

## ARTICLE 5. HISTORIC PRESERVATION OVERLAY DISTRICTS (“HSE”, “HC”, “DD”)

### 4.500 Purpose and Intent

As a matter of public policy, the protection, enhancement and perpetuation of landmarks or districts of historical, cultural, architectural or archeological importance and significance are necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that the City of Fort Worth represents the unique confluence of time and place that has shaped the identity of generations of citizens, collectively and individually, and produced significant historical, cultural, architectural and archeological resources that constitute their heritage. The provisions of this Article are intended to:

1. protect, enhance and perpetuate landmarks and districts of historical, cultural, architectural or archeological importance which represent or reflect distinctive and important elements of Fort Worth’s historical, cultural, architectural, archeological, social, economic, ethnic and political heritage;
2. foster civic pride by recognizing accomplishments of the past;
3. protect and enhance the attractiveness of the City to tourists and visitors and support and stimulate the economy;
4. ensure the harmonious, orderly and efficient growth and development of the City;
5. promote the economic prosperity and welfare of the community;
6. encourage the stabilization, restoration and improvement of property and property values; and
7. maintain a generally harmonious outward appearance of both historic and modern structures, which are compatible and complementary in scale, form, color, proportion, texture and material.

### 4.501 Appointment of Historic Preservation Officer

The Planning Director shall appoint a qualified staff person to serve as Historic Preservation Officer. The Historic Preservation Officer shall administer this Article and advise the Historic and Cultural Landmarks Commission on matters submitted to such Commission. In addition to serving as representative of the Historic and Cultural Landmarks Commission, the Historic Preservation Officer is responsible for coordinating the City’s historic preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations. The Historic Preservation Officer shall maintain the historic resources survey and shall update such survey from time to time.

### 4.502 Districts Established

#### A. Establishment of Categories

There shall be three categories of protection for historically, culturally, architecturally or archeologically significant properties in the City of Fort Worth, as follows:

1. Highly Significant Endangered (“HSE”);
2. Historic and Cultural Landmark, if an individual structure or site, or Historic and Cultural Landmarks District, if more than one structure or site (“HC”); and
3. Demolition Delay (“DD”)

These historic preservation overlay districts may appear on the Official Zoning Map from time to time as required by Section 4.503H.

#### B. Previously Designated Overlay Districts

All places, objects, sites, structures or property heretofore designated by the City Council as “HC” Historic and Cultural Subdistricts or “HC” Historic and Cultural Landmark Overlay Districts under pre-existing provisions of the Zoning Ordinance shall be accorded the protection of property designated as Historic and Cultural Landmark under this Article and shall bear the appropriate mark in their zoning designation. Tax incentives granted for

renovation, restoration or rehabilitation under pre-existing provisions of the Zoning Ordinance shall remain in force.

**C. Relationship of Designations to Base Zoning Districts**

1. Designation of a structure, site or area by the City Council as "HSE", "HC", or "DD" is intended as a zoning overlay which supplements the primary underlying zoning district classification. The permitted uses of the property shall be determined and controlled by the use regulations set forth for the primary zoning district classification for the property.
2. The height of structures and the minimum dimensions of lots and yards shall be determined by the regulations set forth for the underlying, primary zoning district classification except where more restrictive height and area regulations are specified in design guidelines adopted by the Historic and Cultural Landmarks Commission.
3. If there is any conflict between the adopted design guidelines and any provision of this Article, the most restrictive regulation shall apply.
4. If there is any conflict between the provisions of this Article and any other provision of the Zoning Ordinance, the most restrictive regulation shall apply in the absence of a specific directive to the contrary.

**D. General Criteria for Designation**

The criteria to be applied in order to determine whether sites or structures qualify for designation as Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District and Demolition Delay are as follows:

1. Is distinctive in character, interest or value; strongly exemplifies the cultural, economic, social, ethnic or historical heritage of the City of Fort Worth, State of Texas or the United States.
2. Is an important example of a particular architectural type or specimen in the City of Fort Worth.
3. Has been identified as the work of an important architect or master builder whose individual work has contributed to the development of the City of Fort Worth.
4. Embodies elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.
5. Bears an important and significant relationship to other distinctive structures, sites or areas, either as an important collection of properties of architectural style or craftsmanship with few intrusions, or by contributing to the overall character of the area according to a plan based on architectural, historic or cultural motif.
6. Possesses significant archeological value, which has produced or is likely to produce data affecting theories of historic or prehistoric interest.
7. Is the site of a significant historic event.
8. Is identified with a person or persons who significantly contributed to the culture and development of the City of Fort Worth, State of Texas or the United States.
9. Represents a resource, whether natural or man-made, which greatly contributes to the character or image of a defined neighborhood or community area.
10. Is designated as a Recorded Texas Historic Landmark or State Archeological Landmark, or is included on the National Register of Historic Places.

**E. Designation as Highly Significant Endangered ("HSE")**

A site or structure may be designated as Highly Significant Endangered if it satisfies the following qualifications:

1. It meets five or more of the criteria set out in Paragraph D above; and

2. It is determined by the City Council to be threatened by deterioration, damage or irretrievable, irreplaceable loss due to neglect, disuse, disrepair, instability, lack of financial resources and/or impending demolition.

The nomination for designation shall describe how the structure meets the pertinent criteria in Paragraph D of this section, the existing and proposed use of the structure, any planned stabilization and/or rehabilitation by the property owner, and the nature and degree of endangerment to the structure.

A structure designated Highly Significant Endangered shall be deemed to be a historically significant site in need of tax relief to encourage its preservation, in accordance with Section 11.24 of the Texas Tax Code.

**F. Designation as Historic and Cultural Landmark (“HC”)**

An individual structure or site may be designated as a Historic and Cultural Landmark if it meets three or more of the criteria set out in Paragraph D above. An area which includes two or more structures or sites which satisfy three or more of such criteria may be designated as a Historic and Cultural Landmarks District.

**G. Designation as Demolition Delay (“DD”)**

1. **Designation.** A structure may be designated Demolition Delay if it satisfies one or more of the following qualifications:
  - a. Designated as a Recorded Texas Historic Landmark;
  - b. Designated as a Texas State Archeological Landmark;
  - c. Designated as an American Civil Engineering Landmark;
  - d. Listed on the National Register of Historic Places; or
  - e. It meets two or more of the criteria set out in Paragraph D above, and is identified as a resource within a defined survey district of the historic resources survey or within a Targeted Plan Area adopted by the City of Fort Worth.
2. **Designation of Demolition Delay Property as Highly Significant Endangered or Historic and Cultural Landmark.**
  - a. Owners of structures designated Demolition Delay who have filed an application for a Certificate of Appropriateness for demolition are subject to a delay in issuance of the permit of up to 180 days. It is the governing body’s intent that owners of such property who have sought a Certificate of Appropriateness for demolition shall not be frustrated in their efforts to demolish or sell such property by extension of the delay period through nomination of property designated Demolition Delay as Highly Significant Endangered or Historic and Cultural Landmark.
  - b. Accordingly, if an owner of a structure designated Demolition Delay has filed an application for a Certificate of Appropriateness for demolition or if a demolition permit has been issued to an owner of such structure within the preceding three year period, such structure shall not be nominated for designation as Historic and Cultural Landmark or Highly Significant Endangered. However, an area which includes such structure may be designated as a Historic and Cultural Landmarks District.

**4.503 Procedures for Designation of Property**

The procedures for designation of individual sites and structures as Highly Significant Endangered, Historic and Cultural Landmark and Demolition Delay and for designation of areas as Historic and Cultural Landmarks Districts are as follows:

**A. Nomination**

Property may be nominated for designation as Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District or Demolition Delay by the City

Manager, the City Council, the Historic and Cultural Landmarks Commission or the owner or an authorized representative. Nominations shall be submitted to the Historic Preservation Officer. Nomination by the City Council or the Historic and Cultural Landmarks Commission shall be in the form of a resolution requesting that the Historic Preservation Officer submit the nomination to the Historic and Cultural Landmarks Commission. Nomination by the City Manager or the owner shall be by completion of a nomination form promulgated by the Department. No nomination fee shall be charged. A nomination for designation of an area as a Historic and Cultural Landmarks District submitted by the property owners must be signed by the owners of (1) fifty percent (50%) or more of the individual tracts, parcels or platted lots to be located within the boundaries of the proposed district; and (2) fifty percent (50%) or more of the land area to be located within the boundaries of the proposed district. Two or more platted lots developed together shall be counted as one lot. Each vacant platted lot of sufficient size to be developed under the current zoning designation for the property shall be counted as one lot.

