

## § 155.069 H, HISTORIC LANDMARK OVERLAY DISTRICT REGULATIONS.

(A) *General purpose and description.* The City Council hereby finds and declares as a matter of public policy that the protection, enhancement, preservation and use of historic landmarks is a public necessity and is required in the interest of the culture, prosperity, education, and general welfare of the people. The purposes of this district are:

(1) To protect, enhance and perpetuate historic landmarks which represent or reflect distinctive and important elements of the city's and state's architectural, archaeological, cultural, social, economic, ethnic and political history and to develop appropriate settings for such places.

(2) To safeguard the city's historic and cultural heritage, as embodied and reflected in such historic landmarks by appropriate regulations.

(3) To stabilize and improve property values in such locations.

(4) To foster civic pride in the beauty and accomplishments of the past.

(5) To protect and enhance the city's attractions to tourists and visitors and provide incidental support and stimulus to business and industry.

(6) To strengthen the economy of the city.

(7) To promote the use of historic landmarks for the culture, prosperity, education, and general welfare of the people of the city and visitors to the city.

(B) *Historic landmark definitions.*

(1) *Historic Landmark Overlay District.* Any area which: (1) contains buildings, structures or sites which: (a) have a special character or have a special historical or cultural interest or value; (b) represents one or more periods or styles of architecture typical of one or more eras in the history of the city; and (c) cause such area, by reason of such factors, to constitute a district of the city; and (2) has been designated as an historic district pursuant to the provision of this chapter. The area of an Historic Landmark Overlay District may include one or more properties.

(2) *Rehabilitation.* Is the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

(3) *Restoration.* Is the act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

(4) *Preservation.* Is the act or process of applying measures to sustain the existing form, integrity, and material of a building or structure, and the existing form and vegetative cover of the site. It may include initial stabilization work where necessary, as well as ongoing maintenance of the historic building materials.

(5) *Reconstruction.* Is the act or process of reproducing by new construction the exact form and detail of a historic building, structure, or object, or a part thereof, as it appeared at a specific period of time.

(6) *Landmark.* A building or site of immeasurable value in preserving the cultural heritage, or an outstanding example of design or a site closely related to an important personage, act or event in history. Such designation marks the site for preservation and restoration to its historical character and is intended to discourage modifications, which detract from its historical significance.

(7) *Contributing elements.* A building or site which in its historical character contributes to the district's purpose. Such designation is intended to encourage restoration and preservation, but also allow and encourage adaptive reuses and encourage continued economic and social vitality of the district. Any new construction proposed within the district shall be considered a contributing element.

(8) *Non-essential elements.* A building or site which, though within the physical boundaries of the district, does not contribute to the cultural and historic value thereof. Such designation is meant to provide greater latitude for utilization of the site or structure, but all modifications shall conform to the guidelines.

(C) *Landmark designation power.* The City Council may designate buildings, structures, sites, districts, areas and lands in the city as historic landmarks and define, amend and delineate the boundaries thereof. This chapter is created as an overlay district to the existing zoning that exists on the property. The suffix "H" shall indicate the zoning designation of those buildings, structures, sites, districts, areas and land which the City Council designates as historic landmarks. Such designation shall be in addition to any other use designation, established in the comprehensive zoning ordinance. The official zoning ordinance map shall reflect the designation of historic landmarks by the letter "H" as a suffix to any other use designation established in the comprehensive zoning ordinance.

(D) *Landmark designation criteria.* In making such designations as set forth in division (C) above, the City Council shall consider, but shall not be limited to, one or more of the following criteria:

(1) Character, interest or value as part of the development, heritage or cultural characteristics of the City of Mansfield, State of Texas, or the United States.

(2) Recognition as a Recorded Texas Historic Landmark, a National Historic Landmark, or entered into the National

Register of Historic Places.

(3) Appear to be eligible for the National Register and also may be eligible for designation as a Recorded Texas Historic Landmark as indicated in the 1983 Tarrant County Historic Resource Survey; included as an authoritative reference for this purpose.

(4) Embodiment of distinguishing characteristics of an architectural type or specimen.

