Sec. 25-2-242; Initiation of zoning by various entities, including the Historic Landmark Commission.**
- 6. Sec. 25-2-351; Historic designation criteria and process.**
- 7. Sec. 25-10-122; Historic sign district regulations.**
- 8. Sec. 25-11-211; Special requirements for historic structures; protections during pendency of designation.**

**§ 2-1-147 HISTORIC LANDMARK COMMISSION.**

(A) The Historic Landmark Commission members should have knowledge of and experience in the architectural, archaeological, cultural, social, economic, ethnic, or political history of the City, and a demonstrated interest or competence in or knowledge of historic preservation.

(1) Council may consider appointing as members:

(a) a Heritage Society of Austin board member;

(b) an architect registered in the State of Texas;

(c) a person who meets the Secretary of the Interior's professional standards for expertise in "history" or "architectural history" as described in Code of Federal Regulations Title 36, Chapter I, Part 61 (*Procedures For State, Tribal, And Local Government Historic Preservation Programs*);

(d) an attorney licensed by the State of Texas;

(e) a real estate professional;

(f) a structural engineer;

(g) the owner of a residential historic landmark; and

(h) the owner of a commercial historic landmark.

(2) Representatives of a single business or professional interest should not constitute a majority of the membership of the commission.

(B) The commission:

(1) shall prepare and periodically revise an inventory of the structures and areas that may be eligible for designation as historic landmarks;

(2) shall prepare, review, and propose amendments to the Historic Landmark Preservation Plan;

(3) shall review requests to establish or remove a historic designation and make recommendations on the requests to the land use commission, as determined in accordance with Section [25-1-46](#) (*Land Use Commission*);

- (4) shall provide information and counseling to owners of structures that are designated as historic structures;
- (5) may initiate zoning or rezoning of property to establish or remove a historic designation;
- (6) may recommend amendments to this code relating to historic preservation;
- (7) may recommend that the City acquire property if the commission finds that acquisition by the City is the only means by which to preserve the property;
- (8) may advise the council on matters relating to historic preservation;
- (9) for an object that is not permanently affixed to land, may recommend that council confer special historic recognition; and
- (10) shall perform other duties as prescribed by this code or other ordinance.

(C) The city manager shall appoint a City employee as the City's historic preservation officer, and the employee shall act in that capacity with the representatives of the federal and state governments concerning matters of historic preservation.

*Source: Ord. 20071129-011.*

## **ARTICLE 2. PARTIAL EXEMPTION FOR HISTORIC LANDMARKS.**

### **§ 11-1-21 AUTHORITY; APPLICABILITY; EXEMPTION APPLICATION.**

(A) The tax exemptions contained in this article are adopted under the authority provided in Article 8, Section 1-f (*Ad Valorem Tax Relief*) of the Texas Constitution and Section 11.24 (*Historic Sites*) of the Texas Tax Code.

(B) These exemptions apply only to city property taxes and not to taxes owing to other taxing units.

(C) Nothing in this division relieves a person from the responsibility to apply each year to the appraisal district for an exemption in accordance with the Texas Tax Code.

*Source: Ord. 20110804-009.*

### **§ 11-1-22 DETERMINATION OF EXEMPTION AMOUNT.**

(A) Except as provided in Subsection (B) and Subsection (C), a property designated as a historic landmark is eligible for a partial exemption from ad valorem taxes levied by the City under the requirements of this subsection.

(1) For an owner-occupied historic residential property that is not fully or partially leased to another person or for a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act, 100 percent of the assessed value of the historic structure and 50 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure.

(2) For any other historic property, including property used for a commercial purpose, 50 percent of the assessed value of the historic structure and 25 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure.

(B) The percentage of assessed value exempted under Subsection (A)(1) may not exceed a percentage that would result in a tax equivalent to the greater of \$2,000 or 50 percent of the ad valorem tax that the City would otherwise levy on the property if:

(1) the property was designated as a historic landmark before December 1, 2004, and changed ownership after November 30, 2004 but before January 1, 2012; or

(2) the property was designated as a historic landmark after November 30, 2004, but before January 1, 2012.

(C) The percentage of assessed value exempted under Subsection (A)(1) may not exceed a percentage that would result in a tax exemption greater than \$2,500 if:

(1) the property was designated as a historic landmark before January 1, 2012, and changed ownership after December 31, 2011; or

(2) the property was designated as a historic landmark after December 31, 2011.

(D) The City shall recommend to the chief appraiser for the county appraisal district that the entire tax parcel on which the historic structure is located, and which is designated "H" Historic, is reasonably necessary for access to and use of the historic structure, unless otherwise determined by the City Council in a specific case.

(E) The amount of the \$2,500 exemption in Subsection [11-1-22\(C\)](#) shall be modified every three years with the adoption of the ad valorem tax rate to increase or decrease in accordance with the most recently published federal government, Bureau of Labor Statistics Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most recently published Consumer Price Index on May 4, 2012, shall be used as a base for future adjustments.

*Source: 1992 Code Section 5-5-21; Ord. 031204-10; Ord. 031211-11; Ord. 041202-16; 20090806-068; Ord. 20111215-091; Ord. 20120322-025.*

**§ 11-1-23 APPLICATION PROCEDURE.**

(A) On or before January 15 of each year, the owner of property designated “H” Historic requesting a tax exemption shall file a sworn application with the City on the form provided by the City.

(B) An application under this section shall include:

(1) a statement of compliance with the requirements of the historic landmark regulation relating to preservation and maintenance of the historic structure as of January 1 of the year of the requested exemption;

(2) the owner’s authorization for inspection by the City of the property and records necessary to:

(a) certify that the property is in need of tax relief to encourage its preservation and is being preserved and maintained as required by the historic landmark regulation; and

(b) determine if new construction or modifications have been made and completed; and

(3) other information as determined by the City.

*Source: 1992 Code Section 5-5-22; Ord. 031204-10; Ord. 031211-11; Ord. 20110804-009.*

**§ 11-1-24 APPLICATION REVIEW.**

Upon receipt of an application for an exemption, the City shall:

(1) inspect the property and review records, including the owner’s application for tax exemption, to certify that the property is in need of tax relief to encourage its preservation and is being preserved and maintained as required by historic landmark regulation as of January 1 of the year of the requested exemption;

(2) schedule a hearing before the Historic Landmark Commission for the Commission to provide recommendations on the approval or disapproval of the applications for tax exemption received by the City;

(3) on or before April 1, deliver to the chief appraiser for the county appraisal district:

(a) a certification of the property's compliance with historic landmark regulation; and

(b) a recommendation from the Historic Landmark Commission for approval or disapproval of the application; and

(c) note on the application any new construction or modifications made in compliance with restrictions on the property prescribed by the historic landmark regulation.

*Source: 1992 Code Section 5-5-23; Ord. 031204-10; Ord. 031211-11; Ord. 20110804-009.*

#### **§ 11-1-25 ASSESSMENT OF PROPERTY BY CHIEF APPRAISER FOR COUNTY.**

(A) The chief appraiser for the county appraisal district shall:

(1) determine the portion of land that is reasonably necessary for access to and use of a historic structure that is subject to the application for a tax exemption; and

(2) assess for taxation all excess land at the rate applied to other taxable property in the City.

(B) The chief appraiser's determination of the amount of land reasonably necessary for access to and use of a historic structure subject to an application for a tax exemption is final.

(C) The chief appraiser for the county appraisal district shall, on or before June 1 of each year, or as soon as is practicable and prior to council's annual tax levy, forward the application to the council documenting the chief appraiser's determination of the assessed values of:

(1) the historic structure and the land necessary for its access and use; and

(2) the land in excess of that necessary for access to and use of the historic structure.