**B. Notice of Nomination**

Upon receipt of a nomination, the Historic Preservation Officer or a designee shall prepare a notice of nomination, which shall be mailed to the owner or owners of the property by certified mail, return receipt requested, at least ten days prior to the Historic and Cultural Landmarks Commission hearing described below. In the case of nomination for a Historic and Cultural Landmarks District, a notice of nomination shall be mailed to each individual owner of property within such district in accordance with this Article. The most recently approved municipal tax roll showing the name and address of the owner shall be used for this purpose. The notice of nomination shall include the following information:

1. A description of the structure or site proposed for nomination;
2. The proposed category of protection and the criteria on which the nomination is based;
3. A description of the benefits, restrictions and other terms of the proposed designation, including without limitation tax incentives and restrictions on demolition and rehabilitation;
4. The time, place and date of the public hearing by the Historic and Cultural Landmarks Commission to consider such designation;
5. A statement of the stay of actions after nomination provided for in Paragraph C below; and
6. A form on which the owner may explain the reasons why the nomination should be approved or denied.

**C. Stay of Actions After Nomination**

1. **Interim Controls.** The governing body finds that immediate, temporary controls prohibiting alteration, demolition or relocation of properties for which a notice of nomination as Highly Significant Endangered, Historic and Cultural Landmark or Historic and Cultural Landmarks District has been mailed, and prohibiting demolition or relocation of structures for which a notice of nomination as Demolition Delay has been mailed are required in order to further the purpose of this Article.
2. **Highly Significant Endangered, Historic and Cultural Landmark and Historic and Cultural Landmarks District.** After the Historic Preservation Officer has mailed a notice of nomination as Highly Significant Endangered, Historic and Cultural Landmark or Historic and Cultural Landmarks District to the owner or owners of such property by certified mail, return receipt requested, all permits for construction, repairs, alterations, additions, stabilization, restoration, rehabilitation, demolition or relocation of any building, object or structure on the property shall be subject to the Certificate of Appropriateness requirements contained in Section 4.507 for a period of 135 days or until

the proposed designation is denied, whichever occurs first. In the event that the proposed designation is approved, the property shall be subject to all Certificate of Appropriateness requirements applicable to such designation. Permits for which an application has been submitted to the appropriate City department before the notice of nomination is mailed shall not be subject to interim controls or the Certificate of Appropriateness requirements.

- 3. Demolition Delay.** After the Historic Preservation Officer has mailed a notice of nomination for designation as Demolition Delay to the owner or owners of such property by certified mail, return receipt requested, all permits for demolition or relocation of any building, object or structure on the property shall be subject to the Certificate of Appropriateness requirements contained in Section 4.507 for a period of 135 days or until the proposed designation is denied, whichever occurs first. In the event that the proposed designation is approved, the property shall be subject to all Certificate of Appropriateness requirements applicable to Demolition Delay properties. Permits for which an application has been submitted to the appropriate City department before the notice of nomination is mailed shall not be subject to interim controls or the Certificate of Appropriateness requirements.
- 4. Relief from interim Controls.** An owner may seek relief from the interim controls by requesting a Certificate of Appropriateness in accordance with the procedures contained in Section 4.507. In addition, an owner may seek expedited relief from the interim controls by presenting information to the Historic and Cultural Landmarks Commission to show unusual and compelling circumstances justifying such relief. Such request shall be filed with the Historic Preservation Officer within ten days after receipt of the notice of nomination and shall be accompanied by a copy of a bona fide written agreement requiring relocation or demolition of the structure, which shall have been entered into prior to receipt of the notice of nomination, or other evidence that the interim controls will cause substantial imminent harm to the owner which justifies expedited consideration of the owner's request for relief. The owner shall also present evidence concerning plans for development of the property. The Historic and Cultural Landmarks Commission shall conduct a hearing on such matter within 15 days after the request for relief is filed. The Historic and Cultural Landmarks Commission may consider factors such as the existence of a written, bona fide sales contract for the property; plans for relocation or demolition of the property; plans for development of the property; the effect of the interim controls on such plans; and other unusual and compelling circumstances justifying relief from the interim controls. It is the governing body's intent to keep historic structures whenever possible, in recognition of the fact that historic structures have been needlessly demolished, resulting in vacant lots. In the event that the Historic and Cultural Landmarks Commission finds unusual and compelling circumstances justifying relief from the interim controls, the Historic and Cultural Landmarks Commission may expedite review of the nomination, shorten the term of the interim controls, release the owner from such controls or take such other action as the Historic and Cultural Landmarks Commission deems to be appropriate.

**D. Historic and Cultural Landmarks Commission Hearing**

No property shall be designated as Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District or Demolition Delay without the approval of the Historic and Cultural Landmarks Commission after hearing. The Historic and Cultural Landmarks Commission shall conduct a public hearing on the proposed designation within 45 days after receipt of the nomination for designation by the Historic Preservation Officer, or as soon thereafter as is reasonably practicable. At the Historic and Cultural Landmarks Commission’s public hearing, the owner or owners, interested parties and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, cultural, architectural or archeological importance of the structures or property.

**E. Zoning Commission Hearing**

Upon recommendation of the Historic and Cultural Landmarks Commission, the proposed designation shall be submitted to the Zoning Commission. The Zoning Commission shall give notice and conduct its public hearing on the proposed designation within 45 days of the receipt of such recommendation from the Historic and Cultural Landmarks Commission, or as soon thereafter as is reasonably practicable. Such hearing shall be in the same manner and according to the same procedures for amending the zoning map as set forth in Chapter 3, Article 5.

**F. City Council Hearing**

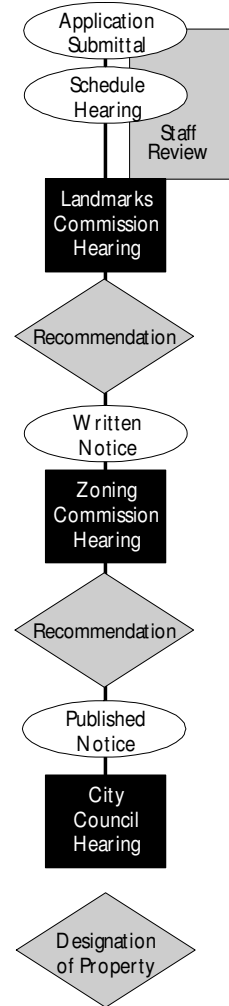
The City Council shall give notice and conduct its hearing on the Historic and Cultural Landmarks Commission’s recommendation concerning the proposed designation within 45 days of receipt of the recommendation of the Zoning Commission, or as soon thereafter as is reasonably practicable. The City Council shall give notice, follow the publication procedure, hold the hearing, and make its determination in the same manner and according to the same procedures for amending the zoning map as set forth in Chapter 3, Article 5.

**G. Vote Required for Designation**

If an owner of a structure nominated for designation as Highly Significant Endangered, Historic and Cultural Landmark or Demolition Delay or the owners of at least 20 percent of an area nominated for designation as an Historic and Cultural Landmarks District protest such designation by submitting a written, signed protest, the affirmative vote of at least ¾ of all members of the City Council is required in order for the designation to take effect, in accordance with Section 211.006 of the Texas Local Government Code. Further, if the owner of a structure nominated for designation as an Historic and Cultural Landmark submits a written, signed protest of such designation at the Historic and Cultural Landmarks Commission hearing, the nomination must also receive the affirmative vote of at least ¾ of all members of the Historic and Cultural Landmarks Commission and the Zoning Commission in order to take effect.

**H. Recording of Designations on Zoning Map**

Upon designation of a site, structure or area as Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District or Demolition Delay, the City Council shall cause the designation to be recorded on the official zoning maps of the City. All zoning maps shall indicate designated Highly Significant Endangered properties with the suffix “HSE”, Historic and Cultural Landmarks, whether designated individually or as a district, with



the suffix “HC”, and Demolition Delay properties as “DD”, in addition to the marks indicating the primary underlying zoning district classification.

**I. Filing of Designations in Property Records**

Record of designations of a site, structure or area as Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District or Demolition Delay shall be recorded in the official property records of the county in which the property is located.

Property owners who file an application for designation shall record such designation and provide proof of filing to the Historic Preservation Officer. In all other cases the Historic Preservation Officer shall file such designation.

