

ORDINANCE 2018-03

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS AMENDING THE CODE OF ORDINANCES, CHAPTER 14 TITLED "ZONING," ARTICLE 14.03 TITLED "HISTORIC LANDMARK PRESERVATION"; AND ADDING APPENDIX A TITLED "FEE SCHEDULE," SECTION A14.01.003 TITLED "FEES FOR HISTORIC LANDMARK PRESERVATION"; AS ATTACHED IN EXHIBIT A; PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City adopted Ordinance 98-42 creating the Historic Landmark Preservation Ordinance, in recognition of the need and desire to preserve and maintain historic structures within the City; and

WHEREAS, Ordinance 98-42 was amended by Ordinance 2003-12 and Ordinance 2007-30 to continue and strengthen historic preservation through creating incentives; and

WHEREAS, the City Council finds that the Historic Landmark Preservation Ordinance has been beneficial to the health, safety, and welfare of the public by preserving historic assets within the City; and

WHEREAS, the Historic Landmark Commission has evaluated the effectiveness of the Historic Landmark Preservation Ordinance and recommended certain revisions to improve the effectiveness and administration of the ordinance; and

WHEREAS, the Historic Landmark Commission reviewed the proposed ordinance and recommended approval at their regular February 22, 2018 meeting; and

WHEREAS, notice of the public hearing was placed in the newspaper March 3, 2018, in accordance with the Bastrop Code of Ordinances, Chapter 14; and

WHEREAS, the Planning & Zoning Commission reviewed the proposed ordinance, and after a public hearing, recommended approval at their regular March 29, 2018 meeting; and

WHEREAS, the City Council finds that the adoption of the ordinance would further enhance the public health, safety, and welfare for the citizens of Bastrop through preservation of historic landmarks and historic districts.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1: The Code of Ordinances of the City of Bastrop, Texas, is hereby amended by replacing Chapter 14 "Zoning," Article 14.03 "Historic Landmark Preservation" and adding Appendix A "Fee Schedule," Section A14.01.003 "Fees for Historic Landmark Preservation"; as attached in Exhibit A.

Section 2: To the extent reasonably possible, ordinances are to be read together in harmony. However, all ordinances, or parts thereof, that are in conflict or inconsistent with any

provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matter regulated, herein.

Section 3: Should any word, sentence, paragraph, subdivision, clause, phrase or section of this Ordinance or of the City of Bastrop Code of Ordinances, as amended hereby, be adjudged or held to be voided or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinances or the City of Bastrop Code of Ordinances, as amended hereby, which shall remain in full force and effect.

Section 4: This Ordinance shall take effect upon adoption, or when all applicable publication requirements, if any, are satisfied in accordance with the City's Charter, Code of Ordinances, and the laws of the State of Texas.

READ and ACKNOWLEDGED on the First Reading on the 10th day of April, 2018.

READ and ADOPTED on the Second Reading on the 24th day of April, 2018.

APPROVED:



Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

ARTICLE 14.03 - HISTORIC LANDMARK PRESERVATION

Sec. 14.03.001 - General.

(a) *Purpose and intent.* The City Council hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of sites, landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) Protect and enhance the landmarks, which represent distinctive elements of the city's historic, architectural, and cultural heritage;
- (2) Foster civic pride in the accomplishments of the past;
- (3) Protect and enhance the city's attractiveness to visitors, thereby supporting and stimulating the economy;
- (4) Insure the harmonious, orderly, and efficient growth and development of the city;
- (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;
- (6) Encourage stabilization, restoration, and improvements of such properties and their values.

(b) *Definitions.* The following definitions shall apply to this article.

Alteration. Any change, demolition or modification to a structure or site designated as a Historic Landmark or located in a local historic district including, but not limited to the following:

- (1) Exterior changes to or modification of any buildings or structures, architectural details or visual characteristics
- (2) Construction of new structures
- (3) Disturbance, placement or removal of exterior objects that affect the exterior qualities of the property.

Architectural Element: The unique details and component parts that combined, form the architectural style of a structure, building or object.

Certificate of Appropriateness: A document evidencing the approval of the Historic Landmark Commission, signed and dated by the Chairperson of the Historic Landmark Commission, for alteration, installation, relocation, excavation, restoration, modification, rehabilitation, change, demolition, construction, removal, or improvement of a Historic Landmark or of a building or property located within a local historic district.

Construction: The act of adding an addition to an existing building, structure or object or the erection of a new principal or accessory building, structure or object on any lot, parcel or site.

