

RESOLUTION NO. 20110804-029

WHEREAS, the City of Austin and its residents have a strong interest in historic preservation, recognizing the broad positive impacts of preservation, including significant contributions to our local economy and our tax base; and

WHEREAS, historic preservation is consistent with the City's efforts to encourage sustainability, energy efficiency and green building, as well as striving to discourage landfill waste and suburban sprawl; and

WHEREAS, the City of Austin, Austin Community College, Travis County, and the Austin Independent School District participate in historic preservation by granting tax exemptions to historically designated properties; and

WHEREAS, the City of Austin, as the authority to approve the designation of historic zoning, must balance priorities of preservation with stewardship of the local tax base in the interest of culture, prosperity, education, and the general welfare of all its residents; and

WHEREAS, the Austin City Council adopted Resolution 20100610-029 directing the City Manager to work with the Historic Landmark Commission on recommendations on revisions to the historic preservation program; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The City Council initiates code amendments to City Code Title 25 (*Land Development Code*) and directs the City Manager to develop a

proposed ordinance that amends the historic designation criteria for historic landmarks to reflect the following staff and community-generated recommendations:

- 1) The council may designate a structure or site as a historic landmark combining district if:
 - a) the property is at least 50 years old and represents a period of significance of at least 50 years ago, unless it possesses exceptional importance as defined by the National Register Bulletin 22, National Park Service (1996); and
 - b) the property retains a high degree of integrity, as defined by the National Register of Historic Places, that clearly conveys its historical significance; and
 - c) the property is individually listed in the National Register of Historic Places, or is designated as a Texas Historic Landmark, State Archeological Landmark, or National Historic Landmark; or demonstrates significance in at least two of the following categories:
 - i) Architecture – The property:
 - (1) embodies the distinguishing characteristics of a recognized architectural style, type, or method of construction;
 - (2) exemplifies technological innovation in design and/or construction;

- (3) displays high artistic value in representing ethnic or folk art, architecture, or construction;
- (4) represents a rare example of an architectural style in the City;
- (5) serves as an outstanding example of the work of an architect, builder, or artisan who significantly contributed to the development of the city, state, or nation;
- (6) possesses cultural, historical, or architectural value as a particularly fine or unique example of a utilitarian or vernacular structure; or
- (7) represents an architectural curiosity or one-of-a-kind building.

ii) Historical Associations – The property:

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

- iii) Archeology – The property has, or is expected to yield, significant data concerning the human history or prehistory of the region.
 - iv) Community Value – The property has a unique location, physical characteristic, or significant feature that contributes to the character, image, or cultural identity of the city, a neighborhood, or a particular group.
 - v) Landscape Feature – The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.
- d) No property with an addition or alteration which has significantly compromised its historical integrity, as defined by the National Register of Historic Places, may be considered a historic landmark.
- e) Properties located within a local historic district are ineligible to be nominated for landmark designation under the criterion for architecture, unless it possesses exceptional significance or is representative of a separate period of significance.

BE IT FURTHER RESOLVED:

The City Council initiates code amendments to City Code Title 25 (*Land Development Code*) and directs the City Manager to develop a

proposed ordinance that revises the historic landmark application process to require a more stringent review of applications and ensure that all necessary research has been completed before an application is considered by the Historic Landmark Commission.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to work with the Historic Landmark Commission and other stakeholders to enhance the inspection of historic landmark properties to strengthen the enforcement of criteria and maintenance requirements. The City Manager is further directed to make recommendations on the implementation of an inspection fee to cover the costs of ongoing inspection.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to make recommendations on possible funding mechanisms for the expansion of existing functions and the creation of new programmatic functions within the City's historic preservation program, including, but not limited to, staffing, inspections, plaques for all historic landmarks, and offsetting the costs for low-income owners to complete historic zoning applications. These recommendations should address the potential for a historic preservation enterprise fund.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to make recommendations on methods to provide a technical and loan assistance program to better enable the rehabilitation of historic structures in underrepresented areas, for façade rehabilitation in the central business district, and to assist low-income owners of landmarks with preservation and rehabilitation. These recommendations should also include outreach and research assistance to underrepresented areas.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to work with the Historic Landmark Commission and community stakeholders on the adoption of standard advisory design guidelines for contributing buildings within National Register Historic Districts. The guidelines should address design considerations such as the location and setback of additions to existing buildings, appropriate materials for additions or new construction, and other guidelines to better preserve the architectural and historical character of National Register Historic Districts. These guidelines should also serve as a template for the development of binding design guidelines for local historic districts.

