

§ 155.069 HISTORIC PRESERVATION REGULATIONS.

(A) *Purpose.* The City Council of the City of Mansfield finds and declares as a matter of public policy that the preservation of the city's heritage, including the recognition and protection of historic resources and landmarks, promotion of the historic culture, enhancement of the public's knowledge of the city's historic past, and development of civic pride in the beauty and noble accomplishments in the past, is a public necessity and is required in the interest of the culture, prosperity, education, and welfare of the city. This section is intended to:

(1) Safeguard the city's history and culture by promoting the value and importance reflected in recognizing historic resources, establishing historic landmarks, teaching the evolution of the area, and fostering general historic preservation.

(2) Protect, enhance, and perpetuate historic resources and districts which represent or reflect distinctive and important elements of the city's cultural, social, economic, political, archaeological, and architectural history;

(3) Promote the city's heritage by educating and attracting tourists and visitors while providing incidental support and stimulus to business and industry;

(4) Enhance and protect property values, recognize the owner's property rights, promote economic development, and foster sustainability;

(5) Promote the city's heritage by encouraging the use of historic resources;

(6) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of historic properties within the city;

(7) Increase historical awareness, including educating the youth of the city, in order to strengthen the culture, prosperity, and welfare of local citizens and visitors to the city;

(8) Encourage stabilization, restoration, maintenance, and improvements of historic properties; and

(9) Provide input and advice to the City Council regarding matters of historic preservation.

(B) *Definitions.*

(1) *Accessory Building.* A structure or use that is clearly subordinate to and functionally related to the primary building or use, which contributes to the comfort, convenience, or necessity of occupants of the primary building or use on the same platted lot. An Accessory Building does not include a Landscape Feature.

(2) *Archaeology*. The science or study of the material remains of past life or activities and physical site, location, or context in which they are found, as delineated in the Department of the Interior's Archaeological Resources Protection Act of 1979.

(3) *Building*. A resource created principally to shelter any form of human activity.

(4) *Certificate of Approval (CA)*. A signed and dated document evidencing the approval of the Historic Landmark Commission and/or Historic Preservation Officer for work proposed by an owner or applicant of a structure or property within a Historic Overlay District.

(5) *Certified Local Government (CLG)*. A local government certified or recognized by the State Historic Preservation Office (SHPO) and the National Park Service (NPS), as an active partner in the Federal Historic Preservation Program with a demonstrated commitment to preserve, protect, and increase awareness of cultural heritage found in the built environment.

(6) *Contributing Structure*. A structure within a historic district that was substantially constructed within the district's period of significance and retains a significant amount of its physical integrity and character-defining features including location, setting, design, construction, workmanship, or association with historical persons or events.

(7) *Demolition*. An act or process (notwithstanding acts of God, criminal activity, etc.) which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic, or architectural integrity.

(8) *Demolition by Neglect*. Allowing a structure, whether intentional or unintentional, to fall into a state of disrepair that it becomes necessary or desirable to demolish it.

(9) *Demolition Delay*. Suspension by the City of an application for removal or demolition of a structure.

(10) *Design Guidelines*. Guidelines adopted by the City Council to provide direction in making determinations that proposed actions are in compliance with this section and consistent in maintaining the historic character of the structure, district, and city.

(11) *Designation*. Approval of an "H" zoning overlay district on a property or group of properties in combination with the underlying base zoning district.

(12) *Historic Landmark Commission*. The Historic Landmark Commission of the City of Mansfield, referred to as "Commission" in this section.

(13) *H, 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 an area, by reason of these factors, to constitute a district of the city; and (2) has been designated as a historic district pursuant to the provision of this section. The area of a Historic Landmark Overlay District may include one or more properties.

(14) *Historic Preservation.* The identification, evaluation, recordation, documentation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of historic resources, or any one or a combination of the foregoing activities.

(15) *Historic Preservation Officer (HPO).* A staff person for the City of Mansfield whose duties encompass all historic preservation activities for the city as established in accordance with this section.

(16) *Historic Preservation Plan or Preservation Plan.* A document created by the Historic Landmark Commission to provide a current inventory of historic resources, a list of potential historic resources, and to make policy recommendations to guide historic preservation activities for the City of Mansfield.

(17) *Historic Resource.* A property or structure listed on the city's Historic Resource Survey.

(18) *Historic Resource Survey.* A comprehensive survey involving the identification, research, and documentation of buildings, sites, and structures of any historic, cultural, archaeological, or architectural importance.

