

EL PASO RECORDING  
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CITY CLERK  
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AN ORDINANCE AMENDING THE CODE OF THE CITY OF EL PASO BY ADDING A NEW SECTION 25-35.3 (HISTORIC LANDMARK PRESERVATION), PROVIDING A DEFINITION OF THE TERM "HISTORIC LANDMARK"; PROVIDING A DECLARATION OF POLICY; PROVIDING FOR THE DESIGNATION OF HISTORIC LANDMARKS BY THE CITY COUNCIL; PROVIDING CRITERIA TO BE USED IN DETERMINING HISTORIC LANDMARK DESIGNATION; PROVIDING FOR CREATION OF A HISTORIC LANDMARK COMMISSION AND PROVIDING FUNCTIONS FOR SAID COMMISSION; PROVIDING FOR ACTION BY THE PLANNING COMMISSION; PROVIDING FOR THE FILING OF HISTORIC LANDMARK DESIGNATION WITH TAXING AUTHORITIES; PROVIDING FOR THE REGULATION OF WORK ON THE EXTERIOR OF HISTORIC LANDMARKS; PROVIDING REGULATIONS AND PROCEDURES FOR THE DEMOLITION OR REMOVAL OF HISTORIC LANDMARKS; PROVIDING THAT HISTORIC LANDMARK DESIGNATION SHALL NOT AFFECT PRESENT USES; PROVIDING A PENALTY; ALSO PROVIDING A SEVERABILITY CLAUSE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Code of the City of El Paso is hereby amended by adding the following new division to Chapter 25 (Zoning).

DIVISION 8. HISTORIC LANDMARK PRESERVATION.

Section 25-35.3. Historic Landmark Preservation (H)

(a) Definition of Historic Landmark.

As used in this section the term "Historic Landmark" shall mean any building, structure, site district, area, or land of architectural, historical, archaeological or cultural importance or value, which the City Council determines shall be protected, enhanced, and preserved in the interest of the culture, prosperity, education and general welfare of the people.

(b) Declaration of Policy.

~~The City Council hereby finds and declares as a matter~~  
of public policy that the protection, enhancement, preservation and use of historic landmarks is a public necessity and is required in the interest of the culture, prosperity, education

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and general welfare of the people. The purposes of this chapter are:

- (1) To protect, enhance and perpetuate historic landmarks which represent or reflect distinctive and important elements of the City's, State's or Nation's architectural, archaeological, cultural, social, economic, ethnic and political history and to develop appropriate settings for such places.
- (2) To safeguard the City's historic and cultural heritage, as embodied and reflected in such historic landmarks by appropriate regulations.
- (3) To stabilize and improve property values in such locations.
- (4) To foster civic pride in the beauty and accomplishments of the past.
- (5) To protect and enhance the City's attractions to tourists and visitors and provide incidental support and stimulus to business and industry.
- (6) To strengthen the economy of the City.
- (7) To promote the use of historic landmarks for the culture, prosperity, education, and general welfare of the people of the City and visitors to the City.

(c) Historic Landmarks--Designation.

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. The suffix "H" shall appear before the zoning designation of those buildings, structures, sites, districts, areas and lands which the City Council designates as historic landmarks. Such designation shall be in addition to any other designation established under this chapter. The zoning map shall reflect the designation of a historic landmark by the letter "H" as a suffix to any other use designation established in this chapter.

(d) Same--Criteria to be Used in Designations.

In making such designations as set forth in this section, the City Council shall consider, but shall not be

Limited to, one or more of the following criteria:

- (1) Character, interest or value as part of the development, heritage or cultural characteristics of the City of El Paso, State of Texas, or the United States.
- (2) Recognition as a Recorded Texas Historic Landmark, a National Historic Landmark, or entered into the National Register of Historic Places.
- (3) Embodiment of distinguishing characteristics of an architectural type or specimen.
- (4) Identification as the work of an architect or master builder whose individual work has influenced the development of the City.
- (5) Embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation.
- (6) Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on architectural historic or cultural motif.
- (7) Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style.
- (8) Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.
- (9) Exemplification of the cultural, economic, social, ethnic or historical heritage of the City, State, or the United States.
- (10) Location as the site of a significant historic event.
- (11) Identification with a person or persons who significantly contributed to the culture and development of the City, State, or the United States.
- (12) A building or structure that because of its location has become of value to a neighborhood, community area, or the City.
- (13) Value as an aspect of community sentiment or public pride.

