

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

Chapter 20.20 HISTORIC LANDMARK PRESERVATION

Sections:

[20.20.010 Declaration of policy.](#)

[20.20.020 Definitions.](#)

[20.20.030 Administration of the historic preservation program.](#)

[20.20.040 Procedure for designation of historic landmarks and districts.](#)

[20.20.050 Historic landmarks designation criteria.](#)

[20.20.060 Acquisition of historic landmarks.](#)

[20.20.070 Historic landmark recognition.](#)

[20.20.080 Alterations and changes to landmarks and H-overlay properties.](#)

[20.20.090 Modification of certificate of appropriateness.](#)

[20.20.100 Economic hardship application procedure.](#)

[20.20.110 Enforcement.](#)

[20.20.120 Historic landmark demolition or removal.](#)

[20.20.130 Prevention of demolition by neglect.](#)

[20.20.140 Penalty for demolition or alteration without a permit.](#)

[20.20.150 Ad valorem tax incentives for historic properties.](#)

[20.20.160 Notice.](#)

[20.20.170 Severability.](#)

[20.20.180 Zoning board of adjustment.](#)

[20.20.190 Appeal to the city council.](#)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.010 Declaration of policy.

A. The city council 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, safety and general welfare of the people. The purposes of this chapter include the following but are not limited to:

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

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

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

D. To stabilize and improve property values in such locations;

E. To foster civic pride in the beauty and accomplishments of the past;

F. To protect and enhance the city's attractions to tourists and visitors and provide incidental support and stimulus to business and industry;

G. To strengthen the economy of the city;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

H. 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;

I. To prevent the uprooting of architectural products of distinct periods, which may occur without regard to the feasibility of preserving and continuing the use of such landmarks, and without consideration of the irreplaceable loss to the people of the city of the cultural, historic and aesthetic values represented by such landmarks.
(Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.020 Definitions.

A. In addition to the definitions of Chapter 20.02, the following definitions apply only to this chapter of the code, and control if in conflict with Chapter 20.02

1. "Addition" means a completely new structure or new component to an existing structure.

2. "Administrative review" means the approval process by which the historic preservation officer (HPO) or his designee administratively approves or denies submitted applications in accordance with the Administrative Review Design Guidelines.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

3. "Alteration" means any construction or change of the exterior of a building, site or structure including, but not limited to, the erection, construction, reconstruction or removal of any structure or of an interior space designated as a landmark. Alteration shall include, but not be limited to, the changing of roofing or siding materials; changing, eliminating or adding doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, signs or other ornamentation; the changing of paint color; re-grading; fill; imploding or other use of dynamite. Alteration shall not include ordinary repair and maintenance.

- a. "Alteration, major" an alteration shall be deemed to be major if it is the kind of work, which is customarily done with the aid of plans or specifications.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- b. "Alteration, minor" an alteration shall be deemed to be "minor" if it is the kind of work which is customarily done without the aid of plans and which would not substantially change the external appearance of the building, site, or structure, and if new material added does not exceed one hundred square feet of floor area.

4. "Appurtenance" means any accessory or subordinate building, object or structure, fence, street furniture, fixture, vending machine, fountain or artwork, located on the grounds of an historic landmark or in an historic district.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

5. "Archaeology" means the science or study of the material remains of past life or activities and the physical site or context in which they are found.

6. "Architectural style" means the architectural character and general composition of a structure, including but not limited to, the kind, color and texture of the building material and the type, design and character of all windows, door, light fixtures, signs and appurtenant elements.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

7. "Area" means a specific geographic division of the City of El Paso.

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8. "Building" means a structure created to shelter people or things, such as a house, barn, church, hotel, warehouse or similar structure, including a historically related complex, such as a courthouse and jail or a house and barn.

9. "Cemetery" means any site, as defined by Texas statute, which contains at least one burial, marked or previously marked, dedicated to and used or intended to be used for the permanent interment of the human dead, to include perpetual care and non-perpetual care cemeteries.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

10. "Certificate of appropriateness" means the certificate issued by the historic landmark commission after review of a submitted application, and it is determined that the proposed project is appropriate for the historic district for which it is requested. It is not considered or defined as a building permit.

11. "Character-defining architectural element" means a distinctive architectural feature, quality, or combination thereof, that distinguishes one structure from another or which is unique to that structure.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

12. "Cluster" means a group of cultural resources with compatible buildings, objects or structures geographically or thematically relating to and reinforcing one another through design, setting, materials, workmanship, congruency and association.

13. "Construction" means the act of adding new material to an existing building, structure or site.