Contributing Structure: A building, structure, property or object within a local historic district which has not been designated a historic landmark under this ordinance, but which adds to the historical integrity or architectural qualities that make the local Historic District significant.

Demolition: An act or process which: (1) destroys a lot, parcel or site or building, structure or object in its entirety, (2) destroys a part of a lot, parcel or site or building, structure or object and permanently impairs its structural, historic or architectural integrity, (3) removes the building, structure or object or any part thereof from the original lot, parcel or site without the requisite Certificate of Appropriateness and/or moving permit, or (4) removes architectural elements and features from the exterior of a building, structure or object.

Design Guidelines: Architectural and style guidelines adopted by the City that encourage and promote the existing historical features of the City and detail those alterations, installations, relocations, excavations, restorations, modifications, rehabilitations, changes, demolition, construction, removal, or improvement of a Historic Landmark or of a structure or site located within a local historic district that are deemed compatible and appropriate for the area. If local design guidelines have not been adopted, *The Secretary of the Interior's Standards for the Treatment of Historic Properties* shall be used as the design guidelines.

Historic district: A geographically defined neighborhood or area that has a significant historical, architectural, or cultural significance to the overall character and identity of the City.

Historic Landmark: A site, and/or all structure(s), located *thereon*, that have been designated by the City of Bastrop through criteria established within this Ordinance.

Inventory: A list of properties that have been identified and evaluated as meeting specified criteria of significance as a contributing or non-contributing historic structure or site.

Non-Contributing Structure: A structure within a designated local historic district that is not considered to be of historical significance or which does not possess significant physical features, historical associations, or historical architectural qualities.

Ordinary maintenance: This generally refers to activities relating to a property that would be considered ordinary or common for maintaining the property, such as a) Repair using the same material and design as the original and does not require structural modifications; b) Repainting; c) Reroofing, using the same type; or d) Repair of sidewalks and driveways.

Overlay zones: A set of zoning requirements that is described in the ordinance text, is mapped, and is imposed in addition to those of the underlying district. Development within the overlay zone must conform to the requirements of both zones or the more restrictive of the two.

Preservation: The stabilization of an historic building, its materials and features in their present condition to prevent future deterioration. Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time.

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

Rehabilitation: The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

Removal: Permanently moving a structure or feature from its current location.

Relocation: Any change of the location of a structure in its present location to another location within the city limits.

Restoration: The act or process of accurately recovering the form and details of a building, structure or object or lot, parcel or site and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacements of missing earlier work.

Sign: Any object, device, display, or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, designs, symbols, fixtures, colors, illumination, or projected images. The foregoing enumeration of signs shall not be considered exclusive. The term "sign" shall include all other devices or structures as may reasonably be included under it, whether attached or unattached. The definition excludes all governmental flags and signs of governmental entities.

Significant Historic Landmark: A designation established under Ordinance 2007-30 for a site or structures.

Site: The location of a significant event, a prehistoric or historic occupation or activity, building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, architectural or archeological value regardless of the value of any existing structure.

Structure: Something built or constructed, such as a building, bridge, monument, or statue.

- (c) *Historic landmark commission created.* There is hereby created a commission to be known as the city historic landmark commission.
- (1) The commission shall consist of seven members, residents of the city, to be appointed by the mayor with approval by the City Council as follows; every effort will be made to find professionals who meet the criteria below:
 - (A) One shall be an architect, planner, or representative of a design profession;
 - (B) One shall be a representative elected by the county historical society;
 - (C) One shall be a licensed real estate professional;
 - (D) One shall be an owner of an historic commercial structure or property;
 - (E) One shall be an owner of an historic residential structure or property;
 - (F) One shall be a member from the city's Planning and Zoning Commission;
 - (G) One shall be a general resident of the city.

