

**BILL #9079**

**ORDINANCE #9079**

**AN ORDINANCE OF THE CITY OF WEBSTER GROVES,  
MISSOURI, AMENDING SECTIONS OF CHAPTER 52, "HISTORIC  
PRESERVATION," TO CLARIFY THE PROCESS REGARDING  
STRUCTURES PROPOSED FOR DEMOLITION;  
THE MEMBERSHIP; QUALIFICATIONS; OFFICERS  
AND MATTERS RELATED THERETO**

**WHEREAS**, Chapter 52 of the Code of Webster Groves, which is entitled "Historic Preservation", currently provides for a review of structures over one hundred years old or older that are proposed for demolition; and

**WHEREAS**, the City Council of Webster Groves, Missouri, has determined that the Historic Preservation Commission should provide a more comprehensive process for the review of structures that could be historically significant while being less than one hundred years old; and

**WHEREAS**, Missouri law requires that when considering whether or not to issue a certificate of appropriateness to alter, construct, relocate, remove, demolish or subdivide any part of a building structure or property communities must balance the economic hardship to individuals against the public interest in preservation of historic structures and properties; and

**WHEREAS**, the City Council believes that this new review process will enhance the ability of the Historic Preservation Commission and the community to evaluate the balance between public interest in historic preservation and economic interests of individual homeowners of historic properties; and

**WHEREAS**, the City Council has determined that the Historic Preservation Commission regulations should follow more closely to how the Commission intends to operate with their membership, qualifications and officers; and

**NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WEBSTER GROVES, MISSOURI, AS FOLLOWS:**

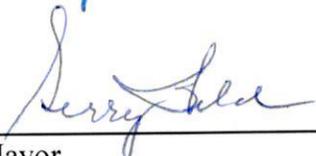
**Section 1.** Chapter 52 has been replaced in its entirety as set forth in Exhibit A to this Ordinance #9079, a true and accurate copy of which is attached hereto and incorporated herein by this reference.

**Section 2.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

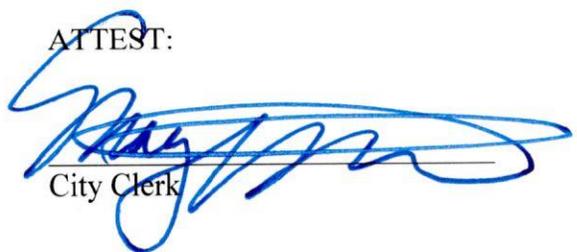
**Section 3.** This Ordinance shall be printed in the Code of Webster Groves.

**Section 4.** This Ordinance shall become effective immediately upon passage and approval.

Passed and Approved this 16<sup>th</sup> day of July 2019.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk



**PART VI. PLANNING****CHAPTER 52. HISTORIC PRESERVATION COMMISSION**

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## CHAPTER 52. HISTORIC PRESERVATION COMMISSION

### Section 52.010 Purpose.

The purpose of this article is to promote the educational, cultural, economic, and general welfare of the community by:

- a. Providing a mechanism to identify and preserve the distinctive historic, archeological and architectural characteristics of the City of Webster Groves which represents elements of the City's cultural, social, economic, political, and architectural history;
- b. Fostering civic pride in the beauty and noble accomplishments of the past as represented in the City's landmarks and historic districts;
- c. Conserving and improving the value of property designated as landmarks or within historic districts;
- d. Providing for economic benefits to encourage business and residential owners to locate and invest in historically significant properties;
- e. Protecting and enhancing the attractiveness of the City to home buyers, tourists, visitors, and shoppers, and thereby supporting and promoting business, commerce and industry, and providing economic benefit to the City; Fostering and encouraging preservation, restoration, rehabilitation of the historic structures, areas and neighborhoods, and thereby preventing future urban blight;
- f. Promoting the use of landmarks and historic districts for the education, pleasure, and welfare of the people of the City;
- g. Promoting the identification, evaluation, protection and interpretation of the prehistoric and historic archeological resources within the incorporated limits of the City.

### Section 52.020 Definitions.

Unless specifically defined below, words or phrases in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

- a. **"Alteration"** shall mean any act or process that changes one or more historic, architectural or physical features of an area, site, landscape, place and/or structure, including, but not limited to, the erection, construction, reconstruction, or removal of a structure; the expansion or significant modification of agricultural activities; and clearing, grading or other modification of an area, site, or landscape that changes its current condition. For the purpose of this Chapter, alteration shall not include restoration. See **"Restoration"**.
- b. **"Architectural Review Board (ARB)"** shall mean the board established pursuant to Section 4.710 and Section 56 of the Code of Webster Groves.