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14. "Contributing property" means a building, object, site or structure, in an historic district or "cluster" that contributes to the district's or cluster's historical significance through location, design, setting, materials, workmanship, and/or association.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

15. "Cultural" means the quality in a society that arises from an interest in or an acquaintance with what is generally regarded as excellence in arts, literature, architecture, manners, or scholarly pursuits and/or the socially transmitted behavior patterns, arts, beliefs, institutions, and all other products of human work that are considered as the expression of a particular period, class, community or population.

16. "Cultural resources" means districts, sites, or structures that possess integrity of location, design, setting, materials, workmanship, congruency, and association in such a way that they are symbolic of excellence in North American, Texas, or El Paso history, architecture, archeology or culture.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

17. "Demolition" means any act or process that destroys, razes, or permanently impairs the structural integrity, in whole or in part, of any mobile or immobile structure governed by this chapter.

18. "Design guidelines" means the written standards adopted by the city council which are intended to provide guidelines to the historic landmark commission and historic preservation officer to govern construction to preserve the historic, cultural and architectural character of an area or of a building, object, site or structure.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

19. "Economic return" means a financial profit or capital appreciation from use or ownership of a building, object, site or structure.

20. "Effect" means a change in the quality of the historical, architectural, archaeological, or cultural significance of a resource, or in the characteristics that qualify the resource as historically important.

21. "Effect, adverse" means a negative change in the quality of the historical, architectural, archaeological or cultural significance of a resource, or in the characteristics that qualify the resource as historically important.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

22. "Enclosure" refers to fences, walls or other physical features used to contain open space or provide privacy.

23. "Historic district" means an area designated by city council, state or federal authority and which contains within definable geographic boundaries one or more "H-overlay" properties or clusters, including their accessory buildings, fences and other appurtenances, and natural resources having historical, cultural and archaeological significance, and which may have within its boundaries other noncontributing buildings or structures.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

24. "Historic interiors" means an architecturally or historically significant interior space which remains substantially intact in terms of: (1) original configuration, (2) original volume, and/or (3) original architectural ornamentation and decoration; which exhibit surviving original historical finishes or has the potential for accurate restoration of such finishes; and which is open, to be used by, or may be used by the public.

25. "Historic landmark" also referred to as an "H-overlay" property, means those buildings, objects, sites or structures of historical, cultural, architectural or archaeological importance and whose demolition or destruction would constitute an irreplaceable loss to the quality and character of El Paso; certain inventoried interior spaces which are accessible to the public; such buildings, objects, sites or structures, their appurtenances, and the property which they are located, having been so designated by city council.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

26. "Historic landmark commission ("HLC")" the commission appointed by the mayor and city council to assist in the preparation of the city's historic preservation plan, to create and review guidelines for historic districts, to review and approve, approve with conditions or deny applications relating to historic properties and to perform other functions as delineated in [Title 2](#)

27. "Historic preservation program" city program under the direction of the city manager's office to encourage historic preservation through education, advocacy and incentives, and to oversee the application and enforcement process for historic properties.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

28. "Historic preservation officer ("HPO")" means the person or persons designated by the city manager for the City of El Paso to coordinate the historic preservation program; to review and administratively approve applications, refer violations as appropriate to the enforcement authorities and provide administrative staff support to the historic landmark commission. The HPO will coordinate the development and implementation of the historic preservation plan and the city's efforts to encourage participation in the plan.

29. "Historic preservation plan" is a supplement to the plan for El Paso relating to the preservation of historic properties.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

30. "Intrusion" means a building, object, site or structure which detracts from a district's or cluster's historical significance because of its incompatibility with the district's or cluster's sense of time, place, and historical development; or its incompatibility of scale, materials, texture or color, whose integrity has been irretrievably lost; or whose physical deterioration or damage makes it infeasible to rehabilitate.

31. "Inventory" means a systematic listing of cultural, historical, architectural or archaeological resources prepared by a city, state or federal government, following standards set forth by federal, state and city regulations for evaluation of cultural properties.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

32. "Landscape architectural feature" means the general arrangement of grounds including, but not limited to, the topographic grade water pooling and runoff, types and sites of plant materials, type and sites of surface materials such as decorative bark, rock, stone, gravel, concrete asphalt, brick, and the types and sites of constructions not otherwise deemed to be structures per se, such as fences, retaining walls, decks and other miscellaneous fixtures.

33. "Minor modification" means a change or changes to an approved application that is in substantial conformity with the approved plans and application.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

34. "National register" means the national register of historic places maintained by the secretary of the interior.

35. "National historic landmark" means a historic property that the Secretary of the Interior has designated a national historic landmark.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

36. "Noncontributing property" means a building, object, site or structure in an historic district which does not contribute to the district's or cluster's historical significance through location, design, setting, material, workmanship, feeling and association, but due to its proximity to historic landmarks and contributing properties, has the potential to affect the character of the historic district or cluster that it is located within.

