

**WHEREAS**, Section 211.001 et seq. of the Texas Local Government Code authorizes the City Council to protect and preserve places and areas of historical, cultural or architectural importance and significance; and

**WHEREAS**, Section 211.001 et seq. of the Texas Local Government Code authorizes the City Council to regulate and restrict the construction, reconstruction, alteration, or razing of buildings or other structures to maintain and protect heritage and property values in designated places and areas of historical, cultural or architectural importance and significance; and

**WHEREAS**, Section 214.001 et seq. of the Texas Local Government Code, authorizes the governing body of a municipality to, by ordinance, require the vacation, relocation of occupants, securing, repair, removal, or demolition of a building dilapidated, substandard, or unfit for human habitation and a hazard to the public health, safety, and welfare based on minimum standards established for the continued use and occupancy of all buildings regardless of the date of their construction; and

**WHEREAS**, Section 214.00111 of the Texas Local Government Code provides additional authority to preserve substandard buildings as historic property to a municipality that is designated as a certified local government by the state historic preservation officer as provided by 16 U.S.C.A. Section 470 et seq.; and

**WHEREAS**, the City Council of the City of Brenham finds that the protection, preservation and enhancement of its historically and culturally significant places, areas and structures are important elements of the economic, educational, and cultural welfare of the City of Brenham; and

**WHEREAS**, the City Council finds historically and architecturally significant structures within a historically and architecturally significant area should be maintained in a manner that promotes the area and serves as a stimulus to the economic viability of the structure and the area; and

**WHEREAS**, the City Council finds that the preservation of the historic, architectural and cultural features will stabilize property values, and promote harmonious, orderly and efficient growth of the places and areas protected by this Ordinance; and

**WHEREAS**, the City Council finds that the enhancement of the area and its structures is in the best interest of the general welfare of the City of Brenham;

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

That the Code of Ordinances of the City of Brenham, Texas is hereby amended by adding Appendix B, to read as follows:

**Sec. 1. Short Title and Purpose.**

This Ordinance shall be known and may be cited as the “Historic Preservation Ordinance.” The City Council of the City of Brenham, Texas, hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance are necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that the historic districts and landmarks within the City of Brenham represent 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; and, therefore, this Ordinance is intended to:

- (a) Protect and enhance the districts and landmarks which represent distinctive elements of the City of Brenham’s historic, architectural, and cultural heritage;
- (b) Foster civic pride in the accomplishments of the past and to promote the use of historic landmarks for the culture, prosperity, education and general welfare of the people of the City of Brenham;
- (c) Protect and enhance the City of Brenham’s attractiveness to the community and its visitors, and thereby support and promote business, commerce, and industry, bringing economic benefit to the City and its citizenry;
- (d) Foster and encourage preservation, restoration and rehabilitation of properties within the historic districts and landmarks within the City, thereby preventing future blight;
- (e) Stabilize and improve the values of such properties;
- (f) Provide a review process for the continued preservation and appropriate development of the City’s historic resources;
- (g) Balance the rights of the public which justify preservation of the community’s history and culture, with those of private property owners who own and control property, and are entitled to the reasonable use and return from their assets;
- (h) Provide assistance to property owners and tenants as well as civic organizations concerned with historic preservation; and
- (i) Provide assistance to interested property owners with regard to preservation and renovation projects, e.g. tax incentives, low interest loans, design, construction, and pre-inspection consultations.

## **Sec. 2. Definitions.**

Words, phrases and terms not defined herein nor defined in the City of Brenham Zoning Ordinance shall be given their usual and customary meanings except where the context clearly indicates a different meaning.