BE IT FURTHER RESOLVED:

The City Council initiates code amendments to City Code Title 25 (*Land Development Code*) and directs the City Manager to develop a proposed ordinance and implement other necessary changes to revise the

initiation process for local historic districts to reflect the following staff and community-generated recommendations:

1. Modify the petition requirements for the initiation of a local historic district to allow for the showing of support by either the owners of 51% of the area of the land or by the number of property owners within the proposed district;
2. Institute a demolition delay of up to 180 days from the date that a demolition permit is filed for contributing properties in National Register Historic Districts and pending local historic districts; and
3. Provide a process to allow petitioners an opportunity for legal review of design guidelines for local historic districts prior to collecting signatures from area property owners.

BE IT FURTHER RESOLVED:

The City Council initiates code amendments to City Code Chapter 11-1 (*Ad Valorem Tax*) and directs the City Manager to develop a proposed ordinance to reflect the following staff and community-generated recommendations:

1. Cap the property tax exemption for an owner-occupied historic residential property at \$2,500;
2. Establish an index to automatically modify the residential exemption cap based on future increases or decreases in property values due to inflation and deflation;

3. Modify the formula for residential tax exemption for historic residential properties to be based on a combined assessed value of land and improvements;
4. Immediately implement the new exemption cap for all new residential historic landmarks and for all existing residential landmarks that have a change of ownership;
5. Until a change of ownership occurs, maintain the current level of tax exemption for properties designated before December 1, 2004, and the current level of tax exemption for properties designated between December 1, 2004, and the effective date of these proposed code changes; and
6. Further develop details of a rehabilitation program similar to that now offered for the qualified rehabilitation of contributing buildings within local historic districts to encourage and promote continued rehabilitation projects on individually-designated historic buildings.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to explore training opportunities, such as those associated with the National Alliance of Preservation Commissions, for City Council Members, Historic Landmark Commissioners, Land Use Commissioners, and Historic Preservation staff members.

BE IT FURTHER RESOLVED:

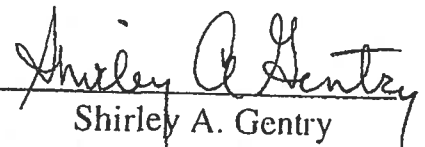
The City Council directs the City Manager to compile the existing data on historic-designated landmarks in a web-based format accessible to the public, such as the historic survey web tool currently being developed in partnership with the University of Texas at Austin under the Preserve America program, to highlight the properties within the Historic Preservation Program and expand opportunities for community education.

BE IT FURTHER RESOLVED:

The City Council directs the City Manager to initiate a dialogue with other taxing entities within the City of Austin to discuss the ongoing revisions to the historic preservation program and encourage their continued participation.

ADOPTED: August 4, 2011

ATTEST:


Shirley A. Gentry
City Clerk

AN ORDINANCE AMENDING CITY CODE CHAPTER 11-1, CHAPTER 25-2, AND CHAPTER 25-11 RELATING TO HISTORIC LANDMARK TAX EXEMPTIONS, HISTORIC LANDMARK AND HISTORIC DISTRICT DESIGNATION CRITERIA, AND CERTAIN PERMITS AND CERTIFICATES OF APPROPRIATENESS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

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

(A) Except as provided in Subsection (B) and Subsection (C), ~~[for]~~ a property designated as a historic landmark ~~[before December 1, 2004]~~ is eligible for a partial exemption from ad valorem taxes levied by the City as follows [the following percentage of the assessed value of a property designated "H" Historic and approved for tax exemption shall be exempt from ad valorem taxes levied by the City]:

(1) For an owner-occupied historic residential property that is not fully or partially leased to another person or for a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act, 100 percent of the assessed value of the historic structure and 50 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure. ~~[for:~~

~~(a) an owner-occupied historic residential property that is not fully or partially leased to another person; and~~

~~(b) a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act; and]~~

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- (2) For any other historic property, including property used for a commercial purpose, 50 percent of the assessed value of the historic structure and 25 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure ~~[for any other historic property, including property used for a commercial purpose].~~ *exemption*

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

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

(C) The percentage of assessed value exempted under Subsection (A) may not exceed a percentage that would result in a tax exemption greater than \$2,500 if the property:

- (1) was designated as a historic landmark before January 1, 2012, but changed ownership after December 31, 2011; or
- (2) was designated as a historic landmark after December 31, 2011.

