

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

**Code Provisions as of April 23, 2008**

**Prepared by  
The Heritage Society of Austin, Inc.**

**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:**

**Sec. 2-1-147; Establishing and charging the Historic Landmark Commission.**

**Sec. 11-1-21; The tax abatement program and process for individual historic landmarks and Local Historic Districts.**

**Sec. 25-1-46; The land use commission charged with review of Local Historic Districts.**

**Sec. 25-2-171; Establishing the purposes of individual historic landmarks and Local Historic District designations.**

**Sec. 25-2-242; Initiation of zoning by various entities, including the Historic Landmark Commission.**

**Sec. 25-2-351; Historic designation criteria and process.**

**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 APPROVAL OF PARTIAL EXEMPTION BY COUNCIL.**

Concurrent with the annual tax levy, the city council shall, by ordinance, approve historic landmark properties recommended by the Historic Landmark Commission for partial exemption from ad valorem taxes under this article.

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

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

(A) Except as provided in Subsection (B), for a property designated as a historic landmark before December 1, 2004 the following percentage of the assessed value of a property designated "H" Historic and approved for tax exemption shall be exempt from ad valorem taxes levied by the City:

(1) 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 for:

(a) an owner-occupied historic residential property that is not fully or partially leased to another person; and

(b) a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act; and

(2) 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 for any other historic property, including property used for a commercial purpose.

(B) This subsection applies to a property designated as a historic landmark before December 1, 2004 that changed ownership after November 30, 2004, or designated as a historic landmark after November 30, 2004.

(1) The following percentage of the assessed value of a property designated "H" Historic and approved for tax exemption shall be exempt from ad valorem taxes levied by the city:

(a) subject to the limitation of Paragraph (2), 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 for:

(i) an owner-occupied historic residential property that is not fully or partially leased to another person; and

(ii) a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act; and

(b) 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 for any other historic property, including property used for a commercial purpose.

(2) An exemption under Subparagraph (1)(a) may not exceed the greater of \$2,000 or 50 percent of the ad valorem tax that the City would otherwise levy on the property.

*Source: 1992 Code Section 5-5-21; Ord. 031204-10; Ord. 031211-11; Ord. 041202-16.*

### **§ 11-1-23 APPLICATION PROCEDURE.**

(A) On or before March 1 of each year, the owner of property designated "H" Historic requesting a tax exemption shall file a sworn application with the Historic Landmark Commission 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 Historic Landmark Commission of the property and records necessary to:

(a) certify that the property 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 Historic Landmark Commission.

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

#### **§ 11-1-24 APPLICATION REVIEW.**

Upon receipt of an application for an exemption, the Historic Landmark Commission shall:

(1) inspect the property and review records necessary to certify that the property is being preserved and maintained as required by historic landmark regulation as of January 1 of the year of the requested exemption;

(2) 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 for approval or disapproval of the application; and

(3) 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.*

#### **§ 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 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.*

#### **§ 11-1-27 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.*

## **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) Except for an application to designate or modify a historic area (HD) combining district, 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:

- (1) an application to designate or modify a historic area (HD) district; and
- (2) except as provided in Subsections (B), (D), and (E), all other applications.

(D) Except as provided in Subsections (B) and (C), 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; or
- (3) a transit oriented development (TOD) district.

(E) Except as provided in Subsections (B) and (C), the Planning Commission shall act as the land use commission for property that is wholly or partly within 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:

- (1) 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
- (2) 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.

(F) 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.

*Source: Ord. 010607-8; Ord. 011129-79; Ord. 031211-11; Ord. 20060309-057; Ord. 20060622-128.*

**§ 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, petition of the owners of at least 60 percent 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.*

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

The boundaries of the districts proposed in a zoning or rezoning application must be contiguous.

