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Article 1: General Provisions

[Included in Installment 3]

Article 2: Zoning Districts

[Included in Installment 1]

Article 3: Land Uses

[Included in Installment 1]

Article 4: Development Standards

[Included in Installment 2]

Article 5: Subdivision Standards

[Included in Installment 2]

Article 6: Historic Preservation

COMMENTARY

This draft article carries forward the content of current Chapter 66, with edits focused on clarity, simplification, and reorganization. Targeted text edits suggested by staff have been made, also.

6.1 Purpose

The City Council hereby declares that, as a matter of public policy, the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the historic district represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- A. Protect and enhance the landmarks and districts that represent distinctive elements of the historic, architectural, and cultural heritage of the City of New Braunfels;
- B. Foster civic pride in the accomplishments of the past;
- C. Protect and enhance New Braunfels' attractiveness to visitors and the support and stimulus to the economy thereby provided;
- D. Insure the harmonious, orderly, and efficient growth and development of the city;
- E. Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and
- F. Encourage stabilization, restoration, and improvements of such properties and their values.

6.2 Administration of this Article

6.2.1 Historic Preservation Commission

COMMENTARY

Consider relocating this content to the subsection of Administration & Procedures that describes duties and responsibilities of various decision-making bodies (it is also where information on the Historic Landmark Commission is included).

There is hereby created a commission to be known as the "New Braunfels Historic Preservation Commission" ("HPC"²).

A. Appointed Members

The HPC shall consist of nine city residents. The members are appointed, to the extent available in the community, by the City Council as follows:

1. One person from either the Comal or Guadalupe County Historical Commission;

² Since "the Commission" could be confused with Planning Commission, we have defaulted to referencing HPC throughout this draft section.

2. Two property owners from any historic district; and
3. Six members-at-large.

B. Ex Officio Members

In addition to the nine appointed members, the City Attorney and the Director, or their designated representatives, shall serve as ex officio members. Ex officio members shall not have voting rights but shall assist the HPC in its various functions.

C. Qualifications

Members shall have a known and demonstrated interest, competence, or knowledge in the architectural, archaeological, cultural, social, economic, ethnic or political history of New Braunfels. No business or professional interest shall constitute a majority membership of the HPC. The HPC as a whole shall generally represent the ethnic makeup of the City.

D. Terms of Office

1. Terms shall be for four staggered years. No appointed member shall serve more than two consecutive terms. Any vacancy occurring shall be filled by appointment only for the unexpired portion of the term. Any member may be removed by a two-thirds majority vote of the City Council after a hearing.
2. The chair and vice chair of the HPC shall be elected by and from the members of the HPC.

E. Duties

The HPC shall be empowered to:

1. Prepare rules and procedures as necessary to carry out the business of the HPC, in accordance with this LDO.
2. Recommend criteria for the designation of historic, architectural, and cultural landmarks and the delineation of historic districts, which shall be ratified by the City Council.
3. Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the City.
4. Recommend the designation of resources as landmarks and historic districts.
5. Create committees from among its membership and delegate to these committees responsibilities to carry out the purposes of this article.
6. Maintain written minutes which record all actions taken by the HPC and the reasons for taking such actions.
7. Recommend conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques, or markers.
8. Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
9. Make recommendations to the City concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the City.

10. Approve or disapprove of applications for alteration certificates pursuant to this article.
11. Prepare and submit annually to the City Council a report summarizing the work completed during the previous year.
12. Prepare specific design guidelines for the review of landmarks and districts.
13. Recommend the acquisition of a landmark structure by the City where its preservation is essential to the purpose of this article and where private preservation is not feasible.
14. Propose tax abatement program(s) for landmarks or districts.
15. Recommend acceptance on behalf of the City the donation of preservation easements and development rights, as well as any other gifts of value for the purpose of historic preservation, subject to the approval of and final acceptance by the City Council.

F. Meetings

The HPC shall meet at least monthly, if business is at hand. Special meetings may be called at any time by the chair or on the written request of any two commission members. All meetings shall be held in conformance with the Texas Open Meetings Act, Section 551, Government Code of the State of Texas.