(e) Historic Landmark Commission--Creation.

There is hereby created a commission to be known as  
the Historic Landmark Commission of the City of El Paso,  
hereinafter called the "Commission", consisting of nine (9)

members appointed by the City Council within sixty (60) days from the effective date of this section. The members of the Commission shall serve without compensation, and the membership shall include the following:

- (1) At least four (4) design professionals who are members in good standing of a professional organization such as: The American Institute of Architects (AIA), The American Institute of Planners (AIP), The American Society of Landscape Architects (ASLA). When possible, more than one of these organizations should be represented.
- (2) The other members of the Commission shall be appointed from such other individuals and organizations as the City Council may in its discretion select.
- (3) All members shall have knowledge and experience in the architectural, archaeological, cultural, social, economic, ethnic or political history of El Paso. No one business or professional interest shall constitute a majority of the Commission.
- (4) Each member of the Board shall be appointed for a term of two (2) years, except that of the members of the first board to be appointed, five shall be appointed to serve for two years, and four for one year. The members of the Board shall elect as officers from the voting membership of the Board a chairman and a vice-chairman and shall likewise from the voting membership fill any vacancy in either of such offices. Any vacancy on the Board shall be filled by appointment by the City Council for the remainder of the unexpired term.
- (5) Any appointed member of the Commission who fails to attend three consecutive regular or called meetings of the Commission or fails to attend at least eighty percent (80%) of all such regular or called meetings during any six month period shall lose membership on the Commission, unless such failure to attend was the result of illness. Verification of attendance shall be based exclusively on the minutes of each meeting. The vacancy shall be filled by the City Council pursuant to this section.
- (6) The City Council may draw on the knowledge, experience and expertise of any person in the community by appointing such person as a special advisor to the Landmark Commission without voting power.

(f) Historic Landmark Commission--Meetings.

- (1) The Commission shall meet at least once a month at a regularly scheduled time with advance notice posted according to the Texas Open Meetings Law. Additionally, meetings may be called upon request of the chairman, or upon written request of five (5) members. Upon the filing of an application for a building permit in a historic district, or historic landmark, the Commission shall take action thereon within sixty (60) consecutive days after the date of filing of such application. If action thereon is not taken within sixty (60) days after the date of filing of such application, it shall be deemed to have been recommended for approval and a certificate showing the filing date and the failure to take action on the application within sixty (60) days shall be issued by the Commission on demand. The applicant may withdraw the application before the sixty (60) day period expires and may resubmit it at a later time if additional time is required for the preparation of information or for research required by the Commission. A majority of the voting members shall constitute a quorum and action taken at a meeting shall require the affirmative vote of a majority of the voting members of the Commission.
- (2) The Director of the Department of Planning, Research and Development or his representative shall act as Secretary of the Commission and shall attend and keep the minutes of all meetings.

(g) Historic Landmark Commission--Functions.

- (1) The Commission shall thoroughly familiarize itself with buildings, structures, sites, districts, areas and lands within the City which may be eligible for designation as historic landmarks and shall prepare a Historic Landmark Preservation Plan, hereinafter referred to as the "Preservation Plan," which shall:
    - a. Establish criteria to be used in determining whether certain buildings, structures, sites, districts, areas, lands and other objects should be designated as historic landmarks.
    - b. Establish guidelines to be used in determination of whether to grant or deny certificates of appropriateness and certificates of demolition or removal.
- Formulate a program for private and public action which will state the role of various City agencies in preservation of historic landmarks.