- (a) **Administrative Certificate of Appropriateness:** A document evidencing the approval of the Historic Preservation Officer, signed and dated by him or her, for Insignificant Alterations as such term is defined herein.
- (b) **Appurtenance:** Features that define the design of a building, Structure or property including but not limited to porches, railings, columns, shutters, steps, fences, attic vents, sidewalks, driveways, garages, carports, outbuildings, gazebos, and arbors.
- (c) **Board:** The Brenham Historic Preservation Board.
- (d) **Certificate of Appropriateness (COA):** A document evidencing the approval of the Historic Preservation Board, signed and dated by the chairperson of the Board or the Historic Preservation Officer, as applicable, for the addition, installation, construction, alteration, change, Restoration, removal, or Demolition of any Exterior Architectural Feature, resource or other significant Appurtenance of any Historic Landmark or of any building or Structure located within a Historic District, to be issued in cases further defined in this Ordinance where approval for the same is required.
- (e) **City:** The City of Brenham, Texas.
- (f) **Demolition:** An act or process that destroys, dismantles or tears down, in part or in whole, a Landmark, or a building or Structure within a Historic District.
- (g) **Demolition by Neglect:** A situation in which a property owner allows, or is allowing, in part or in whole, a Historic Landmark, or building or Structure within a Historic District, to suffer severe deterioration beyond, or potentially beyond, the point of repair or Rehabilitation.
- (h) **District, Historic Overlay District, or Historic District:** An area that: 1) possesses a significant concentration, linkage, or continuity of sites, buildings, structures, or objects that are united historically or aesthetically by plan or physical development; and 2) is designated as a District, Historic Overlay District or Historic District pursuant to the applicable provisions of this Ordinance.
- (i) **Exterior Architectural Features:** The architectural style, design, general arrangement and components of all of the outer surfaces of a Structure, as distinguished from the interior surfaces, including but not limited to the kind, color and texture of the building material and the type and style of all windows, doors, lights and other fixtures of the Structure.
- (j) **Historic Preservation Officer:** The person who is appointed by the City Manager of the City of Brenham to administer the provisions of this Ordinance, or his or her designee.

- (k) Insignificant Alteration:** Minor changes to the appearance of exterior facades of a Structure which: 1) do not require a building permit; and 2) are reviewed and approved by the Historic Preservation Officer in compliance with Section 7 of this Ordinance.
- (l) Landmark:** Refers to any individual Structure or Site that: 1) is significant for historical, architectural, engineering, archeological, or cultural reasons; and 2) is designated as a Landmark pursuant to the applicable provisions of this Ordinance.
- (m) Ordinance:** This Historic Preservation Ordinance.
- (n) Ordinary Repairs and Maintenance:** Any work, the sole purpose and effect of which is to correct or prevent deterioration, decay or damage, including repair of damage caused by storm, fire or other disaster, and which does not result in a change in the existing appearance or materials of a Structure or property. Examples of this type of work are further described in Section 7 of this Ordinance.
- (o) Overlay Zone:** A set of zoning requirements that is adopted and described in the City of Brenham's Code of Ordinances, mapped, and is imposed in addition to those of the underlying zoning district. Development and improvements within the overlay zone must conform to the requirements of both zones, or the more restrictive of the two in the case of any conflict between the requirements.
- (p) Preservation:** The act or process of applying measures to sustain the existing form, integrity, and material of a Structure, and the existing form of a Site.
- (q) Rehabilitation:** The act or process of returning a Structure or property to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the Structure or property which are significant to its historical, architectural, and cultural values.
- (r) Restoration:** The act or process of accurately recovering the form and details of a Structure or property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.
- (s) Significant Alteration:** Additions or changes to any part of the exterior of a Structure that require a building permit; represents new construction or is added as material to an existing feature of a Structure, as well as changes that alter design, architectural elements or character of a Structure.
- (t) Site:** The location of a significant event, historic occupation or activity, or a Structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the purely economic value of any existing Structure.

