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# *Historic Preservation Ordinance*

## *Summary of Proposed Revisions*

*September 24, 2015*



## PLANNING & DEVELOPMENT DEPARTMENT

The following is a summary of the proposed changes to the City's historic preservation ordinance. These changes have been drafted into code language which can be found in the public comment ordinance redline dated August 31, 2015. The corresponding page numbers in the ordinance where the code language may be found is included in each description below.

- 1. Create a pathway for developing and presenting to Council Design Guidelines for districts created before 2010.** Identifies that design guidelines for Heights East, Heights West and Heights South will be developed and presented to Council within 16 months. Allows the Houston Archaeological and Historical Commission (HAHC) or Council to initiate the process to create design guidelines for other districts. This proposal also allows individual district design guidelines to override certain provisions within this ordinance, such as removing items from the list of exemptions or mandatory approvals and requiring that certain projects be considered by the HAHC instead of being eligible for administrative approval. The proposal stipulates that district design guidelines may be stricter, but not more lenient, than the ordinance, unless specified otherwise. (page 34)
- 2. Increase the scope of projects that can be approved by the director rather than requiring review by HAHC.** Included on this list is the removal of non-historic materials, the removal and replacement of historic items that are damaged beyond repair, the installation of burglar bars, accessibility ramps or other such materials, the construction of freestanding garages or outbuildings, alterations to non-contributing structures, and the mandatory approvals (also known as shall approves). (page 22)
- 3. Clarify some terminology used in the ordinance with new or revised definitions.** The definition for "alterations" is now clear that it includes replacing historic material, changing the type of foundation, signs that are attached to a building, and the painting of previously unpainted masonry surfaces. The definition for "demolition" is broadened to include demolition by neglect. The definition for "exterior feature" is clarified (see item 5). The definition for "ordinary maintenance and repair" is changed to exclude the replacement of historic materials and the leveling of a foundation. The definition of "streets" replaces "public right-of-way" and now includes public rights-of-way, but not alleys or shared driveways. Definitions were added for a number of terms, including "context area" and "typical" (see item 17). (page 1)
- 4. Expand and clarify exemptions from the Ordinance.** The proposal adds a number of architectural features, such as window screens and gutters, to the exempt list. Fences remain exempt, unless a district's design guidelines stipulate differently. (page 18)
- 5. Clarify the regulation of structural elements of exterior walls such as interior shiplap.** Historic structures rely on the three components of the exterior wall assembly – the exterior siding, the studs and the shiplap – for structural integrity. Shiplap on exterior walls may be removed only with a Certificate of Appropriateness and documentation from that a licensed engineer that its removal will not damage the structure. (page 2, 25)

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- 6. Improve the remedies for enforcement of violations of the ordinance, including illegal demolition.** Currently, a property owner who illegally demolishes a structure may not obtain a building permit for that location for two years. This proposed change maintains the two year prohibition and further requires that any potential new construction on that site be no larger in footprint or square footage than the structure that was illegally demolished for a total period of ten years from the date of the illegal demolition. It also allows the Commission to issue a Certificate of Remediation to property owners who perform inappropriate work outside the scope of their Certificate of Appropriateness in cases where the historic material has been destroyed. This Certificate of Remediation will allow the property to receive building permits for future construction projects but will make it ineligible for historic tax exemption (see item 20). (page 4)
  - 7. Improve the technical expertise of persons appointed to the Historic Commission and provide more flexibility for appointing and retaining highly qualified commissioners.** This proposal changes Position 9 from a citizen representative to a person with knowledge in preservation construction and technology. The proposal also clarifies the definition of Position 6, identifying that person as someone with commercial interests in a historic district. The proposal also eliminates the limitation on the number of two-year terms that the mayor or Council can appoint a commissioner to serve. (page 5)
  - 8. Identify a current employee as a Historic Preservation Officer.** This position will make Houston eligible for the Certified Local Government program with the Texas Historic Commission. In doing so, Houston will be eligible for grants, technical assistance and other support programs for historic preservation. This change is a title that will apply to existing staff and does not require the creation of a new staff position. (page 5)
  - 9. Modified some aspects of the process for creating historic districts.** Residents of proposed historic districts currently evidence their support by submitting a "card." This language was confusing; this proposal changes that term to "response form." In order to create more cohesively-shaped districts, the director will have the flexibility to propose one or more non-contiguous areas within a proposed district. The limitation that a proposed district may not include more than 400 tracts is removed. This proposal still requires that owners of 67 percent of the tracts located in the proposed district must support the creation before it may be sent to the HAHC or City Council for designation. (page 9)
  - 10. Limit the publication of maps indicating the location of archaeological sites.** In keeping with state standards, the location of designated significant archaeological sites will not be disclosed to the public and instead will be kept by the City Secretary. (page 13)
  - 11. Allow for City Council to expand the boundaries of a historic district or to change the classification of a structure located in a historic district.** This proposal allows for property owners to request the enlargement of a historic district by following the same process required to create a new district. In addition, upon request from the HAHC, the City Council may change the classification of properties located within historic districts. This includes properties that were mis-classified when the district was created and those that no longer should be considered historic properties, as long as the re-classification is not due to the neglect of the owner. (page 14)
  - 12. Provide additional notification to the community for Certificate of Appropriateness applications.** This proposal requires that applicants for a Certificate of Appropriateness place a small yard sign in their front