37. "Object" means a material thing of functional, aesthetic, cultural, historical, archaeological or scientific value that may be, by nature or design, movable yet related to a specific setting or environment.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

38. "Ordinary repair and maintenance" means any work, the purpose and effect of which is to correct or prevent any deterioration or decay of or damage to a building, object or structure or any part thereof and to restore same, as nearly as may be practicable, to its condition prior to such deterioration, decay or damage, using the same materials or those materials which are, in appearance, as close as possible to the original.

39. "Reconstruction" means the act or process of reassembling, reproducing or replacing by new construction, the form, detail and appearance of a destroyed or vanished property and its setting as it appeared at a particular period of time by means of the removal of later workmanship, or by the replacement of missing earlier work, or by reuse of original materials.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

40. "Rehabilitation" means the act or process of returning a building, object, site or structure to a state of utility through repair, remodeling or alteration that makes possible an efficient contemporary use while preserving those portions or features of the building, object, site or structure that are significant to its historical, architectural and cultural values.

41. "Relocation" means any change of the location of a building, object or structure in its present setting to another setting.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

42. "Resource" means a source or collection of buildings, objects, sites, structures or areas that exemplify the cultural, social, economic, political, archaeological or architectural history of the nation, state or city.

43. "Restoration" means the act or process of accurately recovering the form and details of a building, object, site or structure and its setting as it appeared at a particular period of time by means of the removal of later work or by the repair or replacement of missing earlier work.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

44. "Significant historic landmark" means:

- a. Those buildings, objects, sites, site improvements, appurtenances or structures of the highest and most unique historical, cultural, architectural or archaeological importance whose demolition or destruction would constitute an irreplaceable loss to the quality and character of El Paso;

- b. Inventoried interior spaces designed or intended to be occupied as part of the structure and which are accessible to the public; and

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

c. Significant historic landmarks are also referred to as landmarks in this chapter.

45. "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building, structure or cluster, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value regardless of the value of any existing structure.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

46. "Stabilization" means the act or process of applying measures designed to reestablish a weather-resistant enclosure or the structural stability of an unsafe or deteriorated building, object, site or structure while maintaining the essential form as it exists at present.

47. "Substantial conformity" means the revisions to approved applications that do not significantly alter the historic character or alter additional physical elements of the structure as approved in the original application.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

48. "Thematic group" means a finite group of resources related to one another in a clearly distinguishable way, by association with a single historic person, event or developmental force, as one building type, design or use, as designed by a single architect, as a single archaeological site form, or as a particular set of archaeological research.

49. "Unreasonable economic hardship" means an economic burden imposed upon the owner which is unduly excessive and prevents a realization of a reasonable rate of return upon the value of his property.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

50. "Vista" means a view through or along a right-of-way opening, including those along the river's banks, which, as a view corridor, frames, highlights or accentuates a prominent building, object, site, structure, scene or panorama, or patterns or rhythms of buildings, objects, site or structures; to include views of areas at a distance, such as a remote view of the downtown or the mountains.

51. "Zone" means a designated area, within an historic district, which is unique in character, tone, theme, architecture, and/or culture. A district may be divided into zones, to assist property owners and the HLC in structuring design guidelines and further evaluating applications for certificates of appropriateness.
(Ord. 16653 § 2 (part), 2007) (Ord. No. 17442, § 50, 10-26-2010)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.030 Administration of the historic preservation program.

The historic preservation program will be administered under the direction of the city manager's office including appropriate staffing and administrative support of the program subject to budget appropriations approved and authorized by the city council. (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.040 Procedure for designation of historic landmarks and districts.

A. 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. Requests for designation may be made by the city council, HLC or by the public on a form obtained from the city. Completed request forms shall be returned to the city for processing.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- B. The HLC shall review and forward any recommendations to the city plan commission within forty-five days, to be forwarded to the city council for final action. In the event the HLC does not recommend an applicant's request for designation of a resource the applicant may petition the city plan commission for a hearing, following procedures set forth in Chapter 2.08 of this Code.

- C. The HLC shall hold a public hearing on all proposed ordinances relating to historic properties. Notice shall be given as required by Section 211.007, Texas Local Government Code.

- D. The designation of an historic landmark or historic district may be amended or removed using the same procedure provided in this section for the original designation.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

E. The suffix "H" shall appear after the zoning designation of those buildings, structures, sites, districts, areas and lands which the city council designates as historical landmarks, and shall be reflected on the zoning map. Such designation shall be in addition to any other designation established under this title. Use of classifications as to all property which may be included by a historic landmark designation shall continue to be governed by the comprehensive zoning ordinance of the city and the procedures established therein.