- c. **“Area”** shall mean a specific geographic division of the City of Webster Groves.
- d. **“Board of Adjustment (BOA)”** shall mean the board established pursuant to Section 4.150 of the Code of Webster Groves and Section 4.3 of the Webster Groves Charter.
- e. **“Certificate of Appropriateness”** shall mean a certificate issued by the Historic Preservation Commission (HPC) and/or the Architectural Review Board (ARB) indicating its approval of plans for alteration, construction, removal or demolition of a landmark or of a structure within a historic district.
- f. **“City Council”** shall mean the City Council of the City of Webster Groves as established by charter.
- g. **“City Plan Commission”** shall mean the commission established pursuant to Section 4.110 of the Code of Webster Groves and Chapter 89 of the Missouri Revised Statutes, as amended.
- h. **“Construction”** shall mean the act of adding an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property.
- i. **“Cultural Resources”** shall mean districts, sites, structures, objects and evidence or parts thereof of some importance to a culture, a subculture, or a community for scientific, engineering, art tradition, religious or other reasons, significant in providing resource and environmental data necessary for the study and interpretation of past ways of life and for interpreting human behavior.
- j. **“Date of Initiation of Designation”** shall mean the date of the meeting of the Historic Preservation Commission where the landmark or historic district is nominated by a member of the HPC, the owner of record of the structure or the City Council.
- k. **“Demolition”** shall mean any act or process which destroys in part or in whole a landmark or a structure within a historic district, or which threatens to destroy a landmark or a structure within a historic district, or which destroys or threatens to destroy a potentially significant property or structure by failure to maintain it in a condition of good repair and maintenance.
- l. **“Design Guideline”** shall mean a standard of appropriate activity that will preserve the historic, architectural, scenic or aesthetic character of a landmark or historic district.
- m. **“Exterior Architectural Appearance”** shall mean the architectural character and general composition of the exterior of a structure, including but not limited to the kind, color and texture of the building material; the type of roofline, dormers and overhangs; the size, location and design of porches, steps and handrails and the type, size, location, spacing design and character of all windows, doors, light fixtures, signs, and appurtenant elements.
- n. **“Historic District”** shall mean an area designated as a “historic district” by ordinance of the City Council which may include individual landmarks, as well as

other properties or structures which, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual characteristics and historical significance of the historic district.

- o. **“Historic Preservation Commission (HPC)”** shall mean the commission established pursuant to Chapter 52 of the Code of Webster Groves.
- p. **“Historic Significance”** shall mean character, interest or value as part of the development, heritage, or culture of the community, county, state or country; as the location of an important local, county, state or national event; or through identification with a person or persons who made an important contribution to the development of the community, county, state or country.
- q. **“Landmark”** shall mean a property or structure designated as a **“landmark”** by ordinance of the City Council, pursuant to procedures prescribed herein, which is worthy of rehabilitation, restoration, interpretation and preservation because of its historic, architectural or archaeological significance to the City of Webster Groves.
- r. **“Minimum Maintenance”** shall mean the minimum regulations governing the conditions and maintenance of all existing structures, as set out in the BOCA Basic Existing Structures Code, First Edition (1984) as amended from time to time and other legally adopted codes of the City of Webster Groves.
- s. **“Ordinary Maintenance”** shall mean any work for which a building permit is not required by ordinance, where the purpose and effect of such work is to correct any deterioration or decay of, or damage to, a structure or any part thereof and to restore the same, as nearly as practical, to its condition prior to the occurrence of such deterioration, decay or damage and does not involve change of materials nor of form.
- t. **“Owner of Record”** shall mean the person, corporation or other legal entity listed as owner in the records of the St. Louis County Recorder of Deeds.
- u. **“Removal”** shall mean any relocation of a structure, object or artifact on its site or to another site.
- v. **“Repair”** shall mean any change that is not construction, alteration, demolition or removal and is necessary or useful for continuing normal maintenance and upkeep.
- w. **“Restoration”** shall mean the process or product of returning, as nearly as possible, an existing site, building, structure or object to its condition at a particular time in history, using the same construction materials and methods as the original where possible. Typically the period of greatest historical significance or aesthetic integrity is chosen. This may include removing the later additions, making hidden repairs and replacing missing period work.
- x. **“Site”** shall mean the traditional, documented or legendary location of an event, occurrence, action or structure significant in the life or lives of a person, persons, groups, or tribe, or any place with evidence of past human activity. Sites include, but are not limited to, cemeteries, burial grounds, occupation and work areas,

evidence of farming or hunting and gathering, battlefields, settlements, estates, gardens, groves, river crossings, springs, wells, routes and trails, caves, quarries, mines or significant trees or other plant life.

- y. **“Stop Work Order”** shall mean an order directing an owner, occupant, contractor or subcontractor to halt an action for which a certificate of appropriateness is required, and notifying the owner, occupant, contractor, subcontractor or other responsible person of the application process for a certificate of appropriateness.
- z. **“Structure”** shall mean anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, gazebos, advertising signs, billboards, backstops for tennis courts, radio and television antennae and towers, and swimming pools.
- aa. **“Survey”** shall mean the systematic gathering of information on the architectural, historic, scenic, and archaeological significance of buildings. Sites, structures, areas, or landscapes, through visual assessment in the field and historical research for the purpose of identifying Landmarks or districts worthy of preservation.

**Section 52.030 Membership.**

The Historic Preservation Commission (HPC) shall consist of a total of twelve (12) regular and ex-officio members.

The twelve (12) regular members shall consist of nine (9) appointed citizens and three (3) ex-officio members which shall be the City Manager, Director of Planning and Development (or other designated staff member), and a Council member selected by the City Council.