(5) Identification as the work of an architect or master builder whose individual work has influenced the development of the city.

(6) Embodiment of elements of architectural design, detail, materials or craftsmanship, which represent a significant architectural innovation.

(7) Relationship to other distinctive buildings, sites or areas which are eligible for preservation as described in § 155.116(E), based on architectural, historic or cultural motif.

(8) Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style.

(9) Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.

(10) Exemplification of the cultural, economic, social, ethnic, or historical heritage of the city, state, or United States.

(11) Location as a site of a significant historic event.

(12) Identification with a person or persons who significantly contributed to the culture or development of the city, county, state or nation.

(13) A building, structure, or place that because of its location has become of historic or cultural value to a neighborhood or community.

(E) *Designation procedure.*

(1) Designation of any property as a Historic Landmark Overlay District may be proposed only by the owner or the authorized agents of the individual property to be designated. Any such proposal shall be filed with the Planning and Development Director upon prescribed forms and shall include all data and proposed landmark guidelines required by the Historic Landmark Commission and the Planning and Zoning Commission.

(2) The Historic Landmark Commission shall recommend approval, disapproval or modification of the proposal to the Planning and Zoning Commission.

(3) Each proposal shall be considered by the Historic Landmark Commission following a public hearing. A record of pertinent information presented at the hearing, shall be made and maintained as a permanent public record. The Historic Landmark Commission shall reach a decision within 60 days after holding the required hearing. Notice of the time, place and purpose of such hearing shall be given by the Director of Planning and mailed ten days prior to the hearing date to the owners of all adjoining property and property owners included in the proposed designation, using for this purpose the names and addresses of the last known owners as shown on the latest real property tax records received for the Tarrant County Tax Appraisal District. Failure to send notice by mail to any such property owners where the addresses of such owners are not so recorded shall not invalidate any proceedings in connection with the proposed designation.

(4) In making a recommendation to the Planning and Zoning Commission the Historic Landmark Commission shall consider the conformance or lack of conformance of the proposed designation with the comprehensive plan of the City of Mansfield and with the purposes and standards of this chapter.

(5) The recommendation of the Historic Landmark Commission shall be considered by the Planning and Zoning Commission in the same manner as provided for in an application for rezoning.

(6) Action by the Council shall be as provided in § 155.115 with respect to rezoning.

(7) Reapplication for "H" status shall be limited as outlined in § 155.115(E).

(F) *Procedure to authorize erection, construction, reconstruction, alterations of structures in a Historic Landmark Overlay District or site.*

(1) No person shall carry out or cause to be carried out on a landmark or in a Historic Landmark Overlay District, any alteration, demolition, construction, reconstruction, restoration, or remodeling, nor shall any person make any material change in the appearance on any existing landmark or in a Historic Landmark Overlay District without a permit issued by the city Building Official. All applications to the city Building Official for a permit involving landmarks or Historic Landmark Overlay Districts shall be forwarded immediately by the city Building Official to the Historic Landmark Commission. Notwithstanding any other provision, or law, the city Building Official shall not permit any alteration, demolition, construction, reconstruction, restoration, remodeling, or any material change in appearance to be carried out on a landmark or in a Historic Landmark Overlay District except pursuant to a Certificate of Approval issued by the Historic Landmark Commission.

(2) The Historic Landmark Commission shall hold a public hearing on all applications for Certificate of Approval referred to it after notice given in the same manner as prescribed in division (E)(3). A report of the action taken or determination made shall be forwarded to the city Building Official not later than 45 days after receipt of the application by the Historic Landmark Commission. If no action is taken by the Historic Landmark Commission within the 45 day period, the permit shall be issued and the applicant notified by the city Building Official.

(3) The Historic Landmark Commission in considering the appropriateness of any alteration, demolition, new construction, reconstruction, restoration, remodeling or other modification of any building shall consider, among other things, the purposes of this chapter; the historical and architectural value and significance of the landmark or Historic Landmark Overlay District; the design guidelines as approved in this chapter under division (K)(1). Landmark guidelines; the texture, material and color of the building or structure in question or its appurtenant fixtures, including signs; and the relationship of such features to similar features of other buildings within a Historic Landmark Overlay District; and the position of such building or structure in relation to the street or public way and to other buildings and structures.