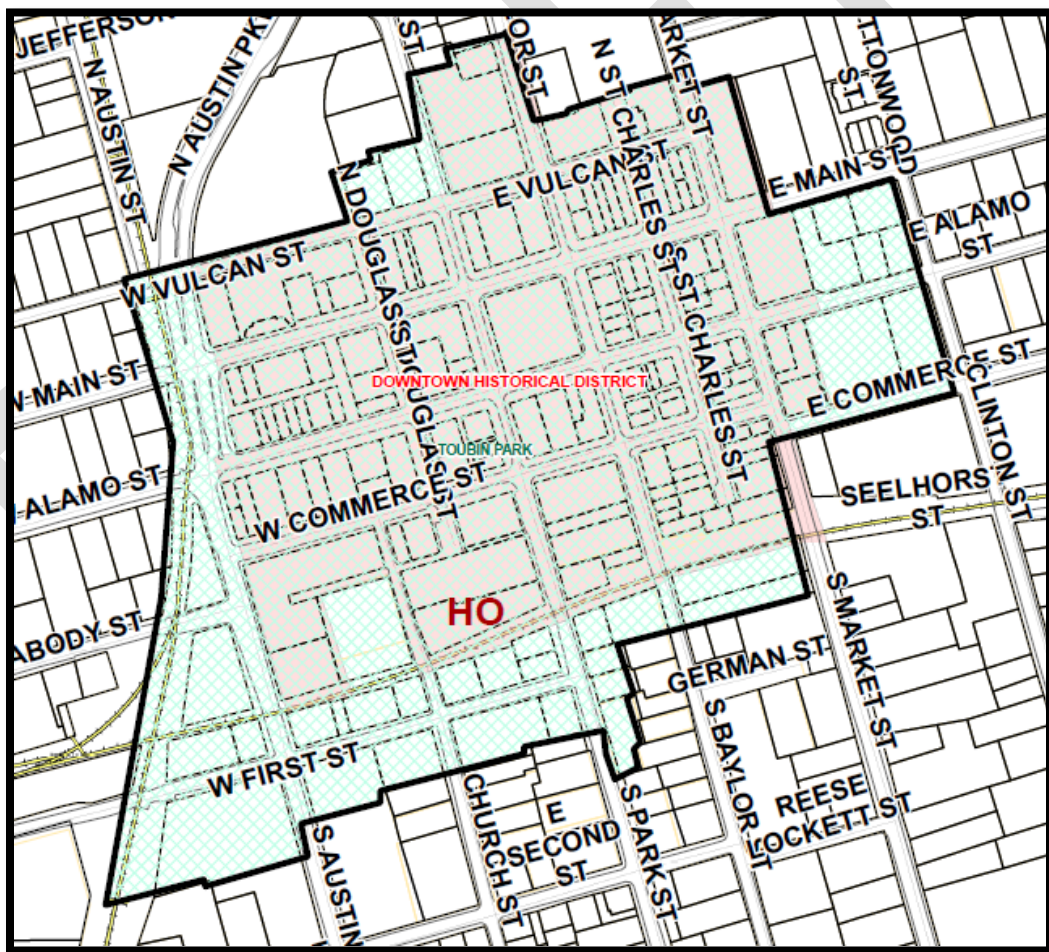
(u) **Sign Standards:** The applicable requirements and guidelines as are established in the City of Brenham Sign Ordinance, as may be amended from time to time.

(v) **Structure:** Any man-made building or object constructed or erected upon real property.

### Sec. 3. Historic Preservation Overlay District.

The areas designated on the City’s official zoning map with an “HO” are Historic Preservation Overlay Districts (also sometimes referred to herein as Historic Districts or Districts) in compliance with Section 6 of this Ordinance. Such Districts shall be labeled accordingly on the official zoning map for the City of Brenham and shall be subject to the regulations of this section which are intended to further the purposes of this Ordinance.

The Brenham Downtown Historic District (the “Downtown Overlay District”) is hereby adopted and the boundaries, as described herein below, are delineated on the official zoning map



and Historic Overlay District map.

**Downtown Historic Overlay District Map Containing 49.412 Acres**

#### **Sec. 4. Historic Preservation Board.**

There is hereby created a Board to be known as the Brenham Historic Preservation Board, hereinafter sometimes referred to as the “Board,” which shall be charged with the responsibility of assuring that the integrity of designated Historic Landmarks and properties within Historic Districts are protected. The members of this Board shall be subject to all requirements and provisions applicable to all board or committee members as may be established by the City Council.