- However, if specified professionals above cannot be appointed, City Council will consider other types of professionals.
- (2) All commission members, regardless of background, shall have a known and demonstrated interest, competence, or knowledge in historic preservation within the city.
 - (3) Commission members shall serve for a term of three (3) years, with the exception of the member who is serving on the commission as the Planning and Zoning Commission representative, and that member shall serve for a term that is concurrent with that member's Planning and Zoning Commission term.
 - (4) Each seat on the commission will be assigned a "place." Commission members' terms of service shall be "staggered," so that the entire membership of the commission will not be subject to replacement at any single point in time. In the event of a vacancy on the commission, an individual appointed to fill the vacancy will serve only the remaining term of the individual who is being replaced by the appointee, so that the staggering of terms shall remain intact.
 - (6) Attendance requirements for the commission members are set forth in Section 1.02.002(b).
 - (7) The commission shall be empowered to:
 - (A) Prepare rules and procedures as necessary to carry out the business of the commission, which shall be ratified by the City Council.
 - (B) Approve or disapprove Certificates of Appropriateness, demolition or removal of historic structures, and economic hardship applications.
 - (C) Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks.
 - (D) Make recommendations to the City Council on the designation of Historic Landmarks, Historic Districts, contributing and non-contributing structures.
 - (E) Make recommendations for properties to the National Register of Historic Places.
 - (F) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
 - (G) To assist the City Council in the adoption of design guidelines for the exteriors of Historic Landmarks, properties located inside of Historic Districts, and contributing and non-contributing structures, to address architectural and general design elements of structures, including acceptable materials for construction; appropriate architectural character, scale, and detail; acceptable appurtenances or additions to new or existing structures; and acceptable textures and ornamentation.
 - (H) Prepare and submit annually to the City Council a report summarizing the work completed during the previous year.
 - (I) To perform any other functions requested by City Council.
 - (8) The commission shall meet at least monthly, if business is at hand. Special meetings may be called at any time by the Chair, or on the written request of any two commission members.
- (d) *Appointment of Historic Preservation Officer.* The City's Planning Director or other city staff designated by the City Manager shall serve as Historic Preservation Officer. This officer shall

have as a principal duty the administration of this ordinance and the coordination of the City's various efforts and programs that further historic preservation.

Sec. 14.03.002 - Categories of preservation.

(a) Establishment of categories

There shall be two categories of preservation for historically, culturally, architecturally or archaeologically significant properties in the city, as follows:

- (1) Historic Landmarks,
- (2) Local Historic Districts, which may contain Historic Landmarks and contributing structures or sites; and non-contributing structures or sites.

(b) Criteria for Historic Landmark status

- (1) A structure or site is considered a local Historic Landmark if it is designated as a Recorded Texas Historic Landmark or State Archeological Landmark, or is included on the National Register of Historic Places.
- (2) A structure or site also may be designated by the City as a Historic Landmark if it meets two or more of the criteria set out below.
 - (A) Possesses significance in history, architecture, archeology, or culture;
 - (B) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
 - (C) Is associated with the lives of persons significant in our past;
 - (D) Embodies the distinctive characteristics of a type, period, or method of construction;
 - (E) Represents the work of a master designer, builder, or craftsman; or
 - (F) Represents an established and familiar visual feature of the City.

(c) Process for designation of Historic Landmarks

- (1) Owners of property being considered for designation as a Historic Landmark shall be notified prior to the Commission hearing on the recommended designation. The Commission shall provide notice to property owners within two hundred (200) feet of the property and conduct a public hearing.
- (2) After consideration by the Historic Landmark Commission, a recommendation regarding designations shall be submitted the City Council to conduct a public hearing and consider the designations of a Historic Landmark. The adoption of the Landmark shall be through a Resolution.
- (3) Upon designation of a Historic Landmark, the City Council shall cause the designation to be noted as follows:
 - (a) Recorded in the Official Real Property Records of Bastrop County
 - (b) Designated on the Historic Resource Map of the City of Bastrop
 - (c) Provide the property owner with a plaque and require the installation indicating the designation of the landmark as a City of Bastrop Historic Landmark.