(4) If after considering the foregoing, the Historic Landmark Commission determines that the proposed changes are consistent with the criteria for historic preservation established by this chapter, the Historic Landmark Commission shall issue the Certificate of Approval. In the event of a determination to deny a Certificate of Approval, the Historic Landmark Commission shall request consultation with the owner for a period not to exceed 90 days for the purpose of considering means to preservation in keeping with the criteria and design guidelines. If at the end of that time an acceptable solution has not been achieved, the Certificate of Approval shall finally be denied and the applicant so notified by letter; provided the applicant may appeal to the City Council within 20 days of the date of the letter finally denying the application, and the City Council may, after a public hearing, reverse or modify the decision of the Historic Landmark Commission but only if it finds that: (a) every reasonable effort has been made by the applicant to agree to the requirements of the Commission; and (b) owing to special conditions pertaining to the specific piece of property, denial of the Certificate of Approval will cause undue and unnecessary hardship. The Secretary of the Interior's *Standards For Rehabilitation* and Guidelines for Rehabilitating Historic Buildings are the minimum guidelines that the Historic Landmark Commission shall use to evaluate each landmark or Historic Landmark Overlay District.

(G) *Approval for demolition or removal.* If an application is received by the Planning Department for demolition or removal of any designated historic landmark, it shall be forwarded to the Historic Landmark Commission upon receipt of the application.

(1) Should the Historic Landmark Commission determine that the application involves improvements to existing buildings not historically and culturally significant and not contributing to the integrity of the district, it may approve the application for demolition or removal provided the owner comply with the established guidelines for the landmark or Historic Landmark Overlay District and the general purpose of this district in division (A) of this section.

(2) Should the Historic Landmark Commission determine that the demolition or removal activity will adversely affect any historical, architectural, archaeological, or cultural feature of the historic landmark, and whether such work is appropriate and consistent with the spirit and intent of this section, it shall recommend restrictions or conditions to the demolition or removal application.

(3) The Historic Landmark Commission may recommend the disapproval of the application by determining that in the interest of preserving historical values, the structure, building or site should not be demolished, and in that event, the application shall be suspended for a period not exceeding 90 days from the date of application. Within the suspension period, the Historic Landmark Commission may request an extension of the suspension period by the City Council. If the City Council, after notice to applicant and public hearing, determines that there is reasonable grounds for preservation, the Council may extend the suspension period for an additional period not exceeding 120 days, to a total of not more than 240 days from the date of application for demolition. During the period of suspension of the application, no permit shall be issued for such demolition or removal nor shall any person demolish or remove the building, structure or site. If no action is taken by the City Council within 240 days from the date of application, the demolition or removal permit shall be issued and the city Building Official shall so advise the applicant.

(4) This procedure is to allow the city, the owner and the private sector to explore alternatives to demolition or removal which may provide viable uses for the subject of the application. In addition, alternate strategies of ownership and use may be explored with the owner, including use of other remedies available to the city.

(H) *Historic landmarks; omission of necessary repairs.*

(1) The exterior of a designated historic landmark shall be maintained to insure the structural soundness of such landmark.

(2) If the city Building Official and/or the Historic Landmark Commission finds that there are reasonable grounds to believe that a designated historic landmark is structurally unsound or in imminent danger of becoming structurally unsound, the city Building Official will notify in writing the owner of record of the designated historic landmark of such fact.

(3) Upon the giving of ten days written notice to the owner of record of such designated historic landmark, the Historic Landmark Commission shall hold a public hearing to determine if the designated historical building is structurally unsound or in imminent danger of becoming structurally unsound. The Historic Landmark Commission shall request a report and consider recommendations from the city Building Official. The report may include evidence of economic hardship or willful neglect.

