

**ORDINANCE NO.**

**AN ORDINANCE AMENDING CITY CODE CHAPTER 11-1, CHAPTER 25-1, CHAPTER 25-2, AND CHAPTER 25-11 RELATING TO HISTORIC LANDMARK TAX EXEMPTIONS, ZONING, AND ENFORCEMENT.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

**PART 1.** Subsections (B) and (C) of City Code Section 11-1-22 (*Determination Of Exemption Amount*) are amended to read:

(B) This subsection applies to a property designated as a historic landmark before December 1, 2004 that changed ownership after November 30, 2004, or designated as a historic landmark after November 30, 2004.

(1) The following percentage of the assessed value of a property designated "H" Historic and approved for tax exemption shall be exempt from ad valorem taxes levied by the city:

(a) subject to the limitation of Paragraph (2), 100 percent of the assessed value of the historic structure and 50 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure for:

(i) an owner-occupied historic residential property that is not fully or partially leased to another person; and

(ii) a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act; and

(b) 50 percent of the assessed value of the historic structure and 25 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure for any other historic property, including property used for a commercial purpose.

(2) The percentage of assessed value exempted [~~An exemption~~] under Subparagraph (1)(a) may not exceed a percentage that would result in a tax equivalent to the greater of \$2,000 or 50 percent of the ad valorem tax that the City would otherwise levy on the property.

(C) The City shall recommend to the chief appraiser for the county appraisal district that the entire tax parcel on which the historic structure is located,

1           and which is designated “H” Historic, is reasonably necessary for access to  
2           and use of the historic structure, unless otherwise determined by the City  
3           Council in a specific case.  
4

5       **PART 2.** City Code Section 25-1-46 (*Land Use Commission*) is amended to read as  
6       follows:

7       **§ 25-1-46 LAND USE COMMISSION.**

- 8           (A) The Planning Commission or the Zoning and Platting Commission may act  
9           as the Land Use Commission, as prescribed by this section.
- 10          (B) ~~[Except for an application to designate or modify a historic area (HD)~~  
11           ~~combining district, a]~~ A determination of which commission shall act as the  
12           land use commission to consider a particular application is made on the date  
13           that the application is filed. After the determination is made, the designated  
14           commission continues to act as the land use commission until the application  
15           is approved or denied.  
16
- 17          (C) The Zoning and Platting Commission shall act as the Land Use Commission  
18           for all applications, except as provided in Subsection (D).  
19
- 20           ~~[(1) an application to designate or modify a historic area (HD) district; and~~  
21           ~~(2) except as provided in Subsections (B), (D), and (E), all other~~  
22           ~~applications.]~~  
23
- 24          (D) ~~[Except as provided in Subsections (B) and (C), t]~~ The Planning Commission  
25           shall act as the land use commission for property that is wholly or partly  
26           within:  
27
- 28           (1) the boundaries of a neighborhood plan that the council has adopted as  
29           a component of the comprehensive plan;  
30
- 31           (2) the former Robert Mueller Municipal Airport site; ~~[or]~~  
32
- 33           (3) a transit oriented development (TOD) district; or  
34
- 35           (4) the boundaries of a proposed neighborhood plan that the Planning  
36           Commission is considering as an amendment to the comprehensive  
37           plan. In this subsection, Planning Commission consideration of a  
38           proposed neighborhood plan;  
39  
40  
41

(a) begins on the effective date of a council resolution or ordinance directing the Planning Commission to consider a neighborhood plan for an identified area; and

(b) ends on the date that the council adopts or rejects the proposed neighborhood plan or withdraws its directive to the Planning Commission to consider a neighborhood plan for the area.

~~[(E) Except as provided in Subsections (B) and (C), the Planning Commission shall act as the land use commission for property that is wholly or partly within the boundaries of a proposed neighborhood plan that the Planning Commission is considering as an amendment to the comprehensive plan. In this subsection, Planning Commission consideration of a proposed neighborhood plan:~~

~~(1) begins on the effective date of a council resolution or ordinance directing the Planning Commission to consider a neighborhood plan for an identified area; and~~

~~(2) ends on the date that the council adopts or rejects the proposed neighborhood plan or withdraws its directive to the Planning Commission to consider a neighborhood plan for the area.]~~

~~(E)~~[(F)] A liaison committee of the Planning Commission and the Zoning and Platting Commission is established. The chair of each commission shall appoint two commission members to serve on the committee. The committee shall meet regularly to exchange information relating to the commissions and make recommendations to the commissions on common policies, objectives, issues, and activities.