- d. Suggest sources of funds for preservation and restoration activities and acquisitions, to include federal sources, state sources, private and foundation sources, as well as municipal sources.
  - e. Recommend to the proper agencies incentives designed to encourage historical preservation.
- (2) The Preservation Plan shall be presented to the City Plan Commission for consideration and recommendation to the City Council for inclusion in the comprehensive plan of the City. At least annually the Landmark Commission shall review the Preservation Plan and the state of preservation of designated historic landmarks, insert in the Landmark Commission minutes a report of such review and take appropriate action on any amendments to the plan deemed necessary. Prior to presenting the Preservation Plan, or any amendment thereto, to the Plan Commission, the Landmark Commission shall hold a public hearing on the Preservation Plan or the amendment thereto.
  - (3) The Landmark Commission shall recommend to the City Plan Commission ordinances designating certain buildings, structures, sites, districts, areas and lands in the City as historic landmarks. The Landmark Commission shall hold a public hearing on all proposed ordinances and notice shall be given in the same manner as required by Article 1011f, Vernon's Annotated Texas Statutes.
  - (4) Any owner of property may request from the Landmark Commission a decision on whether the Landmark Commission intends to recommend to the Plan Commission that said property be designated "H". The Landmark Commission shall render a decision on the owner's request within sixty (60) days after the request is made.
  - (5) If the Landmark Commission finds that buildings, structures, sites, districts, lands or areas cannot be preserved without acquisition, the Landmark Commission shall recommend to the City Council that the fee or a lesser interest of the property in question be acquired by gift, devise, purchase, eminent domain or otherwise, pursuant to the City Charter and State and Federal law.
  - (6) The designation of a historic landmark may be amended or removed using the same procedure provided in this section for the original designation.
  - (7) The Landmark Commission shall provide information and counseling to owners of designated historic landmarks.

(h) Action by the City Plan Commission.

- (1) The City Plan Commission shall hold public hearings as provided for in Article 1011f, Vernon's Annotated Texas Statutes, to consider any historical landmark designation ordinance after receiving a recommendation from the Landmark Commission. The notices provided for in Article 1011f, shall be sent to all owners of property which is proposed for "H" designation as well as to the adjoining property owners specified in said Article.
- (2) Within ten (10) days after the hearing the City Plan Commission shall set forth in writing its recommendation, including the findings of fact that constitute the basis for its decision, and shall transmit its recommendations concerning the proposed ordinance to the City Council along with the recommendation of the Landmark Commission, provided that in the event the recommendation of the Plan Commission differs from the recommendation of the Landmark Commission, the Plan Commission shall within ten (10) days after the hearing first transmit its recommendation, including its findings of fact, to the Landmark Commission and then, within fifteen (15) days of the public hearing the Plan Commission and the Landmark Commission shall each transmit their recommendation, including the finding of facts that constitute the basis for their decision, to the City Council.

(j) Recording of Designation.

Upon passage of a historic landmark designation ordinance, the City Clerk shall file a copy of the ordinance with City and El Paso County tax assessors together with a notice briefly stating the fact of the designation and shall send a copy of such notice to the owner or owners of the affected property by certified mail.

(k) Alterations and Changes. Certificate of Appropriateness, Ordinary Repair of Maintenance, Appeal.

No person or entity shall construct, reconstruct, alter, change, restore, remove or demolish any architectural feature of a designated historic landmark unless application be made to the Landmark Commission for certificate of appropriateness and such a certificate be granted.

(1) Procedure when building permit is required.

- a. When applying for a building permit for the exterior of a designated historic landmark, the applicant shall submit two copies of all detailed plans, elevations, perspectives, specifications and other documents pertaining to the work to the Building Official, who shall forward such application to the Commission chairman within five (5) days of receipt thereof. Any applicant may appear at a regular or special meeting of the Landmark Commission before submitting an application and may consult with said Commission during the review of the permit application.