All regular appointed members shall be voting members. The City Manager, the Director of Planning and Development (or other designated staff member designated) and the Council Member shall serve but have no vote.

**Section 52.040 Appointment.**

The nine (9) citizen members shall be appointed by the City Council.

**Section 52.050 Terms.**

All members shall serve three (3) year terms, unless appointed to an unexpired term.

**Section 52.060 Qualifications.**

Members should have been residents of the City of Webster Groves for at least one (1) year preceding their appointment. Members should be persons with demonstrated interest or expertise in historic preservation. Representatives of historical societies and residents and owners of property in historic districts should be encouraged to serve members.

To the extent available in the community the HPC shall include professional members representing such disciplines as architecture, law, real estate brokerage, banking, history or other fields related to historic preservation.

**Section 52.080      Officers.**

Officers shall consist of a Chairperson, a Vice-Chairperson and a Secretary elected by the HPC, each of whom shall serve a term of one (1) year and be eligible for re-election. The Chairperson shall preside over meetings. In the absence or disqualification of the Chairperson, the Vice-Chairperson shall perform the duties of the Chairperson. In the absence of the Chairperson and the Vice-Chairperson, the acting Chairperson shall be elected from those members present by those members present.

No member shall serve as chairperson for more than two (2) consecutive years.

**Section 52.090      Vacancies and Removal.**

Vacancies of members shall be filled for the unexpired term only. Members serve at the pleasure of the City Council and may be removed by the Mayor and the City Council without cause.

**Section 52.100      Meetings.**

A quorum shall consist of five (5) of the members. All decisions or actions of the HPC shall be made by an affirmative vote of at least five (5) members. In the event of a tie vote, the issue shall be considered as deadlocked and shall be tabled until the next regular or special meeting.

Meetings shall be held at regularly scheduled times or at any time upon the call of the chairperson, but no less than once each quarter (four (4) meetings per year).

All meetings shall be held, and agendas posted, in accordance with the laws of the State of Missouri.

**Section 52.110      Conflict of Interest.**

Members of the HPC shall be governed by Sections 2.070 and 2.080 of the Code of Webster Groves.

**Section 52.120      Action by the Commission.**

No action shall be taken by the HPC that could in any manner deprive or restrict the owner of a property in its use, modification, maintenance, disposition, or demolition until such owner shall have had the opportunity to be heard at a public hearing.

The chairperson, and in his absence, the acting chairperson, may administer oaths and compel the attendance of witnesses.

**Section 52.130      Records and Minutes.**

The HPC shall keep minutes of its proceedings, showing the vote, and shall keep records of its examinations and other official actions, all of which shall be filed as public record.

All HPC rules of procedure, designation criteria, design guidelines and forms shall be available as public record.

**Section 52.140 Funding.**

The HPC may, with the consent of the City Council, apply for, receive, or expend any federal, state or private grant, grant-in-aid, gift, or bequest, in furtherance of the general purposes of this ordinance.

**Section 52.150 Compensation.**

The members shall serve without compensation.

**Section 52.160 Powers and Duties.**

The HPC shall have the following powers and duties:

- a. To adopt its own by-laws and procedural regulations for the purpose of conducting meetings, provided that such regulations are consistent with this Chapter, the City Charter and the Missouri Revised Statutes as amended;
- b. To conduct an ongoing survey for the identification of historically, archeologically and architecturally significant properties, structures, sites, and areas that exemplify the cultural, social, economic, political or architectural history of the nation, state or City; and to maintain the research information in an inventory accessible to the public;
- c. To investigate, and recommend to the City Council the adoption of ordinances designating areas as having special cultural, historic, archeological, community or architectural value as "**landmarks**";
- d. To investigate, and recommend to the City Council the adoption of ordinances designating areas as having special cultural, historic, archeological, community or architectural value as "**historic districts**";
- e. To keep a register of all properties and structures which have been designated as landmarks or historic districts, including all information required for each designation;
- f. To confer recognition upon the owners of landmarks and property or structures within historic districts by means of certificates, plaques, or markers; and to make recommendations for the design and implementation of specific markings of the streets and routes leading from one landmark or historic district to another;
- g. To advise and assist owners of landmarks and property of structures within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the national register of historic places;

- h. To nominate landmarks and historic districts to the historic register of the City of Webster Groves and to the national register of historic places, and to review and comment on any nominations to the national register of historic places;
- i. To inform and educate the citizens of the City of Webster Groves concerning the historic, archaeological and architectural heritage of the City through City Council approved expenditures for publication or sponsorship of maps, newsletters, brochures, pamphlets, programs and seminars by the City, the HPC or other appropriate parties;
- j. To hold public hearings and to review each application for removal, demolition, subdivision, boundary adjustment, or a lot split affecting proposed or designated landmarks or structures within historic districts and to issue or deny certificates of appropriateness for such actions. Applicants may be required to submit plans, drawings, elevations, specifications, and other information as may be necessary to make decisions;
- k. To hold public hearings on each proposed nomination of a landmark and of a historic district and on the guidelines developed for each nomination;
- l. To request that the Building Commissioner issue stop work orders for any construction, alteration, removal or demolition undertaken without a certificate of appropriateness or to stop work that violates the conditions of a certificate;
- m. To review all applications for demolition permits pertaining to structures Fifty (50) years of age or older and within the corporate limits of the City, including those not yet nominated as landmarks and those not yet designated as part of a historic district to prevent the loss of buildings that may have historical or architectural significance;
- n. To call upon available City staff members as well as other experts for technical advice;
- o. Upon approval of City Council, to retain such specialists or consultants or to appoint such citizen advisory committees as may be required from time to time;
- p. To testify before all boards and commissions, including the City Council, the City Plan Commission, the BOA and the ARB, on any matter affecting historically, archaeologically, culturally and architecturally significant property, structures, sites and areas;
- q. To make recommendations to the City Council concerning budgetary appropriations to further the general purposes of this Chapter; and
- r. To undertake any other action or activity necessary or appropriate to the implementation of its powers and duties or to implementation of the purpose of this Chapter.