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

**Division 3. Historic Landmarks And Historic Area Districts.**

**§ 25-2-351 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.*

### **§ 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, unless the property is of exceptional importance as defined by National Register Bulletin 22, National Park Service (1996);

(2) the property retains sufficient integrity of materials and design to convey its historic appearance; and

(3) the property:

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

(b) meets the criteria prescribed by at least two of the following clauses:

(i) the property embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction; represents technological innovation in design or construction; contains features representing ethnic or folk art, architecture, or construction; represents the significant work of a noted architect, builder or artisan; represents a rare example of an architectural style; or bears a physical or contextual relation to other historically or architecturally significant structures or areas;

(ii) the property is substantially associated with persons, groups, institutions, businesses, or events of historical significance which contributed to the social, cultural, economic, development, or political history of the city, state, or nation; or the property is representative of a culture or group of people in a historical era through its architecture, method of construction, or use;

(iii) the property possesses archeological significance because it has, or is expected to, yield significant data concerning the human history or prehistory of the region;

(iv) the property possesses value to the community because it significantly represents the cultural, economic, social, ethnic, artistic, or historical heritage of the city or an area of the city; or because it has a location, physical characteristics, or other unique features which greatly contribute to the character or image of the city, a neighborhood, or a population group; or

(v) 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 structures 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.*

### **§ 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) An application for a historic area (HD) combining district must include an inventory of the principal structures included in the proposed district and an evaluation of whether each structure qualifies as a contributing structure. An evaluation under this subsection must be made by 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*).

*Source: Ord. 041202-16.*

**§ 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, charts, and photographs of the structures, sites, or areas located in the district;

(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 three-fourths 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 notice owner of the property files a written statement protesting the zoning or rezoning.

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

**§ 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.

*Source: Ord. 041202-16.*

**§ 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 4. SPECIAL REQUIREMENTS FOR HISTORIC STRUCTURES.**

**Division 1. Historic Structures Generally.**

**§ 25-11-211 DEFINITIONS.**

In this article:

(1) CERTIFICATE includes a certificate of appropriateness, a certificate of demolition, and a certificate of removal.

(2) COMMISSION means the Historic Landmark Commission.

(3) 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, which retains its appearance from that time, and is designated as a contributing structure by the ordinance establishing the historic area (HD) combining district.

(4) HISTORIC PRESERVATION OFFICER means the person appointed by the city manager in accordance with Section [2-1-147](#) (*Historic Landmark Commission*).

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

### **§ 25-11-212 CERTIFICATE REQUIRED.**

(A) Until a person obtains a certificate of appropriateness, demolition, or removal, as applicable, from the commission or the building official, the person may not:

(1) change, restore, remove, or demolish an exterior architectural or site feature of a designated historic landmark or a contributing structure; 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 change the appearance of the structure or site from an adjacent public street, and is limited to construction of:

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

(b) 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.*

### **§ 25-11-213 PENDENCY OF DESIGNATION.**

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

(B) In this subsection, “commission” includes a committee of the commission. A designation is pending under Subsection (A) on the occurrence of the earliest of the following:

(1) a member of the commission directs by written order that consideration of whether the structure, or a site that includes the structure, should be designated a historic landmark be placed on the commission’s agenda;

(2) an item is placed on the commission’s agenda for the consideration of whether the structure, or a site that includes the structure, should be designated as a historic landmark;

(3) a commission agenda is posted that includes commission consideration of whether the structure, or a site that includes the structure, should be designated as a historic landmark; or

(4) the commission approves or recommends a preservation plan that includes the structure or the site.

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

(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, removal, or demolition, as applicable;

(2) the commission does not consider designating the structure as a historic landmark or including the structure within a preservation plan by the 60th day after the designation became pending under Subsection (B);

(3) the commission makes a final decision to recommend that the structure not be designated a historic landmark or included within a preservation plan; or

(4) the council makes a final decision not to designate the structure as a historic landmark or include the structure within a preservation plan.

(E) The commission 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, removal permit, or demolition permit issued without notice of a the written order or agenda.

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

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

#### **§ 25-11-214 BUILDING, REMOVAL, AND DEMOLITION PERMITS IN NATIONAL REGISTER DISTRICT OR APPROVED HISTORIC SURVEY.**

(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) This section applies to a structure:

(1) located in a National Register Historic District; or

(2) listed in a professionally prepared survey of historic structures approved by the historic preservation officer.

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

- (1) post a sign on the site; and
- (2) notify the commission.

(D) The commission shall hold a public hearing on an application described in Subsection (C) as soon as adjacent property owners are notified.

(E) The building official may not issue a building permit, removal permit, or demolition permit for a structure to which this section applies until the earlier of:

- (1) the date the commission makes a recommendation regarding the structure; or
- (2) the expiration of 45 days after the date the building official notifies the commission.