F. Council may use the following designations for individual buildings, objects, sites or property and which are in an historic district or designated with an "H" overlay:

1. Significant historic landmark;
2. Contributing property; and
3. Noncontributing property as those terms are defined in Section 20.20.020

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- G. Upon passage of an historic landmark designation ordinance, the city clerk shall file a copy of the ordinance with the city and county tax assessors and in the official records of real property of El Paso County together with a notice verifying H-overlay designation of the subject property. The city clerk shall also send a copy of such notice to the owner or owners of the subject property. (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.050 Historic landmarks designation criteria.

In making designations set forth in this chapter, the HLC, the city plan commission, and city council shall consider, but shall not be limited to, one or more of the following criteria:

- A. Character, interest or value as part of the development, heritage or cultural characteristics of the city, state or the United States;

- B. Recognition as a Recorded Texas Historic Landmark, a National Historic Landmark, or entry into the National Register of Historic Places;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

C. Embodiment of distinguished characteristics of an architectural type or specimen;

D. Identification as the work of an architect or master builder whose individual work has influenced the development of the city;

E. Embodiment of distinguished elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

F. Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on architectural, historic or cultural motif;

G. Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

H. Archaeological value, in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest;

I. Exemplification of the cultural, economic, social, ethnic or historical heritage of the city, state or the United States;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

J. Location as the site of a significant historic event;

K. Identification with a person or persons who significantly contributed to the culture and development of the city, region, state or the United States. (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.060 Acquisition of historic landmarks.

The following options shall be available to the HLC, for recommendation to the city council of El Paso, for acquisition of historic landmarks:

- A. If the HLC finds that buildings, structures, sites, districts, land or areas cannot be preserved without acquisition, the HLC shall recommend to city council that the fee simple or lesser property interest of the historic landmark in question be acquired by gift, devise, purchase, eminent domain, or otherwise pursuant to the city charter and state and federal law;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- B. The HLC may recommend to city council, within ten days of the hearing before the HLC, or at the council's next regular meeting, that the historic landmark or site be acquired. Council will have thirty days to state an affirmative intent to negotiate with the property owner and, if successful, the council shall complete such a purchase within a reasonable time thereafter;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- E. Recommend, to the proper agencies, incentives designed to encourage historical preservation.
(Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.070 Historic landmark recognition.

A. When approved by city council resolution, the HLC may honor property owners with an Historic Building Plaque Award. The award will be based on the following:

1. Nominations will be open to the public sector, private sector, and general public each calendar year that funding for the plaques is available. The deadline for submission of nominations will be September 1st. Nomination forms will be made available by the historic preservation officer. An HLC subcommittee may recommend not more than five structures to the HLC. Final decision, by the HLC, will be made at a regularly scheduled meeting;

2. The HLC shall award a maximum of five plaques each calendar year;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.080 Alterations and changes to landmarks and H-overlay properties.

A. No person or entity shall construct, reconstruct, alter, change, remove, demolish or fail to maintain, any of the following, unless a certificate of appropriateness or a certificate of demolition has been approved by the HLC or approval granted through administrative review:

1. Any permanent feature on a property listed as a Texas Antiquities Landmark or on the National Register of Historic Places;
2. Any building, object, site, landscape architectural feature, or group of such designated with an H-overlay or as a historic landmark as defined by this chapter and designate by the city council.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- B. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the historic landmark commission or approval granted through administrative review. The certificate of appropriateness or administrative review approval shall be in addition to and not in lieu of any building permit that may otherwise be required.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

C. Certificates of appropriateness, certificates of demolition and applications for administrative review shall be granted, granted with modifications, or denied based on the following criteria:

1. When city council has adopted architectural and design guidelines for a particular district, those guidelines shall control provided they are not in conflict with other requirements of the city code, except that the HLC may approve exceptions to the guidelines in an effort to maintain the historic integrity of an H-overlay property, in which case the exception shall control in that particular case;

2. When no guidelines have been adopted for a particular district, the guidelines from the district most similar in character, design, materials, workmanship, time of construction shall apply; or as identified in the "Guide to the Identification and Preservation of El Paso's Cultural, Historic and Architectural Resources";

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

3. When the preceding does not provide guidelines applicable to the project, then the secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings shall apply (36 CFR Part 68) (U.S. Department of the Interior, National Park Service, Preservation Assistance Division. U.S. Government Printing Office Document Number: 19940 - 160-280 QL 3, Washington, D.C., or most current revision).