**Section 52.170 Surveys and Research.**

The HPC shall undertake an ongoing survey and research effort on the City of Webster Groves to identify neighborhoods, areas, sites, structures, and objects that have historic, cultural, archaeological, architectural or aesthetic importance, interest or value. As part of the survey, the Historic Preservation Commission (HPC) shall review and evaluate any prior surveys and studies by any unit of government or private organization and compile appropriate descriptions, facts and photographs. The HPC shall systematically identify potential landmarks and historic districts and adopt procedures to nominate them based upon the following criteria:

- a. The potential landmarks and historic districts in one identifiable neighborhood or distinct geographical area of the City of Webster Groves;
- b. The potential landmarks and historic districts associated with a particular person, event or historical period;
- c. The potential landmarks and historic districts in a particular architectural style or school, or of a particular architect, engineer, builder, designer or craftsman;
- d. The potential landmarks and historic districts contain historic and prehistoric archaeological resources with the potential to contribute to the understanding of historic and prehistoric cultures;
- e. Such other criteria as may be adopted by the HPC to assure systematic survey and nomination of all potential landmarks and historic districts within the City of Webster Groves.

**Section 52.180 Nomination of Landmarks and Historic Districts.**

Nominations shall be made to the HPC on a form prepared by it and may be submitted by an owner of record of the nominated property or structure, by motion of the HPC acting as a body, or by motion of the City Council acting as a body. Nominations shall be submitted to the office of the Building Commissioner, who shall, within seven (7) days of receipt, mail a notification of the intent to nominate to the owner of record of the nominated property. Forms and criteria for nomination will be available at the office of the Building Commissioner.

**Section 52.190 Criteria for Consideration of Nomination:**

The HPC shall, upon such investigation as it deems necessary, make a determination as to whether a nominated property, structure, site, area or district meets one or more of the following criteria, based on the criteria for evaluation for the national register of historic places:

- a. Its character, interest, or value as a part of the development, heritage, or cultural characteristics of the community, county, state or country;
- b. Its overall setting and harmony as a collection of buildings, structures, objects where the overall collection forms a unit;

- c. Its potential to be returned to an accurate historic appearance regardless of alterations or insensitive treatment that can be demonstrated to be reversible;
- d. Its location as a site of a significant local, county, state or national event;
- e. Its identification with a person or persons who significantly contributed to the development of the community, county, state or country;
- f. Its embodiment of distinguished characteristics of an architectural type valuable for the study of a period type, method of construction, or use of indigenous materials;
- g. Its identification as the work of a master builder, designer, architect or landscape architect whose individual work has influenced the development of the community, county, state or country;
- h. Its embodiment of elements of design, detailing, materials or craftsmanship that render it architecturally significant;
- i. Its embodiment of design elements that make it structurally or architecturally innovative;
- j. Its unique location or singular physical characteristic that make it an established or familiar visual feature of the neighborhood, community or City;
- k. Its character as a particularly fine or unique example of a utilitarian structure, including, but not limited to farmhouses, gas stations or other commercial structures, with a high level of integrity of architectural significance;
- l. Its suitability for preservation or restoration; and
- m. Its potential to yield information important to history and prehistory.

Any structure, property or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials and workmanship to make it worthy of preservation and restoration.

#### **Section 52.200 Public Hearing on Landmarks and Historic Districts.**

The HPC shall conduct a public hearing on each proposed designation of a landmark or historic district in order to obtain the viewpoints of affected property owners, residents and other interested parties.

#### **Section 52.210 Notification of Property Owners of Proposed Designation.**

Notice of a proposed designation shall be hand delivered or sent by first class mail to the owners, as listed in the real estate index of St. Louis County, of property proposed for landmark or historic district designation, describing the property proposed and announcing, at least seven (7) days in advance, a public hearing by the HPC to consider said designation. The notice shall briefly describe the proposed designation and state the time and place of the public hearing.

The notice shall be posted on the bulletin board at the City Hall at least twenty-four (24) hours before the hearing.

The notice shall be posted on the property at least seven (7) days in advance of the hearing.