*Source: 1992 Code Section 5-5-24; Ord. 031204-10; Ord. 031211-11.*

#### **§ 11-1-26 APPROVAL OF PARTIAL EXEMPTION BY COUNCIL.**

Concurrent with the annual tax levy, the city council may, by ordinance, annually approve partial exemptions from ad valorem taxes under this article for property designated as a historically or archaeologically significant site in need of tax relief to encourage its preservation.

*Source: 1992 Code Section 5-5-20; Ord. 031204-10; Ord. 031211-11; Ord. 20110804-009.*

**§ 11-1-27 APPLICATION OF OTHER LAW.**

(A) The property of a person who has filed an application for an exemption under this article that has been disapproved by council is subject to the full amount of any tax assessed under the Code or state law.

(B) This article is cumulative of other laws that regulate taxation.

*Source: 1992 Code Section 5-5-25; Ord. 031204-10; Ord. 031211-11; Ord. 20110804-009.*

**§ 11-1-28 PAYMENT OF ADDITIONAL TAXES IF PROPERTY REZONED.**

(A) For each year that a property is granted a tax exemption for an historic designation, the chief appraiser shall make a record of the assessment that would have applied to the property without an historic designation and exemption.

(B) A property that is rezoned by the council to remove an “H” historic designation is subject to an additional tax equal to the difference between the taxes assessed under this article for the property with an historic designation and the amount of tax that would have been assessed without an historic designation.

(C) An additional tax resulting from a rezoning under this section may be calculated for not less than one taxable year and not more than three taxable years.

(D) Additional tax that accrues as a result of a rezoning under this section is:

(1) due and payable immediately;

(2) delinquent if not paid on or before the 60th day after the effective date of the re-zoning action; and

(3) subject to the same penalty and interest that applies to other unpaid taxes.

*Source: 1992 Code Section 5-5-26; Ord. 031204-10; Ord. 031211-11; Ord. 20110804-009.*

**ARTICLE 3. HISTORIC AREA DISTRICT TAX ABATEMENT PROGRAMS.**

**Division 1. General Provisions.**

**§ 11-1-51 AUTHORITY; APPLICABILITY; EXEMPTION APPLICATION.**

(A) The tax abatements contained in this article are adopted under the authority provided in Article 8, Section 1-f (*Ad Valorem Tax Relief*) of the Texas Constitution and Section 11.24 (*Historic Sites*) of the Texas Tax Code.

(B) These abatements apply only to city property taxes and not to taxes owing to other taxing units.

(C) Nothing in this division relieves a person from the responsibility to apply each year to the appraisal district for an exemption in accordance with the Texas Tax Code.

*Source: Ord. 041202-16.*

## **§ 11-1-52 DEFINITIONS.**

In this article:

- (1) ABATEMENT means a tax abatement, as described in this article.
- (2) APPRAISAL DISTRICT means the Travis Central Appraisal District or its successor.
- (3) COMMITMENT TO REPAY means a legal instrument requiring the owner of historic property granted an abatement or historic conservation easement to repay to the City all prior taxes abated upon a finding that the historic property has been totally or partially destroyed or significantly altered by the willful act or negligence of the owner or the owner's agent in violation of this code.
- (4) CONTRIBUTING STRUCTURE means a structure that contributes to the historic character of a historic area (HD) combining district, was built during the period of significance for the district, and which retains its appearance from that time. An altered structure may be considered a contributing structure if the alterations are minor and the structure retains its historic appearance and contributes to the overall visual and historic integrity of the district. A structure is designated as a contributing structure by the ordinance establishing the historic area (HD) combining district.
- (5) DIRECTOR means the director of the Neighborhood Planning and Zoning Department.
- (6) HISTORIC DISTRICT means a historic area (HD) combining district created in accordance with [Chapter 25-2 \(Zoning\)](#).
- (7) HISTORIC LANDMARK means a structure or site designated as a historic landmark combining district in accordance with [Chapter 25-2 \(Zoning\)](#).
- (8) LANDMARK COMMISSION means the City's Historic Landmark Commission.

(9) POTENTIALLY CONTRIBUTING STRUCTURE means a structure that could qualify as a contributing structure if its historic appearance were restored, as determined by the Landmark Commission.

(10) PRE-RESTORATION VALUE means the most recent appraisal of the value of property by the appraisal district before an application is submitted for an abatement. If, while a property is eligible for an abatement, the appraisal district reappraises the property and the value is reduced, the pre-restoration value equals the value after reappraisal for the remaining duration of the abatement.

(11) RESTORATION means work performed in accordance with the requirements of this article and [Title 25](#) (*Land Development*).

(12) VALUE means the most recent appraisal of the value of an historic property by the appraisal district. If, while a historic property is receiving an abatement, the appraisal district reappraises the historic property and the value is reduced, the value equals the value after reappraisal for the remaining duration of the abatement.

*Source: Ord. 041202-16.*

## **Division 2. Abatement Process.**

### **§ 11-1-61 APPLICATION FOR ABATEMENT.**

(A) An applicant must file an application for an abatement with the director.

(B) An application must be signed by the owner of the property, be acknowledged before a notary public, and include:

- (1) the legal description of the property;
- (2) construction plans for the proposed work showing how the exterior and interior of the property is to be restored, including descriptions of the materials;
- (3) proof that the property is a contributing structure or a potentially contributing structure;
- (4) proof of compliance with the historic area (HD) combining district preservation plan;
- (5) estimates of the costs for the restoration of the exterior and interior of the property;
- (6) a proforma and a development budget, if an estimated abatement is over \$100,000;

- (7) a projection of the construction time and completion date;
- (8) a complete application for a certificate of appropriateness, if required;
- (9) the proposed use of the property;
- (10) a draft commitment to repay on a form provided by the City;
- (11) an authorization for inspection of the property by members of the Landmark Commission and City staff;
- (12) the duration of any previous property tax relief granted to any portion of the property under to this article or any other ordinance adopted in accordance with Section 11.24 (*Historic Sites*) of the Texas Tax Code;
- (13) proof, including a tax certificate, that no property taxes or City fees, fines, or penalties are delinquent on the property;
- (14) an affidavit stating that all property taxes are current and that no city fees, fines, or penalties are owed on property owned by a business association in which the applicant has an ownership interest;
- (15) a description of City Code violations, if any, on the property within the previous five years;
- (16) a letter of intent from a financial institution or potential investors; and
- (17) any other information the director determines is necessary to demonstrate eligibility, including information showing compliance with all applicable City health and safety regulations.

*Source: Ord. 041202-16.*

#### **§ 11-1-62 DETERMINATION OF ELIGIBILITY.**

- (A) The Landmark Commission shall determine whether a property is eligible for an abatement, subject to appeal to the Planning Commission.
- (B) After receipt of a complete application for an abatement, the director shall schedule a hearing on eligibility before the Landmark Commission.
- (C) The director shall schedule an application for a certificate of appropriateness, if required, to be heard by the Landmark Commission at the same time as the determination of eligibility.

*Source: Ord. 041202-16.*

### **§ 11-1-63 CRITERIA FOR ELIGIBILITY.**

The Landmark Commission shall issue a certificate of eligibility designating the property as in need of tax relief to encourage its preservation only if the application satisfies the following requirements:

- (1) The restoration must comply with the historic area (HD) combining district preservation plan.
- (2) The property is a contributing structure, or the Landmark Commission determines that it is a potentially contributing structure.
- (3) If the application is for a potentially contributing structure, the work for which the certificate is requested must restore the historic appearance of the structure.
- (4) The cost of restoration must exceed the percentage of pre-restoration value specified in the applicable section of [Division 3](#) (*Abatement Programs*).
- (5) Only restoration done after issuance of the certificate of eligibility is included in determining whether the proposed restoration exceeds the specified percentage of pre-restoration value.
- (6) Only restoration involving work for which a certificate of appropriateness or City permit is required is included in determining whether the proposed work exceeds the specified percentage of pre-restoration value.
- (7) The applicant obtains a certificate of appropriateness, if required.