(19) *Maintenance.* Any work for which the purpose and effect of which is to correct or protect with least degree of intervention any deterioration or decay of or damage to a structure or property, or any part thereof, and to repair or replace the same, as nearly as may be practicable, to avoid any further deterioration, decay, or damage, using the same materials or those materials available which are as close as practicable to the original and all of which must comply with applicable codes and ordinances. Maintenance does not include a change in design, material, or outward appearance, but does include in-kind repairs or replacements.

(20) *Minor In-kind Repairs or Replacements.* Small-scale repairs or replacements to correct minor problems or damage to the exterior of a structure or building, not including a change in design, material, or outward appearance. Examples that satisfy this definition include, but are not limited to touch up painting, spot replacement of shingles, replacement of a windowpane, caulking, and securing loose boards.

(21) *Non-Contributing Structure*. A structure within a historic district that was substantially constructed after the district's period of significance and is not an integral part of the historic, archaeological and architectural fabric of the district or the city, or was substantially constructed within the district's period of significance and does not retain a significant portion of its architectural or design integrity.

(22) *Reconstruction*. The act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

(23) *Rehabilitation*. The act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

(24) *Relocation*. Any change of the location of a structure, object, or material thing in its present setting to another setting.

(25) *Restoration*. The act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

(26) *Secretary of the Interior's Standards for Rehabilitation*. The standards established by the Secretary of the Interior for advising federal agencies on the preservation and rehabilitation of historic properties listed or eligible for listing on the National Register of Historic Places.

(C) *Historic Landmark Commission*.

(1) *Members, Appointments, and Qualifications*. The Commission shall be composed of seven (7) members appointed by the City Council. The seven (7) members must be citizens of the City of Mansfield. All members should have a demonstrated interest, competence, or knowledge in historic preservation, history, planning, architecture, real estate, legal, archaeology, or other related field.

(2) *Terms*. The members of the Commission shall serve a term of two (2) years or until their successors are appointed. Four (4) members of the Commission shall be appointed each odd-numbered year and three (3) members shall be appointed each even-numbered year. Vacancies shall be filled for the unexpired term of any member whose position becomes vacant for any cause in the same manner as the original appointment was made.

(3) *Compensation*. The members of the Commission shall serve without

compensation for their service.

(4) *Officers.* The chair and vice-chair of the Commission shall be elected by and from the members of the Commission.

(5) *Removal from Office.* The City Council may remove any member from the Commission at will, for any or no reason.

(6) *Meetings.* The Commission shall meet regularly and shall designate the time and place of its meetings. Special meetings may be called at any time by the chair or on written request of any two (2) Commission members. All meetings shall be in conformance with the Texas Open Meetings Act.

(7) *Quorum.* A quorum for the transaction of business shall consist of four (4) of the Commission voting members.

(8) *By-laws.* The Commission shall adopt Rules of Procedures to detail the duties of its officers and ensure the efficiency of its meetings.

(D) *Powers and Duties of the Commission.* The Commission shall have the power to perform the following acts:

(1) Adopt or amend Commission's Rules of Procedures, as needed;

(2) Review and take action on all Certificates of Approval applications for compliance with adopted design standards pursuant to this section;

(3) Periodically review and recommend to the City Council the update of criteria to be used in determining whether certain buildings, structures, land, areas, and districts should be designated as historic resources or historic landmarks;

(4) Evaluate applications requesting the designation of a historic landmark;

(5) Recommend conferral of recognition upon the owners of historic resources and landmarks by means of certificates, plaques, or markers;

(6) Review and make comments to the Texas Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;

(7) Periodically review and recommend to the City Council the update of guidelines or standards to be used in determination of whether to grant or deny Certificates of Approval for proposed alterations to the exterior of a historic landmark;

(8) Make recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation of historic landmarks within the

city;

(9) Receive, review, and recommend grant applications from area historic preservation agencies, groups, or organizations and make a recommendation to the City Council on the recipient's grant and amount to be awarded, if any;

(10) Recommend to City Council the acceptance of donations, grants, funds, or gifts of historic property, and recommend to City Council the acquisition of historic landmarks that cannot otherwise be preserved. The Commission shall not obligate the City of Mansfield without prior consent by City Council;

(11) Participate in private, state, and federal historic preservation programs with the consent of the City Council;

(12) Encourage public understanding of and involvement in the unique historical, architectural, and cultural heritage of the City of Mansfield through educational and interpretive programs;

(13) Recommend incentive programs for preservation, such as tax exemptions, and administer the programs at the will of City Council;

(14) Update the Historic Preservation Plan and recommend to the City Council approval of the plan;

(15) Present an annual report to the City Council summarizing the work completed during the previous year;

(16) Adopt and amend Delegation of Duties, as needed;

(17) Conduct, review, and approve historic landmark surveys;

(18) Recommend approval of the designation of properties as historic landmarks and the inclusion of properties in a local historic district with property owner consent; and

(19) Perform any task otherwise authorized by this section.

