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F. Subdivision identification signs shall comply with the following requirements:

1. Permit required: yes
2. Maximum number: two per subdivision entrance
3. Maximum sign area: fifty square feet per sign
4. Maximum sign height: five feet
5. Location: the location of subdivision identification signs shall be subject to the approval of the building official; no portion of a subdivision identification sign shall be within a public right-of-way or public easement, except where authorized by special privilege license granted by city council; a copy of the restrictive covenants or other documentation, recorded in the El Paso County real property records, shall be submitted with the sign application which creates a neighborhood association or other entity which shall provide for the perpetual maintenance of the sign if proposed to be located within a public right-of-way or public easement, or imposes a duty of maintenance of the sign on the property owner on which the sign is located.
6. Illumination: internal or indirect, may not be flashing or intermittent
7. Additional standards: shall only be a monument sign and only include the name, logo or other identification of the subdivision

G. Menu signs shall comply with the following requirements:

1. Permit required: no, if installed and inspected with the installation of additional signage on the property. A permit is required if the only sign installed on the property is the menu sign.
2. Maximum number: two
3. Maximum sign area: thirty-two square feet per sign
4. Maximum sign height: eight feet
5. Location: the location of the menu sign shall be subject to the approval of the building official; however, the sign is strictly for on-site informational purposes and, therefore, shall be oriented so as to not be readable from the fronting public street.

20.18.500 Temporary on-premise signs

A. Temporary real estate signs shall comply with the following requirements:

1. Permit required: no
2. Maximum number: one per street frontage

3. Maximum sign area: thirty-two square feet for C-2, C-3, C-4, C-5, Q, M-1, M-2, and M-3 districts; six square feet for all other districts, exclusive of two riders not in excess of an area of six inches by thirty inches each

4. Maximum sign height: ten feet for C-2, C-3, C-4, C-5, Q, M-1, M-2, and M-3 districts; six feet for all other districts

5. Location: not less than three feet from public property and not less than thirteen feet from the curb

6. Illumination: not permitted

7. Permitted districts: all

8. Additional standards: shall only be for the purposes of sale, lease or rent of the property; shall be removed within fourteen days of sale or lease

B. Temporary subdivision identification signs shall comply with the following requirements:

1. Permit required: no

2. Maximum number: two per each subdivision of ten lots or more

3. Maximum sign area: sixty-four square feet for C-2, C-3, C-4, Q, M-1, M-2, and M-3 districts; thirty-two square feet for all other districts

4. Maximum sign height: sixteen feet for C-2, C-3, C-4, Q, M-1, M-2, and M-3 districts; eight feet for all other districts

5. Location: not less than three feet from public property and not less than thirteen feet from the curb

6. Illumination: not permitted

7. Permitted districts: all

8. Additional standards: shall not be displayed prior to the date of recording of the plat, and shall be removed no later than three months after the last building permit has been issued

C. Temporary construction signs shall comply with the following requirements:

1. Permit required: no

2. Maximum number: one sign per street frontage, not to exceed two signs per premise

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- 3. Maximum sign area: sixty-four square feet for C-2, C-3, C-4, C-5, Q, M-1, M-2, and M-3 districts; thirty-two square feet for all other districts
- 4. Maximum sign height: sixteen feet for C-2, C-3, C-4, C-5, Q, M-1, M-2, and M-3 districts; eight feet for all other districts
- 5. Location: not less than three feet from public property and not less than thirteen feet from the curb
- 6. Illumination: not permitted
- 7. Permitted districts: all
- 8. Additional standards: only permitted at construction sites and must be removed within thirty days after the issuance of a certificate of occupancy for the last permit of the project on the same property.

D. Temporary portable signs shall comply with the following requirements:

- 1. Permit required: yes
- 2. Maximum number: one per premise for property less than one acre; two per premise for property one acre to five acres; three signs per premise for property greater than five acres
- 3. Maximum sign height: seven feet for C-2, C-3, C-4, Q, M-1, M-2, and M-3 districts
- 4. Location: no portion of the sign shall be closer than fifteen feet from the back of the curblines; if the property line is located more than fifteen feet from the curblines, signs shall be erected within the property line, and no portion of a sign shall extend beyond the property line; On corner lots, portable signs shall not be located in the area of a triangle formed by the intersecting property lines and a diagonal line joining the property lines at points twenty (20) feet from their intersection
- 5. Illumination: not permitted
- 6. Permitted districts: C-2, C-3, C-4, Q, M-1, M-2, and M-3 districts; not permitted on property within historic overlay zones, historic districts or with designated significant landmarks
- 7. Additional standards: portable signs shall comply with the following:
 - a. Maximum duration of a display at any one time shall be limited to sixty consecutive days
 - b. Minimum of thirty days between permitted displays
 - c. Portable signs shall be placed a minimum of fifteen feet from any driveway