*Source: Ord. 041202-16.*

### **§ 11-1-64 NOTICE OF DENIAL; APPEAL.**

- (A) If the Landmark Commission determines that an applicant is not eligible for an abatement, the director shall notify the applicant in writing by United States mail sent to the address shown on the application.
- (B) An applicant may appeal the Landmark Commission's decision to the Planning Commission. To appeal, the applicant must file a written request with the director not later than the 31st day after the date written notice of the decision is given to the applicant.
- (C) On appeal, the Planning Commission shall consider only whether the Landmark Commission erred in its determination that the applicant is not eligible for the abatement under Section [11-1-63](#) (*Criteria For Eligibility*).

*Source: Ord. 041202-16.*

**§ 11-1-65 COUNCIL REVIEW OF ABATEMENTS THAT EXCEED \$50,000.**

(A) The director shall schedule an application for an abatement that exceeds \$50,000 for review by the city council not later than the 90th day after a certificate of eligibility is granted.

(B) The city council may, by resolution, approve or deny any portion of an application over \$50,000.

*Source: Ord. 041202-16.*

**§ 11-1-66 COMPLETION OF RESTORATION.**

(A) Except as provided in Subsection (B), all restoration must be completed and a certificate of occupancy must be obtained for the property within two years after the date of the certificate of eligibility.

(B) The deadline for completion of restoration may be extended by the Landmark Commission for additional periods of up to one year each.

(C) The certificate of eligibility expires automatically if restoration is not completed within the period prescribed by this section.

*Source: Ord. 041202-16.*

**§ 11-1-67 LETTER OF VERIFICATION.**

(A) To receive an abatement after restoration is completed, an owner must apply to the director for a letter of verification and submit to the director:

(1) the certificate of eligibility;

(2) a signed statement, acknowledged before a notary public, certifying that the restoration has been completed in compliance with any certificates of appropriateness or preliminary certificates of appropriateness along with receipts or other documentation proving that the required restoration has actually been done;

(3) an executed commitment to repay that:

(a) is approved as to form by the city attorney;

(b) provides that any unpaid repayment is a lien against the property;

(c) indemnifies the City against all claims arising out of the granting of an abatement;

- (d) binds the owner and his successors, heirs, and assigns;
- (e) runs with the land; and
- (f) is filed in deed records of the appropriate county;
- (4) a copy of the city council resolution if the abatement exceeds \$50,000; and
- (5) a certificate of occupancy, if applicable.

*Source: Ord. 041202-16.*

#### **§ 11-1-68 REVIEW BY DIRECTOR; CRITERIA.**

- (A) The director shall inspect the property to verify compliance with the requirements of this article.
- (B) The director shall issue a letter of verification only if no property taxes or City fees, fines, or penalties are delinquent on the property, and the property complies with all applicable City Code provisions.

*Source: Ord. 041202-16.*

#### **§ 11-1-69 DIRECTOR'S DECISION.**

- (A) If the director determines that an applicant meets all applicable requirements and qualifies for an abatement, the director shall send a letter of verification to the appraisal district and the applicant, indicating the applicable abatement and the value and duration of the abatement.
- (B) The director shall provide subsequent letters of verification to the appraisal district on an annual basis for the duration of the abatement.

*Source: Ord. 041202-16.*

#### **§ 11-1-70 NOTICE OF DENIAL; APPEAL.**

- (A) If the director determines that the applicant is not eligible for an abatement, the director shall notify the applicant in writing by United States mail sent to the address shown on the application.
- (B) An applicant may appeal the director's decision to the Planning Commission. To appeal, the applicant must file a written request with the director not later than the 31st day after the date written notice of the decision is given to the applicant.

(C) On appeal, the Planning Commission shall consider only whether the director erred in determining that the applicant is not eligible for the abatement under Section [11-1-68](#) (*Review By Director; Criteria*).

*Source: Ord. 041202-16.*

### **Division 3. Abatement Programs.**

#### **§ 11-1-81 RESIDENTIAL ABATEMENT PROGRAM.**

(A) An abatement under this section may be granted only once within a 10 year period for the same property.

(B) To be eligible for an abatement:

(1) a property must be owner-occupied;

(2) a property must be a contributing structure or a potentially contributing structure, but may not be a historic landmark;

(3) the cost of restoration that is completed must be at least 25 percent of the pre-restoration value, excluding the value of the land;

(4) at least five percent of the pre-restoration value must be spent on improvements to the exterior of the property; and

(5) the improvements must comply with the historic area (HD) combining district preservation plan.

(C) An abatement under this section is equal to the taxes assessed on the added value of the property over the pre-restoration value.

(D) An abatement begins the first day of the first tax year after verification and has a duration of seven years.

*Source: Ord. 041202-16.*

#### **§ 11-1-82 COMMERCIAL ABATEMENT PROGRAM.**

(A) An abatement under this section may be granted only once within a 15 year period for the same property.

(B) To be eligible for an abatement:

(1) a property must be an income-producing property;

(2) a property must be a contributing structure or a potentially contributing structure, but may not be a historic landmark;

(3) the cost of restoration that is completed must be at least 40 percent of the pre-restoration value, excluding the value of the land;

(4) at least five percent of the pre-restoration value must be spent on improvements to the exterior of the property; and

(5) the improvements must comply with the historic area (HD) combining district preservation plan.

(C) An abatement under this section is equal to the taxes assessed on the added value of the property over the pre-restoration value.

(D) An abatement begins the first day of the first tax year after verification and has a duration of ten years.

*Source: Ord. 041202-16.*

#### **§ 11-1-83 REVITALIZATION AREA PROGRAM.**

(A) This section applies in the area bounded by Interstate 35 from Manor Road to Riverside Drive, Riverside Drive from Interstate 35 to Highway 71, Highway 71 from Riverside Drive to Highway 183, Highway 183 from Highway 71 to Manor Road, and Manor Road from Highway 183 to Interstate 35.

(B) An abatement under this section may be granted only once within a 15 year period for the same property.

(C) This subsection applies to residential property.

(1) To be eligible for an abatement:

(a) a property must be owner-occupied;

(b) a property must be a contributing structure or a potentially contributing structure;

(c) the cost of restoration that is completed must be at least 10 percent of the pre-restoration value, excluding the value of the land;

(d) at least five percent of the pre-restoration value must be spent on improvements to the exterior of the property; and

(e) the improvements must comply with the historic area (HD) combining district preservation plan.

(2) An abatement under this subsection is equal to the taxes assessed on the added value of the property over the pre-restoration value.

(3) An abatement begins the first day of the first tax year after verification and has a duration of ten years.

(D) This subsection applies to a commercial property.

(1) To be eligible for an abatement:

(a) a property must be an income-producing property;

(b) a property must be a contributing structure or a potentially contributing structure;

(c) the cost of restoration that is completed must be at least 30 percent of the pre-restoration value, excluding the value of the land;

(d) at least five percent of the pre-restoration value must be spent on improvements to the exterior of the property; and

(e) the improvements must comply with the historic area (HD) combining district preservation plan.

(2) An abatement under this section is equal to the taxes assessed on the added value of the property over the pre-restoration value.

(3) An abatement begins the first day of the first tax year after verification and has a duration of ten years.

*Source: Ord. 041202-16.*

#### **§ 25-1-46 LAND USE COMMISSION.**

(A) The Planning Commission or the Zoning and Platting Commission may act as the Land Use Commission, as prescribed by this section.