4. The guidelines and use thereof by the HPO for use in granting an administratively issued certificate of appropriateness for a site located in an area of potential effect shall be as provided by the resolution of the City Council adopting such guidelines.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

D. Application Content.

1. For the exterior of a designated historic landmark, a site located in an area of potential effect, or a designated historic interior, the applicant shall submit the following:
 - a. One copy of completed application for administrative review, certificate of appropriateness or certificate of demolition form. Applications must be typewritten, printed in ink, or electronically submitted in legible form. Completed applications shall be accepted and reviewed administratively or scheduled for HLC hearing, as applicable, on a first-come, first-serve basis. Incomplete applications shall not be processed and shall be returned to the applicant;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- b. One copy of a detailed site development plan and construction documents drawn to scale, as applicable, showing the following:
 - i. Legal description of the property,
 - ii. Lots lines with dimensions of the areas,
 - iii. Location and arrangement of structures and fencing,
 - iv. Location, type, and arrangement of windows, doors, and other openings where applicable; (Include sample of each type of window or door from brochure, catalog or manufacturer),
 - v. Square footage of structure(s), including number of dwelling units,
 - vi. Required yards and setbacks,
 - vii. Proposed building materials (i.e., concrete, stucco, wood, metal),
 - viii. Sample of proposed color(s) and texture (i.e., color swatch with name, manufacturer, and number),
 - ix. Material and product samples from brochure, catalog or manufacturer,
 - x. Open spaces, where applicable,
 - xi. Landscaped planted areas including square footage,
 - xii. Architectural design of buildings, modification, addition, or new construction (floor plan(s) and elevations),
 - xiii. Construction details for roof, walls, floor and foundation;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- c. Photographs showing current conditions of the site and/or structures;

- d. One copy of a proof of ownership or other legal document demonstrating that the individual(s) or corporation submitting the application is the current property owner such as a certificate from a title company or warranty deed. An individual or entity who has a contract to purchase property may also submit an application with the owner's written authorization. This requirement shall not apply to administrative review applications;

- e. A copy of any deed restrictions, existing or proposed, on the property shall also be submitted. This requirement shall not apply to administrative review applications;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- f. One eight and one-half inch by eleven inch copy of the detailed site development plan and scaled construction drawings. The copy must contain the address and legal description of the property. This requirement shall not apply to administrative review applications;

- g. A plan showing restoration or rehabilitation of the interior and the exterior unless the applicant provides an inspection report that shows that the interior fully complies with all applicable code requirements and is not in need of restoration or rehabilitation, in which case the plans need only address the exterior of the site.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

E. Administrative Review and Approval.

1. The historic preservation officer shall review and approve, approve with modifications or deny all administrative review applications in accordance with the administrative review design guidelines, for the following types of requests:

- a. Landscape materials including vegetation, irrigation, and xeriscaping, in the front, rear, side yards and parkways; to include the following:
 - i. Open spaces, where applicable, including square footage,
 - ii. Landscaped planted areas, where applicable, including square footage,
 - iii. Type of landscape or surface material to be replaced; to include a sample of the proposed surface material;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- b. New fencing on the front, rear and side yards; to include the following:
 - i. Location and type of proposed fencing,
 - ii. Type of proposed fencing including material and color,
 - iii. Chain-link fence is not an acceptable material for approval under administrative review;

- c. Wrought iron security coverings for windows and doors; to include photographs and showing the following:
 - i. Location of proposed security grills,
 - ii. Type of proposed security grill including material and color;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- d. Exterior accessibility ramps when placed in non-character-defining facades; to include the following:
 - i. Location of proposed accessibility ramp,
 - ii. List of materials and colors;

- e. Skylights and air-conditioner units when placed in non-character-defining facades or visible from the front facade; to include the following:
 - i. Location of proposed skylight or air-conditioner unit,
 - ii. List of materials and colors,
 - iii. Sample of skylight or air-conditioner unit. (Include sample from brochure, catalog or manufacturer);

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- f. Off-premises and on-premises commercial and residential signs within historic districts in accordance with Chapter 20.18 as applicable; to include the following:
 - i. Location of proposed signage,
 - ii. List of materials and colors,
 - iii. Sketch of signage including total square footage;

- g. Replacement of garage or household exterior doors that match the original doors; to include sample of door from brochure, catalog or manufacturer;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- h. Walkways, driveways, and aprons; include location and materials;

- i. Swimming pools and tennis courts where permitted by sufficient area in the side and rear yard;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- j. Routine maintenance, including but not be limited to: painting, re-roofing, repair of walks, driveways, fences;

- k. Placement of fire escapes when placed in non-character-defining facades and where allowed by other city ordinances;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- 1. Installation of windows similar to the original in appearance and purpose, regardless of construction materials include sample of window from brochure, catalog or manufacturer;

- m. Installation of an accessory structure when placed in non-character-defining facades, not in the front or side yards, and when no other accessory buildings exist on the site. Accessory structure shall not exceed one hundred twenty square feet in size. Colors shall complement the existing historic structure;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- n. Installation of outdoor playground equipment when placed in non-character-defining facades and not in the front or side yards;

- o. Painting of previously painted surfaces other than brick or any type of stone with colors compatible with the historic district;

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- p. Installation of outdoor lighting fixtures and security fixtures when such elements complement the design context of the structure;

- q. Minor alterations in a non-character-defining facade and not visible from the street. Any alteration found to have a detrimental impact on the historic character of the structure or historic district shall be subject to the requirements for approval for a certificate of appropriateness as outlined in Section 20.20.130(C).