**4.504 Procedures and Criteria for Removal of Designation**

**A. Application for Removal of Designation**

Application for removal of the Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District or Demolition Delay designation shall be submitted to the Historic Preservation Officer. Application may be made by the property owner or an authorized representative, the City Manager, the Historic and Cultural Landmarks Commission or the City Council. The same procedure that is followed in designation of such categories shall apply to removal of the designation, including consideration by the Historic and Cultural Landmarks Commission, the Zoning Commission and the City Council. All owners of an individual site or structure must sign the application for removal. Applications for removal of a Historic and Cultural Landmarks District designation shall be signed by the owners or owners of: (1) fifty percent (50%) or more of the individual tracts, parcels or platted lots located within the boundaries of the district; and (2) fifty percent (50%) or more of the land area located within the boundaries of the district. Two or more platted lots developed together shall be counted as one lot. Each vacant platted lot of sufficient size to be developed under the current zoning designation for the property shall be counted as one lot.

**B. Removal of Highly Significant Endangered Designation**

1. The Highly Significant Endangered designation may be removed for the following reasons:
  - a. It is determined that the site or structure is no longer historically, culturally, architecturally or archeologically significant under the criteria listed in Section 4.502E;
  - b. It is determined that the site or structure is no longer endangered; or
  - c. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of Section 4.508.
2. An applicant seeking removal of the Highly Significant Endangered designation on the basis that the site or structure is no longer endangered shall simultaneously nominate such structure for designation as Historic and Cultural Landmark. The application for removal of the Highly Significant Endangered designation and the request for designation of such property as Historic and Cultural Landmark shall be considered and decided concurrently; provided, however, failure to designate such property as Historic and Cultural Landmark by the City Council shall not be grounds for denial of the application for removal of the Highly Significant Endangered designation.
3. Within ten days after approval by the City Council of removal of the designation, the Historic Preservation Officer shall remove the Highly Significant Endangered designation from the official zoning maps of the City and shall file a notice that the Highly Significant Endangered designation has been removed in the official property records of the county in which the property is located. In addition, if applicable, the Historic Preservation Officer shall record the Historic and Cultural Landmark designation on the City’s official zoning maps and record such designation in the property records of the county in which such property is located.

**C. Removal of Historic and Cultural Landmark Designation**

1. The Historic and Cultural Landmark designation, whether relating to individual properties or to an Historic and Cultural Landmarks District, may be removed for the following reasons:
  - a. It is determined that the site, structure or area, as applicable, is no longer historically, culturally, architecturally or archeologically significant under the criteria listed in Section 4.502F; or
  - b. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of Section 4.508.
2. The Historic and Cultural Landmarks District designation may be removed only from a district as a whole. The designation shall not be removed from individual sites or structures located within a district.
3. The Historic Preservation Officer shall remove the Historic and Cultural Landmark designation from the official zoning maps of the City and shall file a notice that the designation has been removed in the official property records of the county in which such property is located within ten days after approval by the City Council of removal of the designation.

**D. Removal of Demolition Delay Designation**

1. The Demolition Delay designation may be removed for the following reasons:
  - a. It is determined that the site or structure no longer satisfies at least one of the criteria set out in Section 4.502G;
  - b. It is determined that such designation creates an unreasonable economic hardship upon the owner or owners in accordance with the provisions of Section 4.508; or
  - c. The site or structure is demolished in accordance with this Section.
2. The Historic Preservation Officer shall remove the Demolition Delay designation from the official zoning maps of the City and shall file a notice that the designation has been removed in the official property records of the county in which such property is located within ten days after approval by the City Council of removal of the designation.

**E. Burden of Proof**

The owner or owners seeking removal of a designation have the burden of proof to establish by a preponderance of the evidence the necessary facts to warrant favorable action by the Historic and Cultural Landmarks Commission, the Zoning Commission and the City Council.

**4.505 Adoption of Design Guidelines for Landmarks and Districts****A. Submittal of Proposed Guidelines**

When application is made by the owner or owners for the designation of a Historic and Cultural Landmark, Historic and Cultural Landmarks District or Highly Significant Endangered, whether an individual structure or a district, the owner or owners shall submit with the application a set of proposed design guidelines following the principles set forth in the Secretary of the Interior's Standards for Rehabilitation. The guidelines shall be prepared by the applicant with the assistance of the Historic Preservation Officer. The owners of property nominated for designation as a Historic and Cultural Landmark or a Historic and Cultural Landmarks District by the Historic and Cultural Landmarks Commission, City Council or the City Manager shall cooperate with the Historic Preservation Officer in the preparation of design guidelines for such property. The guidelines shall be used by the property owner or owners and the City's administrative staff in implementing the intent and purpose of this Article.

**B. Adoption by City Council**

1. **Historic and Cultural Landmarks Commission Hearing.** Upon approval of the designation of a property as Historic and Cultural Landmark, Historic and Cultural Landmarks District or Highly Significant Endangered, the Historic and Cultural Landmarks Commission shall review the design guidelines and shall approve the same, with or without modifications, at the public hearing on the proposed designation. In reviewing guidelines for approval, the Historic and Cultural Landmarks Commission shall avail itself of all information necessary from staff and other sources.
2. **Zoning Commission Hearing.** Upon recommendation of the Historic and Cultural Landmarks Commission, the proposed guidelines shall be submitted along with the proposed designation to the Zoning Commission. The Zoning Commission shall conduct a public hearing on the proposed design guidelines in the same manner and according to the same procedures for the designation of property as set forth in Chapter 4, Article 5.
3. **City Council Hearing.** Upon approval by the City Council of the designation of a property as Historic and Cultural Landmark, Historic and Cultural Landmarks District or Highly Significant Endangered, the Council shall review the design guidelines and shall approve the same, with or without modifications, at the public hearing on the proposed designation. The City Council shall give notice and conduct its hearing on the Historic and Cultural Landmarks Commission's recommendation concerning the proposed design guidelines in the same manner and according to the same procedures for the designation of property as set forth in Chapter 4, Article 5.

Copies of the approved guidelines shall be on file in the Development Department and in the office of the Historic Preservation Officer.

**C. Content and Application of Guidelines**

1. The guidelines will classify all structures and property within an Historic and Cultural Landmarks District or on land necessary for access to and use of a structure designated Highly Significant Endangered or Historic and Cultural Landmark as one of the following:
  - a. Landmark;
  - b. Contributing Resource;
  - c. Non-Contributing Resource; or
  - d. Non-Essential Element.
2. The guidelines shall establish significant physical characteristics for structures and properties and modifications thereto, including layout and location on site, size, shape, materials and textures, and fenestration where applicable.
3. The guidelines so established shall apply to any proposed addition, deletion, alteration or modification to structures and sites within an Historic and Cultural Landmarks District or on land necessary for access to and use of a structure designated Highly Significant Endangered or Historic and Cultural Landmark but shall not be imposed on those existing structures or properties, or portions thereof, which are not altered. The guidelines so established shall also apply to any proposed new structure erected or placed in an Historic and Cultural Landmarks District or on land necessary for access to and use of a structure designated Highly Significant Endangered or Historic and Cultural Landmark.

**D. Modification or Invalidation of Guidelines**

Design guidelines may be reviewed and modified by the City Council when requested by a property owner within the district or by City staff. Any modification of adopted design guidelines must be approved by City Council following the same procedures used for promulgation of the original guidelines. The Board of Adjustment shall not have jurisdiction to grant any variance from design guidelines. Invalidation of any portion of the guidelines shall not affect the validity of any other portion.

## 4.506 Tax Incentives

### A. Purpose

The purpose of this Section is to encourage historic preservation by providing tax incentives for the stabilization, rehabilitation and renovation of properties designated as Highly Significant Endangered and Historic and Cultural Landmark and properties located in a Historic and Cultural Landmarks District.

### B. Exemption for Stabilization of Highly Significant Endangered Structure

**1. Description of Incentives.** A structure designated Highly Significant Endangered, which is stabilized in accordance with this Section, and the land necessary for access to and use of the structure, shall be entitled to the following tax benefits ("Stabilization Incentives") for a period of years as hereinafter set forth:

- a.** The owner of the structure shall be entitled to exemption from City *ad valorem* taxes of all of the assessed value of the structure, commencing in the tax year immediately following the year in which the work is completed. The exemption under this paragraph terminates when an owner qualifies for Rehabilitation Incentives under Paragraph C. below, or after 10 years, whichever occurs later. In the event that the owner substantially rehabilitates the structure, but does not seek approval of the Rehabilitation Incentives under Paragraph C., the exemption under this paragraph shall terminate on the same date that the Rehabilitation Incentives would have terminated if the owner had followed the procedures set out in Paragraph C. below. Nothing in this Article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The Historic Preservation Officer shall assist the owner in filing for such exemption, at the request of the owner.
- b.** The owner of the structure shall be entitled to recover a part or all of the cost of such work through a partial exemption from City *ad valorem* taxes of up to 50 percent of the value of the land necessary for access to and use of the structure for a period not to exceed five years. The exemption shall commence in the tax year immediately following the year in which the work is completed. In the event that the tax savings arising from the partial exemption for such one-year period is less than the cost of such work, the partial exemption may be carried over from year to year, for a total period not to exceed five years. The owner will not be eligible for a partial exemption for stabilization subsequent to rehabilitation of the property and receipt of the Rehabilitation Incentives under Paragraph C. Nothing in this Article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The Historic Preservation Officer shall assist the owner in filing for such exemption, at the request of the owner.