G. Voting and Quorum

The presence of five appointed members constitutes a quorum. No action may be taken on any application without a quorum present. The concurring vote of a majority of members present is necessary to make a motion or decision valid.

6.2.2 Heritage Commission

A. Created; Members; Terms; Appointments

There is hereby established a commission to be known as the New Braunfels Heritage Commission ("Heritage Commission"). The Heritage Commission shall be composed of seven citizens of the city who are interested in historic preservation and heritage activities, which shall not include any current paid employees or board members of any organization that requests funding from the Heritage Commission. The Heritage Commission shall consist of seven members, with appointments being made by the City Council so that the term of each member of such commission shall be for three years, staggered so that no more than three members shall be appointed each year.

B. Qualifications for Appointment

In determining the criteria for appointment to the Heritage Commission, the City Council shall consider qualified individuals who have shown an interest in the heritage activities of the city.

C. Officers

The Heritage Commission shall elect such officers as the members deem necessary to conduct their business affairs.

D. Powers and Duties

The Heritage Commission shall serve in an advisory capacity to the City Council on matters relating to heritage and historic preservation activities, events, and projects that will benefit the citizens of the city. The Heritage Commission shall advise the City Council on uses of any funding that may be available from private and/or public sources that will benefit any local heritage activity, project or organization serving the citizens of the city; such advice and/or recommendations on uses of funds shall not be restricted in any manner except by law.

6.2.3 Historic Preservation Officer⁴

The City's Historic Preservation Officer shall administer this article and advise the HPC on matters submitted to it. The officer is also responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations.

6.3 Designation of Historic Resources

6.3.1 Historic Designation and Zoning

These provisions pertaining to the designation of historic landmarks and historic districts constitute a part of the comprehensive zoning plan of the City. Each historic landmark shall bear the words "Historic Landmark" (HL) or "Historic District" (HD) in its zoning designation, as applicable. Each such designation shall constitute a zoning overlay district. This zoning overlay designation shall indicate that the property is subject to the terms of this article; however, with regard to site plans, uses, setbacks, and other regulations of this Code, the property shall be governed by its base zoning district.

6.3.2 Designation Procedure⁵**A. Application for Designation****1. Historic Landmark**

- a. A historic landmark shall be considered by the HPC only upon receiving written application from the property owner expressly requesting that the property be so designated.
- b. Property owners of proposed historic landmarks shall be notified prior to the HPC hearing on the recommended designation.

2. Historic District

- a. Any person, city staff member, the HPC, or the City Council may initiate a historic district designation by filing an application with the Historic Preservation Officer.
- b. To be considered by the City, application for historic district designation must have the concurrence of the property owners representing 51 percent of the

⁴ Removed the current language stating that the City Manager designates this position. This is a hired position of the City and meets one requirement for participation in the CLG program.

⁵ This draft section combines the designation procedures for landmarks and districts, which are separate in the current ordinance but essentially the same.



property or 51 percent of the property owners within the proposed district expressly requesting that the district be so designated.

- c. If a new district is not established within one year of application submission, the application process must be re-initiated.

B. Notice to Property Owners

Property owners within a proposed historic district shall be notified prior to the HPC hearing on the recommended designation.

C. HPC Review and Recommendation

1. At a public hearing of the HPC, owners, interested parties, and technical experts may present testimony or documentary evidence, which will become part of a record, regarding the historic, architectural, or cultural importance of the proposed historic landmark or district.
2. The HPC may recommend the designation of a historic landmark if it meets two or more of the criteria for designation of a landmark in §6.3.3, *Criteria for the Designation of Historic Landmarks and Districts*.
3. The HPC may recommend the designation of a historic district if it:
 - a. Consists of a minimum of two contiguous properties;
 - b. Contains properties and an environmental setting which meet two or more of the criteria for designation of a district ; and
 - c. Constitutes a distinct section of the city that shares common community interest.

