

Historic Preservation Ordinance Review Committee

Final Report April 1, 2015



**PLANNING &
DEVELOPMENT
DEPARTMENT**

Index of Issues

Issue	Page Number	Date Discussed	Date Closed Out
1. Administrative Approvals (Section 33-241(d))	2	10/13/2014, 10/27/2014, 11/10/2014	11/10/2014
2. Exemptions (Section 33-237)	2	10/13/2014, 10/27/2014	10/27/2014
3. Exterior Features (Section 33-201)	3	11/10/2014	11/10/2014
4. Design Guidelines (Sections 33-266-268)	3	11/10/2014, 12/01/2014 12/15/2014	12/15/2014
5. Designating a Historic District (Section 33-222.1)	4	01/12/2015, 02/04/2015	02/04/2015
6. Change the designation of a structure located in a historic district (Section 33-201 and 33-222.1)	4	10/13/2014	10/27/2014
7. Designating a structure as a Landmark or Protected Landmark (Section 33-229)	4	10/13/2014	10/13/2014
8. Shall Approve Criteria (Section 33-241(b)(1-4))	4	10/13/2014, 01/12/2015, 01/12/2015, 02/04/2015	02/04/2015
9. Certificate of Appropriateness application requirements (Sections 33-222 and 33-238)	5	10/27/2014	10/27/2014
10. Criteria for alterations and additions (Section 33-241)	5	12/01/2014, 12/15/2014, 01/12/2015	01/12/2015
11. Criteria for new construction (Section 33-242)	5	12/01/2014, 12/15/2014, 01/12/2015, 01/28/2015 02/11/2015, 02/25/2015 03/18/2015	03/18/2015
12. Criteria for relocation and/or demolition (Sections 33-243 and 33-247)	6	01/28/2015, 02/04/2015	02/04/2015
13. Allow for a Certified Local Government	6	10/13/2014, 10/27/2014 02/11/2015	02/11/2015
14. Tax exemption policies for historic sites (Chapter 44 Section 44-5)	6	10/27/2014, 11/10/2014 02/25/2015, 03/18/2015	03/18/2015
15. Historic Commission (Section 33-211 and 33-212)	6	10/13/2014, 10/27/2014	11/10/2014
16. Appeals (Section 33-253)	7	02/04/2015, 02/25/2015 03/18/2015	03/18/2015
17. The penalty for illegal demolition (Section 33-203)	7	10/27/2014, 11/10/2014	11/10/2014
18. Enforcement (Section 33-203)	7	03/18/2015	03/18/2015
19. Deferrals (Section 33-239)	8	12/15/2014	12/15/2014
20. Required notification for CofA applications (Section 33-238.1)	8	02/25/2015	02/25/2015
21. Painting brick (Section 33-201)	8	12/01/2014	12/01/2014
22. Application fees and penalties (Section 33-238)	8	12/15/2014	12/15/2014
23. Alterations of non-contributing structures (Section 33-241c)	8	03/18/2015	03/18/2015

1. Administrative Approvals (Section 33-241(d))

Add these to Administrative Approval items (requiring a small yard sign as public notice, see Issue #20 for description of sign):

- Freestanding garages, including garage apartments, freestanding carports, and secondary structures with a footprint of less than 600 square feet, located at the rear of the lot
- Shall approve additions
- Installation of rear porches not wider or taller than the existing rear wall
- Alterations to non-contributing structures
- Installation of signs and awnings to commercial buildings that do not compromise or cover historic features, are appropriately scaled for the building and are less than 25 square feet in sign area, are not internally illuminated, and are affixed without damaging significant historic material
- Solid fences over four feet (48") in height that are located in front of the structure's front wall. Solid is defined as less than 50% transparent.