(d) Process for removal of Historic Landmarks designation

- (1) Designated Historic Landmarks shall retain such designation until such time as the City Council, upon receipt of an application from the owner, approves the withdrawal. The procedures for a removal of designation of a Historic Landmark shall follow the same process as the designation process.
 - (A) Criteria for approving removal:
 - i. The original criteria that was met to receive the designation is no longer applicable for reasons not attributable to the acts or omissions of the owner or occupant.
 - ii. The site or structure has been rendered unreasonably irreparably altered by an Act of God.
 - (2) The required majority for City Council approval for removal of designation shall be two-thirds of the full membership.
- (e) *Criteria for creation of a Historic District*
An area of the City may be considered for designation as a Historic District if it:
- (1) Contains properties and an environmental setting which meet one or more of the criteria for designation of a Historic Landmark; or
 - (2) Constitutes a distinct section of the City that possesses a unique historical, architectural, archeological or cultural significance.
- (f) *Process for the designation of local historic district*
- (1) These provisions pertaining to the designation of local historic districts constitute a part of the official zoning map of the City of Bastrop.
 - (2) Upon recommendation of the Historic Landmark Commission and the Planning and Zoning Commission, the City Council may establish, after following all required legal procedures, one or more Historic Districts. The Historic Landmark Commission shall prepare, or cause to be prepared, and adopt, design guidelines for each individual district, including standards for new and/or infill construction. If there is more than one district, and the Historic Landmark Commission finds that design guidelines for one district are appropriate for another district, they may adopt the same guidelines.
 - (3) An inventory of all contributing and non-contributing structures located within a historic district to be prepared and the record of the status of each structure within each historic district shall be maintained in City records.
 - (4) Owners of property located within an area considered for designation as a local historic district shall be notified prior to the public hearing(s) on the recommended designation. The adoption of a local district will be processed according to the same procedures required for a zoning amendment. At the public hearing(s), owners, interested parties, and technical experts may present testimony or documentary evidence that will become part of a record regarding the historic, architectural, or cultural importance of the proposed local Historic District.
 - (5) Upon designation of a local historic district, the City Council shall cause the designation to be recorded as follows:
 - (a) Recorded in the Official Real Property Records of Bastrop County,

- (b) Designated on the Historic Resource Map of the City of Bastrop.
- (6) Designated Historic Districts shall retain such designation until such time as the City Council, upon receipt of an application and formal request made by at least 51 percent of the owners of real property located within the Historic District petitions for removal. The procedures for a removal of designation of a local Historic District shall follow the same process as the designation process.
 - (A) Criteria for approving removal
 - i. The original criteria that was met to receive the designation is no longer applicable for reasons not attributable to the acts or omissions of the owner or occupant.
 - ii. The site or structure has been rendered unreasonably irreparably altered by an Act of God.
- (7) The required majority for City Council approval for removal of designation shall be two-thirds of the full membership.
- (g) Any existing structure or site designated as a Significant Landmark or a Historic Landmark under Ordinance No. 2007-30 are specifically saved from repeal and shall retain such designation until such time that those designated landmarks are redesignated in accordance with the processes and procedures under this ordinance. As soon as practical following adoption of this Ordinance, the City shall begin the process to designate any landmarks deemed appropriate for consideration as Historic Landmarks in accordance with the processes and procedures contained within this ordinance.
- (h) *Relationship of designations to zoning*
 - (1) If there is any conflict between the design guidelines and any provision of the zoning ordinance, the most restrictive regulation shall apply.
 - (2) If there is any conflict between the provisions of this section and any other provision of the zoning ordinance, the most restrictive regulation shall apply, in the absence of a specific directive to the contrary.

Section 14.03.003. Certificate of Appropriateness

- (a) *Requirement for Certificate of Appropriateness*

No person, firm, corporation or other organization shall carry out any project that includes the construction, reconstruction, alteration, restoration, rehabilitation, relocation or demolition of any Historic Landmark or any structure, site or sign within a Historic District, nor shall any person make any material change to any structural exterior elements or architectural features visible from a public right-of-way which affect the appearance and cohesiveness of any Historic Landmark or any structure or site within a Historic District without prior approval of a Certificate of Appropriateness.
- (b) *Certificate of Appropriateness Exemptions*

A Certificate of Appropriateness shall not be required for the following:

 - (1) Ordinary maintenance, as defined in this Ordinance.

- (2) Interior construction or alterations provided the alterations do not alter the exterior wall of the building.
- (3) New, modifications or removal of existing awnings (to include changes in color), canopies, exterior paint color or exterior lighting that are attached to a single-family or two-family residential structure provided the alterations do not alter the exterior wall of a building designated as a historic landmark.
- (4) Demolition of a building or structure that the Building Official has declared a dangerous structure in accordance with Article 3.12 of this Ordinance, as amended, or determined that demolition is necessary for the preservation of the public health, safety and welfare.
 - (A) Should the Building Official declare a building a dangerous structure or determine that demolition is necessary for the preservation of public health, safety and welfare, the Building Official shall coordinate with the Historic Preservation Officer and property owner to identify historic and significant architectural features that are unique to the building or structure, era or district and that may be salvaged.
 - (B) The Historic Preservation Officer shall create a record of the building or structure to be demolished through archival-quality photo-documentation, drawings, and other information similar to those required by the Historic American Buildings Survey. The list of identified historic and significant architectural features to be salvaged shall also be made part of this record.
- (5) New fence, railing or wall that is consistent with the Historic District's characteristics and applicable guidelines.
- (6) Site landscape alterations and other hardscape features provided that these do not alter a building or structure designated as a Historic Landmark or that is a contributing historic structure to the Historic District.