**2. Stabilization.** "Stabilization" of a structure designated as Highly Significant Endangered shall consist of exterior and interior improvements required to prevent further deterioration of the structure, as determined by the Building Official, but at a minimum shall include the following:

- a.** The foundation shall be stable, have any defects that might affect the continued safety and life of the building corrected, and be made as level as reasonably possible;
- b.** The roof shall be made water tight, replacing any defective material including wet or damaged insulation, shingles or wood elements;



access to and use of the structure, shall be entitled to the following tax benefits ("Rehabilitation Incentives") for a period of years as hereinafter set forth:

- a. Exemption from City *ad valorem* taxes of all of the assessed value of the structure;
  - b. Exemption from City *ad valorem* taxes of any increase in the assessed value of the land necessary for access to and use of the structure, in excess of the assessed value for the tax year immediately prior to commencement of the rehabilitation. The assessed value of the land necessary for access to and use of the structure for City *ad valorem* tax valuation purposes shall be equal to the assessed value of such land for the tax year immediately prior to commencement of the rehabilitation; provided, however, in the event that such land is subsequently assessed at a lower value than the assessed value for the tax year immediately prior to commencement of the rehabilitation, the lower value will apply.
2. **Substantial Rehabilitation.** "Substantial rehabilitation" of a structure designated as Highly Significant Endangered shall consist of rehabilitation at a cost which equals or exceeds 30 percent of the assessed value of the structure prior to rehabilitation.
  3. **Term of Rehabilitation Incentives.** The term of the Rehabilitation Incentives shall be a minimum of ten years commencing on the first day of the tax year following verification by the City Council of completion of the rehabilitation pursuant to Paragraph I. In order to encourage early rehabilitation, the term of the Rehabilitation Incentives may be increased for up to an additional five years. If the rehabilitation is completed and the project passes all final inspections within two years after designation as Highly Significant Endangered, the Rehabilitation Incentives shall be for a period of 15 years commencing on the first day of the tax year following verification by the City Council of completion of the rehabilitation pursuant to Paragraph I. The term of the Rehabilitation Incentives shall decrease by one year for every year that completion of rehabilitation is delayed, to a minimum term of ten years. Upon expiration of the term of the Rehabilitation Incentives, the structure and the land necessary for access to and use of the structure shall be taxed at the assessed value.
  4. **Submittal of Application to Appraisal District.** Nothing in this Article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The Historic Preservation Officer shall assist the owner in filing for such exemption, at the request of the owner.
- D. Tax Incentives for Historic and Cultural Landmarks**
1. **Application Submitted Prior to the Commencement of any Work.** Any structure which is designated Historic and Cultural Landmark or which is located in an Historic and Cultural Landmarks District and which is substantially rehabilitated in accordance with this Section, and the land necessary for access to and use of the structure, shall have an assessed value for City tax valuation purposes equal to the assessed value of such structure and land for the tax year immediately prior to commencement of the rehabilitation. The term of the incentives is ten years commencing on the first day of the tax year following verification by the City Council of completion of the rehabilitation pursuant to Paragraph I. Any increase in the value of the structure and the land necessary for access to and use of the structure in excess of the assessed value for the tax year immediately prior to commencement of the rehabilitation shall be exempt from City *ad valorem* taxes for such ten-year period. In the event that the structure or the land is assessed during such ten-year period at a lower value than the assessed value for the tax year immediately prior to commencement of the rehabilitation, the lower value will apply. "Substantial rehabilitation" shall consist of rehabilitation at a cost which equals or exceeds 30 percent of the assessed value of the structure prior to rehabilitation. Nothing in this Article relieves the owner from the responsibility to submit an application for the

exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. The Historic Preservation Officer shall assist the owner in filing for such exemption, at the request of the owner.

2. **Application Submitted After the Commencement of Work for which a Certificate of Appropriateness is Not Required.** The provisions of this paragraph shall apply only to work that meets the following conditions: (a) the work is completed on a structure that is designated as a Historic and Cultural Landmark or that is located in a Historic and Cultural Landmark District, including the land necessary for access to and use of said structure; (b) the work does not require a Certificate of Appropriateness; and (c) an application for tax exemption is filed within five years after the completion of the work. Such work shall be eligible for tax exemption following verification by the City Council of the work performed, provided that the structure has been substantially rehabilitated in accordance with this Section.

The structure and land shall have an assessed value for City tax valuation purposes equal to the assessed value of such structure and land for the tax year immediately prior to the commencement of work. The term of the tax incentive is ten years commencing on the first day of the tax year immediately following the year that work is completed. The owner will qualify for the tax incentive for the remainder of the applicable ten-year term commencing on the first day of the tax year following verification by the City Council of the rehabilitation pursuant to Paragraph I. The owner shall not be eligible for the tax incentive or be reimbursed for ad valorem taxes paid by the owner on the structure or land for any years prior to the submission of an application for a tax incentive and verification by the City Council of the work performed. Any increase in the value of the structure and the land necessary for access to and use of the structure in excess of the assessed value for the tax year immediately prior to the commencement of the rehabilitation shall be exempt from City *ad valorem* taxes for the remainder of the ten-year term. In the event that the structure or the land is assessed during such period at a lower value than the value for the tax year immediately prior to the commencement of the rehabilitation, the lower value will apply. "Substantial rehabilitation" shall consist of rehabilitation at a cost equals or exceeds 30 percent of the assessed value of the structure prior to rehabilitation. Nothing in this Article relieves the owner from the responsibility to submit an application for the exemption each year to the appraisal district for the county in which the property is located pursuant to the terms of the Texas Tax Code. At the request of the owner, the Historic Preservation Officer shall assist the owner in filing for the exemption.

#### E. Eligibility for Tax Incentives

1. **Highly Significant Endangered.**
  - a. In order for property designated Highly Significant Endangered to be eligible for partial exemption of the assessed value of the land for stabilization projects, the Historic and Cultural Landmarks Commission and the City Council must approve the application for the tax incentive prior to the commencement of the work and must verify satisfactory completion of the project.
  - b. In order for property designated Highly Significant Endangered to be eligible for Rehabilitation Incentives, the Historic and Cultural Landmarks Commission and the City Council must approve the application for the tax incentive prior to commencement of the work and must verify satisfactory completion of the project. Property designated as Highly Significant Endangered shall be eligible for Rehabilitation Incentives once every 20 years.
2. **Historic and Cultural Landmark and Historic and Cultural Landmarks District.** In order for property designated Historic and Cultural Landmark to be eligible for a partial tax exemption for rehabilitation, the Historic and Cultural Landmarks Commission and

the City Council must approve the application for the tax incentive and must verify satisfactory completion of the project. Property designated Historic and Cultural Landmark or located in a Historic and Cultural Landmarks District shall be eligible for the partial City tax exemption for rehabilitation of the property once every 20 years.

**F. Application For Tax Incentives**

Application for a City *ad valorem* tax exemption shall be filed with the Historic Preservation Officer. The application may be processed concurrently with the application for any Certificate of Appropriateness which may be required under Section 4.507. The application shall be signed and sworn to by the owner of the property and shall:

1. State the legal description and the address of the property;
2. Provide proof of title in the applicant to the property;
3. Provide proof that taxes or other assessments are not delinquent on the property;
4. Include a complete set of plans and/or documentation for the stabilization or rehabilitation, which have been approved by the Development Department, and verify compliance with established guidelines;
5. For projects for stabilization of a structure designated Highly Significant Endangered, include a list of eligible costs;
6. For rehabilitation projects, include a statement of costs reflecting that the costs exceed 30 percent of the assessed value of the structure;
7. Include a projection of the estimated construction time and predicted completion date;
8. Include a detailed statement of the proposed use of the property;
9. Authorize members of the Historic and Cultural Landmarks Commission and officers of the City to visit and inspect the property;
10. Provide any additional information to the Historic and Cultural Landmarks Commission which is necessary in determining eligibility or which the owner deems relevant or useful;
11. Contain a written agreement to maintain the site or structure in accordance with the Secretary of the Interior's Standards for Rehabilitation, applicable codes of the City of Fort Worth and design guidelines for the duration of the exemption; and
12. Contain sufficient documentation supporting the information submitted therein.