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- d. Portable signs shall be placed a minimum of three hundred feet spacing from any other portable sign
- e. Portable signs may be placed immediately adjacent to or not closer than fifty feet away from any freestanding sign
- f. Property owner's name and written evidence that the property owner has authorized the placing of the sign(s) on his property.

E. Temporary banner signs shall comply with the following requirements:

1. Permit required: no
2. Maximum number: one sign for each tenant in a single or multi-tenant facility per street frontage; for apartments, one sign for each apartment complex per street frontage and public entryway not to exceed four signs per complex
3. Maximum sign area: one hundred square feet which is included in the maximum wall sign area calculation permitted for all wall signs
4. Location: shall be securely attached to a building façade, masonry wall, or fence; shall be erected in such a manner that building fenestration is not obscured and the architectural integrity of the building is not altered; shall not extend beyond the edges of the structure no portion shall extend beyond the roof plane or outside the building envelope when attached to a building
5. Illumination: not permitted
6. Permitted districts: C-2, C-3, C-4, C-5, Q, M-1, M-2, and M-3; only for apartments in A-1, A-2, A-3, A-4, A-O, A-3/O, A-M, PR-I, PR-II and SRR districts; not permitted on property within historic overlay zones, historic districts or with designated significant landmarks
7. Additional standards: limited to 30 days only with a minimum of 30 days between displays; shall only be for the purposes of grand openings or other types of special events on the property

Article V. Non-Commercial Sign Regulations

20.18.510 Non-commercial signs

Non-commercial signs shall be permitted in all zoning districts, provided such non-commercial signs shall not include those signs prohibited in Section 20.18.150 (Prohibited Signs) of the code. The area of such non-commercial messages located in zoning districts other than residential and apartment zoning districts shall be included in the determination of the total permitted sign area, number of signs and height regulations of that district. Noncommercial messages located in residential or apartment zoning districts shall be limited to a combined total sign area of five square feet per common address, shall not require a permit, shall not exceed eight feet in

height, and shall be located no more than five feet from the dwelling unit. This paragraph shall not apply to signs otherwise regulated in this chapter.

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Chapter 20.20

HISTORIC LANDMARK PRESERVATION

- 20.20.010 Declaration of policy.**
- 20.20.020 Definitions.**
- 20.20.030 Administration of Historic Preservation Program.**
- 20.20.040 Procedure for Designation of Landmarks and Historic 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.**
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- 20.20.120 Historic Landmark Demolition or Removal.**
- 20.20.130 Prevention of Demolition by Neglect.**
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- 20.20.150 Ad Valorem Tax Incentives for Historic Properties**
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- 20.20.180 Zoning board of adjustment.**
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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;

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;

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G. To strengthen the economy of the City;

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.

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/her designee administratively approves or denies submitted applications in accordance with the Administrative Review Design Guidelines.

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.

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 (100) 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.

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.

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

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.

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.

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.

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.

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.

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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.

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.

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.

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 non-contributing buildings or structures.

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

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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.

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.

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.

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.

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.

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.

36. "Non-contributing 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.

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.

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.

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.

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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.

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; and

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

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.

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.

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.

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

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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.

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

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.

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 2.08 of the El Paso City 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.

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.

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.

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;

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;

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.

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

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

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.

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;

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.

C. Formulate a program for private and public action which will state the role of various City departments in acquisition of historic landmarks or sites;

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.

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

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than five (5) 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 (5) plaques each calendar year.
3. Criteria for awarding an Historic Building Plaque are as follows:
 - a. The building must be at least fifty (50) years old;
 - b. The building must have an H-overlay, be a recorded Texas Historic Landmark, or listed on the National Register of Historic Places;
 - c. The building must have been rehabilitated and/or maintained in good condition, and plans prepared for the work approved by the HLC, evidenced by issuance of a Certificate of Appropriateness;
 - d. If the building was rehabilitated using state, federal, or Community Development Block Grant funding, plans must have been reviewed and approved by the State Historic Preservation Officer (SHPO);
 - e. At the time of the award, the building must be in compliance with all municipal codes and ordinances.
 - f. Award winners may be honored at a subsequent City Council meeting.
 - g. Recipients are required to display the award in a publicly visible location on the facade of the structure. Any replacement plaques will be acquired at the owner's expense.