(c) *Certificate of Appropriateness Application Procedure*

- (1) When a Certificate of Appropriateness is required, no work can begin before the Historic Preservation Officer or the Commission has first issued a Certificate of Appropriateness. The Certificate of Appropriateness shall be in addition to and not in lieu of any permits required (i.e. building, sign, alcohol, etc.). The Building Official cannot approve any application for a sign or building permit to a structure and/or site that requires, but does not have a Certificate of Appropriateness.
- (2) The owner or owner's agent shall file an application, as provided by the City, for such a certificate. The application shall contain at a minimum:
 - (A) Application fee as established in Appendix A – Fee Schedule
 - (B) Contact information for the applicant and/or owner;
 - (C) A detailed description of all proposed work;
 - (D) Location and photographs of existing conditions;
 - (E) Elevation drawings, photographs, or illustrations of the proposed changes;
 - (F) Samples of materials to be used;
 - (G) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property; and
 - (H) Any other information that the City may deem necessary in order to visualize the proposed work.

- (l) The Historic Preservation Officer shall review the submission and determine if the application is complete. If the application does not meet the requirements to be approved administratively, the application will be forward to the Historic Landmark Commission for consideration at their next available meeting agenda.
- (d) *Administrative Approval of a Certificate of Appropriateness*
- (1) A Certificate of Appropriateness may qualify for administrative approval by the Historic Preservation Officer if the proposed project meets all of the following conditions:
 - (A) All of the standards identified in the Design Guidelines for the specific district in which it is located are met;
 - (B) There will not be a change in materials or design of the structure or site;
 - (C) There is no increase in the height of an existing structure or site;
 - (D) The neighborhood compatibility standards established within the Design Guidelines for the specific district in which it is located are met;
 - (E) There is no demolition of any structure or site;
 - (F) The proposed structure or site is not designated as a Historic Landmark.
 - (2) The Historic Preservation Officer may elect to present a Certificate of Appropriateness to the Historic Landmark Commission for review and consideration.
 - (3) If the Historic Preservation Officer does not approve a Certificate of Appropriateness, the application may be forwarded to the Historic Landmark Commission for review and consideration at the request of the applicant.
- (e) *Historic Landmark Commission Approval of Certificate of Appropriateness*
- (1) The Commission shall review an application for a certificate of appropriateness at a regularly scheduled or special meeting within forty-five (45) days from the date the application is deemed administratively complete for review, at which time an opportunity will be provided for the applicant to be heard. The Commission shall approve, deny, or approve with conditions or modifications the permit, within thirty (30) days after the review meeting, provided however, both review and action may occur at the same meeting. In the event the Commission does not act within sixty (60) days from the date the application is deemed administratively complete for review, a permit will be deemed approved.
 - (2) All decisions of the Commission shall be in writing. The Commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be provided to the applicant and a copy shall be maintained in the files of the Planning and Development Department and distributed to other appropriate city departments.
 - (3) An applicant for a Certificate of Appropriateness who is dissatisfied with the action of the Commission relating to the issuance or denial of a Certificate of Appropriateness shall have the right to appeal the determination to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal request will be place on the next available City Council agenda. To be considered, the appeal shall set forth in writing the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

- (4) A Certificate of Appropriateness shall expire two (2) years from the date of approval if the proposed scope of work has not been completed. If a building permit for approved work has been issued, the Certificate of Appropriateness will expire two (2) year from the permit issue date. The Commission, upon determination of a reasonable need, may authorize one (1) extension of an additional six (6) months to obtain a building permit for the work in which the Certificate of Appropriateness was approved upon showing of just cause by the applicant.

(f) *Criteria of Approval of a Certificate of Appropriateness*

- (1) In considering an application for a Certificate of Appropriateness, the commission shall be guided by any locally adopted design standards, and where applicable, the following from the *Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings*. Any adopted design standards and *Secretary of the Interior's Standards* shall be made to the property owners of historic landmarks.
 - (A) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.
 - (B) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (C) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier or later appearance shall be discouraged.
 - (D) Changes that may have taken place in the course of time are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (E) Distinctive stylistic features or examples of skilled craftsmanship which characterize, a building, structure, object, or site shall be kept to the greatest extent practical.
 - (F) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other building or structures.
 - (G) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (H) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
 - (I) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant

historical, architectural, or cultural material, and such design is compatible with the size, color, material, and character of the property, neighborhood, or environment.