D. Planning Commission Review and Recommendation

Upon recommendation of the HPC, the proposed historic landmark or district shall be submitted to the Planning Commission. The Planning Commission shall give notice, conduct its hearing, and make a recommendation to the City Council on the proposed designation. The hearing shall be in the same manner and according to the same procedures as provided in §---.

E. City Council Review and Decision

The City Council shall schedule a hearing on the request, give notice, follow the publication procedure, hold the hearing, and make its determination in the same manner as provided in §---.

F. Recording

Upon designation of a building, object, site, or structure as a historic landmark or district, the City Council shall cause the designation to be recorded in the Official Public Records of Real Property of Comal or Guadalupe County, the tax records of the city and the Comal or Guadalupe Appraisal District, as well as the official zoning maps of the city.

G. Removal of Historic Designation

Upon recommendation of the HPC based upon new and compelling evidence and negative evaluation using the same criteria and following the same procedures set forth for designation, a designation made under the provisions of this section for historic landmarks, §---, or historic districts, §---, may be removed by City Council following recommendation by the HPC.

6.3.3 Criteria for the Designation of Historic Landmarks and Districts

A. Eligibility

1. Historic landmarks and districts shall be evaluated for designation using the criteria listed in provision B below.
2. In order to be eligible for historic landmark designation, a property shall meet at least two of the criteria listed.
3. Historic districts shall consist of at least two structures within a legally defined boundary that meet at least two of the criteria.
4. All designated landmarks and districts shall demonstrate clear delineation of the legal boundaries of such designated resources.

B. Criteria for Evaluation

1. Its value as a visible or archeological reminder of the cultural heritage of the community, or national event;
2. Its location as a site of a significant local, county, state, or national event;
3. Its identification with a person or persons who significantly contributed to the community, county, state, or nation;
4. Its identification as the work of a master builder, designer, architect, or landscape architect whose individual work has influenced the community, county, state, or nation;
5. Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction, or use of indigenous materials;
6. Its historical, architectural or cultural character as a particularly fine or unique example of a utilitarian structure, including, but not limited to, bridges, acequias, gas stations, transportation shelters, or other commercial structures;
7. Its unique location or singular physical characteristics that make it an established or familiar visual feature;
8. Its historical, architectural, or cultural integrity of location, design, materials, and workmanship;
9. Its character as a geographically definable area possessing a significant concentration, linkage, or continuity of historically, architecturally, or culturally significant sites, buildings, objects or structures united by past events or aesthetically by plan or physical development;
10. Its character as an established and geographically definable neighborhood, united by culture, architectural style or physical plan and development;
11. It is distinctive in character, interest or value; strongly exemplifies the cultural, economic, social, ethnic or historical heritage of New Braunfels, Texas or the United States;
12. It is an important example of a particular architectural type or specimen;
13. It bears an important and significant relationship to other distinctive structures, sites, or areas, either as an important collection of properties or architectural style or

craftsmanship with few intrusions, or by contributing to the overall character of the area according to the plan based on architectural, historic or cultural motif;

14. It possesses significant archeological value that has produced or is likely to produce data affecting theories of historic or prehistoric interest;
15. It represents a resource, whether natural or man-made, which greatly contributes to the character or image of a defined neighborhood or community area; or
16. It is designated as a Recorded Texas Historic Landmark or State Archeological Landmark or is included on the National Register of Historic Places.

6.4 Alteration of Historic Resources

6.4.1 Certificate of Alteration (HPC Decision)

A. Application

Prior to the commencement of any work requiring an alteration certificate, the owner shall file an application for such a certificate with the historic preservation office. The application shall contain:

1. Name, address, telephone number, and email address of the applicant, and detailed description of proposed work.
2. Location and photograph of the property and adjacent properties.
3. Elevation drawings of the proposed changes, if applicable.
4. Samples of materials to be used.
5. If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
6. Any other information that the HPC may deem necessary in order to visualize the proposed work.