Add these to Administrative Approval items (not requiring public notice):

- Removal of non-historic additions, including attached garages or carports, comprised of non-historic materials
- Repair or replacement of existing historic damaged siding materials with materials of the same size, shape, material and pattern
- Burglar bars
- Removal of non-historic and non-appropriate decorative elements such as shutters, brackets, awnings, or signs
- Installation of ramps or lifts for accessibility purposes
- Skylights, solar panels, antennas, satellite dishes, or other roof equipment that are at the rear half of the structure and are installed without damaging significant historic material
- Minor changes to previously approved COAs
- Extension of soon-to-expire Certificate of Appropriateness or renewal of expired Certificate of Appropriateness for up to one additional year from the original expiration date (i.e. maximum extension is two years from date of COA approval) no revision to original approved scope of work allowed with staff administrative approval

2. Exemptions (Section 33-237)

Current exemptions include: landscaping, HVAC units, light fixtures, porch ceiling fans, roofs

Add these to the list of exemptions:

- Change "Roofs" to "Re-roofing with in-kind materials and no change to roof structure"
- Additions obscured from view from the public right of way by the original structure (not to include impermanent obstructions such as fences, landscaping or other non-contributing structures)
- Fences that are:
 - a) located in front of the front façade of a structure and are at least 50% transparent or no taller than four feet; or
 - b) located at or behind the front façade of a structure

-
- Gutters and downspouts
 - Storm windows and doors
 - Screen windows and doors
 - Installation of temporary emergency weatherization features such as plywood coverings on windows
 - Painting, except for painting over masonry (stone and brick)

3. Exterior Features (Section 33-201)

Add language in Section 33.202c and in Section 33-236 to clarify the structural importance of shiplap and that an applicant should not to remove shiplap unless the applicant have a structural engineer affirm that doing so will not damage the structural integrity of the structure. Staff should develop the exact language to state that the default position is that shiplap is not only historic, but also structural and that it may be removed only under review of a structural engineer. Any application to remove it should be accompanied by structural drawing stamped by a registered structural engineer.

4. Design Guidelines (Sections 33-266-268)

The Commission may direct the Department to complete Design Guidelines for one or more districts. In determining which districts should have design guidelines and/or in prioritizing the order in which the guidelines will be created, the Commission will consider:

- The amount of CofA activity in the district,
- The degree to which additional guidance would be beneficial to the property owners in the district, and
- The degree to which the guidelines would assist the staff and Commission in decision-making on applications.

The Department shall conduct a process that is open and transparent, which allows for input from all interested parties. It shall present a set of draft guidelines to the Commission within one year of the Commission's directive. If the department cannot complete the guidelines process within one year, the Director shall report back to the commission, providing a schedule for completion.

The Guidelines should encourage behavior that supports the Ordinance's intent. The overriding goal should be to preserve the character of the district.

Because the ordinance is broad in nature, the purpose of Design Guidelines is to clarify the intent of the ordinance and to interpret the ordinance for individual historic districts.

- The Design Guidelines shall conform to the Criteria in the Code.
- The Design Guidelines can be more restrictive than the Code, but not less so.
- Upon adoption, in the event of a conflict between the criteria in this division and the design guidelines, the Design Guidelines shall control (Sec 33-240(a)).
- More than one historic district can be covered by one set of Design Guidelines, at the discretion of the HAHC.

5. Designating a Historic District (Section 33-222.1)

- Change the approval threshold from 67% of “tracts in the district” to 67% of “returned support forms”
- Give the Director 30 days, instead of 15, to notify property owners in a survey area of a community meeting
- Encourage more compact and cohesive districts by allowing the Director to create a district with non-contiguous parts
- Allow the Commission to vote to extend the 180 day protections for up to two 30 day periods in order to obtain additional public comment.
- Rename “proposed district” to “survey area” and “card” to “support form”
- Remove the limitation that a district cannot contain more than 400 tracts
- Create a process by which properties adjacent to and outside a district may be added upon petition

6. Change the designation of a structure located in a historic district (Section 33-201 and 33-222.1)

- Allow staff to propose changes in classification to HAHC and City Council based on new information not present at the time of classification or error.
- Do not create a process for the property owner to petition the change.
- No change in classification due to neglect by owner.
- No property status change will be presented to the HAHC without allowing the property owner to participate in the public hearing on the change. Prior to any change in classification being presented to the HAHC, staff should notify property owners at least 15 days in advance of the HAHC public hearing.