- (J) Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

(g) *Consideration of Previously Denied Application*

A new application for a Certificate of Appropriateness for a structure or site that was previously denied a similar Certificate of Appropriateness shall not be considered if the Historic Landmark Commission or the City Council, on appeal, for the structure or site within one (1) year from the date of the final decision. If there has been a substantial change in the conditions affecting the structure or site or the proposed project is substantially different from the previous application, the City may find that are sufficient to warrant consideration prior to the one (1) year period.

(h) *Enforcement*

- (1) All work performed pursuant to a Certificate of Appropriateness issued under this ordinance shall conform to any conditions or requirements included therein. It shall be the duty of the building inspector or his designee to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the Certificate of Appropriateness, the building official or his designee shall issue a stop-work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop-work order is in effect.
- (2) A stop-work order may be lifted following submission and approval of plans for corrective action or work, or other plans to bring the project into compliance with the conditions or requirements of the Certificate of Appropriateness or other approvals.

Section 14.03.004. Certificate of Appropriateness Required for Demolition or Relocation

(f) *Certificate of Appropriateness for Demolition or Relocation Required*

A permit for demolition, removal, or relocation for any Historic Landmark or any structure or site within a local historic district shall not be granted by the City without the review and approval of a Certificate of Appropriateness by the Historic Landmark Commission in accordance with the provisions of this ordinance.

(g) *Procedure for Certificate of Appropriateness for Demolition*

- (1) An application for a Certificate of Appropriateness shall contain the following minimum information:
 - (A) Application fee as established in Appendix A – Fee Schedule
 - (B) Owner and agent contact information;
 - (C) A detailed description of the reason the proposed demolition is necessary;
 - (D) Location of the proposed demolition;

- (E) Evidence of the existing conditions of the property which justify the need for demolition;
 - (F) A detailed description of the methods of demolition including the process and procedure for removal of all debris and how surrounding properties will be protected during the demolition process;
 - (G) Any other information that the City may deem necessary in order to determine the need for the proposed demolition.
- (2) The Commission shall hold a public hearing on the application within forty-five (45) days after the date a complete application is filed with the City. The applicant, property owner, and all property owners located within two hundred (200) feet of the property proposed to be demolished shall be mailed a written notice ten (10) days prior to the hearing.
 - (3) When considering the Certificate of Appropriateness for Demolition, the Commission shall consider the following:
 - (A) The historic value of the structures or site;
 - (B) The state of repair of the structures or site;
 - (C) The existing and potential usefulness, including the economic usefulness, of the structures, buildings or objects on the lot, parcel or site;
 - (D) The reasons for preserving the structures, buildings or objects on the lot, parcel or site;
 - (E) The character of the neighborhood;
 - (F) Any other factors the Commission deems appropriate when considering the proposed demolition.
 - (4) When considering the Certificate of Appropriateness for Relocation, the Commission shall consider the following:
 - (A) The style of construction and compatibility with the local Historic District
 - (B) The historic value and structural state of the structure;
 - (C) The historic value of the site;
 - (D) The reasons for preserving the structure on an alternate site;
 - (E) The character of the neighborhood;
 - (F) Any other factors the Commission deems appropriate when considering the proposed demolition.
 - (5) If the Commission determines, that the evidence supports the demolition, removal or relocation of the structure or if the Commission determines that the interest of preserving historic values will not be adversely affected by such demolition, removal or relocation that the interest of preserving historical values can best be served by the removal of the structures, buildings or objects, it shall issue a Certificate of Appropriateness for Demolition of the structures or site.
 - (6) If no action has been taken by the Commission within sixty (60) days of original receipt by the Commission of the application, the Certificate of Appropriateness for Demolition shall be deemed approved by the Commission.
 - (7) Any applicant who is dissatisfied with the action of the Commission relating to the issuance or denial of a Certificate of Appropriateness shall have the right to appeal the determination to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal request will be placed on the next available City Council agenda. To be considered, the appeal shall set forth

the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

Section 14.03.005. Failure to Maintain Resulting in Demolition by Neglect

(a) State of Demolition by Neglect

No owner or person, firm, corporation or other organization with an interest in real property that is designated as a Historic Landmark, a structure or site that has been certified, registered or designated by any Federal, State or other authorized body/entity as having historical significance, or any structure or site that is located within a local Historic District, shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of a Historic Landmark, the District as a whole, or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration of exterior chimneys.
- (4) Deterioration or crumbling of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.
- (6) Deterioration of any feature creating a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(b) Demolition By Neglect Hearing Procedure