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.

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.

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."

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: 1994 0 - 160-280 QL 3, Washington, D.C., or most current revision).

D. Application content.

1. For the exterior of a designated historic landmark, or a designated historic interior, the applicant shall submit the following:

a. One (1) 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.

b. One (1) 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;

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- iv. Location, type, and arrangement of windows, doors, & 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) & texture (i.e., color swatch with name, manufacturer, & number)
- viii. Material and product samples from brochure, catalog or manufacturer.
- ix. Open spaces, where applicable;
- x. Landscaped planted areas including square footage;
- xi. Architectural design of buildings, modification, addition, or new construction (floor plan(s) and elevations);
- xii. Construction details for roof, walls, floor, and foundation

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

d. One (1) 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.

f. One (1) 8½" x 11" 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.

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.
- 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.
- d. Exterior accessibility ramps when placed in non-character-defining façades; 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).
- f. Off-premise and on-premise 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.
- 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.

- 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 façades and where allowed by other City Ordinances.
- l. 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 (120) square feet in size. Colors shall complement the existing historic structure.
- 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.
- 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 façade 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 20.20.130 Subsection (C).

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.

F. Certificate of Appropriateness and Certificate of Demolition.

Any and all changes or alterations to landmarks and H-overlay properties, as described in 20.20.140 Subsection (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

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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.

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 (45) 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 (60) days of receipt of a completed application.

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.

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.

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.

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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.

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.

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.

C. The HLC shall hold a public hearing on the application within thirty (30) 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.

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.

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.

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

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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.

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 the El Paso City 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.

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 the City 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 non-compliant with the Certificate of Appropriateness, they shall notify the owner in writing and submit a report to the HLC providing details of the alleged non-compliance.

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.

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

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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 (60) 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.

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 there from, or sixty days of receipt of a completed application, whichever comes later.

C. If no action has been taken by the HLC within ninety (90) 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 Director of Development Services shall so advise the applicant.

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.

E. Subsections A through E 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.

20.20.130 Prevention of Demolition by Neglect.

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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.

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.

20.20.140 Penalty for demolition or alteration without a permit.

A. It is unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish or raze any historic landmark in violation of this chapter. The City, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful violation and to restrain, correct or abate such violation, to prevent any illegal act, business or maintenance in and about such premises.

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.

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

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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.

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

20.20.150 Ad Valorem Tax Incentives for Historic Properties.

The City will provide applications for the ad valorem tax incentive program to promote preservation and restoration of historic properties.

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.

20.20.170 Severability.

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

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.

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.

CHAPTER 20.22

NONCONFORMING SITUATIONS

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- 20.22.010 Policy.**
- 20.22.020 Nonconforming lots.**
- 20.22.030 Nonconforming uses.**
- 20.22.040 Nonconforming structures.**
- 20.22.050 Nonconforming dwellings in commercial and manufacturing districts.**
- 20.22.060 Newly Annexed Areas.**
- 20.22.070 Certificates of occupancy required.**
- 20.22.080 Property affected by right-of-way acquisition.**
- 20.22.090 Nonconforming Signs.**
- 20.22.100 Nonconforming Personal Wireless Service Facilities.**

20.22.010 Policy.

Nonconforming situations may continue, so long as the conditions within this chapter and all other applicable sections of the Code are met; however, the City encourages the eventual replacement of nonconforming uses which are potentially undesirable and incompatible with surrounding conforming uses and require compliance with the regulations of the El Paso City Code, having due regard for the property rights of the persons affected, the public welfare, compatibility, and the character of the surrounding area. This Chapter does not require the removal of or destruction of property in existence at the time when any zoning regulation first became effective and is actually and necessarily used in a public service business.

20.22.020 Nonconforming lots.

A single-family dwelling may be erected on a lot recorded in the real property records, even though of less width, depth, or area than required by the regulations for the district in which it is located, if such lot was separately owned at the time when any zoning restrictions as to its required width or area (whether under this title or any other ordinance or amendment) first became effective, if the owner of such lot does not own any other lot, parcel or tract immediately adjacent thereto, and so long as the lot is registered and verified by the Zoning Administrator as a nonconforming lot.