(B) A determination of which commission shall act as the land use commission to consider a particular application is made on the date that the application is filed. After the determination is made, the designated commission continues to act as the land use commission until the application is approved or denied.

(C) The Zoning and Platting Commission shall act as the Land Use Commission for all applications, except as provided in Subsection (D).

(D) The Planning Commission shall act as the land use commission for property that is wholly or partly within:

- (1) the boundaries of a neighborhood plan that the council has adopted as a component of the comprehensive plan;
- (2) the former Robert Mueller Municipal Airport site;
- (3) a transit oriented development (TOD) district;
- (4) the old Enfield neighborhood planning area; or
- (5) the boundaries of a proposed neighborhood plan that the Planning Commission is considering as an amendment to the comprehensive plan. In this subsection, Planning Commission consideration of a proposed neighborhood plan:
  - (a) begins on the effective date of a council resolution or ordinance directing the Planning Commission to consider a neighborhood plan for an identified area; and
  - (b) ends on the date that the council adopts or rejects the proposed neighborhood plan or withdraws its directive to the Planning Commission to consider a neighborhood plan for the area.

(E) A liaison committee of the Planning Commission and the Zoning and Platting Commission is established. The chair of each commission shall appoint two commission members to serve on the committee. The committee shall meet regularly to exchange information relating to the commissions and make recommendations to the commissions on common policies, objectives, issues, and activities.

(F) The Planning Commission shall act as the land use commission for variances granted under Section [25-8-41](#) (*Land Use Commission Variances*) if any portion of the property abuts or is within 500 feet of the shoreline of Lake Austin, measured horizontally.

*Source: Ord. 010607-8; Ord. 011129-79; Ord. 031211-11; Ord. 20060309-057; Ord. 20060622-128; 20090806-068; Ord. 20120524-083; Ord. 20121018-104.*

#### **§ 25-2-171 HISTORIC LANDMARK (H) COMBINING DISTRICT AND HISTORIC AREA (HD) COMBINING DISTRICT PURPOSES.**

(A) The purpose of a historic landmark (H) combining district is to protect, enhance, and preserve individual structures or sites that are of architectural, historical, archaeological, or cultural significance.

(B) The purpose of a historic area (HD) combining district is to protect, enhance, and preserve areas that include structures or sites that are of architectural, historical, archaeological, or cultural significance.

*Source: Section 13-2-1 and 13-2-100; Ord. 990225-70; Ord. 031211-11; Ord. 041202-16.*

#### **§ 25-2-242 INITIATION OF ZONING OR REZONING.**

Zoning or rezoning of property may be initiated by the:

- (1) Council;
- (2) Land Use Commission;
- (3) Record owner;
- (4) Historic Landmark Commission, if the property is, or is proposed to be, designated as a historic landmark (H) combining district or a historic area (HD) combining district; or
- (5) For a proposed historic area (HD) combining district:
  - (a) petition of:
    - (i) the owners of at least 51 percent of the land, by land area, in the proposed district; or
    - (ii) at least 51 percent of the owners of individual properties in the proposed district.
  - (b) property owned by the City of Austin or other governmental entities shall be fully excluded from the area subject to petition of the owners, except such property may be included in support if it contains structures or features that contribute to the historic character of the district, as determined by the Historic Landmark Commission. The amount of such property to be calculated as supporting shall not exceed one-third of the 51% of the land in the proposed district.

*Source: Section 13-1-400; Ord. 990225-70; Ord. 010607-8; Ord. 031211-11; Ord. 041202-16; Ord. 20060622-128; 20090806-068; Ord. 20091210-092; Ord. 20111215-091.*

#### **§ 25-2-243 PROPOSED DISTRICT BOUNDARIES MUST BE CONTIGUOUS.**

(A) Except as provided in Subsection (B), the boundaries of the districts proposed in a zoning or rezoning application must be contiguous.

(B) The boundaries of the districts proposed in a zoning application may be noncontiguous if the zoning is initiated by the Council or the Land Use Commission.

*Source: Section 13-1-402; Ord. 990225-70; Ord. 031211-11; Ord. 20110609-056.*

### **Division 3. Historic Landmarks and Historic Area Districts.**

#### **§ 25-2-350 CONTRIBUTING STRUCTURE DEFINED.**

In this division, CONTRIBUTING STRUCTURE means a structure that contributes to the historic character of a historic area (HD) combining district, was built during the period of significance for the district, and which retains its appearance from that time. An altered structure may be considered a contributing structure if the alterations are minor and the structure retains its historic appearance and contributes to the overall visual and historic integrity of the district. A structure is designated as a contributing structure by the ordinance establishing the historic area (HD) combining district.

*Source: Ord. 041202-16; Ord. 20100819-065.*

#### **§ 25-2-351 LIMITS ON APPLICATIONS FOR HISTORIC DESIGNATION.**

(A) The Historic Landmark Commission may consider no more than a total of three applications per month for historic landmark (H) designation.

(B) The Historic Landmark Commission may consider no more than one application per month for historic landmark (H) designation of property located in any National Register or Local Historic District, unless there would otherwise be fewer than a total of three applications for historic landmark (H) designation considered in that month.

(C) Limitations in Subsections (A) and (B) of this section shall not apply to applications initiated by the Historic Landmark Commission in response to a request for a demolition or relocation permit.

*Source: Ord. 20100819-065.*

#### **§ 25-2-352 HISTORIC DESIGNATION CRITERIA.**

(A) The council may designate a structure or site as a historic landmark (H) combining district if:

- (1) the property is at least 50 years old and represents a period of significance of at least 50 years ago, unless the property is of exceptional importance as defined by National Register Bulletin 22, National Park Service (1996);

(2) the property retains a high degree of integrity, as defined by the National Register of Historic Places, that clearly conveys its historical significance and does not include an addition or alteration which has significantly compromised its integrity; and

(3) the property:

(a) is individually listed in the National Register of Historic Places; or is designated as a Recorded Texas Historic Landmark, State Archeological Landmark, or National Historic Landmark; or

(b) demonstrates significance in at least two of the following categories:

(i) Architecture. The property embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction; exemplifies technological innovation in design or construction; displays high artistic value in representing ethnic or folk art, architecture, or construction; represents a rare example of an architectural style in the city; serves as an outstanding example of the work of an architect, builder, or artisan who significantly contributed to the development of the city, state, or nation; possesses cultural, historical, or architectural value as a particularly fine or unique example of a utilitarian or vernacular structure; or represents an architectural curiosity or one-of-a-kind building. A property located within a local historic district is ineligible to be nominated for landmark designation under the criterion for architecture, unless it possesses exceptional significance or is representative of a separate period of significance.

(ii) Historical Associations. The property has long-standing significant associations with persons, groups, institutions, businesses, or events of historic importance which contributed significantly to the history of the city, state, or nation; or represents a significant portrayal of the cultural practices or the way of life of a definable group of people in a historic time.

(iii) Archeology. The property has, or is expected to yield, significant data concerning the human history or prehistory of the region;

(iv) Community Value. The property has a unique location, physical characteristic, or significant feature that contributes to the character, image, or cultural identity of the city, a neighborhood, or a particular group.

(v) Landscape Feature. The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.

(B) The council may designate an area as a historic area (HD) combining district if at least 51 percent of the principal structures within the proposed district are contributing to the historic character of the district when the historic preservation officer certifies that the zoning or rezoning application is complete.

(C) The council may enlarge the boundary of an existing historic area (HD) combining district if the additional structure, group of structures, or area adds historic, archeological, or cultural value to the district.