(D) [(C)] The City shall recommend to the chief appraiser for the county appraisal district that the entire tax parcel on which the historic structure is located, and which is designated "H" Historic, is reasonably necessary for

access to and use of the historic structure, unless otherwise determined by the City Council in a specific case.

PART 2. City Code Section 25-2-242 (*Initiation of Zoning or Rezoning*) is amended to read:

Zoning or rezoning of property may be initiated by the:

- (1) Council;
- (2) Land Use Commission;
- (3) Record owner;
- (4) Historic Landmark Commission, if the property is, or is proposed to be, designated as a historic landmark (H) combining district or a historic area (HD) combining district; or
- (5) For a proposed historic area (HD) combining district:
 - (a) petition of:
 - (i) the owners of at least 51 percent of the land, by land area, in the proposed district; or
 - (ii) at least 51 percent of the owners of individual properties in the proposed district.
 - (b) property [~~Property~~] owned by the City of Austin or other governmental entities shall be fully excluded from the area subject to petition of the owners, except such property may be included in support if it contains structures or features that contribute to the historic character of the district, as determined by the Historic Landmark Commission. For purposes of

Subsection 25-2-242(5)(a), the amount of such property to be calculated as supporting shall not exceed one-third of the 51% of the land in the proposed district.

PART 3. City Code Section 25-2-352 (*Historic Designation Criteria*) is amended to read:

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

- (1) the property is at least 50 years old and represents a period of significance of at least 50 years ago, unless the property is of exceptional importance as defined by the National Register Bulletin 22, National Park Service (1996);
- (2) the property retains a high degree of integrity, as defined by the National Register of Historic Places, that clearly conveys its historical significance and does not include an addition or alteration which has significantly compromised its integrity [~~sufficient integrity of materials and design to convey its historic appearance~~]; and
- (3) the property:
 - (a) is individually listed in the National Register of Historic Places, or is designated as a Recorded Texas Historic Landmark, State Archeological Landmark, or National Historic Landmark; or
 - (b) demonstrates significance in at least two of the following categories [~~meets the criteria prescribed by at least two of the following clauses~~]:
 - i) Architecture. The [~~the~~] property embodies the distinguishing characteristics of a recognized

architectural style, type, or method of construction; exemplifies ~~[represents]~~ technological innovation in design or construction; displays high artistic value in ~~[contains features]~~ representing ethnic or folk art, architecture, or construction; represents a rare example of an architectural style in the city; serves as an outstanding example of the work of an ~~[represents the significant work of a noted]~~ architect, builder, or artisan who significantly contributed to the development of the city, state, or nation; possesses cultural, historical, or architectural value as a particularly fine or unique example of a utilitarian or vernacular structure; or represents an architectural curiosity or one-of-a-kind building. ~~[; represents a rare example of an architectural style; or bears a physical or contextual relation to other historically or architecturally significant structures or areas;]~~ A property located within a local historic district is ineligible to be nominated for landmark designation under the criterion for architecture, unless it possesses exceptional significance or is representative of a separate period of significance.

- ii) Historical Associations. The property has long-standing significant associations ~~[is substantially associated]~~ with persons, groups, institutions, businesses, or events of historic importance ~~[significance]~~ which contributed significantly to the history ~~[to the social, cultural, economic, development, or political history]~~ of the city, state, or nation; or the property represents a significant

portrayal of the cultural practices or the way of life of a definable group of people in a historic time [is representative of a culture or group of people in a historical era through its architecture, method of construction, or use;] .

- iii) Archeology. The property [~~possesses archeological significance because it~~] has, or is expected to yield, significant data concerning the human history or prehistory of the region.
- iv) Community Value. The property has a unique location, physical characteristic, or significant feature that contributes to the character, image, or cultural identity of the city, a neighborhood, or a particular group. [~~The property possesses value to the community because it significantly represents the cultural, economic, social, ethnic, artistic, or historical heritage of the city or an area of the city; or because it has a location, physical characteristics, or other unique features which greatly contribute to the character or image of the city, a neighborhood, or a population group; or~~]
- v) Landscape Feature. The property is a significant natural or designed landscape or landscape feature with artistic, aesthetic, cultural, or historical value to the city.

- (4) the property does not include an addition or alteration which has significantly compromised its historical integrity, as defined by the National Register of Historic Places.

(B) The council may designate an area as a historic area (HD) combining district if at least 51 percent of the principal structures within the proposed district are contributing to the historic character of the district [structures] when the historic preservation officer certifies that the zoning or rezoning application is complete.