**PART 3.** City Code Section 25-2-242 (*Initiation of Zoning or Rezoning*) is amended to read:

**§ 25-2-242 INITIATION OF ZONING OR REZONING.**

Zoning or rezoning of property may be initiated by the:

1. Council;
2. Land Use Commission;
3. Record owner;

- 1 4. Historic Landmark Commission, if the property is, or is proposed to be,  
2 designated as a historic landmark (H) combining district or a historic area  
3 (HD) combining district; or
- 4 5. For a proposed historic area (HD) combining district, petition of the owners  
5 of at least 51[60] percent of the land in the proposed district. If property  
6 owned by the City of Austin is within the proposed district, the City-owned  
7 property may account for up to one-third (1/3) of the 51 percent of the area  
8 of land within the district necessary for an owners' petition to rezone an  
9 area to a historic area (HD) combining district.

10  
11 **PART 4.** City Code Section 25-2-353 (*Application Requirements*) is amended to read:

12 **§ 25-2-353 APPLICATION REQUIREMENTS.**

13 [(A)] An application to designate a structure or site as a historic landmark (H) combining  
14 district or an area as a historic area (HD) combining district must demonstrate that  
15 the structure, site, or area satisfies the criteria for designation and include the  
16 information required by administrative rule.

17 [~~(B)~~] ~~An application for a historic area (HD) combining district must include:~~

18 ~~(1) — an inventory of the principal structures included in the proposed district and~~  
19 ~~an evaluation of whether each structure qualifies as a contributing structure;~~  
20 ~~and~~

21 ~~(2) — occupancy and ownership histories of 25 percent or more of the contributing~~  
22 ~~structures at intervals of not less than five years.~~

23 [~~(C)~~] ~~An evaluation under Subsection(B)(1) must be made by a person who meets the~~  
24 ~~Secretary of the Interior's professional standards for expertise in "history" or~~  
25 ~~"architectural history" as described in Code of Federal Regulations Title 36,~~  
26 ~~Chapter I, Part 61 (*Procedures For State, Tribal, And Local Government Historic*~~  
27 ~~*Preservation Programs*).~~]

28  
29 **PART 5.** City Code Section 25-2-355 (*Historic Landmark Commission Review*) is  
30 amended to read:

31 **§ 25-2-355 HISTORIC LANDMARK COMMISSION REVIEW.**

32 (A) The Historic Landmark Commission shall consider the criteria established in  
33 Section 25-2-352 (Historic Designation Criteria) when reviewing an application for  
34 a historic landmark (H) or historic area (HD) combining district.

(B) If the Historic Landmark Commission recommends designation of a historic landmark (H) or historic area (HD) combining district, it shall send a recommendation to the Land Use Commission and the Council that includes:

- (1) a statement of the reasons for recommending designation of the landmark or the district;
- (2) a legal description of the boundary of the landmark or the district;
- (3) maps, ~~[charts, and]~~ photographs, and histories of the structures, sites, or areas located in the district as required by administrative rule;
- (4) findings that support the criteria for designating the landmark or district and that establish the importance of the landmark or the district; and
- (5) for a historic area (HD) combining district, a historic area district preservation plan and list of designated contributing structures as described in Section 25-2-356 (Historic Area District Ordinance and Preservation Plan Requirement).

(C) The affirmative vote of two-thirds ~~[three-quarters]~~ of the members of the Historic Landmark Commission is required to recommend zoning or rezoning property as a historic landmark (H) combining district if a record ~~[notice]~~ owner of the property files a written statement protesting the zoning or rezoning.

**PART 6.** City Code Section 25-11-2 (*Historic Landmarks*) is amended to read:

**§ 25-11-2 HISTORIC LANDMARKS.**

- (A) The building official may not issue a building, demolition, or relocation permit unless the requirements of Article 4 (Special Requirements for Historic Structures ~~[Landmarks]~~) have been satisfied, if applicable.
- (B) A person may not change, remove, demolish, or alter an exterior architectural feature of a designated historic landmark ~~or~~ a structure for which a designation is pending under Section 25-11-214, or a contributing structure in a local historic district unless the requirements of Article 4 (Special Requirements for Historic Structures ~~[Landmarks]~~) have been satisfied.