- b. The Landmark Commission, upon ten (10) days written notice to the applicant, shall hold a hearing on the application. Upon review of the application, if the Landmark Commission finds the proposed work of a nature which will not adversely affect any significant architectural or historical feature of the 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 Building Official within thirty (30) days after the public hearing and the Building Official shall so advise the applicant within five (5) days after the certificate is received.
- c. If the Commission finds that the proposed work will adversely affect or destroy any significant architectural or historical feature of the designated historic landmark or is inappropriate or inconsistent with the spirit and purposes of this section, it shall forward the disapproved application to the Building Official within thirty (30) days after the public hearing and the Building Official shall so advise the applicant within five (5) days after the certificate is received. The Landmark Commission shall state in its disapproval the changes necessary for approval of the application.
- d. If no action has been taken by the Landmark Commission within sixty (60) days of original receipt by the Landmark Commission, a certificate of appropriateness shall be deemed issued by the Landmark Commission, and the Building Official shall so advise the applicant.
- e. No change shall be made in the application for any building permit after the issuance of a certificate of appropriateness without resubmittal to the Landmark Commission and approval thereof in the same manner as provided above.
- f. After a decision is reached by the Landmark Commission denying an application for a certificate of appropriateness, a resubmittal of application will not be accepted for additional hearing within a twelve (12) month period from the date of final decision except upon written request by the applicant indicating that there has been a change in condition or that all changes in the application as recommended by the Landmark Commission have been made.

(2) Procedure when building permit is not required.

- a. Those proposed exterior changes and alterations not requiring a building permit shall be submitted in writing directly to the Historic Landmark Commission for a certificate of appropriateness which must be granted before such work can be undertaken.

Applicant shall submit a copy of all proposed alterations and changes to the Commission. The application must specifically describe the alteration or change proposed. Any applicant may appear at a regular or special meeting of the Landmark Commission before submitting an application and may consult with said Commission during the review of the application.

- b. The Landmark Commission, upon ten (10) days written notice to the applicant, shall hold a hearing on the application. Upon review of the application, if the Landmark Commission 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 thirty (30) days of the receipt of said application.
- c. If the Commission finds that the proposed work will adversely affect or destroy any significant architectural or historical feature of the designated historic landmark or is inappropriate or inconsistent with the spirit and purposes of this section, it shall notify the applicant within thirty (30) days of receipt of said application that the application has been disapproved and shall include in such notification the changes necessary for approval of the application.
- d. If no action has been taken by the Landmark Commission within sixty (60) days of the receipt of the application, a certificate of appropriateness shall be deemed issued by the Landmark Commission.
- e. No change shall be made in the application for issuance of a certificate of appropriateness without resubmittal to the Landmark Commission and approval thereof in the same manner as provided above.
- f. After a decision is reached by the Landmark Commission denying an application for certificate of appropriateness, a resubmittal of application will not be accepted for additional hearing within a twelve (12) month period from the date of final decision indicating that there has been a change in conditions or that all changes in the application as recommended by the Landmark Commission have been made.

(3) Ordinary repair or maintenance.

Ordinary repair or maintenance which does not involve changes in architectural and historical value, style or general design is exempt from the provisions of this section.

(4) Appeal.

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

(m) Historic Landmarks--Demolition or Removal.

- (1) If an application is received for demolition or removal of a designated historic landmark, the Building Official shall immediately forward the application to the Landmark Commission. The Landmark Commission shall hold a public hearing on the application within thirty (30) days after the application is initially filed with the Building Official. The applicant shall be given ten (10) days written notice of the hearing. The Landmark Commission shall consider the state of repair of the building, the reasonableness of the cost of restoration or repair, the existing and potential usefulness, including economic usefulness, of the building, the purposes behind preserving the structure as a historic landmark, the character of the neighborhood, and all other factors it finds appropriate. If the Landmark Commission 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 its certificate of demolition or its certificate of removal, as may be appropriate, to the Building Official; and the Building Official shall so advise the applicant within five (5) days therefrom.
- (2) If no action has been taken by the Landmark Commission within sixty (60) days of original receipt by the Landmark Commission of the application, a certificate of demolition or a certificate of removal shall be deemed issued by the Landmark Commission and the Building Official shall so advise the applicant.
- (3) After a decision is reached by the Landmark Commission denying an application for a certificate of demolition or a certificate of removal, a resubmittal of application for such certificate will not be accepted for ~~additional~~ additional hearing within a twelve (12) month period from the date of final decision.

- (4) Any applicant aggrieved by a ruling of the Landmark Commission under the provisions of this section may, within sixty (60) days after the ruling of the Landmark Commission, appeal to the City Council. Following an appropriate public hearing, within at least thirty (30) days of the filing of a notice of appeal with the City Clerk, the City Council may, by a simple majority vote, uphold or overturn the ruling of the Landmark Commission.