20.22.030 Nonconforming uses.

A. Any use of a building, structure, or property or if a valid building permit has been issued for the use of the structure in that district, legally in existence at the time when any zoning restrictions as to use, area, yards, setbacks, or off-street parking (whether under this or any other ordinance or amendment) first became effective as to such use, and which does not conform to the regulations described in this title may continue the

use so long as the use is registered and verified by the Zoning Administrator as nonconforming and subject to the following limitations:

1. A nonconforming use of a structure may not be enlarged or increased, except a nonconforming use may be extended to any portion of a building which portion was arranged or designed for such nonconforming use on or prior to the date on which the use became nonconforming, or if required by law to meet minimum health and safety requirements required by a governmental entity. Written documentation establishing the date of the original design or arrangement of use, or requirement by a governmental entity shall be required at the time of submittal for a building permit, and the mere intent of the owner or occupant shall not satisfy this requirement.

2. A nonconforming use shall not be changed unless changed to a conforming use. A nonconforming use if changed to a conforming use may not thereafter be changed back to any nonconforming use. A nonconforming use may not be changed to any other nonconforming use.

B. Abandonment and termination of a nonconforming use.

1. A nonconforming use is deemed abandoned and the right to operate a nonconforming use shall terminate immediately if any of the following occur:

a. the use of property is changed from a nonconforming use to a conforming use, or to another nonconforming use; or

b. the nonuse or nonoperation of the nonconforming use, or the vacancy of a portion or all of the structure used for the nonconforming use of the property for a continuous period of one hundred twenty (120) days or more;

c. a portion or all of the structure used for the nonconforming use is damaged or destroyed by the intentional act of the owner or his agent;

d. Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if any portion of the structure in which the nonconforming use is located is dilapidated, substandard, or is not maintained in a suitable condition for occupancy during a continuous period of one hundred twenty (120) days.

2. A seasonal discontinuance of a nonconforming use, or a temporary discontinuance of a nonconforming use for maintenance or repair, is excluded from a calculation of the one hundred twenty (120) day period described in Subsection B.1.(b).

3. A person may not resume an abandoned or otherwise terminated nonconforming use.

4. Destruction of nonconforming use.

The right to operate and maintain any nonconforming use, except a single-family dwelling unit, shall terminate and shall cease to exist whenever the structure or any portion of the structure in which the nonconforming use is operated and maintained is damaged or destroyed by fire, the elements or other than the intentional acts of the owner or operator, if the destruction amounts to fifty percent (50%) or more of its fair market value as determined by the tax appraisal roll, not including the value of the land, on the date of such damage or destruction. If the owner of a nonconforming use fails to begin reconstruction of the destroyed building, when permitted to do so by the terms of this section within one hundred twenty (120) days of the date of destruction, the nonconforming use shall be deemed to be discontinued or abandoned, and shall no longer be authorized to continue.

C. No nonconforming accessory use shall continue after the principal use or structure shall have ceased or terminated unless the accessory use shall thereafter conform to the provisions of the zoning district in which it is located.

20.22.040 Nonconforming Structures.

A. Any nonconforming structure legally in existence at the time when any zoning restrictions as to use, area, yards, setbacks, or off-street parking (whether under this or any other ordinance or amendment) first became effective as to such use, and which does not conform to the regulations described in this title may continue in use and operation and shall register with the Zoning Administrator as nonconforming and is subject to the following limitations.

1. Unless otherwise provided, a nonconforming building or structure shall not be added to or enlarged in any manner unless the addition or extension meets the requirements of the district in which it is located.

2. If a non-conforming structure is non-conforming as to off-street parking requirements, a change of occupancy to another use permitted in the zoning district is allowed provided that the parking requirements are the same as the original non-conforming use. If a change of occupancy to a use that requires additional parking is requested, the additional off-street parking required for the new use must be provided.

B. Abandonment and termination of a nonconforming structure.

1. A nonconforming structure is deemed abandoned and the right to operate a nonconforming building shall terminate immediately if any of the following occur:

a. the nonuse or nonoperation of a use, or the vacancy of a portion or all of the structure for a continuous period of one hundred twenty (120) days or more;

b. a portion or all of the structure used for the nonconforming use is damaged or destroyed by the intentional act of the owner or his agent.

c. Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if the nonconforming building is dilapidated, substandard, or is not maintained in a suitable condition for occupancy during a continuous period of one hundred twenty (120) days.