**PART 7.** City Code Section 25-11-211 (*Definitions*) is amended to read:

**§25-11-211 DEFINITIONS**

In this article:

- 1       (1) ALTERATION means any exterior change, demolition, or modification to a  
2 historic landmark or to a contributing property located within a historic area  
3 (HD) combining district, including, but not limited to:
- 4           (a) exterior changes to or modifications of structures, architectural details,  
5 or visual characteristics;
- 6           (b) construction of new structures;
- 7           (c) disturbance of archeological sites or areas; or
- 8           (d) placement or removal of exterior objects that affect the exterior  
9 qualities of the property.
- 10       (2) ARCHITECTURAL FEATURE means an architectural element, which  
11 alone or as part of a pattern, embodies the style, design, or general  
12 arrangement of the exterior of a building or structure, including but not  
13 limited to the kind, color, and texture of building materials, and style and  
14 type of windows, doors, lights, porches, and signs.
- 15       (3)[(4)] CERTIFICATE means [includes] a certificate of appropriateness [—a  
16 certificate of demolition, and a certificate of removal] issued by the City  
17 approving work on, relocation of, or demolition of a historic structure,  
18 historic or archeological site, or a contributing structure within a historic  
19 area (HD) combining district.
- 20       (4)[(2)] COMMISSION means the Historic Landmark Commission.
- 21       (5)[(3)] CONTRIBUTING STRUCTURE means a building, structure, site,  
22 feature, or object within a designated historic area (HD) combining district  
23 which has been designated as a contributing structure by the ordinance  
24 creating the district, or within a National Register District.
- 25       (6) DEMOLITION BY NEGLECT means lack of maintenance of any building  
26 or structure designated as a historic landmark (H) or any building or  
27 structure designated by ordinance as contributing to a historic area (HD)  
28 combining district that results in deterioration and threatens the preservation  
29 of the structure.
- 30       (7) HISTORIC AREA COMBINING DISTRICT means a district approved by  
31 the Council through an ordinance which contains a geographically definable  
32 area, possessing particular architectural, cultural, or historic importance or  
33 significance. A historic area (HD) combining district must consist, at a  
34 minimum, of one block-face.

1       (8)    ORDINARY REPAIR OR MAINTENANCE means any work that does not  
2       constitute an exterior change in design, material, or outward appearance, and  
3       includes in-kind replacement or repair with the same original material.

4       (9)    OWNER OR PROPERTY OWNER means the record owner of a property  
5       within an existing or proposed historic landmark (H) or historic area (HD)  
6       combining district or an agent of the property owner.  
7

8   **PART 8.** Subsections (A) and (B) of City Code Section 25-11-212 (*Certificate*  
9   *Required*) are amended to read as follows:

10   **§ 25-11-212 CERTIFICATE REQUIRED**

11  
12       (A)   Until a person obtains a certificate of appropriateness[~~-, demolition, or~~  
13       ~~removal, as applicable,~~] from the Commission [~~commission~~] or the building  
14       official, the person may not:

15           (1)   change, restore, rehabilitate, alter, remove, or demolish an exterior  
16           architectural or site feature of a designated historic landmark or a  
17           contributing structure, whether or not a building or demolition permit  
18           is required, and including but not limited to the replacement of  
19           windows, doors, exterior siding materials, installation of shutters or  
20           exterior lighting, or the replacement of roof materials; or

21           (2)   change, restore, remove or demolish an exterior architectural or site  
22           feature of a structure for which a designation is pending under Section  
23           25-11-214 (*Pendency of Designation*).

24       (B)   Except for a change to the exterior color of a historic landmark, the  
25       prohibition of Subsection (A) does not apply if the historic preservation  
26       officer determines that a change or restoration:

27           (1)   is ordinary repair or maintenance that does not involve changes in  
28           architectural and historical value, style, or general design;

29           (2)   is an accurate restoration or reconstruction of a documented missing  
30           historic architectural element of the structure or site, unless a variance  
31           or waiver is requested; or

32           (3)   does not visually affect the historic character [~~change the appearance~~]  
33           of the structure or site from an adjacent public street, and is limited to  
34           the construction of:

35               (a)   a ground-floor, one-story addition or outbuilding with less than  
36               600 square feet of gross floor area; [~~or~~]

- 1 (b) a second-story rear addition to a two-story building, so long as  
2 the addition is not visible from an adjacent public street; or
- 3 (c) a pool, deck, fence, back porch enclosure, or other minor  
4 feature.  
5