(E) If the Commission finds that certain buildings, land, areas or districts cannot be preserved without acquisition, the Commission shall recommend to the City Council that the fee or a lesser interest in the property be acquired by gift, or purchase, using funds available for preservation or restoration.

(F) Where there are conditions under which the required preservation of a historic landmark would cause undue hardship to the owner or owners, use changes may be recommended by the Commission. Recommended changes shall be in keeping with the spirit and intent of this section.

(G) *Historic Preservation Officer.* The City Manager shall provide for the appointment of a qualified city staff person to serve as the Historic Preservation Officer.

(H) *Powers and Duties of the Historic Preservation Officer.* The Historic Preservation Officer shall have the power and duty to perform the following acts:

(1) Administer this article and advise the Commission on matters submitted to the Commission;

(2) Set deadlines for submittals to the Commission in order to assure adequate staff review time and proper notification of the Commission and general public;

(3) Review Certificates of Approval, and grant or deny same in accordance with the provisions of this section for routine maintenance and for any other action which the Commission has specifically delegated review under the Delegation of Duties or otherwise;

(4) Coordinate the city's historic preservation activities with those of local, state, and federal agencies as well as other municipal departments and the general public;

(5) Submit to the Texas Historical Commission a list or inventory of designated historic landmarks;

(6) File with the appropriate county a list of designated historic landmarks;

(7) Assist in developing community outreach programs to support the historic preservation program;

(8) Manage reporting requirements to monitor and maintain Certified Local Government (CLG) status;

(9) Monitor and report to the Texas Historical Commission all actions affecting any Recorded Texas Historic Landmark, State Antiquities Landmark, and National Register property, as deemed necessary;

(10) Help maintain and update historic resource surveys, as needed; and

(11) Perform any task otherwise authorized by this section.

(I) *Historic Preservation Plan.*

(1) The Preservation Plan is the guiding policy document for the city's historic preservation program and related activities. The plan elaborates upon and works toward the goals and objectives identified in this section and the historic preservation recommendations of the comprehensive plan. The plan:

(a) Maintains an inventory of historic resources;

(b) Develops a list of potential historic resources that have the potential to become designated with further historic research, restoration, or property owner interest;

(c) Develops a strategic framework which includes goals and objectives of the historic preservation program; and

(d) Seeks and integrates community feedback.

(2) *Recommendation by the Commission.* The Commission will review the Preservation Plan and make a recommendation to City Council.

(3) *Adoption by the City Council.* The City Council may adopt the Preservation Plan by resolution.

(J) *Criteria for Historic Landmark Overlay Districts.*

(1) Any building, structure, site, or object, must be at least fifty (50) years old and must substantially comply with one (1) or more of the following:

(a) Possesses significance in history, architecture, archeology, or culture.

(b) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.

(c) Is associated with events that have made a significant impact in the city's past.

(d) Represents the work of a master designer, builder, or craftsman.

(e) Embodies the distinctive characteristics of a type, period, or method of construction.

(f) Represents an established and familiar visual feature of the city.

(g) Is identified with a person who significantly contributed to the culture and development of the city.

(h) Is a unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community, or the city.

(2) A historic district may be designated if it includes two (2) or more structures or sites at least fifty (50) years old, together with their accessory buildings, fences, and

other appurtenances that are of historical, cultural, archaeological, or architectural importance and substantially complies with the following:

(a) Contains properties and an environmental setting which meet one (1) or more of the criteria for designation of a historic landmark;

(b) Constitutes a unique area of the City, such as a neighborhood or business center; and

(c) Contains two (2) or more properties that have been classified as contributing as part of a historic resource survey.

(3) *Original Site Construction.* Structures listed on the historic resource survey should typically remain on the original construction site. If a historic resource has been moved, the Commission shall determine if the structure can be designated.

(K) *Designation Procedure.* Any person or corporation having a proprietary interest in a property may petition to designate the property as a Historic Landmark Overlay District. Applications shall be made in writing on a form suitable to the Planning Department. Applications for a designation as a Historic Landmark Overlay District, whether for an individual property or multiple properties, shall require the signatures of all owners of the property, or their authorized agents. The application shall be reviewed and approved as follows:

(1) *Review and Recommendation by the Historic Landmark Commission.* Upon staff's acceptance or completion of an application, the Historic Preservation Officer will schedule a public hearing at the next practicable Commission meeting. At least ten (10) calendar days prior to the meeting, a written courtesy notice of the public hearing shall be sent to all owners of all adjoining property and property owners included in the proposed designation, as shown on the latest real property tax records. The Commission shall make a recommendation to the Planning and Zoning Commission as to whether the property, district, or site is eligible for historic landmark designation according to the criteria in Division (H) of this section and the merits of the application.