2. A seasonal discontinuance of a nonconforming building, or a temporary discontinuance of a nonconforming building for maintenance or repair, is excluded from a calculation of the one hundred twenty (120) day period described in Subsection B.1.(b).

3. A person may not resume an abandoned or otherwise terminated nonconforming use.

4. Destruction of nonconforming structure.

The right to operate and maintain any nonconforming structure, except a single-family dwelling unit, shall terminate and shall cease to exist whenever the structure or any portion of the structure is damaged or destroyed from any cause whatsoever, except if caused by the intentional act of the owner or operator, if the destruction amounts to fifty percent (50%) or more of its fair market value as determined by the tax appraisal rolls, not including the value of the land, on the date of such damage or destruction. If the owner of a nonconforming use fails to begin reconstruction of the destroyed building, when permitted to do so by the terms of this section within one hundred twenty (120) days of the date of destruction, the nonconforming building shall be deemed to be discontinued or abandoned, and shall no longer be authorized to continue.

C. Normal repairs and maintenance may be made to a nonconforming building or structure; provided that no structural alterations shall be made except those required by law or ordinance due to health or safety concerns and as required by a governmental entity.

D. A nonconforming building or structure shall not be moved in whole or in part from the property or within the lot in which it is located, unless every portion of such building or structure is made to conform to all regulations of the district in which it is located.

E. No nonconforming accessory structure shall continue after the principal use or structure shall have been damaged or destroyed unless the accessory structure shall thereafter conform to the provisions of the zoning district in which it is located.

F. A cemetery, sewage disposal or treatment plant, hospital, sanatorium, correctional institution, or municipal or state building or institution existing in any district on November 23, 1955, or any M-1 district use so existing in a C-4 or C-5 district, shall be deemed a conforming use upon the plot devoted to such use on the effective date of Ordinance No. 1448, adopted on November 23, 1955.

20.22.050 Nonconforming dwellings in commercial and manufacturing districts.

A dwelling nonconforming as to use in a commercial or manufacturing district shall be permitted; provided, that the yard standards and the off-street parking requirements at the time the structure became nonconforming as to use are maintained.

20.22.060 Newly Annexed Areas

A. Nonconforming rights may be granted to uses or structures located within newly annexed areas in accordance with the following provisions. An application for registration and certificate of occupancy for the nonconforming use or structure must be filed with the Development Services Department.

B. Incomplete construction. Construction may be completed on any structure legally under construction upon annexation provided:

1. The owner or his designated representative applies to the city for a building permit to authorize further work on the structure stating the proposed use of the structure and attaching thereto the plans and specifications relating to the construction; and
2. The construction is completed within one hundred twenty (120) days of the effective date of the issuance of the building permit unless an extension is granted.

20.22.070 Registration and Certificate of Occupancy required.

A. Should the owner or occupant of a nonconforming building or use desire to change, alter, enlarge, or otherwise modify the nonconforming building or use, he or she shall be required to apply for and register the nonconforming building or use with the Development Services Department and provide the following information prior to the change, alteration or modification:

1. file an affidavit with the city and pay a nonrefundable fee established by the City Council stating that such building or land occupied by the nonconforming building or use was, to the best of the owner or occupant's knowledge, in lawful use and lawfully existing as of the date of adoption of the applicable Code in effect at the time that the building or use became nonconforming. Said affidavit shall include a statement providing the basis for the person's knowledge of the statement made;
2. provide documentation to include but not limited to aerial photography, information on file with the central appraisal district, affidavits of surrounding property owners or occupants knowledgeable of the existence and use of the building or property, and any other information deemed necessary to determine the nonconforming status of the building or use by the Zoning Administrator; and,
3. submit an application to the city for a new certificate of occupancy in accordance with applicable requirements of the Code.

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B. Upon proper application and satisfaction that the nonconforming building or use was in existence as of the date of adoption of this Title or subsequent amendment, the city may register the building or use as nonconforming and maintain a record of all registrations.