- (a) The Board shall be composed of seven (7) voting members appointed by City Council, and a minimum of four (4) Board members shall be property owners within a Historic District, or an owner of a Historic Landmark. Other members should be appointed, to the extent possible, from the following categories: architect with historic preservation experience; planner; design professional; historian; licensed real estate broker; attorney; or member of a historic preservation society.
- (b) All Board members shall have a known and demonstrated interest, competence, or knowledge of historic preservation within the City, or in general.
- (c) Board members shall serve for staggered terms of three (3) years. For the initial Board members, the Historic Preservation Officer shall draw lots to establish the staggered terms with four (4) of the initial Board members serving 2-year terms and the remainder serving a full 3-year term. Board membership shall be limited to two (2) full consecutive terms, with a minimum one (1) year absence from the Board before consideration for reappointment.
- (d) The Chair and Vice-Chair of the Board shall be elected by and from the members of the Board and shall serve as said officers for a term of one (1) year.
- (e) The Board shall meet monthly if business is at hand. Special meetings may be called at any time as requested by the Historic Preservation Officer. All meetings shall be held in conformance with the Texas Open Meetings Act.
- (f) A quorum shall consist of not less than four (4) members.
- (g) The Board shall:
  - 1. Establish criteria for the identification of historic, architectural and cultural Landmarks.
  - 2. Recommend conferral of recognition upon the owners of Landmarks or within Districts by means of certificates, plaques or markers.
  - 3. Increase public awareness of the value of historic, cultural and architectural preservation by encouraging and participating in public education programs developed by the Historic Preservation Officer.
  - 4. Make recommendations to the City Council concerning the utilization of local, state, federal or private funds to promote the preservation of Landmarks and Historic Districts within the City.

5. Grant or deny Certificates of Appropriateness for Significant Alterations in accordance with Sections 8 and 9 of this Ordinance.
6. Adopt specific design guidelines for the review of Landmarks and Districts to ensure compatibility within the District.
7. Prepare and submit to the City Council an annual report on the state of historic preservation in the City, a summary of activities for the past year and a proposed program for the next year.
8. Perform any other such activities necessary to achieve the goals of this Ordinance, and other duties as assigned by the City Council.
9. Review and make comments to the Texas Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;
10. Monitor and report to the Texas Historical Commission any actions affecting any county courthouse, Recorded Texas Historic Landmark, State Antiquities Landmark, National Register property, and any locally designated landmark.

#### **Sec. 5. Historic Preservation Officer**

The City Manager shall appoint a qualified city staff person to serve as the Historic Preservation Officer (“HPO”). The HPO shall administer and enforce the terms of this Ordinance as provided herein and advise the Board, as an ex-officio member, on matters submitted to it.

The HPO shall review Certificate of Appropriateness Applications for Insignificant Alterations and grant or deny the application.

As the City of Brenham liaison to the Board, the HPO will ensure proper posting and noticing of all Board meetings, schedule applications for Board review; provide information packets to its members prior to the meetings, record meeting minutes and facilitate Board meetings.

In addition to serving as liaison to the Board, the HPO will maintain an inventory of significant historic, architectural and cultural Landmarks and Historic Districts within the City.

The HPO is responsible for coordinating the City’s preservation activities with those of state and federal agencies and with local, state and national nonprofit preservation organizations.

#### **Sec. 6. Designation of Historic Landmarks or Historic Districts**

##### *(a) Historic Districts*

*Historic District zoning designation.* Designation of a Historic District will be considered by City Council if requested by at least sixty percent (60%) of property

owners (one vote per property) within the proposed district and upon recommendation by the Historic Preservation Board and Planning and Zoning Commission. Such districts shall bear the words “Historic Overlay” (“HO”) in their zoning designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in the City’s zoning ordinance and in this Ordinance.

(b) *Historic Landmarks*

*Historic landmark designation.* Individual historic sites may be designated only upon the request of the property owner. Following an owner’s application, the Historic Preservation Board shall make a recommendation for or against such designation to the City Council which may designate certain buildings, sites, structures and objects as Historic Landmarks. Each such property or Resource shall bear the words “Historic Landmark” (“HL”) in its zoning designation. Such designation shall indicate that such property/Resource is subject to the terms of this Ordinance. Provided, however, with regard to site plans, uses, setback and other development and/or building regulations, such property shall be governed by its zoning district.