6 **PART 9.** Section 25-11-214 (*Building, Removal, and Demolition Permits in National*  
7 *Register District or Approved Historic Survey*) of the City Code is renumbered as Section  
8 25-11-213 and amended to read:

9 **§ 25-11-213 [~~§ 25-11-214~~] BUILDING, DEMOLITION, AND RELOCATION**  
10 **PERMITS AND CERTIFICATES OF APPROPRIATENESS RELATING TO**  
11 **CERTAIN BUILDINGS, STRUCTURES OR SITES [~~REMOVAL, AND~~**  
12 **DEMOLITION PERMITS IN NATIONAL REGISTER DISTRICT OR**  
13 **APPROVED HISTORIC SURVEY]**.

- 14 (A) In this section "National Register Historic District" means an area  
15 designated in the Federal Register under the National Preservation Act of  
16 1966, as amended, for which maps depicting the area are available for  
17 inspection by the public at the Neighborhood Planning and Zoning  
18 Department.
- 19 (B) Except as provided in Subsection (C), this [This] section applies to a  
20 building, structure, or site:
- 21 (1) located in a National Register Historic District; [øø]
- 22 (2) listed in a professionally prepared survey of historic structures  
23 approved by the historic preservation officer;
- 24 (3) individually listed in the National Register of Historic Places;
- 25 (4) designated as a Recorded Texas Historic Landmark, a State  
26 Archeological Landmark, or a National Historic Landmark;
- 27 (5) designated as a historic landmark (H) combining district;
- 28 (6) located within a historic area (HD) combining district; or
- 29 (7) determined by the historic preservation officer to have potential for  
30 designation as a historic landmark.
- 31 (C) This section does not apply to a structure if the historic preservation officer  
32 determines that the structure:
- 33 (1) is less than 50 years old;



(2) does not meet at least two of the criteria for designation as a historic landmark (H) combining district prescribed by Section 25-2-352(A)(3)(b) (*Historic Designation Criteria*); and

(3) is not a contributing structure in a historic area (HD) combining district.

(D) [(C)] When the building official receives an application requesting a building permit, relocation [~~removal~~] permit, or demolition permit for a structure to which this section applies, the building official shall immediately:

(1) notify the historic preservation officer [~~post a sign on the site~~]; and

(2) upon receipt of notification by the historic preservation officer that the application will be placed upon the Commission's agenda, the building official shall post a sign on the site and notify property owners, residents, and registered neighborhood associations in accordance with Section 25-1-133(A) [notify the commission] .

(E) The historic preservation officer shall complete the review of an application for a demolition, relocation, or building permit within five business days of receipt of a complete application, and determine whether to place the application on the Commission agenda.

(F) [(D)] The Commission [~~commission~~] shall hold a public hearing on an application described in Subsection (D) [(C)] within 45 days of receipt of a complete application [~~as soon as adjacent property owners are notified~~].

(G) [(E)] The building official shall [~~may~~] not issue a building permit, relocation [~~removal~~] permit, or demolition permit for a structure to which this section applies until the earlier of:

(1) the date the Commission [~~commission~~] makes a decision not to initiate a historic zoning designation case [~~recommendation~~] regarding the structure; [~~or~~]

(2) the date on which the Commission approves an application for a certificate of appropriateness, or makes recommendations on an application for a building permit; or

(3) [(2)] the expiration of 75 [45] days after the date of the first Commission meeting at which the application is posted on the agenda [~~the building official first notifies the commission~~].

(H) If the Commission makes a decision to initiate a historic zoning designation case, a designation becomes pending on the structure under Section 25-11-214.

1       (I)    The historic preservation officer may approve applications for each of the  
2       following:

3       (1)    Building permits for properties located within a National Register  
4       Historic District which are considered minor projects, such as:

5           (a)   construction of a one-story ground-floor addition or outbuilding  
6           with no more than 600 square feet of gross floor area;

7           (b)   construction of a second-story rear addition to a two-story  
8           building or structure if the addition is not visible from an  
9           adjacent public street; or

10          (c)   construction of a pool, deck, fence, back porch enclosure, or  
11          other minor feature.

12       (2)    Demolition permits for minor outbuildings within a National Register  
13       Historic District such as carports, detached garages, sheds,  
14       greenhouses, and other outbuildings determined by the historic  
15       preservation officer not to possess historical or architectural  
16       significance either as a stand-alone building or structure, or as part of  
17       a complex of buildings or structures on the site.