**G. Consideration of Application for Tax Incentives**

1. **Review by Historic and Cultural Landmarks Commission.** Upon receipt of the sworn application, the Historic and Cultural Landmarks Commission shall make an investigation of the property and shall certify facts relating to the project to the Historic Preservation Officer within 30 days, together with the Historic and Cultural Landmarks Commission's documentation and recommendation for approval or disapproval of the application for exemption.
2. **Review by City Council.** Upon receipt of the application for City *ad valorem* tax exemption and the recommendation of the Historic and Cultural Landmarks Commission, the Historic Preservation Officer shall forward the application to the City Council. The City Council shall approve the application, subject to compliance with all Certificate of Appropriateness requirements and verification of satisfactory completion of the project, provided that the owner is eligible for such incentive and has submitted all required information. Notice of approval or disapproval shall be provided to the applicant in writing.

**H. Verification of Completion of Project**

- 1. Submission of Statement by Applicant.** Upon completion of a stabilization or rehabilitation project the applicant shall submit the following documents to the Historic Preservation Officer:
  - a. sworn Statement of Completion of the Project;
  - b. copies of all receipts for cost of project;
  - c. documentation that all required inspections of the project have been performed by the Development Department;
  - d. in the case of stabilization projects, proof that costs are eligible;
  - e. in the case of rehabilitation projects, proof that the cost of the rehabilitation equals or exceeds 30 percent of the assessed value of the structure prior to rehabilitation. Such costs may be determined according to the value of the permits issued by the Development Department and/or proof of actual expenditures; and
  - f. proof that a Certificate of Occupancy has been issued, if applicable.
- 2. Verification by Historic and Cultural Landmarks Commission.** The Historic and Cultural Landmarks Commission, upon receipt of the sworn statement of completion, but no later than 30 days thereafter, shall make an investigation of the property and shall verify whether the stabilization or rehabilitation project has been completed. If verification of completion is unfavorable, the applicant shall be required to complete the project in order to secure the City *ad valorem* tax exemption provided herein. If the verification of completion is favorable, the Historic and Cultural Landmarks Commission shall submit the application for tax incentive to the City Council for approval. A project shall be considered completed when all of the following requirements have been met:
  - a. The applicant has submitted all information required under Paragraph 1 above;
  - b. Rehabilitation costs equal or exceed the required amount;
  - c. The project has passed all required final inspections and has obtained a certificate of occupancy, if required; and
  - d. All work has been performed in accordance with the Certificate of Appropriateness and the Secretary of the Interior's Standards for Rehabilitation.
- 3. Verification by City Council and Notification of Taxing Authorities.** After verification of satisfactory completion of the stabilization or rehabilitation project, the City Council shall declare the property to be entitled to the City *ad valorem* tax relief provided herein. Approval by the City Council of a project for rehabilitation of a structure designated Historic and Cultural Landmark or located in a Historic and Cultural Landmarks District shall constitute a finding that the structure is a historically significant site in need of tax relief in accordance with Section 11.24 of the Texas Tax Code. The Historic Preservation Officer shall give written notice of approval of the tax incentive to the Chief Appraiser of the appraisal district for the county in which the property is located and the Tax Assessor-Collector of the City of Fort Worth. Thereafter, the owner shall be entitled to the applicable tax incentive commencing on January 1 of the tax year immediately following approval by the City Council. Nothing in this Article relieves the owner from the responsibility to apply to the appraisal district for the county in which the property is located each year for the exemption pursuant to the terms of the Texas Tax Code. The Historic Preservation Officer shall assist the owner in filing for such exemption, at the request of the owner.
- 4. Execution of Commitment to Repay.** The City Council shall not approve an application for tax incentives until the applicant files a commitment to repay to the City all City taxes which would have been owed but for such tax exemption, with interest at an annual rate of ten percent, in the event that the owner is required to repay the taxes and interest for noncompliance with this Article. The commitment shall be filed in the official property

records of the county where the property is located, shall run with the land and shall bind the owner and any heirs and assigns. Any unpaid amount shall constitute a lien against the property.

**I. Alteration or Destruction of Structure or Site**

1. **Willful or Negligent Alteration or Destruction.** In order to maintain eligibility for a tax exemption in accordance with this Article, the owner and any representative shall not alter or totally or partially destroy the historically significant structure or site by willful act or negligence during the period of the exemption. In the event that the historically significant structure or site is altered or totally or partially destroyed by the willful act or negligence of the owner or a representative, the owner shall notify the Historic Preservation Officer and the Chief Appraiser of the appraisal district for the county in which the property is located that he is no longer entitled to the exemption. In addition, if the Historic and Cultural Landmarks Commission has reason to believe that a structure or site benefiting from a tax exemption has been altered or totally or partially destroyed by the willful act or negligence of its owner or a representative during the period of the exemption, the Historic and Cultural Landmarks Commission shall request that the City Manager immediately cause the matter to be scheduled for the earliest possible consideration by the City Council. If, after giving notice and a hearing to the owner, the City Council determines that the structure or site has been totally or partially destroyed or altered by the willful act or negligence of the owner or a representative, the owner shall take corrective measures, if feasible, within the time specified by the City Council. If the owner fails to take such corrective measures or if corrective measures are not feasible, the owner shall immediately repay to the City all of the City tax revenues that were not paid because of the exemption plus interest calculated at an annual rate of ten percent, in accordance with the terms of the commitment to repay. The City's remedies pursuant to the commitment to repay shall be in addition to all rights and remedies pursuant to the Texas Tax Code.
2. **Alteration or Destruction Other Than By Willful Act or Negligence.** Where a structure or site benefiting from a tax exemption described herein is totally or partly destroyed or altered by other than the willful act or negligence of the owner or a representative, the owner shall, within 30 days, apply for a Certificate of Appropriateness to authorize reconstruction of the structure or site in accordance with the Secretary of the Interior's Standards for Rehabilitation, the construction codes of the City of Fort Worth and design guidelines. In the event that repair is not feasible, the owner shall, within 30 days, apply for a Certificate of Appropriateness to authorize demolition or relocation. For good cause shown by the property owner, the Historic and Cultural Landmarks Commission may extend the time for filing the application. The determination of whether repair is feasible or demolition should be allowed shall be made by the Historic and Cultural Landmarks Commission in accordance with the Certificate of Appropriateness criteria and procedures set forth in 4.507. In cases where a Certificate of Appropriateness is issued for demolition or relocation because repair is not feasible, repayment of the tax revenues and interest is not required.
3. **Public Safety Hazard.** The provisions shall not limit the authority of the Building Official or the Superintendent of the Code Compliance Division to take action concerning structures or property which constitutes a public safety hazard.

**J. Monitoring System**

The status of structures or sites benefiting from the tax exemptions described herein shall be monitored by the Historic Preservation Officer during the period of the exemption to ensure continued compliance with the Secretary of the Interior's Standards for Rehabilitation and the design guidelines for such structure. The Historic Preservation Officer shall notify the owner of violations in writing and shall specify a deadline for correction of such violations. If

satisfactory corrective measures are not undertaken within the time specified by the Historic Preservation Officer, the Historic and Cultural Landmarks Commission shall initiate procedures to terminate the City tax exemption and require payment of the City taxes, plus interest calculated at the rate of ten percent per year, pursuant to the terms of the commitment to repay.

**K. Transferability of Tax Benefits**

The benefits of this City *ad valorem* tax incentive program relating to structures designated Highly Significant Endangered and Historic and Cultural Landmark and structures located in a Historic and Cultural Landmarks District are transferable and run with the property.

**4.507 Certificates of Appropriateness**

**A. Activities Requiring Certificate of Appropriateness**

No person shall carry out any of the following work without obtaining a Certificate of Appropriateness issued by the Historic and Cultural Landmarks Commission in accordance with the provisions of this Section:

1. Demolition or relocation of a site or structure designated or pending designation as Highly Significant Endangered, Historic and Cultural Landmark or Demolition Delay or located in an area designated or pending designation as an Historic and Cultural Landmarks District;
2. Repair (other than ordinary repair), reconstruction, alteration, addition, stabilization, restoration or rehabilitation of a structure or property designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark or located in an area designated or pending designation as an Historic and Cultural Landmarks District;
3. New construction on real property which is located in an area designated or pending designation as an Historic and Cultural Landmarks District or on land necessary for access to and use of a structure designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark; or
4. Material changes in any doors, roofs, windows, stonework, woodwork, light fixtures, signs, sidewalks, fences, steps, paving and/or other exterior elements visible from a public right-of-way which affect the appearance and compatibility of any structure or property designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark or located in an area designated or pending designation as an Historic and Cultural Landmarks District.