**Section 52.220 Timely Determination.**

The HPC shall make a determination with respect to the proposed designation in writing within fifteen (15) days after the initial hearing date and shall forthwith hand deliver or send by first class mail a copy or copies thereof to the owner or owners as listed in the real estate index of St. Louis County, to the City Council, as well as to such other interested parties as may request a copy thereof, setting forth those findings of fact which constitute the basis for its recommendation. The determination shall be in the form of a finding of fact. The following information shall be included in the determination:

- a. Explanation of the significance or lack of significance of the nominated landmark or historic district as it relates to the criteria for consideration of nomination (Section 52.190); and
- b. Explanation of the integrity or lack of integrity of the nominated landmark or historic district.

In the case of a nominated landmark found to meet the criteria for designation:

- c. The significant exterior architectural features of the nominated landmark that should be protected;
- d. The types of construction, alteration, demolition and removal, other than those requiring a building or demolition permit, that should be reviewed for appropriateness pursuant to the provisions of this Chapter; and
- e. Archaeological significance and recommendations for interpretation and protection.

In the case of a nominated historic district found to meet the criteria for designation:

- f. The types of significant exterior architectural features of the structures within the nominated historic district that should be protected;
- g. The types of alterations and demolitions that should be reviewed for appropriateness pursuant to the provisions of this Chapter;
- h. The type and significance of historic and prehistoric archeological sites within the nominated historic district;
- i. Proposals for the design guidelines of HPC review of certificates of appropriateness within the nominated landmark or historic district;

- j. The relationship of the nominated landmark or historic district to the ongoing effort of the HPC to identify and nominate all potential cultural resources that meet the criteria for designation;
- k. Recommendations as to appropriate permitted uses, conditional uses, height and area regulations, minimum dwelling size, floor area, sign regulations, lot size and parking regulations necessary or appropriate to the preservation of the nominated landmark or historic district, including recommendations for buffer zones to protect and preserve visual integrity; and
- l. A map showing the location of the nominated landmark and/or the boundaries of the nominated historic district.

**Section 52.230 City Council Approval.**

Upon receipt of the recommendations of the HPC, the City Council shall schedule a public hearing. Following the public hearing, the City Council may approve or disapprove the HPC's recommendations which shall not be binding on the City Council. The City Council shall cause notice of the time and place of its public hearing to be published at least two (2) times in a newspaper having a general circulation within the City of Webster Groves. The first publication shall be at least fifteen (15) days prior the day of the hearing. The City Council may provide by ordinance for additional notice of any such hearing to interested persons and citizens of the City. Notwithstanding the foregoing, the City Council may disapprove the recommendation of the HPC, without a public hearing, upon compliance with the Missouri Open Meeting Statute, and by an affirmative vote of not less than five Council members who determine that there is a compelling reason for such disapproval.

**Section 52.240 Notification of Designation.**

Within fifteen (15) days after approval by the City Council of the ordinance designating property as a landmark or historic district, the City Clerk shall send to the owner, as listed in the real estate index of St. Louis County, of each property within the designated district, by hand delivery or first class mail, a copy of the ordinance and a letter outlining the basis for such designation and the obligations and restrictions which result from such designation. The City Clerk shall send copies of this material to the Department of Public Works and the Building Commissioner.

**Section 52.250 Moratorium on Applications for Alteration or Demolition While Designation Pending.**

No application for a permit to construct, alter or demolish any structure or other feature on a proposed landmark or in a historic district, filed after the day that notice of a proposed designation has been first given to initiate designation of the said landmark or historic district, shall be approved by the HPC or the Building Commissioner while proceedings are pending on such designation; provided, however, that after one hundred eighty (180) calendar days have elapsed from the date of initiation of said designation, if final action on such designation has not been completed, the permit application may be approved.

If an appeal of a decision is made, the one hundred eighty (180) day moratorium is stayed until the appeal is resolved.

**Section 52.260 Support of Listing of Properties on the National Register.**

The HPC may support the nomination to the national register of historic places of local landmarks and historic districts that the HPC deems to have contributed to the history, architecture and culture of the City of Webster Groves.

**Section 52.270 Certificate of Appropriateness.**

Each owner of a building, feature, structure or property that has been designated as a landmark or that is located within a City-designated historic district in Webster Groves, must first obtain a certificate of appropriateness from the HPC, or on appeal from the City Council, before any of the following actions may be taken to a landmark property or building or to a building, feature or structure located in a historic district:

1. Demolition of any part of a building or structure; or
2. Relocation of any part of a building or structure; or
3. Subdivision of any such property; or
4. A lot split of any such property; or
5. A boundary adjustment of any such property.

The HPC may delegate the authority to implement previously approved applications for certificates of appropriateness to the building commissioner for changes not visible for the street frontage, excluding changes to the primary structure or subdivision of a property subject to this section.