B. HPC Review and Decision

1. The HPC shall review the application at a regularly scheduled meeting within 45 days from the date the application is received, at which time an opportunity will be provided for the applicant to be heard. The HPC shall approve, deny, or approve with modifications the application within 30 days after the review meeting. In the event the HPC does not move to consider the application within 60 days of its receipt, the application shall be granted.
2. All decisions of the HPC shall be in writing. The HPC's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on that property and dispersed to appropriate city departments, e.g., building inspection.

C. Appeal

An applicant may appeal an action of the HPC relating to the issuance or denial of an alteration certificate to the City Council within 30 days after receipt of notification of such action. The City Council shall give notice, follow publication procedure, hold the hearing, and make its decision in the same manner as provided in the general appeal process of the City in §---.

D. Prerequisite to Building Permit

No building permit shall be issued for such proposed work until an alteration certificate has first been issued by the HPC. The alteration certificate required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the city.

6.4.2 Certificate of Alteration (Administrative Decision)**A. Applicability**

Applications for certain minor alterations that are not visible from the adjacent public right-of-way, and ordinary repairs or maintenance may be reviewed and approved administratively by the Historic Preservation Officer without review by the HPC. Those activities which constitute minor alterations, repairs or maintenance include but are not limited to:

1. Ordinary Repair and Maintenance

- a. Repair using the same material and design as the original and does not require structural modifications;
- b. Repainting of currently painted surfaces;
- c. Reroofing, using the same type and color of material;
- d. Repair of sidewalks and driveways using the same type and color of materials; and
- e. Paint removal/pressure water washing/graffiti removal.

2. Exterior Alterations**a. Doors/Entrances**

- i. From non-historic to one in keeping with the character and era in which the home was built;
- ii. Removal of burglar bars;
- iii. Repair to exterior steps or stairways using in-kind material; or
- iv. Reopening of currently enclosed porch with proper photo documentation or physical evidence.

b. Windows

- i. Removal of non-historic windows to replace with windows that match the original windows as closely as possible in material and design;
- ii. Restoring original window openings with historic documentation;
- iii. Repairing window framing;
- iv. Removing inappropriate exterior shutters that are not of historic age;
- v. Louvers and venting in which the vents or louvers are placed in an existing opening, in which there is no change in the configuration of the fenestration and the only modification to the building is the removal of glazing panel; or

- vi. Removal of burglar bars.
- c. **Siding**
Removing non-historic siding in order to reveal historic siding materials underneath.
- d. **Roofing**
 - i. Removal of composite roof shingles and replacing with clay tiles with historic documentation;
 - ii. Removal of composite roof shingles and replacing with metal roofing material with historic documentation and specifications;
 - iii. Changing color of composite roofing material; or
 - iv. Changing color of existing metal roof with appropriate specifications and details.
- e. **Landscaping**
 - i. Replacing paved areas with sod, natural groundcover or other landscaping in accordance with landscaping requirements, as described in §---;
 - ii. Fifty percent or less square feet of front yard replacement.
- f. **Hardscaping with Site Map and Specifications**
 - i. Sidewalks residential/commercial with contextually appropriate placement (such as a traditional planting strip); or
 - ii. Driveway construction if less than twelve feet in width and consistent with adopted guidelines.
- g. **Fencing**
 - i. Removal of chain link, plywood, or vinyl and replacing with wood, wrought iron, garden loop, or masonry;
 - ii. Replacing or recreating any fence or handrail with historic document; or
 - iii. Installing or constructing a fence, railing, or wall where none exists (sides and rear only behind front facade plane of historic structure) with appropriate materials.
- h. **Signage**
 - i. Changes in content or configuration (re-facing) that do not involve changes in sign location, dimensions, lighting or total sign area;
 - ii. Temporary banners or signs where allowed by this article; or
 - iii. Signs that comply with this LDO and have a square footage equal to or less than the requirements outlined. Signage applications above the allowable square footage shall be forwarded to the HPC for their recommendation.
- i. **New Construction**
 - i. Rear ADA ramps;
 - ii. Rear porch;
 - iii. Rear deck;
 - iv. Swimming pools, fountains in back yard; or
 - v. Pergolas or other open accessory type structures in the rear yard.
- j. **Demolition**
 - i. Non-historic accessory structure that is made of non-historic materials;
 - ii. Non-historic additions that are made of non-historic materials;