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

#### **§ 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 OMISSION OF NECESSARY REPAIRS.**

(A) The owner of a designated historic landmark or contributing structure shall maintain the exterior to ensure the structural soundness of the landmark or structure.

(B) If the Building Standards Commission or the commission determines that there are reasonable grounds to believe that a designated historic landmark or contributing structure is structurally unsound or in imminent danger of becoming structurally unsound, the Building Standards Commission or the commission shall notify in writing the record owner of the determination.

(C) The Building Standards Commission shall hold a public hearing to determine if the designated historic landmark is structurally unsound or in imminent danger of becoming structurally unsound.

(1) The public hearing may not be held before the 11th day after the date the Building Standards Commission sends notice to the record owner.

(2) The Building Standards Commission shall request and consider the report and recommendation of the commission.

(3) The commission's report may include evidence of economic hardship or willful neglect.

(D) After the public hearing:

(1) if the Building Standards Commission determines that the designated historic landmark or contributing structure is structurally unsound or in danger of becoming structurally unsound and that there is not a valid reason why the owner cannot or should not safeguard the structural soundness of the building, the Building Standards Commission shall notify the record owner of the determination in writing; or

(2) if the Building Standards Commission determines that the designated historic landmark or contributing structure is structurally unsound or in danger of becoming structurally unsound and that there are valid reasons why the owner cannot or should not safeguard the structural soundness of the building:

(a) the Building and Standards Commission shall send to the council its recommendation and the commission's recommendation regarding what action, if any, should be taken on the structure; and

(b) the council shall determine what action, if any, should be taken on the structure.

(E) An interested party may appeal a decision of the commission or the Building Standards Commission under this section to the council.

*Source: Section 13-2-764; Ord. 990225-70; Ord. 031211-11; Ord. 041202-16.*

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

### **§ 25-11-241 APPLICATION FOR CERTIFICATE.**

(A) This subsection applies to an application for a certificate of appropriateness if a building permit for the exterior of a designated historic landmark or contributing structure is required.

(1) An applicant must submit a written application for a building permit to the building official that includes two copies of each plan and other document pertaining to the work.

(2) The building official shall provide a copy of the application to the historic preservation officer not later than the fifth day after the day that the building official receives the application from the applicant.

(B) This subsection applies to an application for a certificate of appropriateness if a building permit for the exterior of a designated historic landmark or contributing structure is not required.

(1) An applicant must submit a written application for a certificate to the historic preservation officer.

(2) The application must include a description of each proposed change to the landmark or structure.

(C) This subsection applies to an application for a certificate of demolition or certificate of removal for a designated historic landmark or contributing structure.

(1) An applicant must submit a written application for a demolition or relocation permit to the building official.

(2) The building official shall immediately provide a copy of the application to the historic preservation officer.

(D) After the historic preservation officer receives an application from the building official, the historic preservation officer shall review the application and on or before the fifth day:

(1) approve the application under Section [25-11-212](#)(B) (*Certificate Required*);  
or

(2) forward the application to the chair of the commission.

*Source: Sections 13-2-760(b)(1), (c)(1)(2), 13-2-761(a); Ord. 990225-70; Ord. 031211-11; Ord. 041202-16.*

#### **§ 25-11-242 HEARING; NOTICE.**

(A) When the chair of the commission receives an application under Section [25-11-241](#)(A) or (B) (*Application For Certificate*), the commission shall promptly hold a public hearing on the application.

(B) When the chair of the commission receives an application under Section [25-11-241](#)(C) (*Application For Certificate*), the commission shall hold a public hearing on the

application not later than the 45th day after the day the application is filed with the building official.

(C) The commission shall provide notice of the hearing to the applicant. The notice must be sent to the applicant not later than the tenth day before the date of the hearing. The applicant may waive the ten day notice requirement. The applicant's waiver must be in writing.

*Source: Sections 13-2-760(b)(2), (c)(3), and 13-2-761(a); Ord. 990225-70; Ord. 031211-11; Ord. 041202-16.*

### **§ 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, 35 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 building permit after a certificate of appropriateness has been issued, unless the change is submitted to the Historic Landmark 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.*