- (1) Upon notification to the Commission of such a state of disrepair, the Commission shall notify the owner in writing, informing the owner of the violation and the specifics of the alleged deterioration, requesting that the owner appear before the Commission for determination of the existence of detrimental deterioration.
- (2) If, after a public hearing before the Commission, the Commission determines that the deterioration has produced a detrimental effect as described in Subsection A of this section, the owner shall cure the deterioration by restoration or other appropriate actions within a reasonable period of time as determined by the Commission but in no case longer than 180 calendar days from the determination by the Commission. The owner must comply with all requirements of requesting a Certificate of Appropriateness from the Commission. Failure of the owner to cure the deterioration within the time specified by the Commission shall cause the property owner to be subject to penalties as defined in Section 14.03.009, which may be assessed civilly or in municipal court.

- (c) Any applicant who is dissatisfied with the action of the Commission relating to the issuance or denial of a Certificate of Appropriateness shall have the right to appeal the determination to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal request will be placed on the next available City Council agenda. To be considered, the appeal shall set forth the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

Section 14.03.006. Incentives for Historic Landmarks**(a) Continuation of Existing Incentives**

All properties previously granted an Incentive (refund of City Taxes) under Section 14.03.002 of the Bastrop Code of Ordinances as of the date of this Ordinance shall be eligible to maintain the Incentive and are specifically saved from repeal; however, the City Council may modify or end the program at any time at the City's discretion. A list of all properties subject to the Incentive, along with the determination of what historic elements are to be included in the valuation of the Incentive, shall be maintained on file in the City's Historic Preservation Officer's and the City Secretary's office.

(b) New Applications for Incentives

To encourage historic preservation, the City may offer an incentive to owners of local Historic Landmarks to encourage the stabilization, rehabilitation and renovation of properties designated as historic landmarks. The incentives may include:

- (1) Historic Landmark Marker: Owners of qualifying historic landmarks will be presented with an official historic landmark marker to designate the structure, with the cost of the marker borne by the City.
- (2) Property Tax refund: Owners of qualifying historic landmarks may be eligible for a refund of a portion of their City property taxes, provided under paragraph (c) below.

An owner seeking inclusion in the Incentive program shall submit an application to the Historic Preservation Officer to determine whether the property meets the criteria for a local Historic Landmark. Incentives will be granted upon the favorable recommendation of the Historic Landmark Commission and approval by the City Council.

(c) Calculation of Refund Incentives

The amount of the refund shall be based on a uniform percentage of the assessed value of the contributing structures, determined by the City Council, each budget year, which can be financed by the amount of general funds appropriated for such refunds. Refunds shall be based on the assessed value of the historic improvements only and shall exclude the value of the underlying land or any noncontributing structures. Refunds will be based on taxes paid in full by July 31st. Eligibility for such refund shall require compliance with all requirements of this Ordinance.

(d) Required Maintenance Standards

To be eligible to receive the annual refund, all buildings and the exterior premise of a historic landmark property shall be properly maintained to achieve a presentable appearance, avoid hazardous conditions, and meet the following minimum standards:

- (1) Roof: The roof shall not have any missing or broken shingles, significant buckling, warping, or peeling of the surface and must be clear of vegetation. There shall be no signs of decay, dry rot or structural integrity issues in the roof structure.
- (2) Exterior walls: The exterior walls shall not have any missing boards, bricks or other materials. No signs of cracks, dry rot or decay should be evident. Except for

- materials that have been designed to remain untreated, all exterior wood, composition or metal surfaces shall be protected from the elements by paint or other protective covering. Surfaces shall be maintained to be kept clean and free of flaking, loose, or peeling paint or covering.
- (3) Foundations: The foundation shall not have any significant cracking, shifting, or erosion. For pier and beam foundations, skirting should be in good condition and have no missing sections. The foundation shall be in good condition and not have missing foundation supports or signs of sagging.
 - (4) Exterior Doors: Doors shall be maintained to be structurally sound, fit within frames to be weatherproof, and have hardware that is in good condition.
 - (5) Windows: Windows shall be fully supplied with window glass, which is glazed and is without cracks or broken panes, shall have sashes in good condition, which fit within the frames, and maintained to exclude adverse weather elements from entering the structure.
 - (6) Porches: Every porch shall be maintained to be free of missing, defective, rotting or deteriorated foundations, supports, floors and steps, to be safe to use and kept in sound condition and in good repair.
 - (7) Stairways: Stairways shall be maintained free of rotted or deteriorated supports. Handrails and/or railings shall be firmly fastened and maintained in good conditions.
 - (8) Accessory Structures: All structures accessory to the dwellings, including detached garages, shall be maintained to be structurally sound, neatly maintained and in good repair.
 - (9) Fences and walls: If any fence, retaining wall, or similar structure is not found to be in a good state of structural repair, it shall be removed, replaced or repaired as required.
 - (10) Landscaping: All landscaping shall be maintained in a presentable appearance. Any landscaping or vegetation that is causing damage to the structure must be removed.
 - (11) Decorative features: Any other decorative elements of the site shall be maintained in good repair with property anchorage and in a safe condition.