(D) Except as limited by Subsection (E), the council may reduce the boundary of an existing historic area (HD) combining district if:

(1) the structure to be excluded does not contribute to the historic character of the district;

(2) excluding the structure or area will not cause physical, historical, architectural, archeological, or cultural degradation of the district; or

(3) a reasonable use of the structure that allows the exterior to remain in its original style does not exist.

(E) The minimum size for a historic area (HD) combining district is one block face.

*Source: Ord. 041202-16; Ord. 20060622-128; Ord. 20111215-091.*

#### **§ 25-2-353 APPLICATION REQUIREMENTS.**

(A) An application to designate a structure or site as a historic landmark (H) combining district or an area as a historic area (HD) combining district must demonstrate that the structure, site, or area satisfies the criteria for designation and include the information required by administrative rule.

(B) A record owner or the record owner's agent filing an application for an owner-initiated historic landmark (H) designation shall affirm that no person involved in the matter was or will be compensated on a contingent fee basis or arrangement.

(C) Prior to action by the Historic Landmark Commission, a preservation plan submitted as part of an application for a combining district shall be forwarded by the Historic Preservation Officer to the Austin Energy Green Builder (or successor) program for review and written recommendations. These recommendations shall address the opportunity to incorporate sustainable elements listed in Subsection [25-2-](#)

[356](#)(C). The recommendations shall be provided to all boards and commissions and council prior to public hearing and action on the application.

*Source: Ord. 041202-16; Ord. 20060622-128; 20090806-068; Ord. 20100819-065.*

#### **§ 25-2-354 HISTORIC LANDMARK COMMISSION PUBLIC HEARING REQUIREMENT.**

(A) The Historic Landmark Commission shall hold a public hearing on a zoning or rezoning application that requests:

- (1) designation of a historic landmark (H) or historic area (HD) combining district; or
- (2) an amendment or removal of a historic landmark (H) or historic area (HD) combining district designation.

(B) The director of the Neighborhood Planning and Zoning Department shall give notice of the public hearing under Section [25-1-132](#)(A) (*Notice Of Public Hearing*). The Director of the Neighborhood Planning and Zoning Department shall also provide notice of the public hearing by posting signs on the property.

(C) The Historic Landmark Commission shall make a recommendation to the Land Use Commission on a zoning or rezoning application governed by this section not later than the 14th day after the Historic Landmark Commission closes the public hearing on the application.

(D) The director of the Neighborhood Planning and Zoning Department shall forward the recommendation of the Historic Landmark Commission to the Land Use Commission and council.

*Source: Ord. 041202-16.*

#### **§ 25-2-355 HISTORIC LANDMARK COMMISSION REVIEW.**

(A) The Historic Landmark Commission shall consider the criteria established in Section [25-2-352](#) (*Historic Designation Criteria*) when reviewing an application for a historic landmark (H) or historic area (HD) combining district.

(B) If the Historic Landmark Commission recommends designation of a historic landmark (H) or historic area (HD) combining district, it shall send a recommendation to the Land Use Commission and the council that includes:

- (1) a statement of the reasons for recommending designation of the district;
- (2) a legal description of the boundary of the district;

(3) maps, photographs, and histories of the structures, sites, or areas located in the district as required by administrative rule;

(4) findings that support the criteria for designating the district and that establish the importance of the district; and

(5) for a historic area (HD) combining district, a historic area district preservation plan and list of designated contributing structures as described in Section [25-2-356](#) (*Historic Area District Ordinance And Preservation Plan Requirement*).

(C) The affirmative vote of two-thirds of the members of the Historic Landmark Commission is required to recommend zoning or rezoning property as a historic landmark (H) combining district if a record owner of the property files a written statement protesting the zoning or rezoning.

Source: Ord. 041202-16; Ord. 20060622-128; 20090806-068.

#### **§ 25-2-356 HISTORIC AREA DISTRICT ORDINANCE AND PRESERVATION PLAN REQUIREMENT.**

(A) An ordinance zoning or rezoning property as a historic area (HD) combining district must:

- (1) describe the character-defining features of the district;
- (2) include a plan to preserve those features; and
- (3) list the designated contributing structures.

(B) A preservation plan may:

- (1) modify regulations relating to building setbacks, building height, compatibility, landscaping, parking, or signs; or
- (2) prescribe regulations relating to design, scale, or architectural character of, or materials for:
  - (a) the exterior of a contributing structure or a new structure; or
  - (b) public facilities, including street lighting, street furniture, signs, landscaping, utility facilities, sidewalks, and streets.

(C) Consistent with the character-defining features of the district described under Subsection (A)(1), a preservation plan proposed under Subsection (B) may allow and encourage property owners to utilize various external materials and mechanisms to promote sustainability, including but not limited to roofing systems, solar technologies,

energy generation and efficiency, water collection and reuse, rain-collection systems and drought-tolerant, native, and edible landscaping and gardens.

*Source: Ord. 041202-16; 20090806-068.*

#### **§ 25-2-357 DESIGNATION ON ZONING MAP.**

The director of the Neighborhood Planning and Zoning Department shall add as a suffix to the base district designation on the zoning map:

- (1) the letter "H" to reflect a historic landmark designation; or
- (2) the letters "HD" to reflect a historic area designation.

*Source: Ord. 041202-16.*

#### **§ 25-2-358 NOTICE OF DESIGNATION TO TAX APPRAISAL DISTRICT.**

(A) The historic preservation officer shall file with the county tax appraisal district a:

- (1) copy of an ordinance zoning property as a historic landmark or historic area combining district; and
- (2) notice stating that the council has granted the historic designation.

(B) The historic preservation officer shall mail a copy of the notice described in Subsection (A)(2) to the notice owner by certified mail.

*Source: Ord. 041202-16; Ord. 20060112-053.*

#### **§ 25-2-359 MEDALLIONS.**

With the approval of the owner, a person may place a medallion approved by the Historic Landmark Commission on a structure or site that is designated as a historic landmark.

*Source: Ord. 041202-16.*

### **ARTICLE 7. REGULATIONS APPLICABLE TO CERTAIN SIGN DISTRICTS.**

#### **§ 25-10-121 HISTORIC SIGN DISTRICT REGULATIONS.**

(A) Notwithstanding any other provision in this chapter, a person may not install a sign in the historic sign district, except:

- (1) for a sidewalk sign; or

(2) in compliance with the requirements of Section 25-10-122 (*Historic Landmark Commission Review*).

(B) The following are prohibited in the historic sign district:

- (1) a sign, or any portion of a sign, that rotates; and
- (2) a roof sign.

(C) A person may not place a handbill, poster, placard, or other advertising device of a temporary nature on a structure in the historic sign district, except inside a window or on a bulletin board with the consent of the owner or tenant.

*Source: Section 13-2-866; Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-10-122 HISTORIC LANDMARK COMMISSION REVIEW.**

(A) If a person files an application for a sign permit in the historic sign district, the building official shall immediately notify the historic preservation officer.

(B) The historic preservation officer shall review the application and determine whether it complies with the historic sign district guidelines described in Subsection (F), if any. If the application complies with the guidelines, the historic preservation officer shall approve the application. Otherwise, the historic preservation officer shall:

- (1) immediately notify the presiding officer of the Historic Landmark Commission of the application; and
- (2) give at least 10 days' written notice to the applicant and land owner of the date, time, and place of the meeting at which the Landmark Commission will consider the application.

(C) The applicant or land owner may waive the 10 day notice of the hearing.

(D) In reviewing a sign permit application, the Historic Landmark Commission shall consider:

- (1) the proposed size, color, and lighting of the sign;
- (2) the material from which the sign is to be constructed;
- (3) the proliferation of signs on a building or lot;
- (4) the proposed orientation of the sign with respect to structures; and

(5) other factors that are consistent with the Historic Landmark Preservation Plan, the character of the National Register District, and the purpose of historic landmark regulations.