- iii. Reopen enclosed porch with historic documentation;
- iv. Carports that are made of non-historic materials; or
- v. Non-contributing structures located in historic district that are made of non-historic materials.

k. **Miscellaneous**

- i. Reasonable changes in color to awning fabric that are consistent with the district or landmark characteristics;
- ii. Renewal of expired certificates of alteration;
- iii. Removal of any prohibited element described in City ordinances;
- iv. Minor changes to existing certificates of alteration;
- v. Emergency installation of temporary features to protect a historic resource or to weatherize or stabilize;
- vi. Foundation repair;
- vii. Mechanical units;
- viii. Exterior electrical;
- ix. Exterior plumbing;
- x. Exterior electrical fixtures;
- xi. Antennas;
- xii. Glass replacement;
- xiii. Dumpsters with screening;
- xiv. Lighting;
- xv. Rooftop HVAC, mechanical or communication equipment that is not visible from the public right-of-way and results in no modifications to the visible facades of the building; or

6.4.3 Criteria for Approval of an Alteration Certificate

The HPC may approve proposed exterior alterations to any landmark or contributing building within a designated historic district upon finding that the proposed alterations would not detrimentally alter, destroy, or adversely affect any significant architectural or landscape feature that contributes to the landmark designation. The HPC must find that the proposed alterations are visually compatible with the designated landmark in terms of design, finish, material, scale, mass, and height. When the alteration is to a contributing building in a designated historic district, the HPC must also find that the alterations are visually compatible with adjacent contributing properties. In considering an application for an alteration certificate, the HPC shall be guided by the following:

A. Design Guidelines

Any applicable adopted design guidelines.

B. Secretary of the Interior's Standards

Where applicable, the following from the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings.

1. Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.

2. The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed when possible. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
4. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object, or site shall be kept where possible.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material shall reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
10. Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

C. General Criteria for Alteration

In addition to any adopted design guidelines and the Secretary of Interior's Standards, the HPC shall use the following criteria to determine compatibility:

1. The effect upon the general historical and architectural character of the landmark or the landmark district.
2. The architectural style, arrangement, texture, and material of existing and proposed improvements and their relation and compatibility to the landmark or the sites, structures, and objects in the landmark district.

3. The effect of the proposed work in creating, changing, or destroying the exterior characteristics of the site, structure, or object upon which such work is done.
4. The effect of the proposed work upon the protection, enhancement, perpetuation, and use of the landmark or landmark district.

D. Additional Criteria for Development within Historic Districts⁶

In addition to the general criteria in §--- above, the HPC shall use the following criteria when considering alteration certificate applications for development within a historic district:

1. Height

Height shall be visually compatible with adjacent buildings.

2. Proportion of Building, Structure, or Object's Front Façade

The width of building, structure or object to the height of the front elevation shall be visually compatible to buildings and places to which it is visually related.

3. Proportion of Openings within the Facility

The relationship of the width of the windows in a building, structure or object shall be visually compatible with buildings and places to which the building, structure or object is visually related.

4. Rhythm of Solids to Voids in Front Facades

The relationship of solids to voids in the front facade of a building, structure or object shall be visually compatible with buildings and places to which it is visually related.

5. Rhythm of Buildings, Structures, Objects, or Parking Lots on Streets

The relationship of the buildings, structures, objects or parking lots to open space between it and adjoining buildings and places shall be visually compatible to the buildings and places to which it is visually related.

6. Rhythm of Entrance and Porch Projection

The relationship of entrances and projections to sidewalks of a building, structure, object or parking lot shall be visually compatible to the buildings and places to which it is visually related.

7. Relationship of Materials, Texture, and Color

The relationship of materials, texture and color of a parking lot or of the facade of a building, structure or object shall be visually compatible with the predominant materials used in the buildings to which it is visually related.