In determining whether or not to grant a certificate of appropriateness, the HPC, and the City Council on any appeal, shall consider the following factors, which are not intended to be exclusive or limiting, in arriving at a decision:

1. Whether the subject property can be put to any reasonably beneficial or economic use without relocating or demolishing any party of the subject property;
2. Whether the owner will incur a substantial decrease in the fair market value of the property as a result of the denial of a certificate of appropriateness;
3. Whether the owner will incur a substantial decrease in the pretax or after-tax return to owners of record or other investors in the property as a result of the denial of a certificate of appropriateness;
4. The cost of the proposed relocation or demolition, and an estimate of any additional cost that would be incurred to comply with the recommendations of the Commission for changes necessary for the issuance of a certificate of appropriateness;
5. The structural soundness of any structures on the property and their suitability for rehabilitation;

6. The economic feasibility of rehabilitation or reuse of the existing structure or improvement on the property in the case of a proposed demolition or relocation; and
7. The owner/applicant's purchase of the subject property after the enactment of the relevant provisions of Chapter 52 without making the purchase contingent upon the owner/applicant first obtaining necessary Board and/or Commission approvals under Chapter 52 shall be deemed to be conclusive evidence that the applicant is responsible for his or her own economic hardship, if any; and
8. Evidence of deterioration due to willful neglect of routine maintenance and/or commencement of demolition by intentional or reckless disregard of the City's requirement for a certificate of appropriateness shall create a presumption against the owner and/or applicant that must be overcome by clear and convincing evidence before a certificate of appropriateness may be issued.

The applicant may be required to submit evidence at the hearing to support any of the factors, including those listed above, which the applicant believes to have contributed to the economic hardship that the applicant alleges he or she would suffer if the City does not grant a certificate of appropriateness. Specific information and documentation that should be presented by the applicant as competent evidence at the hearing shall include, but not be limited to, the following:

1. The amount paid for the property, the date of purchase and the party from whom purchased (including description of the relationship, if any, between the owner and the person from whom the property was purchased);
2. The assessed value of the land and improvements thereon according to the two (2) most recent assessments;
3. Real estate taxes for the previous two (2) years;
4. Annual debt service, if any, for the previous two (2) years;
5. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing or ownership of the property;
6. Any listing of the property for sale or rent, price asked and offers received, if any;
7. Any consideration by the owner as to profitable adaptive uses for the property;
8. If the property is income-producing, the annual gross income from the property for the previous two (2) years, itemized operating and maintenance expenses for the previous two (2) years, and annual cash flow, if any, during the same period;

9. Executed construction agreements or proposals;
10. Reports signed and sealed by a registered professional on the structural integrity of the building or structure upon which work is being proposed;
11. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall provide to the commission a statement of the information which cannot be obtained and describe the reasons why such information cannot be obtained.

The Commission and Council may solicit expert testimony.

An executed copy of the written decision shall be sent to the applicant and property owner and the Director of Planning and Development within five (5) working days after the decision.

(Ord. No. 8652, § 2, 10-8-09)

#### **Section 52.271 Issuance of Certificate of Appropriateness.**

The secretary of the interior's "**standards for rehabilitation and guidelines for rehabilitating historic buildings**" shall be the HPC's general guide concerning landmarks and buildings in historic districts. For proposed subdivisions, boundary adjustments, and lot splits, the HPC shall consider how the existing primary structure on the lot, subject to division or lot adjustment, as well as the immediately adjacent lots in the case of historic districts, will be affected by the reduction in surrounding open space.

#### **Section 52.272 Variety of Styles in New Construction.**

The ARB shall consider the following in passing upon the appropriateness of architectural features on new buildings: the extent to which the building or structure would be harmonious with or incongruous to the old and historic aspects of the surroundings. It is not the intent of this consideration to discourage contemporary architectural expression or to encourage the emulation of existing buildings or structures of historic or architectural interest in specific detail. Harmony or incompatibility should be evaluated in terms of the appropriateness of materials, scale, size, height, placement and use of a new building or structure in relationship to existing buildings and structures and to the setting thereof.

#### **Section 52.273 Submission of Plans to the HPC.**

An applicant for a certificate of appropriateness must submit proposed plans to the HPC in sufficient detail for the HPC to have full knowledge of the requested demolition, moved structure, subdivision, boundary adjustment, or lot split, particularly as to how the proposed actions will affect the appearance, materials and architectural design of the landmark, or the buildings, structure or land within a historic district.

**Section 52.274 Public Hearings on Applications for Certificates of Appropriateness.**

The HPC shall schedule a public hearing to consider an application for a certificate of appropriateness within fifteen (15) days of receipt of the application and supporting documents from the Building Commissioner. A notice which states that an application is pending and also states the date of the HPC hearing at which such application will be considered shall be mailed to the applicant by first class mail and posted conspicuously on the property at least seven (7) days in advance of the hearing. In addition, notice of the applications to be considered at the HPC meeting will be posted, twenty-four (24) hours before of the hearing, on the bulletin board at City Hall.

At the HPC hearing at which his/her application is considered, an applicant shall have the opportunity to examine any witnesses who may testify at the hearing. In addition, the applicant shall have the opportunity to discuss the application with the members of the HPC.

**Section 52.275 Acceptable HPC Actions.**

The HPC may approve, deny or approve in amended form the proposed plan subject to the acceptance of the amendment by the applicant. If an applicant chooses not to accept a proposed amendment, the application is considered denied.

**Section 52.276 Report on Determination.**

A written report of action taken or determination by the HPC shall be forwarded to the applicant, the City Council, the City Plan Commission and the Department of Public Works not later than forty-five (45) days after receipt of the application by the HPC. The report must state reasons why an application is denied or amended. If action is not taken within forty-five (45) days after receipt of the application, the application shall be deemed approved.