**B. Certificate of Appropriateness Not Required for Ordinary Repairs**

No Certificate of Appropriateness is required for ordinary repair and maintenance of any structure or property if the proposed work does not involve a change in material, configuration or outward appearance. In-kind replacement or repair is considered to be ordinary repair and maintenance. Requests for permits for repair or maintenance of a structure or property which is designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark or which is located in an area designated or pending designation as an Historic and Cultural Landmarks District shall be reviewed and approved by the Historic Preservation Officer prior to issuance of the permits in order to determine whether a Certificate of Appropriateness is required.

**C. Other Permits Required**

The Certificate of Appropriateness required by this Article shall be in addition to any other permit or approval required by state or federal law. A Certificate of Appropriateness, where required, must be obtained prior to the approval of any building, demolition, relocation or other permit that is required by any code or ordinance of the City of Fort Worth.

**D. Limitation of Term of Certificate**

The Historic and Cultural Landmarks Commission may limit the term for which a Certificate of Appropriateness is valid.

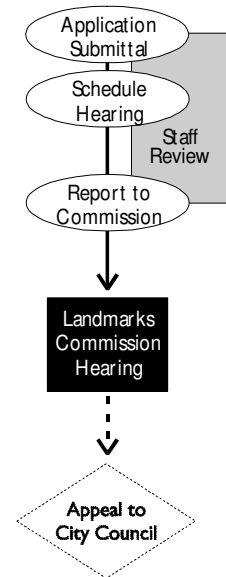
**E. Application Procedure for Certificate of Appropriateness**

Prior to the commencement of demolition, relocation, repair, reconstruction, or any other work requiring a Certificate of Appropriateness, the property owner shall file an application for a Certificate of Appropriateness with the Historic Preservation Officer. The application will not be accepted until the application is determined by the Historic Preservation Officer to be complete and correct. The application shall contain the following information, any of which may be waived by the Historic Preservation Officer.

1. name, address and telephone number of the owner;
2. address and legal description of the property;
3. site plan showing the location of the structure or property;
4. photographs of all four elevations of the structure or property and adjacent structures or property;
5. detailed description of the proposed work (not applicable to demolition or relocation);
6. elevation drawings of the proposed changes, if applicable;
7. samples of, or appropriate information concerning, materials to be used (not applicable to demolition or relocation);
8. rationale for why the structure or property is no longer historically, culturally, architecturally or archeologically significant or proof of economic hardship, if applicable;
9. rationale for why the proposed change is compatible with designation as Highly Significant Endangered or Historic and Cultural Landmark;
10. any other information which the Historic and Cultural Landmarks Commission or staff deems reasonably necessary to visualize and evaluate the proposed work; and
11. signature of the owner verifying that the application is complete and correct.

**F. Procedures for Demolition or Relocation**

1. **Historic and Cultural Landmarks Commission Hearing.** The Historic and Cultural Landmarks Commission shall conduct a hearing concerning an application for a Certificate of Appropriateness for demolition or relocation within 45 days after the application is filed, or as soon thereafter as is reasonably practicable. The Historic and Cultural Landmarks Commission may delay the hearing for a reasonable time if the Historic and Cultural Landmarks Commission finds that all parties who have an interest in the structure or property are not present or that additional information is needed by the Historic and Cultural Landmarks Commission in order to evaluate the application.
2. **Erection of Signs Concerning Proposed Demolition or Relocation.** The City Manager or a designee shall direct the erection of at least one sign upon each property for which an application has been filed seeking a Certificate of Appropriateness for demolition or relocation of a structure or property. Where possible, such sign or signs shall be located



in a conspicuous place or places upon such property at a point or points nearest any right-of-way, street, roadway or public thoroughfare adjacent to such property. Such sign or signs shall be so erected not less than ten days before the date set for public hearing before the Historic and Cultural Landmarks Commission. All such signs shall be removed subsequent to the withdrawal of the application or final action on the application by the Historic and Cultural Landmarks Commission or the City Council, on appeal. Such sign or signs shall substantially indicate that an application is pending for demolition or relocation of the structure and shall further set forth that additional information can be acquired by telephoning the number indicated thereon. Such erection and/or the continued maintenance of any such sign or signs shall not be deemed a condition precedent to the holding of any public hearing, to the approval or denial of the Certificate of Appropriateness or to any other official action concerning such application. No sign shall be erected concerning applications for Certificates of Appropriateness for work other than demolition or relocation.

3. **Testimony by Interested Parties.** The owner and all persons or entities, who have executed a purchase contract or option contract for purchase of the property, or their representatives, shall appear at the hearing. The owner, such potential buyers and all other interested parties, including local preservation groups, will be heard concerning the proposed demolition or relocation. The Historic and Cultural Landmarks Commission may request evidence concerning plans for the development of the property.
4. **Decision of Historic and Cultural Landmarks Commission.** At the conclusion of the hearing, or as soon thereafter as is reasonably practicable, the Historic and Cultural Landmarks Commission shall take one or more of the following actions:
  - a. **Issuance of Certificate of Appropriateness for Demolition of Non-Essential Element:** The Historic and Cultural Landmarks Commission shall issue a Certificate of Appropriateness for demolition or relocation of property classified as a Non-Essential Element in the design guidelines for an Historic and Cultural Landmarks District or property designated Highly Significant Endangered or Historic and Cultural Landmark, subject to compliance by the owner with such guidelines.
  - b. **Issuance of Certificate of Appropriateness for Loss of Significance:** The Historic and Cultural Landmarks Commission shall issue a Certificate of Appropriateness for demolition or relocation of property designated Highly Significant Endangered, Historic and Cultural Landmark or Demolition Delay if the Historic and Cultural Landmarks Commission finds that the structure or property is no longer historically, culturally, architecturally or archeologically significant. In making this determination, the Historic and Cultural Landmarks Commission must find that the owner has established by a preponderance of the evidence that the structure or property has undergone significant and irreversible changes which have caused it to lose the historic, cultural, architectural or archeological significance, qualities or features which qualified the structure or property for such designation. Loss of significance is not grounds for issuance of a Certificate of Appropriateness for demolition or relocation of structures or sites located in a Historic and Cultural Landmarks District, unless the Historic and Cultural Landmarks Commission finds that the district as a whole is no longer historically, culturally, architecturally or archeologically significant.
  - c. **Determination of Unreasonable Economic Hardship:** If the Historic and Cultural Landmarks Commission finds that an owner of property designated Highly Significant Endangered or Historic and Cultural Landmark is not entitled to a Certificate of Appropriateness as a result of loss of significance, the owner shall have the right to introduce evidence to establish that the owner will suffer an unreasonable economic hardship if the Certificate of Appropriateness is not issued

for the proposed demolition or relocation. In addition, owners of property located in an area designated or pending designation as a Historic and Cultural Landmarks District shall have the right to introduce evidence to establish that the owner will suffer an unreasonable economic hardship if the Certificate of Appropriateness is not issued for the proposed demolition or relocation. The owner shall have the burden of establishing by a preponderance of the evidence that an unreasonable economic hardship exists under the criteria set forth in Section 4.508. If the owner does not establish that an unreasonable economic hardship exists, the Certificate of Appropriateness shall be denied. If the owner does establish that an unreasonable economic hardship exists, the Historic and Cultural Landmarks Commission may delay the issuance of a Certificate of Appropriateness for up to 180 days from the date of the Historic and Cultural Landmarks Commission hearing.