(E) The Historic Landmark Commission shall approve a sign permit application if it determines that the proposed sign:

(1) will not adversely affect a significant architectural or historical feature of the historic sign district; and

(2) as applicable, is consistent with the Historic Landmark Preservation Plan, the character of the National Register District, and the purpose of the historic landmark regulations.

(F) The Historic Landmark Commission may adopt historic sign district guidelines that describe typical signs that comply with the criteria prescribed by Subsections (D) and (E).

(G) If the Historic Landmark Commission does not review a sign permit application by the 40th day after the date the application is filed, the application is considered approved by the Historic Landmark Commission.

(H) The applicant or land owner may appeal a decision of the Historic Landmark Commission under this section to the city council in accordance with Chapter 25-1, Article 7, Division 1 (*Appeals*).

*Source: Section 25-10-866; Ord. 990225-70; Ord. 031211-11; Ord. 041202-16.*

#### ***ARTICLE 4. SPECIAL REQUIREMENTS FOR HISTORIC STRUCTURES.***

##### **Division 1. Historic Structures Generally.**

##### **§ 25-11-211 DEFINITIONS.**

In this article:

(1) ALTERATION means any exterior change, demolition, or modification to a historic landmark or to a contributing property located within a historic area (HD) combining district, including, but not limited to:

(a) exterior changes to or modifications of structures, architectural details, or visual characteristics;

(b) construction of new structures;

(c) disturbance of archeological sites or areas; or

- (d) placement or removal of exterior objects that affect the exterior qualities of the property.
- (2) ARCHITECTURAL FEATURE means an architectural element, which alone or as part of a pattern, embodies the style, design, or general arrangement of the exterior of a building or structure, including but not limited to the kind, color, and texture of building materials, and style and type of windows, doors, lights, porches, and signs.
- (3) CERTIFICATE means a certificate of appropriateness issued by the City approving work on, relocation of, or demolition of a historic structure, historic or archeological site, or a contributing structure within a historic area (HD) combining district.
- (4) COMMISSION means the Historic Landmark Commission.
- (5) CONTRIBUTING STRUCTURE means a building, structure, site, feature, or object within a designated historic area (HD) combining district which has been designated as a contributing structure by the ordinance creating the district, or within a National Register District.
- (6) DEMOLITION BY NEGLECT means lack of maintenance of any building or structure designated as a historic landmark (H) or any building or structure designated by ordinance as contributing to a historic area (HD) combining district that results in deterioration and threatens the preservation of the structure.
- (7) HISTORIC AREA COMBINING DISTRICT means a district approved by the Council through an ordinance which contains a geographically definable area, possessing particular architectural, cultural, or historic importance or significance. A historic area (HD) combining district must consist, at a minimum, of one block-face.
- (8) ORDINARY REPAIR OR MAINTENANCE means any work that does not constitute an exterior change in design, material, or outward appearance, and includes in-kind replacement or repair with the same original material.
- (9) OWNER OR PROPERTY OWNER means the record owner of a property within an existing or proposed historic landmark (H) or historic area (HD) combining district or an agent of the property owner.

*Source: Chapter 13-2 Division 4, Part B; Ord. 990225-70; Ord. 031211-11; Ord. 041202-16; 20090806-068.*

**§ 25-11-212 CERTIFICATE REQUIRED.**

(A) Until a person obtains a certificate of appropriateness from the Commission or the building official, the person may not:

(1) change, restore, rehabilitate, alter, remove, or demolish an exterior architectural or site feature of a designated historic landmark or a contributing structure, whether or not a building or demolition permit is required, and including but not limited to the replacement of windows, doors, exterior siding materials, installation of shutters or exterior lighting, or the replacement of roof materials; or

(2) change, restore, remove or demolish an exterior architectural or site feature of a structure for which a designation is pending under Section [25-11-213](#) (*Pendency Of Designation*).

(B) Except for a change to the exterior color of a historic landmark, the prohibition of Subsection (A) does not apply if the historic preservation officer determines that a change or restoration:

(1) is ordinary repair or maintenance that does not involve changes in architectural and historical value, style, or general design;

(2) is an accurate restoration or reconstruction of a documented missing historic architectural element of the structure or site, unless a variance or waiver is requested; or

(3) does not visually affect the historic character of the structure or site from an adjacent public street, and is limited to the construction of:

(a) a ground-floor, one-story addition or outbuilding with less than 600 square feet of gross floor area;

(b) a second-story rear addition to a two-story building, so long as the addition is not visible from an adjacent public street; or

(c) a pool, deck, fence, back porch enclosure, or other minor feature.

(C) A criminal penalty for a violation of this section applies only to a person who has actual or constructive notice that:

(1) the structure is a designated historic landmark or contributing structure; or

(2) a designation is pending under Section [25-11-213](#) (*Pendency Of Designation*).

*Source: Sections 13-2-760(a), 13-2-760(d), 13-2-761(a), 13-2-762(b), and 13-2-762(d); Ord. 990225-70; Ord. 031211-11; Ord. 041202-16; 20090806-068.*

**§ 25-11-213 BUILDING, DEMOLITION, AND RELOCATION PERMITS AND CERTIFICATES OF APPROPRIATENESS RELATING TO CERTAIN BUILDINGS, STRUCTURES OR SITES.**

(A) In this section “National Register Historic District” means an area designated in the Federal Register under the National Preservation Act of 1966, as amended, for which maps depicting the area are available for inspection by the public at the Neighborhood Planning and Zoning Department.

(B) Except as provided in Subsection (C), this section applies to a building, structure, or site:

- (1) located in a National Register Historic District;
- (2) listed in a professionally prepared survey of historic structures approved by the historic preservation officer;
- (3) individually listed in the National Register of Historic Places;
- (4) designated as a Recorded Texas Historic Landmark, a State Archeological Landmark, or a National Historic Landmark;
- (5) designated as a historic landmark (H) combining district;
- (6) located within a historic area (HD) combining district; or
- (7) determined by the historic preservation officer to have potential for designation as a historic landmark.

(C) This section does not apply to a structure if the historic preservation officer determines that the structure:

- (1) is less than 50 years old;
- (2) does not meet at least two of the criteria for designation as a historic landmark (H) combining district prescribed by Section [25-2-352\(A\)\(3\)\(b\)](#) (*Historic Designation Criteria*); and
- (3) is not a contributing structure in a historic area (HD) combining district.

(D) When the building official receives an application requesting a building permit, relocation permit, or demolition permit for a structure to which this section applies, the building official shall immediately:

- (1) notify the historic preservation officer; and

- (2) upon receipt of notification by the historic preservation officer that the application will be placed upon the Commission's agenda, the building official shall post a sign on the site and notify property owners, residents, and registered neighborhood associations in accordance with Section [25-1-133\(A\)](#).
- (E) The historic preservation officer shall complete the review of an application for a demolition, relocation, or building permit within five business days of receipt of a complete application, and determine whether to place the application on the Commission agenda.
- (F) The Commission shall hold a public hearing on an application described in Subsection (D) within 45 days of receipt of a complete application.
- (G) The building official shall not issue a building permit, relocation permit, or demolition permit for a structure to which this section applies until the earlier of:
- (1) the date the Commission makes a decision not to initiate a historic zoning designation case regarding the structure;
  - (2) the date on which the Commission approves an application for a certificate of appropriateness, or makes recommendations on an application for a building permit;
  - (3) the expiration of 75 days after the date of the first Commission meeting at which the application is posted on the agenda; or
  - (4) the expiration of 180 days after receipt of a complete application for a contributing structure within a National Register Historic District or a pending historic area (HD) combining district.
- (H) If the Commission makes a decision to initiate a historic zoning designation case, a designation becomes pending on the structure under Section [25-11-214](#).
- (I) The historic preservation officer may approve applications for each of the following:
- (1) Building permits for properties located within a National Register Historic District which are considered minor projects, such as:
    - (a) construction of a one-story ground-floor addition or outbuilding with no more than 600square feet of gross floor area;
    - (b) construction of a second-story rear addition to a two-story building or structure if the addition is not visible from an adjacent public street; or

(c) construction of a pool, deck, fence, back porch enclosure, or other minor feature.