**Section 52.277 Conformance to Certificate of Appropriateness.**

All work performed pursuant to the issuance of certificate of appropriateness shall conform to the requirements of such certificate. It shall be the duty of the Building Commissioner to inspect from time to time any work performed pursuant to such certificate to assure such compliance. In the event work is performed not in accordance with such certificate, the building commissioner or his/her designated representative shall issue a stop work order and all work shall cease. No person, firm or corporation shall undertake any work on such project as long as such stop work order shall continue in effect.

**Section 52.278 Applications for Alterations or New Construction Involving Historic Districts, Landmarks or Structures.**

The HPC shall be notified of any additions or alterations involving the outward appearance of buildings. Notification shall be by forwarding a copy of the ARB agenda to the members of the HPC.

**Section 52.279 Intentionally Left Unused.****Section 52.280 Review of Permits for Demolition of Buildings not Designated.**

The purpose of this section is to provide the time necessary to initiate designation as an individual landmark or consider alternatives for a building that is proposed for demolition. Levels of review for demolition applications are the following:

- a. Administrative: The Director of Planning and Development or his/her designee shall review applications for accessory buildings and primary buildings more than fifty (50) years old to determine whether there is probable cause to believe that the building may be eligible for designation as an individual landmark.
- b. Historic Preservation Commission: Meets monthly and reviews demolition permit application recommendations referred to the Commission from the Staff.

The applicant may be required to submit evidence to support any of the factors, which the applicant believes to have contributed to the economic hardship that the applicant alleges he or she would suffer if the City does not grant a demolition permit. Specific information and documentation that should be presented by the applicant as competent evidence at the hearing shall include, but not be limited to, the following:

1. The amount paid for the property, the date of purchase and the party from whom purchased (including description of the relationship, if any, between the owner and the person from whom the property was purchased);
2. The assessed value of the land and improvements thereon according to the two (2) most recent assessments;
3. Real estate taxes for the previous two (2) years;
4. Any listing of the property for sale or rent, price asked and offers received, if any;
5. Any consideration by the owner as to profitable adaptive uses for the property;
6. Reports signed and sealed by a registered professional on the structural integrity of the building or structure;
7. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall provide to the commission a statement of the information which cannot be obtained and describe the reasons why such information cannot be obtained.

**Section 52.281 Demolition Permit Submittal.**

Initial review of a demolition permit shall occur within fourteen (14) days after a completed application has been received and accepted by the Department of Planning and Development to determine whether there is probable cause to believe that the building may be eligible for nomination under Section 53.180. The Director of Planning and Development or his/her designee shall review applications for accessory buildings and primary buildings over fifty (50) years old to determine whether there is probable cause to believe that the building may be eligible for designation as an individual landmark.

- a. If it is determined that there would be no significant impact or potential detriment to the historic resources of the City, the recommendation for all primary buildings shall be forwarded to the HPC at their next regularly scheduled meeting for final approval. If approved by the HPC, the permit shall be issued if all other requirements of the permit process have been met. Accessory structures determined to have no significant impact or potential detriment can be approved administratively if all other requirements of the permit process have been met.
- b. If it is determined that there is probable cause to believe the accessory or primary building may be eligible for designation as an individual landmark, the issuance of the permit shall be stayed for up to sixty (60) days from the date that the completed application is accepted by the Department of Planning and Development and the permit shall be referred to the HPC for its full review.
- c. The applicant shall be notified of the initial review determination within fourteen (14) days of the decision.

**Section 52.282 Demolition Permit Review.**

The HPC shall review all demolition permit submittals forwarded to them by Staff and by the HPC Review Committee at the next regularly scheduled HPC meeting no later than forty-five (45) days after the initial review determination.

In determining whether or not to grant a demolition permit, the HPC, and the City Council on any appeal, shall consider the following factors, which are not intended to be exclusive or limiting, in arriving at a decision:

1. The eligibility of the building for designation as an individual landmark consistent with the purposes and standards of Section 52.190 et. seq.
2. Whether the subject property can be put to any reasonably beneficial or economic use without demolishing the structure;
3. The relationship of the building to the character of the neighborhood as an established and definable area;
4. The structural soundness of the structure and the suitability for rehabilitation;
5. The economic feasibility of rehabilitation or reuse of the existing structure or improvement on the property; and

6. The owner/applicant's purchase of the subject property after the enactment of the relevant provisions of Chapter 52 without making the purchase contingent upon the owner/applicant first obtaining necessary Board and/or Commission approvals under Chapter 52 shall be deemed to be conclusive evidence that the applicant is responsible for his or her own economic hardship, if any; and
7. Evidence of deterioration due to willful neglect of routine maintenance and/or commencement of demolition by intentional or reckless disregard of the City's requirement for a certificate of appropriateness shall create a presumption against the owner and/or applicant that must be overcome by clear and convincing evidence before a demolition permit may be issued.