18       (3)    Demolition or relocation permits for properties deemed non-  
19       contributing to the historic character of a National Register Historic  
20       District.

21       (J)    The building official may not release a demolition or relocation permit for a  
22       building or structure deemed contributing to a National Register Historic  
23       District or a historic area (HD) combining district until the Commission has  
24       reviewed and made recommendations on the application for a building  
25       permit for the site, unless the building official determines that demolition or  
26       relocation is necessary for reasons related to public safety.

27  
28       **PART 10.** Subsection (D) of City Code Section 25-11-213 (*Pendency of Designation*) of  
29       the City Code is renumbered as Section 25-11-214 and is amended to read as follows:

30       **§ 25-11-214 [~~§ 25-11-213~~] PENDENCY OF DESIGNATION**

31       (A)    A building, structure, or site is subject to this article if designation as a  
32       historic landmark is pending. A permit issued for a building, structure, or  
33       site while designation as a historic landmark is pending [~~with respect to the~~  
34       ~~structure, or to a site that includes the structure~~] is void.

35       (B)    ~~In this section, “commission” includes a committee of the commission.~~ A  
36       designation is pending under Subsection (A) on the occurrence of the earliest  
37       of the following:

- (1) two [a] members of the Commission [commission] direct[s] the historic preservation officer in writing to place the building, structure, or site on the Commission's agenda for consideration of whether the building, structure, or site should be designated as a historic landmark [by written order that consideration of whether the structure, or a site that includes the structure, should be designated a historic landmark be placed on the commission's agenda]; or
- ~~[(2) an item is placed on the commission's agenda for consideration of whether the structure, or a site that includes the structure, should be designated as a historic landmark;]~~
- (2)[(3)] a Commission [commission] agenda is posted that includes Commission [commission] consideration of whether the building, structure, or [a] site [that includes the structure,] should be designated as a historic landmark.
- (3) a Commission agenda is posted that includes Commission consideration of an application for a demolition, relocation, or building permit concerning the building, structure, or site.
- ~~[(4) the commission approves or recommends a preservation plan that includes the structure or the site.]~~
- (C) A written order issued by a member of the Commission [commission] under Section (B)(1) must address:
- (1) whether the structure should be considered for historic zoning.
- (2) whether the status quo of the structure should be maintained pending historic zoning proceedings; and
- (3) whether, if the status quo is not maintained pending historic zoning proceedings, the zoning of the structure as historic may become moot.
- (D) A designation is no longer pending if:
- (1) the Commission [commission] issues a final certificate of appropriateness, or a demolition, relocation, or building permit [removal, or demolition], as applicable;
- (2) the Commission [commission] does not make a final decision on whether to recommend [consider] designation of the structure as a historic landmark by the 75<sup>th</sup> [60<sup>th</sup>] day after the date of the first Commission meeting at which an item is posted on the agenda for action on an application for demolition, relocation, or historic zoning [designation became pending under Subsection (B)];

1 (3) the Commission [~~commission~~] makes a final decision to recommend  
2 that the structure not be designated a historic landmark [~~or included~~  
3 ~~within a preservation plan~~]; or

4 (4) the council makes a final decision not to designate the structure as a  
5 historic landmark [~~or include the structure within a preservation plan~~].

6 (E) The historic preservation officer [~~commission~~] shall provide the building  
7 official with a copy of each written order, agenda, or preservation plan  
8 described in Subsection (B), as promptly as practicable. The failure to do so  
9 does not validate a building permit, relocation [~~removal~~] permit, or  
10 demolition permit issued without notice of [a] the written order or agenda.

11 (F) If a permit from the City is not required for the change to a structure, the  
12 historic preservation officer [~~commission~~] must provide notice to the owner  
13 of the structure of a written order, or agenda[, ~~or preservation plan~~] that  
14 applies to the change.

15 (1) Notice under this subsection may be oral or written.

16 (2) Notice under this subsection is effective:

17 (a) when actually given; or

18 (b) when sent by registered or certified mail, return receipt  
19 requested, addressed to the record owner.