(4) At the conclusion of the hearing, if the Historic Landmark Commission finds that the designated historic building is

structurally unsound or in danger of becoming structurally unsound and that no valid reason exists as to why the owner cannot or should not undertake to safeguard the structural soundness of the building, it shall in writing notify the record owner of the finding.

(5) The owner of record of a designated historic landmark who has been notified by the Historic Landmark Commission that such landmark is structurally unsound or in danger of so becoming shall within 90 days of receipt of such notice satisfy the Historic Landmark Commission that reasonably necessary repairs to safeguard the structural soundness of the landmark have been effected.

(6) If the Historic Landmark Commission determines that the building is structurally unsound but there are valid reasons why the owner cannot or should not undertake to safeguard the structural soundness of the building, it shall forward to the City Council its recommendation as to what action, if any, should be taken on the structure.

(7) Any applicant or interested person aggrieved by a ruling of the Historic Landmark Commission under the provisions of this section may, within 30 days after the ruling, appeal to the City Council.

(I) *Suspension of building and demolition permits pending landmark application.* No building or demolition permit will be granted once the application has been received by the Planning Department. The Historic Landmark Commission shall notify the City Building Official within 24 hours if it deems that destruction of a possible eligible landmark building or site is imminent. This notification shall be in writing and explain the reason for the action of the Historic Landmark Commission. This notification authorizes the city Building Official not to allow any building or demolition permits even though no application for Historic Landmark Overlay District Zoning has been applied for by the owner of the particular landmark building or structure in question.

(J) *Local Historic Preservation Officer.* The Director of Planning or his designee shall serve as the Local Historic Preservation Officer to act as Executive Secretary to the Historic Landmark Commission, who shall be the custodian of its records, shall conduct official correspondence and generally supervise the clerical and technical work of the Historic Landmark Commission as required to administer this chapter. In addition, the Director shall:

(1) Carry out, assist and collaborate in studies and programs designed to identify and evaluate structures, sites and areas worthy of preservation;

(2) Consult with and consider the ideas and recommendations of civic groups, public agencies, and citizens interested in historical preservation;

(3) Inspect and investigate structures, sites and areas which are believed worthy of preservation;

(4) Submit to the Historic Landmark Commission for public hearing and approval, and subsequently maintain (and resubmit as required) a list of structures and other features deemed deserving of official recognition although not designated as historic landmarks or Historic Landmark Overlay Districts, and take appropriate measures of recognition, and maintain a documentary inventory;

(5) Disseminate information to the public concerning those structures, site and areas deemed worthy of preservation, and encourage and advise property owners in the protection, enhancement, perpetuation and use of landmarks and property of historical interest;

(6) Consider methods other than those provided for in this chapter for encouraging and achieving historical preservation, and make appropriate recommendations to approval bodies and other public and private agencies; and

(7) Establish such policies, rules and regulations as are deemed necessary to carry out the purpose of this chapter.

(K) *Building implementation procedures.*

(1) *Landmark guidelines.* The following guidelines shall be used by the Historic Landmark Commission in considering the issuance of a Certificate of Approval for construction, reconstruction, restoration, remodeling or alteration of landmarks:

(a) The Secretary of the Interior's "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings" as adopted by Ordinance No. 919.

(b) Design Guidelines for Downtown Mansfield as adopted by Ordinance No. 919; said Design Guidelines are applicable only to historic landmarks within Blocks 1 and 2 of the Original Town of Mansfield as shown in plat recorded in Volume 63, Page 53-54 of the Plat Records, Tarrant County, Texas.

(c) *Design Guidelines for Historic Residential Properties* as adopted by Resolution No. 2138. These design guidelines are applicable to any historic residential landmark in the City of Mansfield, regardless of the use of the building.

(2) Other specific guidelines promulgated by the Historic Landmark Commission as provided hereinafter.

(3) *Promulgation of guidelines.* Following the submission of a set of guidelines by the applicant with the submittal of the designation request and upon designation by the City Council, the Historic Landmark Commission shall within 60 days review for approval such guidelines prepared by the applicant specifically for that district for use by property owners and the administrative staff in implementing the intent of this chapter. A copy of these guidelines shall be on file in the Office of the Building Official. The guidelines will classify all structures and sites within the district as one of the following: (a) landmark; (b) contributing element; or (c) non essential element as defined in division (B) of this section.