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

3. Photographs showing current conditions of the property may be required to be furnished by the applicant for all administrative review requests.

4. The applicant may appeal decisions of the HPO to the HLC, through the application process.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

F. Certificate of Appropriateness and Certificate of Demolition. Any and all changes or alterations to landmarks and H-overlay properties, as described in Section 20.20.140(A), that are not eligible for administrative review shall require an application for certificate of appropriateness or certificate of demolition to be reviewed and approved by the HLC.

G. Historic Landmark Commission Review.

1. The historic landmark commission, upon ten days' written notice to the applicant, shall hold a hearing on the application. Upon review, if the HLC finds the proposed work of a nature which will not adversely affect any significant architectural or historical feature of a designated historic landmark, and is appropriate and consistent with the spirit and purposes of this section, it shall forward a certificate of appropriateness to the applicant within ten days after the public hearing.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

2. If the historic landmark commission finds that the proposed work will adversely affect or destroy any significant architectural or historical feature of the designated historic landmark or historic interior, or is inappropriate or inconsistent with the spirit and purposes of this section, it shall render a denial of the request and forward the disapproved application to the applicant within ten days after the public hearing. The HLC shall state the reason(s) for its disapproval.

3. If no action has been taken by the historic landmark commission within forty-five days of the receipt of a completed application, the application shall be approved as submitted, and a certificate of appropriateness shall be issued by the HLC. However, a certificate of demolition shall never be issued before the expiration of sixty days of receipt of a completed application.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

4. No change shall be made in the application, issuance, or execution of any building permit after the issuance of a certificate of appropriateness, without submittal of a request for minor modification as provided for in Section 20.20.150, otherwise, a new application to the historic landmark commission and approval thereof in the same manner as previously provided shall be submitted.

5. After a decision is reached by the historic landmark commission denying an application for certificate of appropriateness, no application for a certificate of appropriateness for a given property may be resubmitted within twelve months from date of action by the HLC unless the HLC finds that a substantial change in conditions has occurred, or that applicant has resubmitted in conformance with subsection 3.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

6. Applicants aggrieved by a decision of the historic landmark commission may appeal to city council, using the procedure identified in Section 20.20.190

- H. Area of Potential Effect. A certificate of appropriateness may also be issued administratively by the HPO using the same criteria and standards as the HLC under subsection G of this section, or administrative approval may be granted under this chapter for the construction, reconstruction, alteration or changes proposed to be made to a site located in an area of potential effect as designated by the city council, upon the request of a person or entity intending to make application for the ad valorem tax incentive program provided in Section 3.04.035 of this Code. In making a decision to administratively issue a certificate of appropriateness under this section, the HPO shall perform every duty and undertake every obligation imposed on the HLC in this section for the situations when the HLC is authorized to issue a certificate of appropriateness.

(Ord. 16879 (part), 2008; Ord. 16653 § 2(part), 2007) (Ord. No. 17233, §§ 1, 2, 11-3-2009)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.090 Modification of certificate of appropriateness.

- A. If an applicant desires to make minor modifications to the certificate of appropriateness when they prepare final working drawings, they may apply to the historic preservation officer for a minor modification of the approved certificate of appropriateness.

- B. If the historic preservation officer finds the minor modifications are in substantial conformity with the approved certificate of appropriateness, the historic preservation officer shall approve the minor modifications and amend the certificate of appropriateness.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- C. Changes other than such minor modification shall require a new hearing and new approval in the same manner as for review of the original certificate of appropriateness. (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.100 Economic hardship application procedure.

A. After receiving written notification from the HLC of the denial of any application, an applicant may commence the economic hardship application process discussed herein at no additional cost. No building permit or demolition permit shall be issued through this procedure unless the HLC makes a finding that, through no fault of his own, the owner cannot otherwise realize a reasonable rate of return on, or sell his property at a reasonable price to an individual or entity interested in preserving it.

B. The applicant and the HLC shall consult in good faith in a diligent effort to seek an alternative that will result in preservation of the property.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- C. The HLC shall hold a public hearing on the application within thirty days from the date the complete application is received by the HLC.

- D. If the HLC approves the application it shall forward a certificate of appropriateness to the applicant within ten days after the public hearing. However, a certificate of demolition shall not be provided to the applicant until at least sixty days following the date of submittal of a completed application.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

E. If the HLC denies the application, it shall forward the disapproved application to the applicant within ten days after the public hearing. The HLC shall state the reasons for its disapproval.