20 (G) An applicant or owner entitled to notice under this section may appeal the  
21 Commission [~~commission~~] action under this section to the council consistent  
22 with the requirements of Chapter 25-1, Article 7, Division 1 (*Appeals*).  
23

24 **PART 11.** Subsection (A) of City Code Section 25-11-248 (*Changes Prohibited*) is  
25 amended to read as follows:

26 (A) A change may not be made in the application for a [~~building~~] permit or the  
27 approved building plans or materials after Commission review of a National  
28 Register District permit or a certificate of appropriateness has been issued,  
29 unless the change is approved by [~~submitted to~~] the [~~Historic Landmark~~]  
30 Commission and the applicant receives a certificate of appropriateness for  
31 the change.

32 **PART 12.** City Code Section 25-11-216 is repealed and replaced with a new Section 25-  
33 11-216 to read as follows:

1       **§ 25-11-216 DUTY TO PRESERVE AND REPAIR.**

2           (A) The owner, or other person having legal custody and control of a designated  
3 historic landmark or contributing structure in a local historic district or  
4 National Register Historic District, shall preserve the historic landmark or  
5 contributing structure against decay and deterioration and shall keep it free  
6 from any of the following defects:

- 7           (1) Parts which are improperly or inadequately attached so that they may  
8 fall and injure persons or property;
- 9           (2) Deteriorated or inadequate foundation;
- 10          (3) Defective or deteriorated floor supports or floor supports that are  
11 insufficient to carry the loads imposed;
- 12          (4) Walls, partitions, or other vertical supports that split, lean, list, or  
13 buckle due to defect or deterioration or are insufficient to carry the  
14 loads imposed;
- 15          (5) Ceilings, roofs, ceiling or roof supports, or other horizontal members  
16 which sag, split, or buckle due to defect or deterioration or are  
17 insufficient to support the loads imposed;
- 18          (6) Fireplaces and chimneys which list, bulge, or settle due to defect or  
19 deterioration or are of insufficient size or strength to carry the loads  
20 imposed;
- 21          (7) Deteriorated, crumbling, or loose exterior stucco or mortar, rock,  
22 brick, or siding;
- 23          (8) Broken, missing, or rotted roofing materials or roof components,  
24 window glass, sashes, or frames, or exterior doors or door frames; or
- 25          (9) Any fault, defect, or condition in the structure which renders it  
26 structurally unsafe or not properly watertight.

27          (B) The owner or other person having legal custody and control of a designated  
28 historic landmark or contributing structure in a local historic district or  
29 National Register Historic District shall, in keeping with the city's minimum  
30 housing standards, repair the landmark or structure if it is found to have any  
31 of the defects listed in Subsection (A) of this section.

32          (C) The owner or other person having legal custody and control of a designated  
33 historic landmark, or a building, object, site, or structure located in a historic

1 district, or a contributing structure in a local historic district or National  
2 Register Historic District, shall keep the property clear of all vermin, weeds,  
3 fallen trees or limbs, debris, abandoned vehicles, and all other refuse as  
4 specified under the City Code Chapter 9-1 (*Abandoned Property and*  
5 *Vehicles*), and Chapter 10-5 (*Miscellaneous Public Health Regulations*),  
6 Articles 2, 3, and 4.

- 7 (D) The owner of a residence with a homestead exemption as defined under state  
8 law may apply to the city council for an exemption from the requirements of  
9 this section. The city council may grant an exemption on a showing of  
10 financial inability to comply with the requirements of this section. An  
11 exception under this subsection may be limited in time and may be subject to  
12 terms and conditions deemed necessary by the city council.  
13

14 **PART 13.** City Code Chapter 25-11 (*Building, Removal, and Demolition Permits in*  
15 *National Historic District or Approved Historic Survey*) is amended to add a new Section  
16 25-11-217 to read:

17 **§ 25-11-217 DEMOLITION BY NEGLECT PROCEDURE.**

- 18 (A) The historic preservation officer and the Commission are authorized to work  
19 with a property owner to encourage maintenance and stabilization of the  
20 structure and identify resources available before taking enforcement action  
21 under this section.
- 22 (B) Except as provided in Subsection (C), the following procedures apply to  
23 enforcement of this chapter.
- 24 (1) The Commission or the historic preservation officer may initiate an  
25 investigation of whether a property is being demolished by neglect.
- 26 (2) Upon initiation of an investigation, the historic preservation officer  
27 shall:
- 28 (a) attempt to meet with the property owner to inspect the structure  
29 and discuss the resources available for financing any necessary  
30 repairs; and
- 31 (b) prepare a report for the Commission on the condition of the  
32 structure, the repairs needed to maintain and stabilize the  
33 structure, and the amount of time needed to complete the  
34 repairs.

