

STAFF and COMMISSION RECOMMENDATIONS ON THE PROPOSED
HISTORIC PRESERVATION CODE CHANGES - ORDINANCE

KEY:

Black: Unchanged sections of the existing Code.

Blue: New Code sections based upon the Council Resolution of August 4, 2011.

Red: Sections of the August 4, 2011 Council Resolution with an alternative staff recommendation.

Green: Alternative staff recommendation.

Purple: ZAP comment.

PART 1.

City Code Section 11-1-22 (*Determination of Exemption Amount*) is amended to read:

(A) Except as provided in Subsection (B) and Subsection (C), a property designated as a historic landmark is eligible for a partial exemption from ad valorem taxes levied by the City as follows:

- (1) For an owner-occupied historic residential property that is not fully or partially leased to another person or a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act, 100 percent of the assessed value of the 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.

An as-yet-undetermined percentage of the combined value of the structure and the land. (Council Resolution).

Staff supports retaining the existing formula.

- (2) For any other historic property, including property used for a commercial purpose, 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.

(B) The percentage of assessed value exempted under Subsection (A) may not exceed a percentage that would result in a tax exemption equivalent to the greater of \$2,000 or 50 percent of the ad valorem tax that the City would otherwise levy on the property if the property:

- (1) was designated as a historic landmark before December 1, 2004, but changed ownership after November 30, 2004 but before January 1, 2012; or
- (2) was designated as a historic landmark after November 30, 2004, but before January 1, 2012.

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- (C) The percentage of assessed value exempted under Subsection (A) may not exceed a percentage that would result in a tax exemption greater than \$2,500 if the property:
- (1) was designated as a historic landmark before January 1, 2012, but changed ownership after December 31, 2011; or
 - (2) was designated as a historic landmark after December 31, 2011.
- (D) 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, and which is designated "H" Historic, is reasonably necessary for access to and use of the historic structure, unless otherwise determined by the City Council in a specific case.

Establish an index to automatically modify the residential exemption cap based on future increases or decreases in property values due to inflation and deflation. (Council Resolution)

Review the formula for calculating the percentage of property to be eligible for a partial exemption of ad valorem taxes every 5 years. (Staff Recommendation). Staff still recommends no grandfathering for the property tax exemption.

PART 2.

City Code Section 25,-2-242 (*Initiation of Zoning or Rezoning*) is amended to read: Zoning or rezoning of property may be initiated by the

- (1) Council
- (2) Land Use Commission
- (3) Record owner
- (4) Historic Landmark Commission, if the property is, or is proposed to be, designated as a historic landmark (H) combining district or a historic area (HD) combining district; or
- (5) For a proposed historic area (HD) combining district:
 - (a) Petition of:
 - (i) The owners of at least 51 percent of the land, by land area, in the proposed district; or
 - (ii) at least 51 percent of the owners of individual properties in the proposed district.
 - (b) property owned by the City of Austin or other governmental entities shall be fully excluded from the area subject to petition of the

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owners, except such property may be included in support if it contains structures or features that contribute to the historic character of the district, as determined by the Historic Landmark Commission. For purposes of Subsection 25-2-242(5)(a), the amount of such property to be calculated as supporting shall not exceed one-third of the 51% of the land in the proposed district.

PART 3.

City Code Section 25-2-352 (*Historic Designation Criteria*) is amended to read:

(A) The council may designate a structure or site as a historic landmark (H) combining district if:

- (1) the property is at least 50 years old and represents a period of significance of at least 50 years ago, unless the property is of exceptional importance as defined by the National Register Bulletin 22, National Park Service (1996);

Concern over whether 50 years is sufficient to be "historic." (ZAP comment)

- (2) the property retains a high degree of integrity, as defined by the National Register of Historic Places, that clearly conveys its historical significance and does not include an addition or alteration which has significantly compromised its integrity; and

- (3) the property:

- (a) is individually listed in the National Register of Historic Places, or is designated as a Recorded Texas Historic Landmark, State Archeological Landmark, or National Historic Landmark; or

- (b) demonstrates significance in at least two of the following categories:

- (i) Architecture. The property embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction; exemplifies technological innovation in design or construction; displays high artistic value in representing ethnic or folk art, architecture, or construction; represents a rare example of an architectural style in the city; serves as an outstanding example of the work of an architect, builder, or artisan who significantly contributed to the development of the city, state, or nation; possesses cultural, historical, or architectural value as a particularly fine

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or unique example of a utilitarian or vernacular structure; or represents an architectural curiosity or one-of-a-kind building. A property located within a local historic district is ineligible to be nominated for landmark designation under the criterion for architecture, unless it possesses exceptional significance or is representative of a separate period of significance.

- (ii) Historical Associations. The property has long-standing significant associations with persons, groups, institutions, businesses, or events of historic importance which contributed significantly to the history of the city, state, or nation; or the property represents a significant portrayal of the cultural practices or the way of life of a definable group of people in a historic time.