- d. Delay of Demolition of Demolition Delay Property:** The Historic and Cultural Landmarks Commission may not deny an application for a Certificate of Appropriateness for demolition of property designated or pending designation as Demolition Delay. However, the Certificate of Appropriateness may provide that issuance of a demolition permit may be delayed for up to 180 days after submission of the application in order to permit the Historic and Cultural Landmarks Commission, City staff, local preservation groups and other interested parties to explore alternatives to demolition or relocation with the owner and persons or entities who have executed a purchase contract or option contract for the purchase of the property, or their representatives. The delay period, which shall not exceed 180 days, shall commence on the date on which an application for a Certificate of Appropriateness is filed with the Historic Preservation Officer. In determining the length of any such delay, the Historic and Cultural Landmarks Commission shall consider whether delay of such Certificate of Appropriateness will cause unreasonable economic hardship to the owner. Notwithstanding any other provisions of this Section to the contrary, in no event shall issuance of a demolition permit for property designated or pending designation as Demolition Delay be delayed for more than 180 days after submission of an application for a Certificate of Appropriateness.
- 5. Consultation Concerning Alternatives During Delay Periods.** During any period for which demolition has been delayed, the owner, all persons or entities who have executed a sales contract or option contract for purchase of the property and the developer, or their representatives, shall meet with the Historic and Cultural Landmarks Commission and City staff, in consultation with local preservation groups and interested parties, in order to explore any alternatives to demolition or relocation which may provide economically viable uses for the structure or property. The burden shall be on the City to recommend a plan to alleviate the unreasonable economic hardship. City staff shall assist the Historic and Cultural Landmarks Commission and the owner by performing the studies required to develop a viable alternative plan. Such plan may include, but is not limited to, property tax relief, loans or grants from public or private resources, acquisition of the property by purchase or eminent domain, building code modifications, changes in applicable Zoning Ordinance provisions, including a transfer of development rights, or a variance from provisions of the Zoning Ordinance, to allow reasonable beneficial use of the structure or property. At the end of any delay period, if a suitable alternative plan acceptable to the owner has not been approved by the Historic and Cultural Landmarks Commission, the Historic and Cultural Landmarks Commission shall issue the Certificate of Appropriateness for demolition or relocation.
- 6. Conditions for Issuance of Certificate of Appropriateness.** As a condition for issuance of a Certificate of Appropriateness for demolition or relocation of a site or structure designated or pending designation as Highly Significant Endangered or Historic and

Cultural Landmark or located in an area designated or pending designation as an Historic and Cultural Landmarks District, the Historic and Cultural Landmarks Commission may require the preparation of a salvage plan, documentation of the property and/or the preservation of trees, shrubs and other landscaping of substantial significance. Such conditions shall be in compliance with all other City codes and ordinances.

**7. Documentation of Properties To Be Demolished or Relocated.**

**a. Documentation Required for All Highly Significant Endangered and Historic and Cultural Landmarks:** Unless the Historic and Cultural Landmarks Commission determines otherwise, the property owner shall file the following documentation with the Historic Preservation Officer, at the owner's expense, as a condition for the issuance of a Certificate of Appropriateness for the demolition or relocation of any structure or property designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark or located in an area designated or pending designation as an Historic and Cultural Landmarks District, other than a Non-Essential Element:

- i.** Photographs of the structure, property or features to be demolished;
- ii.** Written documentation of the architecture of the structure or property; and
- iii.** Documentation that the site has been rezoned (e.g., "PD" Planned Development), replatted, variances granted or that other development requirements have been met.

**b. Additional Documentation Required for Certain Highly Significant Properties:** Unless waived by the Historic and Cultural Landmarks Commission, in addition to the information required above, the property owner shall file the following documentation with the Historic Preservation Officer, at the owner's expense, as a condition for the issuance of a Certificate of Appropriateness for the demolition or relocation of any structure designated Highly Significant Endangered or any structure designated Historic and Cultural Landmark which was determined by the City Council at the time of designation to comply with five or more of the criteria set out in Section 4.502D:

- i.** Significant historical background of past owners and events in the structure or on the property;
- ii.** Scale drawings of the floor plan;
- iii.** Scale drawings of the exterior elevation;
- iv.** Scale plan indicating the dimensions of the site and exact location of each structure, property and landscape feature on the site; and
- v.** Any other information which the Historic and Cultural Landmarks Commission may deem reasonably necessary to record the proposed demolition or relocation, such as documentation in accordance with the Historic American Building Survey (HABS) or Historic American Engineering Record (HAER).

**c. Demolition Delay:** Owners of property designated Demolition Delay who have received a permit to demolish or relocate such property shall cooperate with City staff to document such property prior to the demolition or relocation. Such owners shall grant access to the property to City staff during reasonable business hours in order to facilitate such documentation.

**8. Expiration of Demolition Permit.** In the event that the owner of property designated Demolition Delay allows a valid demolition permit to expire without demolishing the property, such owner and subsequent owners of the property shall not be subject to the 180 day demolition delay with regard to applications for a demolition permit submitted to the appropriate City official within three years following expiration of such permit.

**G. Procedures for Work Other Than Demolition or Relocation**

- 1. Historic and Cultural Landmarks Commission Hearing.** The Historic and Cultural Landmarks Commission shall conduct a hearing concerning the application for a Certificate of Appropriateness for new construction, repairs, reconstruction, alteration, addition, stabilization, restoration or rehabilitation of a structure or property designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark or located in an area designated or pending designation as an Historic and Cultural Landmarks District. Such public hearing shall be held within 45 days after the application is filed, or as soon thereafter as is reasonably practicable. The Historic and Cultural Landmarks Commission may delay the hearing for a reasonable time if the Commission finds that all parties who have an interest in the structure or property are not present or that additional information is needed by the Historic and Cultural Landmarks Commission in order to evaluate such application.
- 2. Testimony by Interested Parties.** The owner and all persons or entities, who have executed a sales contract or an option contract for the purchase of the property, or their representatives, shall appear at the hearing. The owner, such potential buyers and all other interested parties, including local preservation groups, will be heard concerning the proposed work.
- 3. Criteria for Issuance of Certificate of Appropriateness.** In considering the application, the Historic and Cultural Landmarks Commission shall determine whether the proposed work complies with the design guidelines for a Historic and Cultural Landmarks District or individual property designated Historic and Cultural Landmark or Highly Significant Endangered. In addition, the Historic and Cultural Landmarks Commission shall consider, where applicable, the following criteria, which are based on the Secretary of the Interior's Standards for Rehabilitation:
  - a.** A structure or property shall be used for its historic purpose or be placed in a new use that is permitted under the Zoning Ordinance. Such use shall require minimal change to the defining characteristics of the structure, property, site and environment.
  - b.** The historic character of a structure or property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a structure or property shall be avoided.
  - c.** Each structure or property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other structures or property, shall not be undertaken.
  - d.** Most structures and property change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
  - e.** Distinctive features, finishes and construction techniques or examples of craftsmanship which characterize a structure or property shall be preserved within the limits permitted by applicable codes and ordinances.
  - f.** Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture and other visual qualities and, where possible, materials, provided such materials meet other applicable codes and ordinances. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
  - g.** Chemical or physical treatments, such as sandblasting, which cause damage to historic materials, shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.



or Historic and Cultural Landmark and whether the proposed work is in harmony with the spirit and purposes of this Article. The Historic and Cultural Landmarks Commission and City staff, in consultation with local preservation groups and other interested parties, shall explore with the owner, or a representative, alternatives for performance of the proposed work that will preserve the structure or property to the greatest extent that is economically feasible. If a deviation is granted, the Certificate of Appropriateness for the proposed work shall state the terms and conditions of the deviation. All deviations shall be in compliance with all other City codes and ordinances.

5. **No Authority to Grant Variance.** The Board of Adjustment shall not have jurisdiction to grant any variance from the criteria listed in Paragraph 3 or from design guidelines.

#### H. Public Safety Hazards and Emergency Securing Measures

1. **Emergency Securing of Property.** The Code Compliance Division may perform emergency measures in accordance with City codes to secure any structure designated or pending designation in accordance with this Article which constitutes a public safety hazard. Such work shall be performed in such manner as to minimize damage to the structure's historical and architectural elements. A Certificate of Appropriateness is not required. The Superintendent of the Code Compliance Division shall give notice of such emergency securing measures to the Historic Preservation Officer.
2. **Notice of Demolition by City.** The City of Fort Worth shall not allow demolition, demolish or order to be demolished, in whole or in part, property designated or pending designation as Highly Significant Endangered, Historic and Cultural Landmark or Demolition Delay or located in an area designated or pending designation as an Historic and Cultural Landmarks District as a public safety hazard, except in compliance with this Paragraph H. The Building Official or the Superintendent of the Code Compliance Division shall notify the Historic Preservation Officer of the intent to demolish such structure. The Historic and Cultural Landmarks Commission and the Historic Preservation Officer shall be given an opportunity to discuss with City officials and the owner the feasibility of taking emergency measures to secure or stabilize the structure or property and to delay the demolition so that other alternatives may be considered. After any emergency measures are taken, the Historic Preservation Officer shall meet with City officials to review the condition of the structure or property and any plans for rehabilitation. If, after ten days from the date of the notification to the Historic Preservation Officer, the Historic and Cultural Landmarks Commission finds that no feasible plan for further protection of the structure or property has been developed, a Certificate of Appropriateness shall be issued by the Historic and Cultural Landmarks Commission for demolition of the structure or property. When appropriate, the Historic and Cultural Landmarks Commission may make a recommendation to the City Council or other entities or persons about the feasibility of rehabilitation based on a report from the Historic Preservation Officer. Demolition shall be the alternative of last resort and shall occur only if there is no economically feasible way to rehabilitate the structure or property.