F. If no action has been taken by the HLC within sixty days of the original receipt of the economic hardship application by the HLC, a certificate of appropriateness or certificate of demolition shall be deemed to have been issued by the HLC, and the historic preservation officer shall so advise the applicant.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

G. No change shall be made in the application for any building permit after the issuance of a certificate of appropriateness without submittal of a new application to the HLC and approval thereof as previously provided.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

H. After a decision is reached by the HLC denying an application, a re-submittal of application shall not be accepted for additional hearing within a twelve-month period from the date of the final decision, unless the HLC determines, after reviewing a written request of the applicant, that there has been a change in conditions sufficient to warrant an earlier rehearing.

I. Applicants aggrieved by a decision of the HLC may appeal to city council, using the procedure identified in Section 20.20.190 (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.110 Enforcement.

A. All work performed pursuant to a certificate of appropriateness or administrative review shall conform to any requirements included therein. It shall be the duty of the historic preservation officer to inspect any such work to assure compliance. In the event work is found that is not in accordance with the certificate of appropriateness or administrative review, the historic preservation officer shall notify the building official, who may issue a stop work order, a citation, or pursue other prosecution in accordance with this Code or any other applicable statute or law. All further work by the applicant shall be subject to the requirements of the city code or other governing statute or law.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- B. If a certificate of appropriateness is issued, a project is completed, and if the property qualifies for a tax abatement per Title 3 of this Code, then the historic preservation officer shall inspect the premises on an annual basis to ensure compliance with the certificate of appropriateness for the duration of the tax abatement. If the historic preservation officer determines that conditions have changed to make the project noncompliant with the certificate of appropriateness, they shall notify the owner in writing and submit a report to the HLC providing details of the alleged noncompliance.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

C. The HLC shall hold a hearing and notify the property of the date, time and place of the hearing so that the property owner may attend and present evidence of compliance with the certificate of appropriateness. The HLC shall make a finding, based upon the evidence presented by the historic preservation officer and the property owner, whether or not the project is or is not in compliance with the original certificate of appropriateness. If the HLC finds that the project is not in compliance, the historic preservation officer shall notify the taxing authority, and the tax abatement for the project shall cease immediately. The property owner may present an alternate plan in order to comply with the certificate of appropriateness, and the HLC may amend and approve the modifications. The property owner may appeal the HLC's decision to the city council as provided for herein. (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.120 Historic landmark demolition or removal.

A. An application for demolition or removal of any portion of a designated historic landmark or H-overlay property shall be filed with the historic preservation officer who shall forward it to the HLC within five days of receipt. The HLC shall then hold a public hearing on the application after at least ten days written notice to the applicant. The HLC shall consider the historic value, state of repair, reasonableness of the cost of restoration or repair, the existing and potential usefulness, including economic usefulness of the building, purposes behind preserving the structure as a historic landmark, neighborhood character, and all other factors it finds appropriate. The HLC shall delay the proposed demolition for a period of at least sixty days from the date of submission of a completed application. After such time period, the HLC may approve or deny the application in whole or in part, or suspend action on it for a period not to exceed six months.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- B. If the HLC determines, based on the evidence presented, that the cost of restoration or repair would render the property incapable of earning a reasonable return, the HLC may recommend to city council, within ten days of the hearing before the HLC, or at the council's next regular meeting, that the property be acquired pursuant to Section 20.20.120(A). Council will have thirty days to state an affirmative intent to negotiate with the property owner and to act on such a purchase within a reasonable time thereafter. If council does not act affirmatively, or the HLC determines that the interest of preserving historical values will not be adversely affected by such demolition or removal or that the interest of preserving historical values can best be served by the removal of the structure to another specified location, it shall issue a certificate of demolition or a certificate of removal to the applicant within ten days therefrom, or sixty days of receipt of a completed application, whichever comes later.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- C. If no action has been taken by the HLC within ninety days of original receipt by the HLC of the application, it shall be deemed approved as submitted and a certificate of demolition or a certificate of removal shall be issued by the HLC and the HPO shall so advise the applicant.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- D. After a decision is reached by the HLC denying an application for a certificate of demolition or a certificate of removal, a re-submittal of an application for such certificate will not be accepted for a twelve-month period from the date of final decision, except upon written request of the applicant indicating that there has been a change in conditions sufficient to warrant an earlier rehearing.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- E. Subsections A through D of this section shall not apply whenever the building official or the fire chief or their designee proceeds under Chapter 18.50. In such case, the building and standards commission after the appropriate notice and hearing, may order the building or structure or part thereof secured, repaired, removed or demolished without regard to the "H" designation on the building or structure or part thereof; but in no event may the building and standards commission take such action unless it determines that the building or structure or part thereof is unsafe and dangerous so as to endanger persons or property or is a fire hazard, and that such danger or hazard is so great and so immediate that subsections A through D of this section should be circumvented to prevent immediate and substantial harm to persons or property. Such a determination by the building and standards commission shall be final except as provided for by state law.
- F. Prior to submitting an application for demolition or removal, the applicant shall send written notice of the proposed application via certified mail, facsimile transmission or personal delivery to the mayor and city council, the county historical commission, and if the property is located within a recognized neighborhood association ("RNA") boundary, the applicant shall provide written notice to any such RNA. Such notice shall contain the following information:
1. A detailed description of what is being applied for;
 2. A method by which the applicant can be contacted; and
 3. A statement as to the application's projected impact on the land comprising the geographic boundary of the RNA.