8. Roof Shapes

The roof shape of the building, structure or object shall be visually compatible with the buildings to which it is visually related.

9. Walls of Continuity

Appurtenances of a building, structure, object or parking lot such as walls, fences and landscape masses shall, if necessary, form cohesive walls of enclosure along a

⁶New suggested criteria for infill development in historic districts. These are a starting point for additional community conversation and can be refined and expanded based on additional community input. These also could be structured as design considerations in a Standards section, as opposed to approval criteria.

street, to ensure visual compatibility of the building, structure, object or parking lot to the building and places to which it is visually related.

10. Scale of Building

The size of the building, structure, object or parking lot; the building mass of the building, structure, object or parking lot in relation to open space; and the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.

11. Directional Expression of Front Elevation

A building, structure, object or parking lot shall be visually compatible with the buildings and places to which it is visually related in its directional character.

6.4.4 Demolition or Removal⁷ of Historically Designated Properties

Demolition or removal of a historically designated property constitutes an irreplaceable loss to the quality and character of the City of New Braunfels. Accordingly, these procedures provide criteria to prevent unnecessary damage to the quality and character of the city's historic districts and character while, at the same time, balancing these interests against the property rights of landowners.

A. Alteration Certificate Required for Demolition or Removal

A permit for the demolition or removal of a historic landmark or property within a historic district, including secondary buildings and landscape features, shall not be granted without the review of a completed application for an alteration certificate by the HPC.

B. Standards for Granting and Alteration Certificate⁸

In determining whether to approve an alteration certificate for any demolition or removal of any landmark or structure within a historic district, the HPC shall consider all of the following, and may give decisive weight to any or all of the following:

1. Whether the structure is of such architectural or historic significance that its demolition or removal would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State.
2. Whether a landmark's designation has been rescinded.
3. Whether the structure, although not itself a landmark structure, contributes to the distinctive architectural or historic character of the historic district as a whole and therefore should be preserved for the benefit of the people of the City and the State.
4. Whether demolition or removal of the subject property would be contrary to the policy and purpose of this ordinance and/or to the objectives of the historic preservation plan for the applicable historic district as duly adopted by the City Council.

⁷ "Removal" added globally as an additional trigger for the requirements of this section.

⁸ Proposed new standards. There appear to be few standards governing these decisions in the current ordinance. These are a starting point for additional community conversation and can be refined and expanded based on additional community input.



5. Whether the structure is of such old and unusual or uncommon design, method of construction, or material that it could not be reproduced or be reproduced only with great difficulty and/or expense.
6. Whether retention of the structure would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage.
7. The condition of the property, provided that any deterioration of the property which is self-created or which is the result of a failure to maintain the property as required by this chapter cannot qualify as a basis for the issuance of a certificate of appropriateness for demolition or removal.
8. Whether any new structure proposed to be constructed or change in use proposed to be made is compatible with the historic resources of the historic district in which the subject property is located, or if outside a historic district, compatible with the mass and scale of buildings within 200 feet of the boundary of the landmark site.

6.4.5 Demolition or Removal for Non-Designated Properties

A. Applicability

This section applies to any request to demolish or move any building, object, site, or structure that is not a historic landmark and is not located within a historic district.

B. Initiation

1. All applications for permits to demolish or move buildings, objects, sites, or structures which are not already covered under the processes outlined in §6.4.4, *Demolition or Removal of Historically Designated Properties*, shall be referred to the Historic Preservation Officer for the purpose of determining whether the building, object, site, or structure may meet the eligibility criteria for local historic designation found in §6.3.3, *Criteria for the Designation of Historic Landmarks and Districts*.

C. House/Building Moves

1. If a non-historically designated structure located within the boundaries of the City limits is being moved to a new location within the City limits, the Historic Preservation Officer may approve the move administratively.
2. If a structure within the boundaries of the City limits is being moved outside the city limits including the ETJ, the Historic Preservation Officer shall follow the process outlined in subsection (3) and evaluate the structure against the historic landmark criteria outlined in §6.3.3, *Criteria for the Designation of Historic Landmarks and Districts*.