(C) The council may enlarge the boundary of an existing historic area (HD) combining district if the additional structure, group of structures, or area adds historic, archeological, or cultural value to the district.

(D) Except as limited by Subsection (E), the council may reduce the boundary of an existing historic area (HD) combining district if:

- (1) the structure to be excluded does not contribute to the historic character of the district;
- (2) excluding the structure or area will not cause physical, historical, architectural, archeological, or cultural degradation of the district; or
- (3) a reasonable use of the structure that allows the exterior to remain in its original style does not exist.

(E) The minimum size for a historic area (HD) combining district is one block face.

PART 4. City Code Section 25-11-213 (*Building, Demolition, and Relocation Permits and Certificates of Appropriateness Relating to Certain Buildings, Structures, or Sites*) is amended to read:

(A) In this section "National Register Historic District" means an area designated in the Federal Register under the National Preservation Act of 1966, as amended, for which maps depicting the area are available for

inspection by the public at the Planning and Development Review Department.

- (B) Except as provided in Subsection (C), this section applies to a building, structure, or site:
 - (1) located in a National Register Historic District;
 - (2) listed in a professionally prepared survey of historic structures approved by the historic preservation officer;
 - (3) individually listed in the National Register of Historic Places;
 - (4) designated as a Recorded Texas Historic Landmark, a State Archeological Landmark, or a National Historic Landmark;
 - (5) designated as a historic landmark (H) combining district;
 - (6) located within a historic area (HD) combining district; or
 - (7) determined by the historic preservation officer to have potential for designation as a historic landmark.
- (C) This section does not apply to a structure if the historic preservation officer determines that the structure:
 - (1) is less than 50 years old;
 - (2) does not meet at least two of the criteria for designation as a historic landmark (H) combining district prescribed by Section 25-2-352(A)(3)(b) (*Historic Designation Criteria*); and
 - (3) is not a contributing structure in a historic area (HD) combining district.

- (D) When the building official receives an application requesting a building permit, relocation permit, or demolition permit for a structure to which this section applies, the building official shall immediately:
- (1) notify the historic preservation officer; and
 - (2) upon receipt of notification by the historic preservation officer that the application will be placed upon the Commission's agenda, the building official shall post a sign on the site and notify property owners, residents, and registered neighborhood associations in accordance with Section 25-1-133(A).
- (E) The historic preservation officer shall complete the review of an application for a demolition, relocation, or building permit within five business days of receipt of a complete application, and determine whether to place the application on the Commission agenda.
- (F) The Commission shall hold a public hearing on an application described in Subsection (D) within 45 days of receipt of a complete application.
- (G) Except as provided in Subsection (H), the ~~[The]~~ building official shall not issue a building permit, relocation permit, or demolition permit for a structure to which this section applies until the earlier of:
- (1) the date the Commission makes a decision not to initiate a historic zoning designation case regarding the structure;
 - (2) the date on which the Commission approves an application for a certificate of appropriateness, or makes recommendations on an application for a building permit; or

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- (3) the expiration of 75 days after the date of the first Commission meeting at which the application is posted on the agenda.

(H) In the case of a contributing structure within a National Register Historic District or a pending historic area (HD) combining district, the building official shall not issue a relocation or demolition permit for a structure until the earlier of:

(1) The expiration of 180 days from the date of the filing of a complete application for demolition or relocation; or

(2) The approval by Council of a historic area (HD) combining district in which the property is deemed contributing to the historic character of the pending district.

(IH) If the Commission makes a decision to initiate a historic zoning designation case, a designation becomes pending on the structure under Section 25-11-214.

(JF) The historic preservation officer may approve applications for each of the following:

(1) Building permits for properties located within a National Register Historic District which are considered minor projects, including but not limited to ~~[such as]~~:

(a) construction of a one-story ground-floor addition or outbuilding with no more than 600square feet of gross floor area;

(b) construction of a second-story rear addition to a two-story building or structure if the addition is not visible from an adjacent public street; or

- (c) construction of a pool, deck, fence, back porch enclosure, or other minor feature.
- (2) Demolition permits for minor outbuildings within a National Register Historic District such as carports, detached garages, sheds, greenhouses, and other outbuildings determined by the historic preservation officer not to possess historical or architectural significance either as a stand-alone building or structure, or as part of a complex of buildings or structures on the site.
- (3) Demolition or relocation permits for properties deemed non-contributing to the historic character of a National Register Historic District.
- (KJ) The building official may not release a demolition or relocation permit for a building or structure deemed contributing to a National Register Historic District or a historic area (HD) combining district until the Commission has reviewed and made recommendations on the application for a building permit for the site, unless the building official determines that demolition or relocation is necessary for reasons related to public safety.