As part of the submitted application, the applicant shall provide a copy of the written notice sent to each individual or entity and proof of delivery. Failure to provide written notice, or an affidavit attesting hand delivery shall result in the application not being accepted as complete.

(Ord. 16830 §§ 1, 2, 2008; Ord. 16653 § 2 (part), 2007) (Ord. No. 17442, § 51, 10-26-2010)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.130 Prevention of demolition by neglect.

A. Applicability. All historic landmarks and properties with an "H" overlay shall be preserved against detrimental deterioration and kept free from certain structural defects by the owner or legal custodian who shall repair such building, object, site, or structure if it is found to have any of the following defects:

1. Deterioration of roofs or other horizontal members;
2. Deterioration of chimneys;
3. Deterioration or crumbling of stucco or mortar;
4. Ineffective waterproofing of exterior walls, roof or foundations, including broken windows or doors; or
5. 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.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- B. Upon the HLC's receipt of a claim of detrimental deterioration of a landmark, it shall notify the owner in writing, informing the owner of the complaint and specifics of the alleged detrimental deterioration, requesting that the owner appear before the HLC for a fuller and more accurate determination of the existence of detrimental deterioration.

- C. If the HLC determines after public hearing that there is detrimental deterioration as described in subsection A, the owner or legal custodian shall be given a reasonable time and opportunity to cure. The owner or legal custodian must comply with all requirements of requesting a certificate of appropriateness from the HLC.

(Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

B. In addition to any remedies allowed pursuant to Chapter 20.24 or other law and exercised under subsection A, a person, corporation or entity is liable to the city if the person demolishes, or causes to be demolished, or otherwise adversely affects the structural, physical or visual integrity of an historic landmark without first obtaining a permit from the building services department and a certificate of demolition from the HLC as required by this chapter. The structure or property must have a designated "H" overlay, individually or as part of an historic district.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

- C. If the structural, physical or visual integrity of the historic landmark is adversely affected to the extent that it may not feasibly be substantially restored to its original level of historic significance, damages are equal to the cost of constructing, using as many of the original materials as possible, a new structure that is a reasonable facsimile of the historic landmark as well as the cost of attorney's, architect's and appraiser's fees and other costs related to the enforcement of this section. If it is feasible to restore the structural, physical or visual integrity of the historic landmark substantially to its former level, the damages are equal to the cost of the restoration, using as many of the original materials as possible and the cost of attorney's, architect's and appraiser's fees and other costs related to the enforcement of this section.

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.150 Ad valorem tax incentives for historic properties.

A. The city will provide applications for the ad valorem tax incentives program provided in Section 3.04.035 of this Code to promote preservation and restoration of historic properties.

B. The city council may identify by resolution one or more areas of the city that abut historic landmarks and districts and include one or more historically significant sites in need of tax relief to encourage their historic preservation, and shall designate and declare those areas as areas of potential effect. Those sites meeting the criteria set forth in Section 3.04.035 of this Code and located in designated areas of potential effect shall be eligible to make application for and receive the tax incentives described in this section and as provided in Section 3.04.035 of this Code. (Ord. 16879 (part), 2008)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.160 Notice.

Any notice required to be given under this chapter shall be by deposit in the U.S. Postal Service, postage prepaid, to the addressee at his last known mailing address. (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.170 Severability.

The terms and provisions of this chapter are severable and shall be governed by Section 1.04.060.

(Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.180 Zoning board of adjustment.

This chapter is not to be construed as conferring any jurisdiction on the zoning board of adjustment in matters pertaining to historic landmark preservation. (Ord. 16653 § 2 (part), 2007)

Title 20 – ZONING
Chapter 20.20 – HISTORIC LANDMARK PRESERVATION

20.20.190 Appeal to the city council.

Any applicant or the owner of any property located within three hundred feet of any landmark, or the owner of any property within the same historic district as the subject of the appeal, who is aggrieved by a ruling of the HLC concerning that landmark under the provisions of this section, may within fifteen days after the ruling of the HLC, appeal to the city council by filing written notice of such appeal with the city clerk. Following a public hearing to be held within sixty days of the filing of such notice of appeal, the city council may, by a simple majority vote, uphold or overturn any ruling of the HLC made pursuant to this chapter. (Ord. 16653 § 2 (part), 2007)