D. Assessment and Recommendation

Following receipt of a complete demolition or house move application, properties shall be evaluated for eligibility under the criteria for the designation of historic landmarks and districts outlined in §6.3.3, *Criteria for the Designation of Historic Landmarks and Districts*. The Historic Preservation Officer shall determine whether the building, object, site, or structure may meet the criteria for landmark designation within 30 days after receipt of the completed application. If the building, object, site, or structure is determined to have no cultural, historical, architectural, or archaeological significance, a

demolition or house move permit may be issued immediately, provided such application otherwise complies with all City Code requirements.

E. Decision

If said building, object, site, or structure is determined by the Historic Preservation Officer to meet the landmark eligibility criteria, the demolition or house move permit shall not be issued and the historic preservation officer shall make such information available to the Commission for review and recommendations as to whether it should be designated a historic landmark. If the Commission determines that the structure meets the eligibility criteria, the Commission shall recommend to the City Council that the building, object, site, or structure be historically designated. If the property owner objects to the historic designation, a three-fourths vote of the Commission or the Planning Commission and of the City Council shall be required for historic designation of the property in question.

6.4.6 Right to Remove or Demolish after Denial by City Council

When both the Commission and the City Council have refused to grant a permit to demolish a historic landmark, the owner or applicant of the landmark may remove or demolish such landmark provided that:

- A. The owner has for a period of 120 days, made a bona fide offer to sell such landmark and the land pertaining thereto to any person, group, corporation, political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the landmark and the land pertaining thereto.
- B. No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark or the land pertaining thereto prior to the expiration of the applicable 120-day period. (Any appeal which may be taken to the court from the decision of the City Council, whether instituted by the owner or other proper party, shall not affect the right of the owner to make a bona fide offer to sell.)
- C. The offer to sell shall officially begin within 90 days after the final decision of the City Council and shall continue for the aforesaid subsequent 120-day period.
- D. The offering price shall be for the fair market value. For the purpose of this article "fair market value" shall be considered as the value as rendered or established for ad valorem tax purposes.
- E. The offer to sell shall officially begin only after a notice and offer to sell has appeared in a newspaper having general circulation in the city and a certified copy of this offer has been filed with the Planning and Development Services Department.

6.5 Incentives

6.5.1 Purpose

To promote and protect the rich heritage of the City, and to encourage the designation of historic landmarks and historic districts, this section provides a tax relief for the stabilization, rehabilitation, and renovation of property(s) that are designated as historic landmarks or located within a local historic district.



6.5.2 Rehabilitation Tax Relief

- A. An owner of a designated historic landmark or a property located within a designated local historic district is eligible to apply for relief in property taxes for a period of five years. Said property, whether owned by the same individual or not, shall be eligible for such relief an additional five years. The total period of time that any one property shall be eligible to receive such tax relief shall be ten years, whether such relief is granted for two consecutive five-year periods or separate terms. For a property to be considered for a consecutive five-year period, an application shall be made during the fourth year of the original request. Whether the application is for consecutive or future periods each request shall be considered separately and must qualify as outlined below. Upon the expiration of a relief period, the property shall be placed on the tax rolls at the new appraised value and taxed accordingly. Provided, however, that should an application be received and approved during the fourth year of the first request no new appraised value will be assessed or taxed.
- B. An application for tax relief pursuant to this section shall be made prior to the first of July of the tax year in which the relief would be granted. Application shall be made to the Commission with a recommendation to the City Council for final action. If requested, the Historic Preservation Officer may assist the owner in filing for such relief. A structure must be a historic landmark or located within a local historic district as designated in §X.X.