7. Designating a structure as a Protected Landmark (Section 33-229)

Change criteria for designation from “built before 1905” to “was constructed more than 100 years ago”

8. Shall Approve Criteria (Section 33-241(b)(1-4))

The Committee had considerable discussion about this issue. Some Committee members believe the Shall Approve criteria should be removed based on the fact that they are confusing, rarely used and in direct conflict with the 11 criteria for Alterations and Additions. Other members suggested that instead of removing the criteria, they should be redefined. The committee agrees on changes to accomplish the following:

- Make Shall Approves an administrative approval by the Director.
- Limit the number of Shall Approves per structure to one for the life of the structure.
- Change (1)b to read that the plate height of the addition does not exceed the plate height of the original structure.
- Clarify that #4 is not a separate criterion, but instead a required part of each of the three Shall Approve scenarios.
- Add language that they are an exception to the 11 Criteria and that Shall Approve projects do not meet the criteria

9. Certificate of Appropriateness application requirements (Sections 33-238 and 33-247)

The Committee agrees to give the Director authority to determine what must be included in an application. They decided to combine the two sections that describe application requirements and structure it in the following way:

1. Applications shall be in a form prescribed by the director and shall contain the following information and other information as deemed appropriate by the director:
2. All applications must include:
 - (1) The name, address and daytime telephone number of the owner and the applicant, if different from the owner;
 - (2) The signature of the property owner;
 - (3) The address and general description of the property that is the subject of the application;
 - (4) A description of the work intended to be done, the materials to be used and the changes to be made
 - (5) Current photographs of the subject of the application; and
 - (6) If any plans and specification are required to secure a building permit, a copy of the plans and specifications shall be submitted with the application for certificate of appropriateness.

10. Criteria for alterations and additions (Section 33-241)

The Committee recommends changing the criteria in the following way:

1. Separate criterion #9 into two distinct criteria and add clarifying language as follows:
 - (9) The proposed design for any exterior alteration or addition must not destroy significant historical, architectural or cultural material, including but not limited to siding, windows, doors, and porch elements;
 - (10) The proposed design shall be compatible with the massing, size, scale, material and character of the property and the area in which it is located;
2. Remove Criterion #11. The issue of whether a project meets a deed restriction is more appropriately covered in the affidavit on the building permit application.

11. Criteria for new construction (Section 33-242)

This was the most difficult discussion the Committee conducted. They discussed it on several occasions and asked for extensive research and analysis of other cities' processes and criteria. There were very strong opinions on all sides of this issue. In the end, the Committee agrees with these criteria:

- The new construction must match the typical setbacks of existing contributing structures on the blockface and opposing blockface
- The exterior architectural features of new construction must be compatible with the exterior features of existing contributing structures in the historic district
- The proportions of new construction, including height, width, scale, roof shape and roof pitch, must be compatible with the typical proportions of existing contributing structures in the in the surrounding

area. Upon demonstrating that unusual circumstances exist, the HAHC may consider a larger surrounding area in determining compatibility.

A two story structure may be considered appropriate on a blockface with only one-story contributing structures as long as the new construction is in proportion to the surrounding existing structures and unless otherwise stated in a district's Design Guidelines. Design guidelines may develop greater specificity for factors to consider in determining compatibility for new construction in individual districts.

12. Criteria for relocation and/or demolition (Sections 33-243 and 33-247)

- Create separate criteria for relocating Landmarks and protected Landmarks, contributing structures within a district, and contributing structures outside the district
- Allow relocation outside the district only if applicant proves unreasonable economic hardship or unusual or compelling circumstances
- Increase the documentation required from the owner to consider unreasonable economic hardship and unusual or compelling circumstances
- Upon denial of a request for demolition, the applicant must work with the Director to explore alternatives. No demolition permit may be issued within 90 days of the CofA denial.

13. Allow for a Certified Local Government

The Houston code has been reviewed by the Texas Historic Commission and it has been found to meet the requirements making Houston eligible to apply for the CLG.