**Section 52.283      Applicable HPC Actions.**

Should the HPC find that the building to be demolished does not have historical significance under the criteria set forth in Section 52.282, the Director of Planning and Development shall issue the demolition permit if all other requirements of the permit process are met. If the HPC finds that the building may have historical significance under the criteria set forth in Section 52.282, the application shall be suspended for a period not to exceed one hundred and twenty (120) days from the date the permit application was accepted by the City.

**Section 52.284      Stay Period.**

Should the HPC find that the building to be demolished does have historical significance, the one hundred and twenty (120) day stay period will place the permit for demolition on hold. The HPC may take any action during this time that it deems necessary to preserve this structure including consulting with civic groups, public agencies and interested citizens; recommending acquisition of the property by private or public bodies or agencies; exploring the possibility of moving buildings that would otherwise be demolished; and salvaging building materials. If individual landmark or district designation has not been initiated during the one hundred and twenty (120) day period, the Director of Planning and Development shall issue a demolition permit if all other requirements of the permit process have been met.

**Section 52.290      Sign Applications.**

Applications for sign permits involving landmarks or historic districts are reviewed under the standard procedures of the sign ordinance administered by the ARB. The HPC may make recommendations to the ARB concerning conformance of a sign with the character of a landmark or historic district. The HPC may review sign applications for a certificate of appropriateness only if the sign is on a structure in a historic district whose written standards are more strict concerning signs than those of the sign ordinance.

Cross-reference – comprehensive sign ordinance, Section 54.020, et seq.

**Section 52.300      Development Plans.**

The HPC may review development plans involving landmarks or historic districts and forward recommendations to the City Plan Commission. Development plans adopted by

the City Council concerning landmarks or historic districts shall be amendments to the ordinance establishing individual landmarks or historic districts.

**Section 52.310 Ordinary Maintenance Exclusion.**

Nothing in this Chapter shall be construed to prevent the ordinary maintenance or repair of any exterior element of any building or structure.

**Section 52.320 Public Safety Exclusion.**

This Chapter shall not be construed to prevent the construction, reconstruction, alteration or demolition of any such elements that the authorized municipal officers shall certify as required by public safety.

**Section 52.330 Review of Applications for Zoning Amendments, Conditional Use Permits and Variances.**

Applications for zoning amendments, conditional use permits or variances for a landmark or structures within a historic district may be referred to the HPC by the Director of Planning and Development or that Director's designate prior to the date of the public hearing set by the City Plan Commission or the BOA. The HPC may review these applications using any format which it deems appropriate provided, however that the applicant shall be notified of the time and place of such review and shall be given the opportunity to appear and be heard. Within fifteen (15) days after receipt of said application or at the next regularly scheduled meeting, the HPC shall forward its comments to the Director of Planning and Development for presentation to the City Plan Commission for its consideration in reviewing the application.

**Section 52.340 Appeal Provision.**

Any person aggrieved by a decision of the HPC, the City or any proper person acting on behalf of the City may, within thirty (30) days thereafter, apply to the City Council for review of the decision. Written requests for City Council review of a decision shall be filed with the City Manager. The City Council shall review appeals within sixty (60) days of the written request for review of the decision. The City Council may, after a public hearing as provided for in Section 52.230, reverse or modify the decision of the HPC, but only if it finds that:

- a. Every reasonable effort has been made by the applicant to agree to the requirements of the HPC, or
- b. Owing to special conditions pertaining to the specific piece of property, denial of the certificate of appropriateness will cause undue and unnecessary hardship.
- c. Such reversal or modification is in the public interest.

Appeals from decisions of the City Council will be as provided by state law.

**Section 52.350 Enforcement.**

The Building Commissioner shall give written notification of any violation of this ordinance to the owner or lessor of or the trustee or other legally responsible party for such property, stating in such notification that they have inspected the property and have found it in violation of this Chapter. The notification shall contain a description or explanation of the violation(s). The property owner, trustee, lessor or legally responsible party shall have thirty (30) days in which to correct such violation or to give satisfactory evidence that steps have been taken that will lead to correcting such violation within a stated period of time. The time shall be agreeable to the department of planning and development as being fair and reasonable. If after the thirty (30) day period an agreement is not reached, the City or any proper person may institute an appropriate action or proceeding to prevent or correct such unlawful action. The imposition of any penalty hereunder shall not preclude the City or any proper person from instituting any proper action or proceeding to require compliance with the provisions of this Chapter and with the administrative orders and determination made hereunder.

**Section 52.360 Fees and Penalties.**

The owner of a building or premises where a violation of any provision of said regulations has been committed or shall exist, or the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist or the owner, lessee or tenant of any part of the building or premises in which such violation has been committed or shall exist, or the architect, builder, contractor or any other person who commits, takes part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a misdemeanor punishable by a fine of not less than Ten Dollars (\$10.00) and not more than One Hundred Dollars (\$100.00) for each and every day that such violation continues, but if the offense be willful on conviction thereof, the punishment shall be a fine of not less than One Hundred Dollars (\$100.00) or more than Two Hundred Fifty Dollars (\$250.00) for each and every day that such violation shall continue or by imprisonment for ten (10) days for each and every day such violation shall continue or by both such fine and imprisonment in the discretion of the court.

**Section 52.370 Validity.**

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.