6.5.3 Qualification for Tax Relief

- A. The owner of a property, applying for tax relief, shall be entitled to such, provided that the improvement(s), renovation(s), or restoration(s) to the structure is at least ten percent of the value of the property value reflected on the tax rolls of the Comal or Guadalupe Appraisal District office. The tax relief shall commence after the first of January in the tax year immediately following the year in which the work is completed.
- B. The tax relief shall be determined in the following manner. The Comal or Guadalupe Appraisal District shall cause said improvement(s), renovation(s), or restoration(s) to the structure to be appraised on or before December 31 the year the work was completed. This new appraised value less the present property value shall be shown on the tax rolls of the Comal or Guadalupe Appraisal District as the new property value. However, said improvement(s), renovation(s), or restoration(s) shall not cause the value of the property to be less than the present value prior to completion of the work.

6.5.4 Eligible Costs

Eligible costs shall include exterior and interior improvements to the frame, walls, floor, ceiling, plumbing, electrical wiring and mechanical items, such as heating and air conditioning systems. Fixtures, decorative items, and/or fencing shall not be eligible for consideration unless such items were original fixtures and/or decorative items of the structure. Materials and labor for repairing, replacing or adding any of the following shall be eligible:

- A. Structural walls;
- B. Structural subfloors;

- C. Structural ceilings;
- D. Exterior doors;
- E. Exterior paint (consistent with those colors available during the time period the structure was built);
- F. Mechanical equipment;
- G. Windows;
- H. Exterior brick veneers or treatments;
- I. Plumbing;
- J. Electrical wiring;
- K. Roof and gutter where necessary for structural integrity;
- L. Facade items;
- M. Elevators;
- N. Foundations;
- O. Termite damage and treatment;
- P. Security and/or fire protection systems;
- Q. Architectural and engineering services if directly related to the eligible costs described above;
- R. Plumbing and electrical fixtures documented as historic fixtures; and
- S. Limited demolition, not more than 15 percent of the original structure, and cleanup related to the eligible costs described above.

T. Ineligible Costs

Ineligible costs include the following:

- U. Overhead;
- V. Taxes;
- W. Supervisor payroll;
- X. Repairs of construction equipment;
- Y. Tools; and
- Z. Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure.

6.5.5 Tax Exemption for Historic Districts

Owners of properties within a designated local historic district qualify for an ad valorem tax exemption of 20 percent of the assessed city ad valorem property tax. This tax exemption shall begin on the first day of the first tax year after designation of the historic district.

6.5.6 Building Permit Fees Waived

Upon approval of a certificate of alteration, the property owner shall present the certificate to the Planning and Development Services Department and all building permit application and inspection fees will be waived. Fees for plan review, and fees for re-inspection following a failed inspection, are not waived.

6.6 Enforcement

6.6.1 Expiration of Approval

The approval for a certificate of alteration expires as described in §X.X, [Procedure], if work approved by the certificate is not substantially underway.

6.6.2 Compliance Required; Inspection

All work performed pursuant to an alteration certificate issued under this article shall conform to any standards and requirements of this article. The building inspector shall inspect periodically any such work to assure compliance.

6.6.3 Stop-Work Order

In the event work is not being performed in accordance with the alteration certificate, or upon notification of such fact by the Commission and verification by the building inspector, the building inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. This section shall not preclude any other lawful enforcement remedies available to the city.

6.6.4 Penalties

- A. Any person, firm or individual who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding \$500.00, and each and every day's violation shall constitute a separate and distinct offense.
- B. In addition to other remedies, any city official or their duly authorized representative, may institute any appropriate action or proceeding to prevent such unlawful construction, restoration, demolition, razing or maintenance or to prevent any illegal act or business in and about such premises, including, but not limited to, injunctive relief.

6.6.5 Demolition by Neglect

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. Examples of such deterioration include, but are not limited to:

- A. Deterioration of exterior walls or other vertical supports.
- B. Deterioration of roofs or other horizontal members.
- C. Deterioration of exterior chimneys.
- D. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.
- E. Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.



6.6.6 Procedure for Requesting Public Ownership or Control of Historic Landmarks

If the Commission finds that a designated historic landmark site, land, or area (or one which is eligible for designation), cannot be preserved without acquisition, the Commission shall recommend to the City Council that the fee or lesser interest of the property in question be acquired by gift, devise, purchase, eminent domain, or otherwise, pursuant to the City Charter and state and federal law.