(2) Demolition permits for minor outbuildings within a National Register Historic District such as carports, detached garages, sheds, greenhouses, and other outbuildings determined by the historic preservation officer not to possess historical or architectural significance either as a stand-alone building or structure, or as part of a complex of buildings or structures on the site.

(3) Demolition or relocation permits for properties deemed non-contributing to the historic character of a National Register Historic District.

(J) The building official may not release a demolition or relocation permit for a building or structure deemed contributing to a National Register Historic District or a historic area (HD) combining district until the Commission has reviewed and made recommendations on the application for a building permit for the site, unless the building official determines that demolition or relocation is necessary for reasons related to public safety.

*Source: Section 13-2-763; Ord. 990225-70; Ord. 010329-18; Ord. 031211-11; Ord. 041202-16; 20090806-068; Ord. 20111215-091.*

#### **§ 25-11-214 PENDENCY OF DESIGNATION.**

(A) A building, structure, or site is subject to this article if a designation as a historic landmark is pending. A permit issued for a building, structure, or site while a designation as a historic landmark is pending is void.

(B) A designation is pending under Subsection (A) on the occurrence of the earliest of the following:

(1) two members of the Commission direct the historic preservation officer in writing to place the building, structure, or site on the Commission's agenda for consideration of whether the building, structure, or site should be designated as a historic landmark; or

(2) Commission agenda is posted that includes Commission consideration of whether the building, structure, or site should be designated as a historic landmark.

(3) a Commission agenda is posted that includes Commission consideration of an application for a demolition, relocation, or building permit concerning the building, structure, or site.

(C) A written order issued by a member of the Commission under Section (B)(1) must address:

- (1) whether the structure should be considered for historic zoning;
- (2) whether the status quo of the structure should be maintained pending historic zoning proceedings; and
- (3) whether, if the status quo is not maintained pending historic zoning proceedings, the zoning of the structure as historic may become moot.

(D) A designation is no longer pending if:

- (1) the Commission issues a final certificate of appropriateness, or a demolition, relocation, or building permit, as applicable;
- (2) the Commission does not make a final decision on whether to recommend designation of the structure as a historic landmark by the 75th day after the date of the first Commission meeting at which an item is posted on the agenda for action on an application for demolition, relocation, or historic zoning;
- (3) the Commission makes a final decision to recommend that the structure not be designated a historic landmark; or
- (4) the council makes a final decision not to designate the structure as a historic landmark.

(E) The historic preservation officer shall provide the building official with a copy of each written order, agenda, or preservation plan described in Subsection (B), as promptly as practicable. The failure to do so does not validate a building permit, relocation permit, or demolition permit issued without notice of the written order or agenda.

(F) If a permit from the City is not required for the change to the structure, the historic preservation officer must provide notice to the owner of the structure of a written order, or agenda that applies to the change.

(1) Notice under this subsection may be oral or written.

(2) Notice under this subsection is effective:

(a) when actually given; or

(b) when sent by registered or certified mail, return receipt requested, addressed to the owner.

(G) An applicant or owner entitled to notice under this section may appeal the Commission action under this section to the council consistent with the requirements of [Chapter 25-1](#), Article 7, Division 1 (*Appeals*).

*Source: Section 13-2-762; Ord. 990225-70; Ord. 031211-11; 20090806-068.*

**§ 25-11-215 NOTICE TO HISTORIC PRESERVATION OFFICER REGARDING CERTAIN PERMITS AND SITE PLANS.**

(A) The building official must notify the historic preservation officer before the building official may issue a permit to demolish or relocate a structure.

(B) The director of the Watershed Protection and Development Review Department must notify the historic preservation officer of the filing of a site plan that indicates the demolition or removal of a structure.

*Source: Ord. 041202-16.*

**§ 25-11-216 DUTY TO PRESERVE AND REPAIR.**

(A) The owner, or other person having legal custody and control of a designated historic landmark or contributing structure in a local historic district or National Register Historic District, shall preserve the historic landmark or contributing structure against decay and deterioration and shall keep it free from any of the following defects:

- (1) Parts which are improperly or inadequately attached so that they may fall and injure persons or property;
- (2) Deteriorated or inadequate foundation;
- (3) Defective or deteriorated floor supports or floor supports that are insufficient to carry the loads imposed;
- (4) Walls, partitions, or other vertical supports that split, lean, list, or buckle due to defect or deterioration or are insufficient to carry the loads imposed;
- (5) Ceilings, roofs, ceiling or roof supports, or other horizontal members which sag, split, or buckle due to defect or deterioration or are insufficient to support the loads imposed;
- (6) Fireplaces and chimneys which list, bulge, or settle due to defect or deterioration or are of insufficient size or strength to carry the loads imposed;
- (7) Deteriorated, crumbling, or loose exterior stucco or mortar, rock, brick, or siding;
- (8) Broken, missing, or rotted roofing materials or roof components, window glass, sashes, or frames, or exterior doors or door frames; or

(9) Any fault, defect, or condition in the structure which renders it structurally unsafe or not properly watertight.

(B) The owner or other person having legal custody and control of a designated historic landmark or contributing structure in a local historic district or National Register Historic District shall, in keeping with the city's minimum housing standards, repair the landmark or structure if it is found to have any of the defects listed in Subsection (A) of this section.

(C) The owner or other person having legal custody and control of a designated historic landmark, or a building, object, site, or structure located in a historic district, or a contributing structure in a local historic district or National Register Historic District, shall keep the property clear of all vermin, weeds, fallen trees or limbs, debris, abandoned vehicles, and all other refuse as specified under the City Code [Chapter 9-1](#) (*Abandoned Property and Vehicles*), and [Chapter 10-5](#) (*Miscellaneous Public Health Regulations*), Articles 2, 3, and 4.

(D) The owner of a residence with a homestead exemption as defined under state law may apply to the city council for an exemption from the requirements of this section. The city council may grant an exemption on a showing of financial inability to comply with the requirements of this section. An exception under this subsection may be limited in time and may be subject to terms and conditions deemed necessary by the city council.

*Source: Ord. 20090806-068.*

#### **§ 25-11-217 DEMOLITION BY NEGLECT PROCEDURE.**

(A) The historic preservation officer and the Commission are authorized to work with a property owner to encourage maintenance and stabilization of the structure and identify resources available before taking enforcement action under this section.

(B) Except as provided in Subsection (C), the following procedures apply to enforcement of this chapter.

(1) The Commission or the historic preservation officer may initiate an investigation of whether a property is being demolished by neglect.

(2) Upon initiation of an investigation, the historic preservation officer shall:

(a) attempt to meet with the property owner to inspect the structure and discuss the resources available for financing any necessary repairs; and

(b) prepare a report for the Commission on the condition of the structure, the repairs needed to maintain and stabilize the structure, and the amount of time needed to complete the repairs.

(3) The Commission shall review the historic preservation officer's report and may vote to certify the property as a demolition by neglect case.

(4) If the Commission certifies the property as a demolition by neglect case, the historic preservation officer shall take the following actions.

(a) Send notice to the property owner or the property owner's agent, by certified mail, describing the required repairs and specifying:

(i) that repairs must be started within 60 days; and

(ii) a date by which repairs must be completed, as determined by the historic preservation officer.