(c) *Criteria*

1. *Historic District criteria.* In making the designation of an area as a historic district, the City Council shall affirmatively find that the area has one or more of the following characteristics:
  - a. Possesses significance in history, architecture, archeology and/or culture.
  - b. Is associated with events that made a significant contribution to the broad patterns of local, regional, state and /or national history.
  - c. Is associated with the lives of persons significant in our past.
  - d. Embodies the distinctive characteristic of a type, period and/or method of construction.
  - e. Represents the work of a master designer, builder and/or craftsman;
  - f. Represents an established and familiar visual of the City.
2. *Historic Landmark criteria.* In making the designation of a place as a historic landmark, the City Council shall follow the criteria set forth in the historic district criteria subsection of this section as the same relate to an individual property, part of a property or Resource thereof.

(d) *Applications for Designation of Historic District or Historic Landmark*

1. Applications to designate or change the boundaries of a historic district or to designate a historic landmark must include:
  - a. A legal description of the boundaries of the district or site on which the historic landmark is located;



b. A photograph or photographs of each contributing building, structure, site, area or land;

c. A description of all buildings, structure, site, area or land showing the condition, color, and architectural style of each and:

1. Date of construction, if known;
2. Builder or architect, if known;
3. Chain of uses and ownership;
4. Building materials;
5. Construction technique; and
6. Summary of recognition of state or national government including reason designated, if applicable.

d. A statement of reasons for recommending designation or changes to the historic district or designation of the historic landmark, including a list of contributing buildings, structures, sites, areas or lands of importance and a description of the particular importance of each contributing building, structure, site, area or land;

e. Findings supporting designation of or change to the historic district or designation of the historic landmark according to the criteria in this section and indicating the particular importance or value of the historic district or the historic landmark; and

f. Signature of applicant. Eligible applicants are: property owner [or 60 percent of owners (one vote per property) in a proposed historic district of more than one property]; Historic Preservation Board (historic district only); or Historic Preservation Officer (historic district only).

2. The Board shall conduct a public hearing on the proposed historic district or historic landmark. At the Board's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of the record regarding the historic, architectural, or cultural importance of the proposed historic district or historic landmark. The Board shall prepare a recommendation on the proposed change stating its findings and evaluation within forty-five (45) days subsequent to the hearing on the proposed designation.

## **Sec. 7. Certificate of Appropriateness.**

- (a) Ordinary Repairs and Maintenance as defined above does not require a Certificate of Appropriateness.

**Ordinary Repairs and Maintenance** include, but are not limited to:

1. Painting an already painted surface the same color;
2. Repair of architectural features using the same materials;
3. New roof, if not seen from public right-of-way;
4. Cleaning a Structure of wood or non-masonry surfaces with low-to-mid pressure power washing;
5. Replacement of mechanical equipment; and
6. Replacement of foundation work, chimney work, or similar if no change in appearance occurs.

(b) Any person performing Significant Alterations must first obtain a Certificate of Appropriateness from the Board.

**Significant Alterations** include, but are not limited to:

1. Work requiring a building permit, unless otherwise specified herein;
2. Work that represents new construction and is added as material to an existing feature of a building;
3. Changes that alter design, architectural elements or character of a building; and
4. Moving or demolition of a Landmark or property within a Historic District visible from the public right-of-way.

(c) **New construction in Historic Districts.** The Board will review all new construction plans within Historic Districts in order to ensure the exterior architectural features visually complement the surrounding buildings and environment in relation to design, height, scale, and setback.

(d) Provided the application sought to be approved qualifies as an Insignificant Alteration, an Administrative Certificate of Appropriateness may be issued by the Historic Preservation Officer as an administrative matter without review by the Board. Any appeal of the decision shall be considered by the Board.

