

AN ORDINANCE ESTABLISHING A PROCESS FOR THE RECONSIDERATION OF THE DESIGNATION OF HISTORIC DISTRICTS WITHIN THE CITY OF HOUSTON DESIGNATED OR PENDING DESIGNATION BY THE CITY COUNCIL IN CONNECTION WITH THE AMENDMENT OF CERTAIN PROVISIONS OF ARTICLE VII OF CHAPTER 33 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, RELATING TO HISTORIC PRESERVATION; MAKING FINDINGS AND CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; AND DECLARING AN EMERGENCY.

* * * * *

WHEREAS, under Article XI, Section 5 of the Texas Constitution, the City of Houston is a home-rule municipality having the full power of self-government and, as set forth in section 51.072 of the Texas Local Government Code, may exercise that authority independent of the powers granted it under the Texas Local Government Code; and

WHEREAS, in the exercise of this power, the City Council has adopted Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, (the "Historic Preservation Ordinance") providing for the recognition, protection, enhancement, perpetuation and use of sites and landmarks of historical or archeological interest within the City; and

WHEREAS, the City Council finds that the Historic Preservation Ordinance is necessary and appropriate and is in the public interest as a means to preserve and protect the historic heritage of the City and to protect and promote the health and economic well-being, safety and welfare of the people of the City, and

WHEREAS, the City Council finds that it has designated 16 historic districts containing a significant percentage of contributing and potentially contributing structures, as those terms are defined in the Historic Preservation Ordinance, and also that one or more areas within the City have applied for designation by City Council as historic districts and are subject to the

provisions of Section 33-223 of the Code of Ordinances while pending designation (“proposed historic districts”); and

WHEREAS, the City Council finds that that despite the protections for structures within the historic districts, the historic character of the historic districts previously designated as well as the proposed historic districts is threatened by continued demolition, relocation, and new construction incompatible with the criteria of the Historic Preservation Ordinance; and

WHEREAS, the City Council finds that such irretrievable destruction and failure to effectively maintain the historic character of the historic districts will have a serious adverse effect on the City's policy to protect and preserve the historical resources of the City and defeat a primary purpose for the creation of the Historic Preservation Ordinance; and

WHEREAS, the City Council finds the adoption of amendments to the Historic Preservation Ordinance by Ordinance No. 2010-814¹ (the “2010 Amendments”) to prevent the issuance of a 90-day waiver certificate pursuant to Section 33-250 of the Historic Preservation Ordinance for properties within an historic district is necessary to prevent further erosion of the historic character of the historic districts and the proposed historic districts as well as the protection and preservation of the historic resources of the City; and

WHEREAS, the City Council finds that the petitions for designation of the existing and proposed historic districts were collected when the 90-day waiver certificate was available for properties in an historic district whose application for a certificate of appropriateness was denied by the Houston Archaeological and Historical Commission; and

¹ City Secretary to insert number of the Ordinance appearing as Item 13 on the October 6, 2010 City Council agenda.

WHEREAS, the City Council, the Archaeological and Historic Commission and the Planning Commission all have heard statements from property owners within certain of the existing and pending historic districts that the property owners would not have signed the petition in support of the designation of the historic district without the ability to obtain a 90-day waiver certificate; and

WHEREAS, the amendment of the Historic Preservation Ordinance by the 2010 Amendments is a change in the circumstances that may have led property owners to support designation of one or more historic districts; and

WHEREAS, the City Council finds that it is in the best interest of the City to provide a limited opportunity for property owners to consider and give evidence of continued support of the designation of existing and pending historic districts by establishing a process for reconsideration of designation in all existing and ending historic districts other than the Old Sixth Ward Protected Historic District; and

WHEREAS, the City Council finds that providing forums for the participation of the public and for gathering public opinion aids the identification of historical resources in need of protection and preservation within the City; and

WHEREAS, the City Council finds that the process for reconsideration of designation provides effective and efficient means to identify areas within the City containing a significant percentage of contributing structures and evaluate loss of historic resources that may have occurred, which could result in the adjustment of boundaries of

the historic districts as necessary for the continued protection and preservation of the historical resources of the City; and

WHEREAS, Subsection (c) of Section 33-227 of the Historic Preservation Ordinance, as amended by the 2010 Amendments, provides that the City Council may establish by Ordinance a temporary process to allow for reconsideration of the designations of historic districts made or proposed prior to June 9, 2010 in connection with the adoption of the 2010 Amendments; and

WHEREAS, the City Council finds that the Old Sixth Ward Protected Historic District, by the processes that led to its designation as a protected historic district, has had adequate consideration of designation and does not require reconsideration of its designation; **NOW, THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON, TEXAS:

Section 1. That the findings contained in the preamble of this Ordinance are determined to be true and correct and are hereby adopted as a part of this Ordinance.

Section 2. That the following provisions shall apply to all historic districts previously designated by the City Council other than the Old Sixth Ward Protected Historic District and the Main Street Market Square Historic District ("Designated Historic District"). The owners of property in a Designated Historic District who desire the City Council to repeal the designation may submit a request for reconsideration of the designation of the district. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the "Director") not later than 30 days following the date a form for the request for reconsideration is first made available to the public by

posting on the Planning and Development Department website. The request must be signed by the owners of at least 10 percent of the tracts within the Designated Historic District. The request shall identify the basis for the request, including any changed circumstances that render one or more of the criteria on which the designation or proposed designation was based no longer applicable.

As soon as practicable after receipt of a complete request for reconsideration of the designation, the Director shall give notice by mailing a letter, first class United States postage, to the owners of all property within the historic district as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, and location of a public meeting on the request for reconsideration, which the Director will endeavor to conduct in or near the historic district. The notice shall also include a card to be signed by the property owner and returned to the Planning and Development Department indicating whether the property owner does or does not support repeal of the designation of the historic district. The card shall be deposited in the United States mail with proper postage affixed and postmarked or delivered to the Director not later than the fifteenth day after the date of the public meeting.