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yard as a means of notifying the neighborhood that an application has been filed. These signs provide contact information for the Planning Department in case neighbors desire to learn about or comment on an application. This proposal also requires the placement of a 4'x8' sign in the yard for any property that the applicant has requested an appeal. (page 19)

13. **Change one of the criteria for designating a structure as a Protected Landmark from “constructed before 1905” to “constructed more than 100 years before application.”** (page 16)
14. **Require the director to promulgate the form and requirements of an application for a Certificate of Appropriateness, and allow City Council to establish an application fee in the future.** Currently, some application requirements are specified in the ordinance while others are not. This proposal requires that the director determine what is required and provide that information to all applicants. It also gives the director flexibility to revise the required list when necessary. This proposal also removes the prohibition for charging a fee and allows City Council to set one in the future. (page 18)
15. **Clarify the criteria for obtaining a Certificate of Appropriateness for alterations and additions.** This proposal separates Criterion 9 into two distinct criteria and removes Criterion 11 from HAHC consideration. It also clarifies what items are considered "significant historic material." (page 21)
16. **Clarify and refine the criteria for those simple additions that qualify for mandatory approval (also known as shall approves) and designate them as administrative approvals.** The proposal allows the shall approves to be approved through administrative approval, instead of a hearing at the HAHC. It also clarifies the review criteria for the projects and allows that a property may only be eligible for a shall approve once. It requires that, to qualify for a shall approve, any second story additions must be constructed without the removal of any existing exterior walls of the historic structure. (page 22)
17. **Clarify the criteria for obtaining a Certificate of Appropriateness for alterations to non-contributing structures.** This proposal identifies an alteration of a non-contributing structure as an administrative approval. It also provides more options for alterations in that they may be compatible with either the original structure or the historic district. It requires that, upon removing more than 67 percent of the structural elements of a non-contributing structure, the resulting project shall be considered under the new construction criteria. Finally, it requires that additions to non-contributing structures be compatible to the context area in terms of setbacks, exterior features, proportions and scale. (page 23)
18. **Clarify the criteria for obtaining a Certificate of Appropriateness for new construction.** This proposal removes all references to land uses when considering the height limitation for new construction. It also requires that new construction be appropriate in size, scale and exterior architectural elements to the local “context area” instead of the entire historic district. It allows historic districts to develop design guidelines that will consider the context area differently than defined in the ordinance. (page 26)
19. **Revise the criteria for obtaining a Certificate of Appropriateness for relocation of landmarks and contributing structures.** This proposal identifies different criteria for the relocation of a landmark or protected landmark, or a contributing structure being relocated within the district (including on its own site) and for a contributing structure being relocated outside a district. (page 27)

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20. **Revise the criteria for obtaining a Certificate of Appropriateness for demolition of landmarks and contributing structures.** This proposal identifies specific criteria for obtaining permission to demolish a contributing structure or landmark. It stipulates the materials that must be submitted with the application. It also stipulates what steps the applicant may take upon denial of an application to demolish a structure. (page 28)
  21. **Provide additional criteria for the excavation of an archaeological site.** (page 15)
  22. **Establish a Planning Commission subcommittee to hear appeals.** This proposal calls for the Mayor to appoint a five-member committee acting as a subcommittee of the Planning Commission who have a knowledge and interest in historic preservation to hear appeals from the HAHC. The subcommittee shall rule on the appeal within 45 days from the applicant's request, as opposed to the current 90 days. The subcommittee shall affirm the decision of the HAHC unless the subcommittee finds that the project meets the criteria under which the HAHC denied the application. The subcommittee shall identify the ways in which the project meets the criteria. If the subcommittee upholds the HAHC's decision, the applicant retains the right to appeal to the City Council. (page 32)
  23. **Refine the list of eligible projects for which a property owner may receive City of Houston tax incentives to further incentivize historic restoration.** Unlike the State and Federal programs, Houston's historic tax incentive program allows property owners to receive exemptions on building additions to the historic property. This proposal will align Houston's program with state and local programs by limiting eligible costs to the existing historic structure only, rather than for additions. In addition, this proposal increases the incentive to reinvest in historic structures by lowering the minimum investment to 25% of the base value, down from 50%. (page 37).