20.22.080 Property affected by right-of-way acquisition.

A. Relocation of Existing Uses. Zoning restrictions as to lot area, yards or setbacks may be reduced as applied to a structure that is to be relocated on any lot a portion of which was acquired under the threat of condemnation or in an eminent domain action; provided, that the following requirements are met:

1. The gross floor area of the new building or structure is no greater than that of the previously existing building or structure;

2. The new building or structure is used only for the previously nonconforming use or for a use permitted in the zoning district; and

3. Yard and Setback Requirements.

a. For commercial and manufacturing uses, the minimum yard standards are met for the most restrictive district in which the use is permitted,

b. For residential uses, three-fifths of the yard standards are met for the district in which the use is permitted,

c. For any use, the setback requirements provided in any zoning district or imposed as a condition of a zoning change may be waived provided that the setback requirements of this subsection are met;

4. If on-site parking was provided for the nonconforming use prior to the acquisition of right-of-way, a minimum of eighty-five percent of the number of spaces existing prior to the acquisition of right-of-way shall be provided for the new building or structure.

B. Relocation of Existing Nonconforming Use. A structure whose use is deemed nonconforming, may be relocated to another portion of the site on which that structure is located; provided, that the use is registered and verified by the zoning administrator that the use of property preexisted any zoning restrictions as to use, and that the requirements of subsection A of this section have been satisfied.

C. The denial of a building permit under this section shall not be construed to affect an applicant's right to request a special exception from or an appeal to the zoning board of adjustment pursuant to Chapter 2.16 of this code.

20.22.090 Nonconforming signs.

A. Signs Which Are Nonconforming.

Signs which were lawfully erected prior to the adoption of the ordinance herein codified which do not conform to its provisions as well as signs existing at the time the area wherein the sign is located is annexed are deemed to be nonconforming, and may continue in existence provided that no nonconforming sign shall be:

1. Changed to or replaced with another sign, unless in compliance with the Code, except as provided herein. Upon application to the City, the face of the sign on an existing sign that is structurally safe and for which is on file a valid permit or nonconforming registration, may be changed to indicate a new owner or business; provided however, the change or alteration shall not result in the following:

- a. an increase in the degree of the existing nonconformity;
- b. does not change the method or technology used to convey the message;
- c. does not increase the illumination of the sign;
- d. does not increase the sign face area

2. Structurally altered in order to extend its useful life;

3. Expanded;

4. Reestablished after damage or destruction if the cost of repairing the sign is more than fifty percent (50%) of its value at the time of such damage or destruction;

5. Modified or relocated in any way that would increase the degree of nonconformity of such sign.

6. Modified to add lighting or any other enhancement.

2. This provision shall not prevent repairing or restoring any part of a sign structure to a safe condition or performing normal maintenance operations on a sign or sign structure.

B. Registration of Nonconforming Signs. Each nonconforming sign shall be registered by the owner or owners of the sign by filing a registration form with the Zoning Administrator. Signs without permits which were registered properly pursuant to any prior city code provision are deemed to be nonconforming.

C. Abandonment and termination of a nonconforming sign.

1. A nonconforming sign is deemed abandoned and the right to operate a nonconforming sign shall terminate immediately if any of the following occur:

- a. the nonuse of the sign for a continuous period of one hundred twenty (120) days or more;

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b. a portion or all of the sign is damaged or destroyed by the intentional act of the owner or his agent.

c. Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if the nonconforming sign is dilapidated, substandard, or is not maintained in a suitable condition during a continuous period of one hundred twenty (120) days.

D. A nonconforming sign shall not be moved in whole or in part from the property or within the lot in which it is located, unless every portion of such building or structure is made to conform to all regulations of the district in which it is located.

Section 20.22.100 Nonconforming PWSF.

A. A personal wireless service facility (PWSF) that was built in compliance with the City's zoning regulations and was issued a certificate of completion, or if a certificate of completion was not issued, there was a valid building permit and an approved final inspection; and has been registered as a legal nonconforming structure, may continue in existence as a nonconforming structure. Such nonconforming structures may be modified or demolished and rebuilt on the same property as described in the certificate of completion or building permit, provided that the modified or rebuilt PWSF complies with all of the following:

1. A modified or rebuilt PWSF must have at least one additional antenna no larger in size than the antennas on the existing or pre-existing facility. If the PWSF has been rebuilt, the ground surface area shall not exceed one hundred twenty-five percent (125%) of the existing facility, including all appurtenant equipment storage facilities; and,

2. The height of a modified or rebuilt PWSF and the appurtenant antennas attached thereto shall not exceed the height of the existing facility or the height limitation of Section 20.08.455 (Personal Wireless Service Facilities), whichever is greater; and,