**Insignificant Alterations** include, but are not limited to:

1. Changes to exterior paint colors on previously painted surfaces;

2. Replacement of a non-historic door with one in keeping with the character and era in which the building was built;
3. Removal of non-historic features such as burglar bars, awnings, shutters;
4. Removal on non-historic siding to expose historic siding;
5. Elements attached to the exterior of any building or structure, including door hardware, hinges, mailboxes, and light fixtures; and
6. Minor modifications to an existing Certificate of Appropriateness that, after modification, still meets the intent of the original approval.

### **Sec. 8. Criteria for approval of a Certificate of Appropriateness.**

In considering an application for a Certificate of Appropriateness or Administrative Certificate of Appropriateness, the Board or Historic Preservation Officer shall be guided by any adopted design guidelines, and the following from *The Secretary of the Interior's Standards for Rehabilitation of Historic Buildings*. Any adopted guidelines and the *Secretary of the Interior's Standards* shall be made available to the public through the office of the Historic Preservation Officer and on the City's website.

The guidelines and standards adopted by this Ordinance are not intended to apply to the design, construction, and aesthetics of the interiors of buildings and Structures.

- (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 historic building, structure, object, or Historic Property of any kind 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 appearance shall be discouraged.
- (d) Changes which 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 retained wherever possible.
- (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 duplication of features, substantiated by historical, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings 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, scale, color, material, and character of the property, neighborhood, or environment.
- (j) Whenever 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.

#### **Sec. 9. Certificate of Appropriateness application procedures.**

- (a) Prior to the commencement of any work requiring a Certificate of Appropriateness, the owner or the owner's representative shall file an application and supporting materials for such certificate, and one (1) complete copy of the application and supporting materials, with the Historic Preservation Officer, who shall forward one (1) copy of the application and supporting materials to the City's Building Official or designee.

The property owner or the owner's representative shall consult with the Historic Preservation Officer prior to submission of the application with regard to the applicable standards and guidelines for the property.

- (b) The application shall contain all of the following information and items (except where otherwise noted):

1. Name and signature of applicant and property owner.
  2. Mailing address, phone number and email address of applicant and address, phone number and email address of property owner.
  3. The location and photographs of the existing conditions of the property and adjacent properties.
  4. A detailed description of the nature of the proposed work.
  5. Samples of materials to be used, including paint color chips that will be used.
  6. Evidence of historic authenticity (photographs). (Significant Alterations only)
  7. Site plan and exterior elevations (Significant Alterations only)
- (c) The Board shall review the application at a regularly scheduled, or specially called meeting within forty (40) days from the date that the application was received. The Board may hold any additional meetings needed within sixty (60) days of the application. Should the Board not act within the 60-day period, the Certificate of Appropriateness shall be deemed automatically approved.
- (d) If the Historic Preservation Officer determines that the application is for an Insignificant Alteration, he/she may, within fourteen (14) days, approve the application. *The Secretary of the Interior's Standards for Rehabilitation* will be used in assessing the application.
- (e) All decisions of the Board and Historic Preservation Officer shall be in writing. Decisions shall state findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant, and a copy attached to the building permit for public inspection.
- (f) A certificate will expire twelve (12) months after its issuance but will continue as long as work is not discontinued for a period of twelve (12) months, in which a case a new certificate is required. In the event a certificate expires and is discontinued, the HPO is authorized to administratively approve a new certificate having identical terms and provisions as the original certificate.
- (g) Certificates of Appropriateness may be issued for distinct and separate phases of an ongoing project.

## **Sec. 10. Building permit required**

No person shall carry out any significant exterior alteration, restoration, reconstruction, new construction or moving of a Landmark or property within a Historic District without

first obtaining a building permit from the City of Brenham Development Services Department.