(2) *Review and Recommendation by the Planning and Zoning Commission.* Upon receiving a recommendation by the Historic Landmark Commission, the matter shall be scheduled by staff for a public hearing before the Planning and Zoning Commission. The matter shall proceed in the same manner as a petition for the amendment of Chapter 155.115 of this Code. The Planning and Zoning Commission will consider the criteria for designation specified in this section.

(3) *Decision by the City Council.* The matter shall proceed to the City Council in the same manner and in the same instances as a petition for the amendment of Chapter 155.115 of this Code. If the City Council approves the application, the property shall be designated "H" for a Historic Landmark Overlay District. If the City Council does not approve the designation, the procedure for successive applications for

petitions for the amendment of Chapter 155.115(E) of this code shall apply.

(4) *Amendment or Removal.* The same application and procedure that is followed for the designation of a Historic Landmark Overlay District shall apply for amendment or removal of the designation.

(L) *Officially Recognized Historic Resources.*

(1) The purpose of officially recognizing a historic resource is to bring it to the attention of the public and encourage its protection from inappropriate changes or demolition.

(2) The Historic Preservation Officer shall submit to the Commission a list of historic structures, properties or other features that are not designated as historic landmarks or in a Historic Landmark Overlay District but are deemed deserving of official recognition historic resources of the City of Mansfield.

(3) The Commission shall hold a public hearing on historic resources submitted for its review. The Commission shall approve the official recognition of any historic resource based on the criteria set forth in division (H)(1) of this section.

(4) The Historic Preservation Officer shall take appropriate measures of recognition and maintain a documentary inventory for any officially recognized historic resource.

(5) The granting of official recognition shall not establish a Historic Landmark Overlay District or historic landmark designation on the historic resource. Officially recognized historic resources shall not be subject to the regulations applicable to the structures and properties in a Historic Landmark Overlay District.

(6) The designation as an officially recognized historic resource may be removed with the approval of the Commission.

(M) *Review of Certificates of Approval.* The intent of a Certificate of Approval is to ensure that the integrity and character of Mansfield's historic resources are maintained.

(1) No person or entity shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, stabilization, repair, site improvements, demolition, or relocation of any historic landmark which affect the exterior appearance of any structure without obtaining a Certificate of Approval issued by the Commission or Historic Preservation Officer, as appropriate, for the following types of work:

(a) Repair (other than maintenance), reconstruction, alteration, addition, stabilization, restoration, or rehabilitation;

(b) New construction on real property excluding public rights-of-way;

(c) Material changes in any doors, roofs, windows, masonry work, 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 the structure or property; or

(d) Demolition, removal, or relocation of a historic resource, including any accessory buildings or landscape features.

(2) Nothing in this section should be construed to prevent maintenance or minor in-kind repair of any exterior architectural feature of a historic landmark or structure located in a historic district. Repairs shall be made in accordance with the design guidelines established by the City Council.

(3) If a historic landmark is unexpectedly damaged and the Historic Preservation Officer determines that additional deterioration is likely to occur without immediate repair, the Historic Preservation Officer may authorize the property owner, or agent on behalf of the property owner, to take temporary measures to stabilize and protect the structure. In these cases, the property owner, or agent on behalf of the property owner, shall apply for a Certificate of Approval within ten (10) calendar days of completion of the emergency corrective measures. The corrective measures authorized under this subsection shall not permanently alter the architectural features of the historic landmark.

(4) The Certificate of Approval shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance of the City of Mansfield. The adopted design guidelines, based on the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings (the "Secretary of the Interior's Standards"), shall be used in this process.

(5) The owner or his/her agent (architect, contractor, lessee, etc.) shall apply for a review of proposed changes and request a Certificate of Approval. The application form must contain the following:

(a) Name, address, telephone number of the applicant, and a detailed description of the proposed work;

(b) Current photographs of the property;

(c) Historical photographs (if available) upon which the proposed work is based;

(d) Elevation drawing(s) of any part of the structure that is visible from the public right-of-way with details drawn to scale for work to be done;

(e) List of materials for all exterior surfaces and/or signs;

- (f) Location map of proposed buildings and structures;
- (g) Details of proposed light fixtures;
- (h) Sample(s) of material(s) to be used; and
- (i) Any other reasonable information that the Commission may deem necessary to visualize the proposed work.