#### I. Salvage Plan

In connection with any Certificate of Appropriateness for demolition, relocation or other work on a structure or property designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark or located in an area designated or pending designation as an Historic and Cultural Landmarks District, the Historic and Cultural Landmarks Commission may prepare and submit a salvage plan to the owner. Such plan may suggest salvage and preservation for reuse in restoration elsewhere, specified classes of building materials, architectural details, ornaments, fixtures and the like. The Historic and Cultural Landmarks Commission may require such owner to comply with the salvage plan as a condition for

issuance of a Certificate of Appropriateness. Compliance with a salvage plan may not be imposed as a condition for issuance of a Certificate of Appropriateness for demolition of property designated Demolition Delay; however, the Historic and Cultural Landmarks Commission may reduce the maximum 180 day delay period in consideration of compliance by the owner with a salvage plan.

**J. Miscellaneous Provisions**

1. **Written Decisions:** All decisions of the Historic and Cultural Landmarks Commission and the City Council on appeal shall be in writing. Such decisions shall state the findings of the Historic and Cultural Landmarks Commission and City Council relating to the approval, denial or approval with conditions of the Certificate of Appropriateness.
2. **Provision of Copies of Certificate of Appropriateness:** The Historic Preservation Officer shall provide copies of the decisions of the Historic and Cultural Landmarks Commission and any decisions of the City Council to the applicants, the Building Official and the Superintendent of the Code Compliance Division.

**K. Re-filing of Application for Certificate of Appropriateness**

When an application for Certificate of Appropriateness is denied by the Historic and Cultural Landmarks Commission, or the City Council on appeal, or when the owner has withdrawn an application after the application has been scheduled for hearing, no new application of like nature shall be accepted by the City or scheduled for a hearing by the Historic and Cultural Landmarks Commission for a period of twelve months following the date of denial or withdrawal, unless the application is denied without prejudice; provided, however, on receipt of written request by the owner describing substantially changed conditions since prior consideration of the application to justify an earlier consideration of the application, the Historic and Cultural Landmarks Commission may waive the mandatory delay period and authorize the acceptance of a new application.

**L. Enforcement**

All work performed pursuant to a Certificate of Appropriateness shall conform to any requirements included herein. It shall be the duty of the Historic Preservation Officer periodically to inspect any such work to assure compliance. If work is found that is not performed in accordance with the Certificate of Appropriateness, or upon notification of such fact by the Historic and Cultural Landmarks Commission and verification by the Building Official, the Building Official shall issue a stop-work order and all work shall immediately cease. No further work shall be undertaken on a project while a stop-work order is in effect.

**4.508 Unreasonable Economic Hardship**

**A. Declaration of Unreasonable Economic Hardship**

The Historic and Cultural Landmarks Commission may declare that an unreasonable economic hardship exists as a basis for:

1. Recommending removal of the Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District or Demolition Delay designation; or
2. Issuing a Certificate of Appropriateness approving the demolition or relocation of property designated or pending designation as Highly Significant Endangered or Historic and Cultural Landmark or located in an area designated or pending designation as a Historic and Cultural Landmarks District.

**B. Burden of Proof**

When a claim of unreasonable economic hardship is made, the owner must prove by a preponderance of the evidence that:

1. The owner cannot make reasonable beneficial use of or realize a reasonable rate of return on a structure or site, regardless of whether that return represents the most profitable

return possible, unless the Highly Significant Endangered, Historic and Cultural Landmark, Historic and Cultural Landmarks District or Demolition Delay designation, as applicable, is removed or the proposed demolition or relocation is allowed;

2. The structure or property cannot be reasonably adapted for any other feasible use, whether by the current owner or by a purchaser, which would result in a reasonable rate of return; and
3. The owner has failed to find a purchaser or tenant for the property during the previous two years, despite having made substantial ongoing efforts during that period to do so.

The evidence of unreasonable economic hardship introduced by the owner may, where applicable, include proof that the owner's affirmative obligations to maintain the structure or property make it impossible for the owner to realize a reasonable rate of return on the structure or property.

**C. Claim for Historic and Cultural Landmarks Districts**

Owners of individual structures or sites located in an Historic and Cultural Landmarks District are entitled to a Certificate of Appropriateness for demolition or relocation upon proof of unreasonable economic hardship; however, an Historic and Cultural Landmarks District designation shall be removed only from the entire district, upon proof that the designation results in an unreasonable economic hardship to the district as a whole. Individual structures or sites shall not be removed from a Historic and Cultural Landmarks District.

**D. Consultation and Search for Alternatives**

The owner, persons or entities who have executed a sales contract or option contract for purchase of the property, or their representatives, the Historic and Cultural Landmarks Commission, local preservation groups and interested parties shall consult in good faith in a diligent effort to seek alternatives that will eliminate the unreasonable economic hardship and preserve the structure or property.

**E. Affidavit of Hardship**

As evidence that an unreasonable economic hardship exists, the owner may submit the following information to the Historic and Cultural Landmarks Commission by affidavit:

**1. For all structures and property:**

- a. the past and current use of the structures and property;
- b. the name and legal status (e.g., partnership, corporation) of the owners;
- c. the original purchase price of the structures and property;
- d. the assessed value of the structures and property according to the two most recent tax assessments;
- e. the amount of real estate taxes on the structures and property for the previous two years;
- f. the date of purchase or other acquisition of the structures and property;
- g. principal balance and interest rate on current mortgage and the annual debt service on the structures and property, if any, for the previous two years;
- h. all appraisals obtained by the owner or applicant within the previous two years in connection with the owner's purchase, financing or ownership of the structures and property;
- i. any listing of the structures and property for sale or rent, price asked and offers received;
- j. any consideration given by the owner to profitable adaptive uses for the structures and property;
- k. any replacement construction plans for proposed improvements on the site;



#### 4.510 Appeal; Penalties

##### A. Appeal to City Council

Any owner dissatisfied with any action of the Historic and Cultural Landmarks Commission, other than actions relating to designation, which shall be heard by the Historic and Cultural Landmarks Commission, the Zoning Commission and the City Council in accordance with Section 4.503, shall have the right to appeal to the City Council within ten days after receipt of notification of such action, by filing a written notice of such appeal with the City Secretary and the Historic Preservation Officer. Such appeal shall be a de novo hearing concerning the matter in question. The City Council shall schedule a hearing on such appeal within 30 days after receipt of the notice of appeal, or as soon thereafter as is reasonably practicable. Notice of such hearing shall be published by the City Secretary in the City's official newspaper not less than the 15<sup>th</sup> day before the date of the hearing. At the hearing, the owner and all interested parties, including local preservation groups, will have the opportunity to be heard. The City Council shall uphold, reverse or modify the decision of the Historic and Cultural Landmarks Commission within 30 days of the appeal hearing unless a continuance is agreed to by the owner. The City Council shall consider the same criteria and standard of review considered by the Historic and Cultural Landmarks Commission.

##### B. Fines

Any person, firm, or corporation who violates, disobeys, omits, neglects or refuses to comply with the provisions of this Article shall be fined not more than \$500.00 for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

##### C. Restrictions on Future Development

If a structure designated Highly Significant Endangered, Historic and Cultural Landmark or Demolition Delay or located within the boundaries of an Historic and Cultural Landmarks District is demolished or relocated without a Certificate of Appropriateness, then the following restrictions shall be applicable to the site where the structure or property was formerly located:

1. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a Certificate of Appropriateness, for a period of three years after the date of such demolition or removal.
2. No permits shall be issued by the City for any curb cuts on the site for a period of three years from and after the date of such demolition or removal.
3. No parking lot for vehicles shall be operated on the site for a period of three years from and after the date of such demolition or removal.
4. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site.

When these restrictions become applicable to a particular site, the Historic Preservation Officer shall cause to be filed a verified notice thereof in the real property records of the county where the site is located and such restrictions shall then be binding on future owners of the property. The restrictions imposed by this Paragraph shall be in addition to any fines imposed pursuant to Paragraph B above.

##### D. Cumulative Remedies

The provisions of this Section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under Section 315.006 of the Texas Local Government Code and Section 442.016 of the Texas Government Code.