14. Tax exemption policies for historic sites (Chapter 44 Section 44-5)

The Committee recommends the following changes to the code and policy:

- The code should follow the National Park Service standards in terms of allowable expenses.
- Tax exemptions should be allowed for improvements and restoration of the historic structure. The value/cost of additions should not be included in the calculation
- The minimum investment threshold should be reduced from 50% to 25% of the value of the structure to allow smaller restorations to qualify.

15. Historic Commission (Section 33-211 and 33-212)

The Committee recommends the following changes to the structure of the HAHC:

- Add language requiring that all HAHC members shall have a known and demonstrated interest, competence, or knowledge in historic preservation within the city and or the county
- Remove the term limit provision.

16. Appeals (Section 33-253)

The Committee recommends the following:

- Prohibit the introduction of new materials at the appeal. If new material is available, it is appropriate for the material to be presented to the HAHC for reconsideration before the item is granted an appeal.
- Provide the neighborhood with adequate notice of the appeal by requiring the placement of a sign on property similar to signs required for relocation and/or demolition. The sign shall be in place for a minimum of 10 days prior to the Planning Commission meeting. This would require that notification of the date of the appeal be provided to the applicant at least 15 days in advance of the meeting.
- The HAHC may appoint a member to attend Planning Commission appeals and provide information about their decision.
- The Planning Commission may uphold the decision of the HAHC, may grant the CofA, or may direct the HAHC to reconsider the item. For decisions that either grant the CofA or direct the HAHC to reconsider the item, the Planning Commission shall identify the ways in which they believe the project meets the criteria.
- The ability of an application to appeal to City Council shall remain unchanged.

In addition to the following regulatory changes, the committee recommends procedural changes:

- Regularly scheduled inter-committee training sessions
- A briefing session to be held with the full Planning Commission at which the staff may provide more detailed information on the project than is possible at the Commission meeting.

17. The penalty for illegal demolition (Section 33-203)

The Committee recommends that an appropriate penalty would be a two-year moratorium on reconstruction and requiring that any new building to be built within same footprint and with no more square footage than the building that was demolished (as determined from HCAD records and any other available documentation) and meet the criteria for New Construction.

18. Enforcement (Section 33-203)

The Committee recommends:

- Add a mechanism that will give the HAHC another option to allow the project to be completed and create a path that encourages the restoration of inappropriate modifications without interfering with the city's ability to issue citations and use other enforcement options when historic fabric has been destroyed and cannot be fixed. Such documentation may be called a Certificate of Remediation.
- Violations shall make the project ineligible for tax exemption.
- Require payment of damages by the applicant into the Historic Preservation Fund equal to the sum of the cost of restoration or construction, including the cost of appraiser's fees, architect's fees, and other fees related to the calculation of the cost of restoration or construction.

19. Deferrals (Section 33-239)

The committee agreed that deferrals play an important role in providing the Commission with a thorough review of the project application and that they should not be prohibited.

20. Required notification for CofA applications (Section 33-238.1)

The committee is recommending that a small sign (similar in size to a MLS/MBL sign) be required to be placed in the front yard upon application for a Certificate of Appropriateness. The sign shall note that an application has been filed and will provide the website and phone number where more information may be obtained. The sign will serve two notification purposes: for passers-by of the application and city building inspectors of increased requirements on the building permit due to the property's adherence to the Historic Code.

21. Painting brick (Section 33-201)

See Issue #3. *The list of exclusions now reads: Painting, except for painting over masonry (stone and brick)**

22. Application fees and penalties (Section 33-238)

The Committee recommends removing the prohibition of application fees. In doing so, the Committee was not establishing a fee, but simply opening the door if City Council wanted to do so in the future.

23. Alterations of non-contributing structures (Section 33-241c)

The Committee recommends that alterations and additions to non-contributing structures should match architectural features, materials, and character of the existing noncontributing structure. If an addition is proposed, final project should match setbacks and be in proportion and scale, including height and width, with contributing structures in the historic district.