(6) The Historic Preservation Officer may meet with the applicant as needed and review the proposed work according to the applicable design guidelines.

(7) The Commission or the Historic Preservation Officer (if delegated review authority) shall approve, approve with conditions, or deny a Certificate of Approval. The Historic Preservation Officer shall provide a written notice of the decision to approve, deny or approve the Certificate of Approval with conditions to the applicant within ten (10) calendar days after the Commission meeting during which the application was considered. If the Commission or Historic Preservation Officer has taken no action within sixty (60) calendar days of receipt of the application, a building permit may be issued by the Building Safety Department.

(8) The applicant shall be allowed to work with the Historic Preservation Officer to resolve any issues that may arise during the permit review process. No change shall be made in the application for any building permit after issuance of a Certificate of Approval without resubmittal to the Historic Preservation Officer.

(9) Appeal procedures:

(a) *Motion for rehearing.*

(1) An applicant who is dissatisfied with the ruling of the Commission on the application for a Certificate of Approval may file a motion for rehearing before the Commission. The motion must be filed with the commission within thirty (30) days of the Commission's ruling. The only grounds for rehearing which will be considered by the Commission are new evidence or economic hardship.

(2) If the Commission decides that the applicant has new evidence which might warrant a different ruling on the application, then it may hear the new evidence and reconsider its previous ruling. In the event the Commission does not act on the motion within thirty (30) days from the date the motion is filed, the application for a Certificate of Approval shall be deemed approved.

(b) *Appeal to City Council.* An applicant who is dissatisfied with the ruling of the Commission on the application for a Certificate of Approval, or upon the applicant's motion for rehearing before the Commission, shall have the right of appeal to the City

Council. Any applicant may appeal to the City Council at the next regular meeting of the City Council; provided however, the applicant must file notice of appeal with the Planning Department at least ten (10) days before the next available City Council meeting. The City Council shall review the application and approve or disapprove the same within forty-five (45) days from the applicant's filing of notice. Should the Council fail to approve or disapprove the application within the 45-day period, the application shall be deemed approved.

(1) *Resubmission of application.* An application for a Certificate of Approval which has been denied may not be resubmitted before the expiration of twelve (12) months from the date the denial becomes final. A denial becomes final when any of the following conditions are met:

(a) On the day which the commission issued its written ruling on the application if no motion for rehearing or notice of appeal to the city council is filed within the time periods prescribed.

(b) On the day which the commission issued its written ruling on a motion for rehearing if no notice of appeal to the city council is filed within the time periods prescribed.

(c) On the day following a ruling on the appeal to the city council.

(10) Every Certificate of Approval issued pursuant to this section shall expire and be void if the authorized work has not commenced within one (1) year from the date of approval or is suspended or abandoned at any time after the work commenced for a period of 180 calendar days. Failure to complete the work within the required time, including any extension(s), may result in the revocation of the Certificate of Approval. Following expiration or revocation, approval of a new Certificate of Approval application is required to commence construction.

(11) If work has not commenced or has commenced but a delay greater than 180 calendar days is anticipated, extensions may be granted by the Historic Preservation Officer for any period up to one (1) year. No combination of extensions shall exceed one (1) year from the original expiration date. Requests for extensions shall be submitted in the form as required by the Historic Preservation Officer prior to the date of expiration and should include the following:

(a) Reason for requesting the extension; and

(b) A timetable for starting/restarting and completing work.

Denial of an extension request may be appealed to the Commission. The requested extension shall be scheduled for consideration at the next practicable Commission meeting.

(N) *Demolition, Removal or Relocation of a Historic Structure.* It is the intent of this and succeeding sections to preserve historic and architectural resources of the city through limitations on demolition and removal of historic resources to the extent it is economically feasible, practical, and necessary. The demolition or removal of historic landmarks and contributing structures within a historic district diminishes the city's historic character, significance, and authenticity and is discouraged.

(1) No building permit shall be issued to demolish, remove, or relocate a historic resource, accessory building, or landscape feature without a Certificate of Approval. The following resources require demolition review by the Historic Preservation Officer or the Commission:

(a) *Historic Landmarks.* The Commission shall render a decision to delay, deny, or grant a Certificate of Approval for demolition, removal, or relocation.

(b) *Contributing Structure located within a Historic District.* The Commission shall render a decision to delay, deny, or grant a Certificate of Approval for demolition, removal, or relocation.