If a historic landmark property has been determined by the Historic Preservation Officer, the Building Official, and Code Enforcement Official to be inadequately maintained, the property owner will be notified in writing and given thirty days (30) to correct the deficiencies. If the repairs are not completed and standards are not met, the Incentive will not be paid. An aggrieved property owner may appeal that determination to the City Council.

(e) *Loss of Incentives*

No owner, owner's agents, contractors and/or representatives shall alter or totally or partially destroy any Historic Landmark subject to incentives under this Section without first obtaining a Certificate of Appropriateness or Demolition Permit in accordance with the terms of this ordinance. If a Historic Landmark subject to incentives is altered or totally or partially destroyed without a Certificate of Appropriateness, the owner shall be required to restore the structure to its original state, within a reasonable period of time as established by the Commission but in no case longer than 180 calendar days from the date of any notice of violation provided to the property owner. No incentives will apply during the time that the owner is restoring the property. Failure to restore the Historical Landmark to its pre-destruction condition shall subject the owner to the penalties set forth in this Ordinance and the owner shall:

- (1) no longer be entitled to the incentives set forth herein, and

- (2) immediately remit to the City monies in an amount equal to the total City Tax revenues that were refunded in the current and prior years because of the incentives, plus interest calculated at an annual rate as established by the then-current Texas Private Prompt Payment Act.

If an owner has obtained a Certificate of Appropriateness for Demolition or Relocation under Section 14.03.004, then the Incentive for the structure will cease immediately upon the demolition or relocation, but no remittance of past refunds is required.

(f) *Transferability of Incentives*

The benefits of the incentive program relating to Historic Structures under this Section are transferable and run with the property.

Sec. 14.03.007 - Economic hardship.

(a) *Economic hardship application procedure*

- (1) After receiving written notification from the commission of the denial of a certificate of appropriateness, or an application to demolish, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the commission makes a finding that hardship exists.
- (2) When a claim of economic hardship is made due to the effect of this article, the owner must prove that:
 - (A) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (B) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (C) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (3) The applicant shall consult in good faith with the commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the commission.
- (4) The commission shall hold a public hearing on the application within sixty (60) days from the date the application is received by the either the building inspector or the preservation officer. Following the hearing, the commission has thirty (30) days in which to prepare a written recommendation to the building inspector or other official. In the event that the commission does not act within ninety (90) days of the receipt of the application, a permit may be granted by the building inspector.
- (5) All decisions of the commission shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the city clerk's office for public inspection. The commission's decision shall state the reasons for granting or denying the hardship application.
- (6) An applicant submitting a hardship application who is dissatisfied with the decision of the commission relating to the approval or denial of such application shall have the right to appeal the commission's decision to the City Council. The applicant has fifteen (15) calendar days from date of the Commission action to file for the appeal. The appeal

request will be place on the next available City Council agenda. To be considered, the appeal shall set forth the grounds for such appeal and shall provide the City with any pertinent evidence and all related documentation related to the appeal. The City Council shall use the adopted approval criteria for the appeal review.

Section 14.03.08. Penalties

Any person, firm, association of persons, corporation or other organization violating the provisions of this ordinance shall be deemed to be guilty of a misdemeanor and, upon conviction, shall be fined an amount not to exceed the amount set out in Appendix A – Fee Schedule, Article A14.01 of the Bastrop Code of Ordinances. Each day that a violation continues shall be deemed a separate and distinct offense. Violations of this ordinance may be enforced civilly and/or in municipal court, at the City’s discretion.

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Appendix A – Fee Schedule

A14.001.003 Fees for Historic Landmark Preservation

Historic Landmark Designation Consideration	\$100
Removal of Historic Landmark or Historic District	\$300
Certificate of Appropriateness	\$50
Certificate of Appropriateness Demolition or Relocation	\$100