"Long-standing" should be defined as at least 10 years for an association with a person; no minimum amount of time for associations with groups, institutions, businesses, or events. (ZAP comment, by motion).

- (iii) Archeology. The property has, or is expected to yield, significant data concerning the human history or prehistory of the region.

- (iv) Community Value. The property has a unique location, physical characteristic, or significant feature that contributes to the character, image, or cultural identity of the city, a neighborhood, or a particular group.

Omit neighborhood from this criterion. (Staff recommendation)

Omit neighborhood from this criterion. (ZAP comment)

- (v) Landscape Feature. The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.

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- (4) the property does not include an addition or alteration which has significantly compromised its historical integrity, as defined by the National Register of Historic Places.
- (B) The council may designate an area as a historic area (HD) combining district if at least 51 percent of the principal structures within the proposed district are contributing to the historic character of the district when the historic preservation officer certifies that the zoning or rezoning application is complete.
- (C) The council may enlarge the boundary of an existing historic area (HD) combining district if the additional structure, group of structures, or area adds historic archeological, or cultural value to the district.
- (D) Except as limited by Subsection (E), the council may reduce the boundary of an existing historic area (HD) combining district if:
 - (1) the structure to be excluded does not contribute to the historic character of the district;
 - (2) excluding the structure or area will not cause physical, historically, architectural, archeological, or cultural degradation of the district; or
 - (3) a reasonable use of the structure that allows the exterior to remain in its original style does not exist.

There is no reasonable use of the structure that allows it to retain its contributing status or historical integrity. (Staff recommendation).
- (E) The minimum size for a historic area (HD) combining district is one block face.

PART 4.

City Code Section 25-11-213 (*Building, Demolition, and Relocation Permits and Certificates of Appropriateness Relating to Certain Buildings, Structures, or Sites*) is amended to read:

- (A) In this section, "National Register Historic District" means an area designated in the Federal Register under the National Historic Act of 1966, as amended, for which maps depicting the area are available for inspection by the public at the Planning and Development Review Department.

Reference the National Historic Preservation Act of 1966. (Staff recommendation).
- (B) Except as provided in Subsection (C), this section applies to a building, structure, or site:
 - (1) located in a National Register Historic District;

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- (2) listed in a professionally-prepared survey of historic structures approved by the historic preservation officer;
 - (3) individually listed in the National Register of Historic Places;
 - (4) designated as a Recorded Texas Historic Landmark, a State Archeological Landmark, or a National Historic Landmark;
 - (5) designated as a historic landmark (H) combining district;
 - (6) located within a historic area (HD) combining district; or
 - (7) determined by the historic preservation officer to have potential for designation as a historic landmark.
- (C) This section does not apply to a structure if the historic preservation officer determines that the structure:
 - (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) When the building official receives an application requesting a building permit, relocation permit, or demolition permit for a structure to which this section applies, the building official shall immediately:
 - (1) notify the historic preservation officer; 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).
- (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) The Commission shall hold a public hearing on an application described in Subsection (D) within 45 days of receipt of a complete application.
- (G) **Except as provided in Subsection (H)**, the building official shall not issue a building permit, relocation permit, or demolition permit for a structure to which this section applies until the earlier of:
 - (1) the date the Commission makes a decision not to initiate a historic zoning designation case regarding the structure;

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- (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) the expiration of 75 days after the date of the first Commission meeting at which the application is posted on the agenda.
- (H) In the case of a contributing structure within a National Register Historic District or a pending historic area (HD) combining district, the building official shall not issue a relocation or demolition permit for a structure until the earlier of:
 - (1) The expiration of 180 days from the date of the filing of a complete application for demolition or relocation; or
 - (2) The approval by Council of a historic area (HD) combining district in which the property is deemed contributing to the historic character or the pending district.
- (I) 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.
- (J) The historic preservation officer may approve applications for each of the following:
 - (1) Building permits for properties located within a National Register Historic District which are considered minor projects, including but not limited to:
 - (a) construction of a one-story ground-floor addition or outbuilding with no more than 600 square feet of gross floor area;
 - (b) construction of a second-story rear addition to a two-story building or structure if the addition is not visible from an adjacent public street; or
 - (c) construction of a pool, deck, fence, back porch enclosure, or other minor feature.
 - (2) Demolition permits for minor outbuildings within a National Register Historic District such as carports, detached garages, sheds, greenhouses, and other outbuildings determined by the historic preservation officer not to possess historical or architectural significance either as a stand-alone building or structure, or as part of a complex of buildings or structures on the site.
 - (3) Demolition or relocation permits for properties deemed non-contributing to the historic character of a National Register Historic District.
- (K) The building official may not release a demolition or relocation permit for a building or structure deemed contributing to a National Register Historic District or a historic area (HD) combining district until the Commission has reviewed and made recommendations on the application for a building permit for the site,

unless the building official determines that demolition or relocation is necessary for reasons related to public safety.