(c) *Non-contributing Structure located within a Historic District.* The Historic Preservation Officer shall render a decision to grant a Certificate of Approval for demolition, removal, or relocation, and shall not render a decision to deny.

(d) *Accessory buildings and landscape features identified as integral to the historic interpretation or integrity of the historic resource in an area where a historic resource survey has been conducted.* The Commission shall render a decision to delay, deny, or grant a Certificate of Approval for demolition, removal, or relocation.

(e) *Officially Recognized Historic Resources.* The Commission shall render a decision to delay, deny, or grant a Certificate of Approval for demolition, removal, or relocation.

(f) *Historic Resources on the historic resources survey.* The Historic Preservation Officer may approve an application for demolition, removal, or relocation. Any other action must be referred to the Commission for decision.

(O) *Reasons for Demolition or Removal.*

(1) *Valid reasons for demolition or removal:*

(a) The historic resource is a non-contributing or compatible structure within a historic district;

(b) The subject accessory structure and/or landscape feature is not integral to the historic interpretation or integrity of the historic resource;

(c) The historic resource has lost its architectural significance and/or historic integrity;

(d) Preserving the historic resource creates an extreme economic hardship because there is no economically viable use of the current building; or

(e) The structure poses an imminent threat to public health or safety upon determination by the Building Official and agreement by the Historic Preservation Officer.

(2) *Valid reasons for relocation.*

(a) The historic resource is subject to future roadway, capital improvement project, or economic development plans and there are no reasonable alternatives except relocation; or

(b) All other preservation options have been exhausted.

(3) A decision by the Commission to approve or deny a Certificate of Approval for demolition, removal, or relocation for one of the above reasons shall be guided by:

(a) The historic, cultural, or architectural significance of the building, structure, site, or object;

(b) The historic, cultural, or architectural significance of the building, structure, site, or object to the character of a district;

(c) The difficulty or impossibility of reproducing a building, structure, site, or object because of its unique design, features, material, detail, or unique location;

(d) Whether the building, structure, site, or object is one of the last remaining examples of its kind in the neighborhood, district, or the city;

(e) Whether there are definite plans for development of the property if the proposed demolition is carried out, and the potential effect of those plans on the character of the district or surrounding area;

(f) Whether the demolition would result in a vacant lot or void in the continuous, historic building facade along the street;

(g) Whether reasonable measures can be taken to save the building, structure, site, or object;

(h) Whether the building, structure, site, or object can earn a reasonable economic return on its value; and

(i) For relocation, whether the property owner has, in good faith, made efforts to relocate the structure in its entirety with a sense of place and time in the following order:

- (1) On the same site;
- (2) Within a historic district, if applicable;
- (3) Within the City of Mansfield's municipal boundaries;
- (4) Within the same county boundaries;
- (5) Within adjoining county boundaries; or
- (6) Within the State of Texas.

(P) Required Documentation for Demolition, Removal or Relocation.

(1) An applicant seeking to demolish, remove, or relocate a structure described in division (N) of this section must provide necessary documentation as proof to establish the necessity of a Certificate of Approval. If the applicant is seeking approval for more than one reason, the applicant must provide all documentation required for each reason. The applicant, private persons, organizations, and city departments may submit relevant evidence in addition to the required documentation. The Commission may also request additional information beyond the following required documentation:

(a) Applicants seeking to demolish, remove, or relocate any noncontributing structure in a historic district shall provide the following with their application:

(1) Available records depicting the original construction of the existing structure, including drawings, pictures, or written descriptions.

(2) Photographic documentation demonstrating the existing condition of the structure.

(b) Applicants for demolition, removal, or relocation of historic landmarks or contributing structures in a historic district shall state one or more of the following reasons for removal, demolition, or relocation, and shall provide the corresponding documentation to substantiate the request.

(1) *The historic resource has lost its architectural significance and/or historic integrity.* An application for demolition, removal, or relocation of a historic resource that has lost its architectural significance and/or historic integrity shall include the documentation listed below:

(a) Available records depicting the original construction of the existing structure, including drawings, historic photographs, or written descriptions.

(b) Documentation of the current condition of the exterior of the existing structure, including drawings, photographs, or written descriptions. Documentation of the current condition of the interior is not required but may be provided to support the request.

(c) Definitive plans for development of the property. A Certificate of Approval application for the future development of the property is strongly encouraged in concurrence with the demolition request.