The guidelines shall establish acceptable physical characteristics of structure, signs, sites and modifications thereto

including layout and location on site, size, shape, materials and textures, fenestration and interiors where applicable. The Historic Landmark Commission may suspend action on any requests affecting any Historic Landmark Site or Historic Landmark Overlay District pending the preparation of the guidelines. Landmark Sites and Historic Landmark Overlay District guidelines may be reviewed and modified by the Historic Landmark Commission.

(4) *General maintenance and repair.* Ordinary repair or maintenance which does not involve changes in architectural and historical value, style or general design is exempt from the provision of this section. It is incumbent upon the Historic Landmark Commission to make clear to the owner of a landmark site or owners of buildings or structures within a Historic Landmark Overlay District to clarify what particular activities would come under the heading of ordinary repair or maintenance.

(L) *Re-designation of a Historic Landmark Overlay District.* The re-designation of a Historic Landmark Overlay District shall follow the same procedure as a request for a Historic Landmark Overlay District.

(M) *Coexistence with other use classification.* Use classifications as to all property which may be included in a Historic Landmark Overlay District shall continue to be governed by the comprehensive zoning ordinance of the city and the procedures therein established.

(N) *Coexistence with other codes and ordinance.* This will not replace or supersede any local, state or national code or ordinance regarding health, life, safety or the general public welfare.

(O) *Penalty.* It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze, or maintain any building, structure, or land in a Historic Landmark Overlay District in violation of the provisions of this section, and the city in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing, or maintenance, to restrain, correct, or abate such violation, to prevent any illegal act, business, or maintenance on such premises.

(P) *Liability for adversely affecting historic structure or property.*

(1) In this section, "historic structure or property" means a historic structure or property that:

- (a) Is included on the National Register of Historic Places;
- (b) Is designated as a Recorded Texas Historic Landmark;
- (c) Is designated as a State Archaeological Landmark;

(d) Is determined by the Texas Historical Commission to qualify as eligible property under criteria for inclusion on the National Register of Historic Places or for designation as a Recorded Texas Historic Landmark or as a State Archaeological Landmark;

(e) Is certified by the Texas Historical Commission to other state agencies as worthy of preservation; or

(f) Is designated as a historic landmark or placed in a Historic Landmark Overlay District by the City of Mansfield.

(2) A person is liable to the city for damages when the person:

(a) Demolishes, causes to be demolished, or otherwise adversely affects the structural, physical, or visual integrity of a historic structure or property; and

(b) Does not obtain a Certificate of Approval and a demolition or building permit from the city Building Official as required in division (G) of this section before beginning to demolish, cause the demolition of, or otherwise adversely affect the structural, physical or visual integrity of the historic structure or property.

(3) (a) If the structural, physical or visual integrity of the historic structure or property is adversely affected to the extent that it is not feasible to restore the structural, physical or visual integrity substantially to its former level, the damages are equal to the cost of constructing, using as many of the original materials as possible, a new structure or property that is a reasonable facsimile of the historic structure or property plus the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(b) If it is feasible to restore the structural, physical, or visual integrity of the historic structure or property substantially to its former level, the damages are equal to the cost of the restoration, using as many of the original materials as possible, plus the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(4) Instead of accepting monetary damages, the city may permit the liable person to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property or to restore, using as many of the original materials as possible, the historic structure or property and to pay the cost of attorney's, architect's, and appraiser's fees and other costs related to the enforcement of this section.

(5) Damages recovered under this section shall be deposited in a special fund in the city treasury and may be used only to construct, using as many of the original materials as possible, a structure or property that is a reasonable facsimile of the demolished historic structure or property; to restore, using as many of the original materials as possible, the historic structure or property; or to restore another historic structure or property, as determined by the city.

(6) The construction of a facsimile structure or property under divisions (P)(4) or (5) must be undertaken at the location designated by the city, which may be the same location as that of the demolished historic structure or property.

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