(n) Historic Landmarks, Omission of Necessary Repairs.

- (1) The exterior of a designated historic landmark shall be maintained to insure the structural soundness of such landmark.
- (2) If the Building Official or the Historic Landmark Commission finds that there are reasonable grounds to believe that a designated historic landmark is structurally unsound or in imminent danger of becoming structurally unsound, the Building Official shall notify in writing the owner of record of the designated historic landmark of such fact.
- (3) Upon the giving of ten (10) days written notice to the owner of record of such designated historic landmark, the Building Official shall hold a public hearing to determine if the designated historical building is structurally unsound or in imminent danger of becoming structurally unsound. The Building Official shall request a report and consider recommendations from the Landmark Commission. The Landmark Commission's report may include evidence of economic hardship or willful neglect.
- (4) At the conclusion of the hearing, if the Building Official finds that the designated historic building is structurally unsound or in danger of becoming structurally unsound and that no valid reason exists as to why the owner cannot or should not undertake to safeguard the structural soundness of the building, it shall in writing notify the record owner of the finding.
- (5) The owner of record of the designated historic landmark who has been notified by the Building Official that such landmark is structurally unsound or in danger of so becoming shall within ninety (90) days of receipt of such notice satisfy the Building Official that reasonably necessary repairs to safeguard the structural soundness of the landmark have been effected.

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

(7) Any applicant or the owner of any property located within three hundred (300) feet of any landmark who is aggrieved by a ruling of the Landmark Commission concerning that landmark under the provisions of this section may, within thirty (30) days after the ruling of the Landmark Commission, appeal to the City Council by filing written notice of such appeal with the City Clerk. Following a public hearing to be held within thirty (30) 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 Landmark Commission made pursuant to this section.

(o) Historic Landmark Designation to Coexist with Other Use Classifications.

Use classifications as to all property which may be included in a historic landmark designation shall continue to be governed by the comprehensive zoning ordinance of the City and the procedures therein established.

(p) Penalty.

(1) It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze, or maintain any building, structure, or land in a historic landmark designation in violation of the provisions of this chapter, and the City in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing, or maintenance, to restrain, correct, or abate such violation, to prevent any illegal act, business, or maintenance in and about such premises.

(2) Any person, firm or corporation violating any provisions of this chapter shall be guilty of a misdemeanor, and shall be deemed guilty of a separate offense for each day or portion thereof during which any violation hereof is committed, continues or is permitted, and upon conviction of any such violation shall be punishable by a fine not to exceed two hundred dollars (\$200.00).

(q) Notice.

Any notice required to be given under this section shall be by certified mail, return receipt requested, postage prepaid, to the addressee at his last known mailing address.

(r) Severability.

The terms and provisions of this ordinance are severable and shall be governed by Section 1-5 of Chapter 1 of the Code of the City of El Paso, as amended.

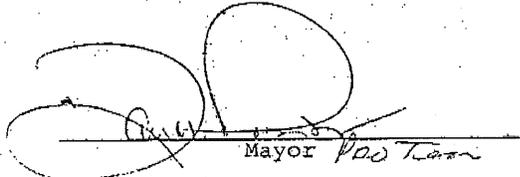
(s) Zoning Board of Adjustment.

This ordinance is not to be construed as conferring any jurisdiction on the Zoning Board of Adjustment in matters pertaining to Historic Landmark Preservation.

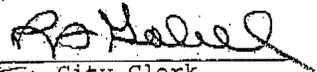
(t) Appeal to City Council.

Any applicant or the owner of any property located within three hundred (300) feet of any landmark who is aggrieved by a ruling of the Commission concerning that landmark under the provisions of this section may, within thirty (30) days after the ruling of the Commission, appeal to the City Council by filing written notice of such appeal with the City Clerk. Following a public hearing to be held within thirty (30) 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 Commission made pursuant to this section.

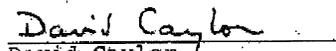
PASSED AND APPROVED this 27th day of June, 1978.

  
Mayor Voo Tamm

ATTEST:

  
Victoria  
City Clerk

APPROVED AS TO FORM:

  
David Caylor  
Assistant City Attorney