(2) *No economically viable use of the property exists.* An application for demolition, removal, or relocation of a historic resource based on lack of economic viability must include documentation to support a claim of no economically viable use. The City may retain an economic expert knowledgeable in valuation, renovation, redevelopment, and rehabilitation of real estate to review the documentation submitted by each applicant and provide a written report to the Commission regarding the economic viability of each property. Supporting documentation includes:

(a) The amount paid by the current owner, if available;

(b) Remaining balance on any mortgage or other financing secured by the property and annual debt service;

(c) Real estate taxes for the previous three (3) years and assessed value according to the most recent valuation;

(d) All appraisals obtained within the previous two (2) years by the owner or applicant in connection with the purchase, financing, or ownership of the property;

(e) The fair market value of the property at the time the application is filed;

(f) Any listing of the property for sale or rent, name of the broker/agent, price asked for and offers received, if any, for the previous two (2) years;

(g) The price or rent sought by the applicant;

(h) Any advertisements placed for the sale or rent of the property;

(i) A report from any one or more of the following: an architect, engineer, developer, real estate consultant, appraiser or other real estate profession experienced in rehabilitation of historic property as to the economic feasibility of rehabilitation or adaptive reuse of the existing structure on the property;

(j) Any evidence that shows that the affirmative obligation to maintain the structure or property makes it impossible to realize a reasonable rate of return;

(k) Form of ownership or operation of the property (i.e. sole proprietorship, trust, partnership, corporation, joint venture, for profit, not for profit, etc.);

(l) A statement as to why the structure cannot be moved or relocated to another similar site or within a historic district.

(3) *The structure poses an immediate threat to public health or safety.* If a historic resource exhibits unsafe and dangerous conditions, poses a fire hazard or other public health or safety risk, and the danger or hazard is so great and so immediate that time normally taken for evaluation of the structure or consideration by the Commission should be circumvented to prevent immediate and substantial harm to persons or property, the Historic Preservation Officer is authorized to approve emergency demolition, or removal of specific structural features that are the source of danger or hazard, upon finding both of the following by the Building Official:

(a) The structure to be demolished, or the structural features to be removed, endanger public health or safety due to the risk of immediate:

(1) Physical damage to adjacent properties or structures from potential structural collapse or from pieces of the structure becoming detached and falling or blowing from the structure due to advanced deterioration or a serious state of disrepair;

(2) Encroachment into or physical damage within abutting public rights-of-way; or

(3) Physical damage to public infrastructure, utilities, or other public facilities.

(b) There is no reasonable way, other than demolition or removal of specific structural features, to eliminate the immediate threat.

(4) The structure poses a threat to public health or safety. An application for demolition or removal that poses a threat to public health or safety that is not an immediate threat as described immediately above shall include the documentation listed below. The owner must establish the necessary facts to prove demolition is necessary to alleviate a threat to public health and safety. The application must include:

(a) Documentation depicting the current condition of the structure, including drawings, photographs, or written descriptions;

(b) A study regarding the nature, imminence, and severity of the threat, as performed by a licensed engineer or architect;

(c) A study regarding both the cost or restoration of the structure and the feasibility (including architectural and engineering analyses) of restoration of the structure, as performed by a licensed architect or engineer; and

(d) An assessment of the property by the Building Official or Regulatory Compliance Official, if requested by the Commission or applicant.

(Q) Procedure for a Demolition or Removal Application.

(1) An owner or his or her designee seeking demolition, removal, or relocation of a structure described in division shall submit a Certificate of Approval for a demolition request to the Historic Preservation Officer. The application must be signed and sworn to by all the owners of the property or their duly authorized representatives.

(2) If the structure proposed for demolition, removal, or relocation is classified as a non-contributing structure in a historic district, the Historic Preservation Officer may approve the application.

(3) If the structure proposed for demolition, removal, or relocation is a historic landmark or is classified as a contributing structure on a property designated as a historic landmark or is a property in a historic district, the Historic Preservation Officer shall schedule a public hearing for the next practicable Commission meeting. At least ten (10) calendar days prior to the public hearing, the applicant shall be given written notice of the hearing to the address provided in the application and a written courtesy notice of the public hearing shall be sent to all owners of properties adjoining the property or properties on which the demolition, removal, or relocation is proposed. At the hearing, the Commission shall review and consider all submitted documents and testimony of any interested parties.

(4) The Commission must render a decision to approve, delay, or deny the application within sixty (60) calendar days of the receipt of the Certificates of Approval application by the Planning Department. The Historic Preservation Officer shall notify the applicant within five (5) calendar days of the final decision. Failure of the Commission to act on the application within sixty (60) calendar days shall be deemed to be approval of the application, and the Building Official shall issue the necessary permits to allow the requested demolition, removal, or relocation.