3. A rebuilt PWSF must have setbacks that are no more nonconforming than that of the pre-existing facility; and,

4. A modified or rebuilt PWSF shall be painted to reduce glare and reflections. No exterior paint colors shall be used which have a light reflecting value (LRV) greater than forty percent (40%). The LRV of a paint is available from paint manufacturers and it measures the amount of light reflected by a certain color; and,

5. All rebuilt ground-mounted PWSF located in and/or abutting residential and apartment zoning districts shall be camouflaged. Camouflaging is a method of disguising or concealing the appearance of an object by changing its usual color, modifying its shape, or locating it in a structure that complements the natural setting, existing and surrounding structures. In the context of this section, camouflaging includes, but is not limited to, making PWSF antenna support structures resemble man-

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made trees, locating PWSF antenna support structures in bell steeples or clock towers, or on similar alternative-design mounting structures.

6. A modified or rebuilt PWSF shall maintain the same screening and landscaping as the existing or pre-existing facility; provided, however, that this section shall not prevent additions or improvements to the landscaping in accordance with the landscaping ordinance; and,

7. A rebuilt PWSF may be constructed prior to the demolition of the existing nonconforming PWSF, so long as the rebuilt PWSF is constructed in accordance with the provisions of this Section, and the existing nonconforming PWSF shall be completely demolished within thirty (30) days from the date that the rebuilt PWSF is issued a certificate of completion; and,

8. If two or more nonconforming ground-mounted PWSF within a ½ mile radius are demolished in a coordinated effort to collocate the existing antennas onto one structure, a new PWSF may be rebuilt on any of the sites. The height of the rebuilt PWSF and the appurtenant antennas attached thereto shall not exceed the height of the tallest of the pre-existing facilities, or the height limitation of Section 20.10.455 (Personal Wireless Service Facilities), whichever is greater. The setbacks of the rebuilt PWSF shall be no more nonconforming than the most nonconforming of the pre-existing facilities.

B. The issuance of a permit pursuant to this Section allowing the modification or demolition and rebuilding of an existing nonconforming PWSF shall not be considered a determination that the modified or rebuilt PWSF is conforming.

C. Except as provided in this Section, a nonconforming PWSF may not be enlarged, increased in size, or modified without being brought into compliance with the regulations of Section 20.10.455 (Personal Wireless Service Facilities).

D. Abandonment and termination of a nonconforming PWSF.

1. A nonconforming PWSF is deemed abandoned and the right to operate a nonconforming PWSF shall terminate immediately if any of the following occur:

a. the nonuse of the PWSF for a continuous period of one hundred twenty (120) days or more;

b. a portion or all of the PWSF is damaged or destroyed by the intentional act of the owner or his agent.

c. Discontinuance or abandonment shall be conclusively deemed to have occurred irrespective of the intent of the property owner if the nonconforming PWSF is dilapidated, substandard, or is not maintained in a suitable condition during a continuous period of one hundred twenty (120) days.

CHAPTER 20.24

ENFORCEMENT – PENALTY

- 20.24.010 Civil and Criminal Penalties**
- 20.24.020 Criminal Prosecution**
- 20.24.030 Civil Remedies**

20.24.10 Civil and Criminal Penalties

The City shall have the power to administer and enforce the provisions of this Title as may be allowed by governing law. Any person violating any provision of this Title is subject to suit for injunctive relief as well as prosecution for criminal violations. Any violation of this Title is hereby declared to be a nuisance.

20.24.020 Criminal Prosecution

Any person violating any provision of this Title shall be guilty of a misdemeanor and upon conviction, be fined a sum not exceeding two thousand dollars and no cent (\$2,000.00). Each day that a provision of this Title is violated shall constitute a separate offense. An offense under this Title is a Class C Misdemeanor.

20.24.030 Civil Remedies

Nothing in this Title shall be construed as a waiver of the City’s right to bring a civil action to enforce the provisions of this Title and to seek remedies as allowed by law, including, but not limited to the following:

1. injunctive relief to prevent specific conduct that violates this Title or to require specific conduct that is necessary for compliance with this Title; and,
2. a civil penalty up to five hundred dollars and no cent (\$500.00) a day when it is shown that the defendant was actually notified of the provisions of this Title and after receiving notice committed acts in violation of this Title or failed to take action necessary for compliance with this Title; and,
3. any other available relief.

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