#### **Sec. 11. Demolition.**

- (a) A permit for the demolition of a Historic Landmark or property within a Historic District, including secondary buildings, shall not be granted by the City's Building Official without the review of a completed application and issuance of a Certificate of Appropriateness for demolition by the Board.
- (b) The Board shall hold a public hearing on each application within sixty (60) days from the date the application is received by the City of Brenham Development Services Department. Following the hearing, a 60-day stay of demolition is required. The Board has thirty (30) days in which to prepare a written recommendation to the Chief Building Official. In the event that the Board does not act within one hundred twenty (120) days of the receipt of the application, a permit shall be granted.
- (c) The City of Brenham retains all of the rights and remedies to obtain damages for demolition of Historic Property set forth in Texas Local Government Code Section 315.006, as may be amended from time to time, and in accordance with additional rights as may be available in law or equity.
- (d) Nothing herein shall be construed to impair, limit or suspend the emergency powers of the City of Brenham and its officials pertaining to demolition of structures in cases of emergency, such as calamity or natural disasters.

#### **Sec. 12. Demolition by Neglect.**

- (a) No owner or person with an interest in real property designated as a Landmark or included within a Historic District shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Board, produce a detrimental effect upon the character of the Historic District as a whole, or the life and character of the property itself. It is the intent of this Ordinance to preserve from deliberate or inadvertent neglect the exterior features of the buildings and structures so designated or included within the District and the interior portions thereof, when such maintenance is necessary to prevent deterioration and decay of the exterior.
- (b) All historical buildings or structures shall be preserved against decay and deterioration and free from structural defects through prompt corrections of any of the following defects:
  - (1) Facades which may fall and injure persons or property;
  - (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;

- (3) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective material or deterioration;
- 4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;
- (5) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering;
- (6) Any fault or defect in the building or structure which renders it not properly watertight or structurally unsafe; and
- (7) Deterioration of any feature as to create a hazardous condition, which could lead to the claim that demolition is necessary for public safety.

### **Sec. 13. Economic Hardship**

- (a) After receiving written notification from the Board of the denial of a Certificate of Appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Board makes a finding that hardship exists.
- (b) When a claim of economic hardship is made due to the effect of this Ordinance, the owner must prove that:
  1. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
  2. 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
  3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- (c) The applicant shall consult in good faith with the Board, 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 Board.
- (d) The Board shall hold a public hearing on the hardship application and notify all property owners within the applicable historic district or those within 200 feet of a landmark at which an opportunity will be provided for proponents and opponents of the application to present their views.
- (e) All decisions of the Board shall be in writing. A copy shall be sent to the applicant by certified mail and a copy filed with the City Secretary's office for public inspection.

The Board's decision shall state the reasons for granting or denying the hardship application.

**Sec. 14. Enforcement.**

All work performed pursuant to a Certificate of Appropriateness issued under this Ordinance shall conform to any requirements included therein. The City's Historic Preservation Officer may inspect periodically any such work to assure compliance with the Certificate of Appropriateness. In the event work is found that is not being performed in accordance with the Certificate of Appropriateness, the Historic Preservation Officer shall issue a stop work order to the contractor and property owner, 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. Work may be reinstated, however, upon assurance that compliance will henceforth exist. Irrespective of the provisions in this Ordinance, the City's Building Official or designee may inspect properties to ensure compliance with building regulations as necessary.

**Sec. 15. Appeals.**

Any person aggrieved by a decision of the Board relating to Economic Hardship or a Certificate of Appropriateness may, within fifteen (15) days of receipt of the written decision, file a written application with the City Council, through the office of the City Secretary, for review of the decision and the approval, denial, modification of, or deviation from, the Board's decision. The appeal application shall be set before the City Council at the first available City Council meeting. The City Council shall issue a final decision on all appeals from the Board within sixty (60) days of receiving the appeal. The City Council's decision shall be final.

**Sec. 16. Tax Incentives**

**(Reserved).**

**Sec. 17. Historical Markers and Plaques**

**(Reserved).**

**Sec. 18. Penalties.**

Failure to comply with any of the provisions of this Ordinance shall be deemed a violation, and the violator shall be liable for a misdemeanor charge and be subject to fine not to exceed \$100.00, and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. Notwithstanding the preceding sentence, the City may bring a civil action to enjoin any violation of the terms of this Ordinance or an action for mandatory injunction to remove any previous violation hereof.