- 1 (3) The Commission shall review the historic preservation officer's report  
2 and may vote to certify the property as a demolition by neglect case.
- 3 (4) If the Commission certifies the property as a demolition by neglect  
4 case, the historic preservation officer shall take the following actions.
- 5 (a) Send notice to the property owner or the property owner's  
6 agent, by certified mail, describing the required repairs and  
7 specifying:
- 8 (i) that repairs must be started within 60 days; and
- 9 (ii) a date by which repairs must be completed, as  
10 determined by the historic preservation officer.
- 11 (b) Meet with the property owner within 90 days after the notice is  
12 sent, if the historic preservation officer determines that it would  
13 be useful to discuss progress in making repairs and consider  
14 any issues that may delay completion of repairs.
- 15 (5) The historic preservation officer may refer a demolition by neglect  
16 case to the Building and Standards Commission, the City Attorney, or  
17 the appropriate city department for enforcement action to prevent  
18 demolition by neglect if the property owner fails to:
- 19 (a) start repairs by the deadline set in the notice;
- 20 (b) make continuous progress toward completion; or
- 21 (c) complete repairs by the deadline set in the notice.
- 22 (6) The historic preservation officer shall provide notice of a referral  
23 under Subsection (B)(5) of this section to the property owner. The  
24 owner may appeal the historic preservation officer's referral to the  
25 city council.
- 26 (C) If immediate enforcement is necessary to prevent imminent destruction or  
27 harm to a designated historic landmark or contributing structure, the historic  
28 preservation officer may refer the structure or landmark to the appropriate  
29 city department to enforce this chapter and to seek correction of any  
30 condition prohibited under Subsection 25-11-216 (*Duty to Preserve and*  
31 *Repair*).  
32

1 **PART 14.** City Code Chapter 25-11 (*Building, Removal, and Demolition Permits in*  
2 *National Historic District or Approved Historic Survey*) is amended to add a new Section  
3 25-11-218 to read:

4 **§ 25-11-218 ENFORCEMENT AND PENALTIES.**

- 5 (A) A person may not violate a requirement of this article. Pursuant to Section  
6 214.0015 (*Additional Authority Regarding Substandard Buildings*) of the  
7 Texas Local Government Code, a person who violates a requirement of this  
8 article commits a civil offense, and is civilly liable to the City in an amount  
9 not to exceed \$1,000 per day for each violation or an amount not to exceed  
10 \$10 per day for each violation if the property is the owner's lawful  
11 homestead.
- 12 (B) A person who violates this article commits an offense. An offense under  
13 this article is a Class C misdemeanor punishable as provided in Section 1-1-  
14 99 (*Offenses; General Penalty*).
- 15 (C) An action to enforce the requirements of this article may include injunctive  
16 relief and may be joined with enforcement of applicable City technical codes  
17 under Chapter 25-12 (*Technical Codes*).
- 18 (D) If a building, object, site or structure covered by this section is required to be  
19 demolished as a public safety hazard and the owner has received two (2) or  
20 more notices of violation under Subsection 25-11-217(B), no application for  
21 a permit for a project on the property may be considered for a period of three  
22 years from the date of demolition of the structure.

23  
24 **PART 15.** City Code Chapter 25-11 (*Building, Demolition, and Relocation Permits;*  
25 *Special Requirements for Historic Structures*) is amended to add a new section 25-11-249  
26 to read as follows:

27 **§ 25-11-249 Tolling of Time Limits for Action**

28 For purposes of the time limits for action in Sections 25-11-213, 25-11-214, and  
29 25-11-245, a postponement requested or agreed to by the owner or his agent tolls  
30 the running of the time limit from the date of the request until the meeting to which  
31 the case has been postponed.

32  
33 **PART 16.** City Code Sections 25-11-241 and 25-11-242 are repealed.



**PART 17.** This ordinance takes effect on \_\_\_\_\_, 2009.

**PASSED AND APPROVED**

\_\_\_\_\_, 2009      § \_\_\_\_\_  
   § \_\_\_\_\_  
   § \_\_\_\_\_  
   Lee Leffingwell  
   Mayor

**APPROVED:** \_\_\_\_\_  
                         David Allan Smith  
                         City Attorney

**ATTEST:** \_\_\_\_\_  
                         Shirley A. Gentry  
                         City Clerk