(R) Demolition Delay.

(1) The building official shall consult with the Historic Preservation Officer within 72 hours of the receipt of an application for a demolition permit to determine the eligibility of the subject property for designation as a historic landmark.

(2) The issuing of a demolition permit shall be delayed for up to ninety (90) days from the date of receipt of an application for a property considered to be eligible for designation as a historic landmark even though the owner of the property in question has not applied for a landmark designation.

(3) During this 90-day delay, the Historic Preservation Officer shall work with the Commission to notify all potentially interested parties of the pending demolition to allow the parties to take whatever steps they deem appropriate to accomplish the preservation of the subject property. The 90-day delay may be extended for good cause by the Commission for an additional ninety (90) days, but in no event shall the total extension be for more than one hundred eighty (180) days.

(4) If it is determined by the Building Official in consultation with the Historic Preservation Officer that a property poses an immediate threat to the public health and safety, this determination shall be reported to the City Manager who may instruct the Building Official to issue a demolition permit without delay.

(S) *Minimum Maintenance Requirement and Prevention of Deterioration.* Historic landmarks shall be maintained in accordance with the minimum property, structural, health, and safety regulations of the City of Mansfield. No owner, which is defined in this section as a person, entity, association, or corporation with ownership, care, custody, or control over a historic landmark or contributing structure within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any architectural feature which would produce a detrimental effect upon the character of the historic district or the life and character of the property itself. Owners shall be required to fulfill a minimum level of maintenance on their property to keep it from deteriorating. Any of the following are prima facie evidence of a serious state of disrepair:

(1) Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall claddings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.

(2) Deterioration that causes a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the structure.

(T) *Demolition by Neglect.*

(1) No owner or person with an interest in real property designated as a historic landmark shall permit the property to fall into a serious state of disrepair so as to result in deterioration which would, in the judgment of the Commission, produce a detrimental effect upon the life and character of the property itself.

(2) Examples of deterioration include, but are not limited to, the following:

(a) Deterioration of exterior walls or other vertical supports;

- (b) Deterioration of roofs or other horizontal members;
- (c) Deterioration of exterior chimneys;
- (d) Deterioration or crumbling of exterior stucco or mortar;
- (e) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;
- (f) Deterioration of exterior walls, fences, doors, windows, or other means of interior access, so as to create a danger of trespassing; or
- (g) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(3) Upon identification of any property in possible violation of this division, the Historic Preservation Officer shall notify the owner, or person with an interest in the real property, of the possible violation. Notification shall be in writing and be mailed by certified mail, return receipt requested. The notification shall state the nature of the possible violation with sufficient specificity to enable the owner, or person with an interest in the real property, to bring the property into compliance with this section. The notification shall also state that the owner, or person with an interest in the real property, shall have sixty (60) days to bring the property into compliance with this division, otherwise the Historic Preservation Officer will seek enforcement of this division under the provisions of the Mansfield Code of Ordinances. After the expiration of the 60-day grace period, if, in judgment of the Historic Preservation Officer, the property is still not in compliance with this division, enforcement proceedings shall begin under the Mansfield Code of Ordinances. If the owner, or person with an interest in the real property, files an application for Certificate of Approval, it will be reviewed in accordance with division (M) of this section.

(U) Prohibited Acts, Penalty for Violation, and Enforcement.

(1) It shall be unlawful to construct, reconstruct, remove, structurally alter, remodel, renovate, restore, demolish, raze, maintain, or failure to maintain any historic resource in violation of the provisions of this article. In addition to other remedies, the city may institute any appropriate action or proceedings to prevent unlawful construction, restoration, demolition, razing, maintenance, or failure to maintain, to restrain, correct, or abate the violation.

(2) Any violation of the provisions or terms of this ordinance by any person, firm, or corporation shall be a misdemeanor offense and shall be subject to a fine in accordance with Section 10.99 of the Mansfield Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

(3) All work performed pursuant to a Certificate of Approval issued under this

article shall conform to all of its requirements. It shall be the duty of the Historic Preservation Officer to inspect periodically to assure compliance. In the event work is not being performed in accordance with a Certificate of Approval, or no Certificate of Approval has been approved, or upon notification of the fact by the Commission and verification by the Historic Preservation Officer, the Building Official shall issue a stop-work order and all work shall immediately cease. The property owner shall then be required to apply for a Certificate of Approval and receive approval. No further work shall be undertaken on the project as long as a stop-work order is in effect until a decision is rendered by the Historic Preservation Officer or Commission on the application.

(4) All required permits must be issued and plans approved by the city before work can commence under an approved Certificate of Approval.