(b) Meet with the property owner within 90 days after the notice is sent, if the historic preservation officer determines that it would be useful to discuss progress in making repairs and consider any issues that may delay completion of repairs.

(5) The historic preservation officer may refer a demolition by neglect case to the Building and Standards Commission, the City Attorney, or the appropriate city department for enforcement action to prevent demolition by neglect if the property owner fails to:

(a) start repairs by the deadline set in the notice;

(b) make continuous progress toward completion; or

(c) complete repairs by the deadline set in the notice.

(6) The historic preservation officer shall provide notice of a referral under Subsection (B)(5) of this section to the property owner. The owner may appeal the historic preservation officer's referral to the city council.

(C) If immediate enforcement is necessary to prevent imminent destruction or harm to a designated historic landmark or contributing structure, the historic preservation officer may refer the structure or landmark to the appropriate city department to enforce this chapter and to seek correction of any condition prohibited under Subsection [25-11-216](#) (*Duty to Preserve and Repair*).

*Source: Ord. 20090806-068.*

## **§ 25-11-218 ENFORCEMENT AND PENALTIES.**

(A) A person may not violate a requirement of this article. Pursuant to Section 214.0015 (*Additional Authority Regarding Substandard Buildings*) of the Texas Local

Government Code, a person who violates a requirement of this article commits a civil offense, and is civilly liable to the City in an amount not to exceed \$1,000 per day for each violation or an amount not to exceed \$10 per day for each violation if the property is the owner's lawful homestead.

(B) A person who violates this article commits an offense. An offense under this article is a Class C misdemeanor punishable as provided in Section [1-1-99](#) (*Offenses; General Penalty*).

(C) An action to enforce the requirements of this article may include injunctive relief and may be joined with enforcement of applicable City technical codes under [Chapter 25-12](#) (*Technical Codes*).

(D) If a building, object, site or structure covered by this section is required to be demolished as a public safety hazard and the owner has received two (2) or more notices of violation under Subsection [25-11-217](#)(B), no application for a permit for a project on the property may be considered for a period of three years from the date of demolition of the structure.

*Source: Ord. 20090806-068.*

## **Division 2. Applications for Certificates.**

### **§ 25-11-241 (RESERVED)**

### **§ 25-11-242 (RESERVED)**

### **§ 25-11-243 ACTION ON A CERTIFICATE OF APPROPRIATENESS.**

(A) This section applies to an application under Section [25-11-241](#)(A) or (B) (*Application For Certificate*).

(B) If the commission determines that the proposed work will not adversely affect a significant architectural or historical feature of the designated historic landmark:

- (1) the commission shall issue a certificate of appropriateness; and
- (2) the commission shall provide the certificate to the building official not later than the 30th day after the date of the public hearing.
- (3) The building official shall provide the certificate to the applicant not later than the fifth day after the day the building official receives the certificate from the commission.

(C) If the commission determines that the proposed work will adversely affect or destroy a significant architectural or historical feature of the designated historic landmark:

(1) the commission shall notify the building official that the application has been disapproved; and

(2) the commission shall, not later than the 30th day after the date of the public hearing notify the applicant of:

(a) the disapproval; and

(b) the changes in the application that are necessary for the commission's approval.

(D) In making a determination under this section, the commission shall consider the United States Secretary of the Interior's Standards for Rehabilitation, 36 Code of Federal Regulations Section 67.7(b).

*Source: Section 13-2-760(b)(2) and (3), and (c)(4); Ord. 990225-70; Ord. 000629-103; Ord. 031211-11.*

#### **§ 25-11-244 ACTION ON A CERTIFICATE OF DEMOLITION OR REMOVAL.**

(A) This section applies to an application under Section [25-11-241\(C\)](#) (*Application For Certificate*).

(B) The commission shall consider:

(1) the state of repair of the building;

(2) the reasonableness of the cost of restoration or repair;

(3) the existing or potential usefulness, including economic usefulness, of the building;

(4) the purpose of preserving the structure as a historic landmark;

(5) the character of the neighborhood; and

(6) other factors the commission determines to be appropriate.

(C) The commission shall issue a certificate to the building official if the commission determines that:

(1) the interest of historic preservation will not be adversely affected by the demolition or removal; or

(2) the interest of historic preservation can be best served by the removal of the structure to another identified location,

(D) The building official shall notify the applicant not later than the fifth day after the certificate is issued.

*Source: Section 13-2-761(a); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-11-245 ISSUANCE OF CERTIFICATE BY BUILDING OFFICIAL.**

If the commission fails to act as provided by Section [25-11-243](#) (*Action On Certificate Of Appropriateness*) or Section [25-11-244](#) (*Action On A Certificate Of Demolition Or Removal*) by the 60th day after the receipt of the application by the commission, the building official shall issue the necessary certificate to the applicant.

*Source: Section 13-2-760(b)(4), (c)(5), and 13-2-761(b); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-11-246 EFFECT OF DENIAL.**

(A) If an application for a certificate of appropriateness is denied by the commission, an application for a certificate of appropriateness on the same historic landmark may not be filed before the first anniversary of the date that the certificate of appropriateness was denied, unless the applicant states in writing that:

(1) conditions have changed; or

(2) each change in the application required by the commission under Section [25-11-243](#)(C)(2)(b) (*Action On A Certificate Of Appropriateness*) has been made.

(B) If an application for a certificate of demolition or a certificate of removal is denied by the commission, an application for a certificate of demolition or a certificate of removal on the same historic landmark may not be filed before the first anniversary of the date that the certificate of demolition or certificate of removal was denied.

*Source: Section 13-2-760(b)(6), and (c)(7), and 13-2-761(c); Ord. 990225-70; Ord. 031211-11.*

#### **§ 25-11-247 APPEAL.**

(A) An interested party may appeal an action of the commission under Section [25-11-243](#) (*Action On A Certificate Of Appropriateness*) or Section [25-11-244](#) (*Action On A Certificate Of Demolition Or Removal*), or an action of the building official under

Section [25-11-245](#) (*Issuance Of Certificate By Building Official*) to the land use commission.

(B) A decision by the land use commission on an appeal may be appealed to the council.

(C) Except as provided by Subsection (D), an appeal must be made in accordance with the appeal procedures in Chapter [25-1](#), [Article 7](#), [Division 1](#) (*Appeals*).

(D) This subsection applies only to an appeal of the issuance of a certificate of demolition or a certificate of removal.

(1) An interested party may file an appeal not later than the 60th day after the date of the decision.

(2) While an appeal is pending under this subsection, the building official may not issue a permit for the demolition or removal of the landmark.

*Source: Section 13-2-760(e), 13-2-761(d); Ord. 990225-70; Ord. 031211-11; Ord. 20060622-128.*

#### **§ 25-11-248 CHANGES PROHIBITED.**

(A) A change may not be made in the application for a permit or the approved building plans or materials after Commission review of a National Register District permit or after a certificate of appropriateness has been issued, unless the change is approved by the Commission and the applicant receives a certificate of appropriateness for the change.

(B) The procedure for obtaining a certificate of appropriateness for a change is the same as for obtaining the initial certificate of appropriateness.

*Source: Section 13-2-760(b)(5), and (c)(6); Ord. 990225-70; Ord. 031211-11; 20090806-068.*

#### **§ 25-11-249 TOLLING OF TIME LIMITS FOR ACTION.**

For purposes of the time limits for action in Sections [25-11-213](#), [25-11-214](#), and [25-11-245](#), a postponement requested or agreed to by the owner or his agent tolls the running of the time limit from the date of the request until the meeting to which the case has been postponed.

*Source: Ord. 20090806-068.*