The Director shall consider each request for reconsideration pursuant to the criteria of Section 33-224 of the Code of Ordinances, City of Houston, Texas (the "Code"), the information on changed circumstances submitted with the request for reconsideration and the evidence of support for the repeal of the designation. The Director shall consider:

- (1) The criteria for designation of the historic district;
- (2) The provisions of Article VII of Chapter 33 of the Code that were applicable

- to the percentage of property owners required to initiate an application;
- (3) Any changed circumstances identified in the request for reconsideration; and
- (4) The current level of support for repeal of the district.

The Director shall make findings with respect to each request for reconsideration and shall report her findings to the City Council. The director may recommend with respect to a request for reconsideration that the City Council:

- (1) Take no action with respect to the designation of the historic district;
- (2) Repeal the resolution creating the historic district if the owners of 51 percent of the tracts in the Designated Historic District indicate that they do not support the continued designation of the Designated Historic District; or
- (3) Amend the resolution designating the historic district to reduce its boundaries.

The City Council shall consider the Director's recommendation and the criteria considered by the Director and determine whether to accept the Director's report and take the actions recommended. The decision of the City Council shall be final.

Section 3. That the following provisions shall apply to the proposed Houston Heights South historic district, whose application was filed prior to June 9, 2010 (the "proposed historic district"). The owners of property in the proposed historic district who desire the City Council to not consider the proposed designation may submit a request for reconsideration of the proposed designation of the district. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the "Director") not later than 30 days following the date a form for the request for reconsideration is first made available to the public by posting on the Planning and

Development Department website. The request must be signed by the owners of at least 10 percent of the tracts within the proposed historic district. The request shall identify the basis for the request, including any changed circumstances that render one or more of the criteria on which the proposed designation was based no longer applicable.

As soon as practicable after receipt of a complete request for reconsideration of the proposed designation, the Director shall give notice by mailing a letter, first class United States postage, to the owners of all property within the proposed historic district as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, and location of a public meeting on the request for reconsideration, which the Director will endeavor to conduct in or near the proposed historic district. The notice shall also include a card to be signed by the property owner and returned to the Planning and Development Department indicating whether the property owner does or does not support designation of the proposed historic district. The card shall be deposited in the United States mail with proper postage affixed and postmarked or delivered to the Director not later than the fifteenth day after the date of the public meeting.

The Director shall consider any request for reconsideration of designation of the proposed historic district pursuant to the criteria of Section 33-224 of the Code, the information on changed circumstances submitted with the request for reconsideration and the evidence of support for the rejection of the designation. The Director shall consider:

- (1) The criteria for designation of the historic district;
- (2) The provisions of Article VII of Chapter 33 of the Code that were applicable to the percentage of property owners required to initiate an application;

- (3) Any changed circumstances identified in the request for reconsideration; and
- (4) The current level of support for designation of the district.

The Director shall make findings with respect to the request for reconsideration and shall report her findings to the City Council. The director may recommend with respect to the request for reconsideration that the City Council:

- (1) Adopt a resolution creating the historic district and establishing its boundaries; or
- (2) By motion, deny the application for designation if the owners of 51 percent of the tracts in the proposed historic district indicate that they do not support the designation of the proposed historic district.

Notwithstanding any procedural requirements for designation in Article VII of the Code that have not been completed, the City Council shall consider the Director's recommendation and the criteria considered by the Director and determine whether to accept the Director's report and take the actions recommended. The decision of the City Council shall be final.

Section 4. That the above procedures are temporary procedures adopted pursuant to Subsection (c) of Section 33-227 of the Historic Preservation Ordinance, as amended by the 2010 Amendments.

Section 5. That if any provision, section, subsection, sentence, clause or phrase of this Ordinance, or the application of same to any person or set of circumstances is for any reason held to be unconstitutional, void or invalid, the validity of the remaining portions of this Ordinance or their applicability to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council in adopting this Ordinance that no

portion hereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality, voidness or invalidity of any other portion hereof, and all provisions of this Ordinance are declared to be severable for that purpose.

Section 6. That the City Council officially finds, determines, recites and declares that a sufficient written notice of the date, hour, place and subject of this meeting of the City Council was posted at a place convenient to the public at the City Hall of the city for the time required by law preceding this meeting, as required by the Open Meetings Law, Chapter 552 of the Texas Government Code, and that this meeting has been open to the public as required by law at all times during which this Ordinance and the subject matter thereof has been discussed, considered and formally acted upon. The City Council further ratifies, approves and confirms such written notice and the contents and posting thereof.

Section 7. That there exists a public emergency requiring that this Ordinance be passed finally on the date of its introduction as requested in writing by the Mayor; therefore, this Ordinance shall be passed finally on such date and shall take effect immediately upon passage and approval by the Mayor.

PASSED AND APPROVED this 13th day of October, 2010.



Mayor of the City of Houston

Prepared by Legal Dept. 
SOI:dfm October 5, 2010 Assistant City Attorney
Requested by Marlene L. Gafrick, Director, Planning & Development Department
L.D. File No. 0421000048001

AYE	NO	
✓		MAYOR PARKER
••••	••••	COUNCIL MEMBERS
✓		STARDIG
✓		JOHNSON
✓		CLUTTERBUCK
✓		ADAMS
✓		SULLIVAN
✓		HOANG
✓		PENNINGTON
✓		GONZALEZ
✓		RODRIGUEZ
✓		COSTELLO
✓		LOVELL
✓		NORIEGA
✓		BRADFORD
✓		JONES
CAPTION	ADOPTED	