PART 5. This ordinance takes effect on _____.

PASSED AND APPROVED

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_____, 2011

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Lee Leffingwell
Mayor

APPROVED: _____
Karen Kennard
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk

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

KEY:

Black: Unchanged sections of the existing Code.

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

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

Green: Alternative staff recommendation.

Purple: ZAP comment.

PART 1.

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

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

- (1) For an owner-occupied historic residential property that is not fully or partially leased to another person or a property owned by a nonprofit corporation, as defined in the Texas Nonprofit Corporation Act, 100 percent of the assessed value of the structure and 50 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure.

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

Staff supports retaining the existing formula.

- (2) For any other historic property, including property used for a commercial purpose, 50 percent of the assessed value of the historic structure and 25 percent of the assessed value of the portion of the land the chief appraiser for the county appraisal district determines is reasonably necessary for access to and use of the historic structure.
- (B) The percentage of assessed value exempted under Subsection (A) may not exceed a percentage that would result in a tax exemption equivalent to the greater of \$2,000 or 50 percent of the ad valorem tax that the City would otherwise levy on the property if the property:
- (1) was designated as a historic landmark before December 1, 2004, but changed ownership after November 30, 2004 but before January 1, 2012; or
 - (2) was designated as a historic landmark after November 30, 2004, but before January 1, 2012.

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Green:	Alternative staff recommendation.
Purple:	ZAP comment.

- (C) The percentage of assessed value exempted under Subsection (A) may not exceed a percentage that would result in a tax exemption greater than \$2,500 if the property:
- (1) was designated as a historic landmark before January 1, 2012, but changed ownership after December 31, 2011; or
 - (2) was designated as a historic landmark after December 31, 2011.

- (D) The City shall recommend to the chief appraiser for the county appraisal district that the entire tax parcel on which the historic structure is located, and which is designated "H" Historic, is reasonably necessary for access to and use of the historic structure, unless otherwise determined by the City Council in a specific case.

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

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

PART 2.

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

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

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Green: Alternative staff recommendation.

Purple: ZAP comment.

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

PART 3.

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

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

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

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

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

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

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

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

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

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

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

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

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

Omit neighborhood from this criterion. (Staff recommendation)

Omit neighborhood from this criterion. (ZAP comment)

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

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Purple:	ZAP comment.

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

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

PART 4.

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

- (A) In this section, "National Register Historic District" means an area designated in the Federal Register under the National Historic Act of 1966, as amended, for which maps depicting the area are available for inspection by the public at the Planning and Development Review Department.
Reference the National Historic Preservation Act of 1966. (Staff recommendation).
- (B) Except as provided in Subsection (C), this section applies to a building, structure, or site:
 - (1) located in a National Register Historic District;

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Green:	Alternative staff recommendation.
Purple:	ZAP comment.

- (2) listed in a professionally-prepared survey of historic structures approved by the historic preservation officer;
 - (3) individually listed in the National Register of Historic Places;
 - (4) designated as a Recorded Texas Historic Landmark, a State Archeological Landmark, or a National Historic Landmark;
 - (5) designated as a historic landmark (H) combining district;
 - (6) located within a historic area (HD) combining district; or
 - (7) determined by the historic preservation officer to have potential for designation as a historic landmark.
- (C) This section does not apply to a structure if the historic preservation officer determines that the structure:
 - (1) is less than 50 years old;
 - (2) does not meet at least two of the criteria for designation as a historic landmark (H) combining district prescribed by Section 25-2-352(A)(3)(b) (*Historic Designation Criteria*); and
 - (3) is not a contributing structure in a historic area (HD) combining district.
- (D) When the building official receives an application requesting a building permit, relocation permit, or demolition permit for a structure to which this section applies, the building official shall immediately:
 - (1) notify the historic preservation officer; and
 - (2) upon receipt of notification by the historic preservation officer that the application will be placed upon the Commission's agenda, the building official shall post a sign on the site and notify property owners, residents, and registered neighborhood associations in accordance with Section 25-1-133(A).
- (E) The historic preservation officer shall complete the review of an application for a demolition, relocation, or building permit within five business days of receipt of a complete application, and determine whether to place the application on the Commission agenda.
- (F) The Commission shall hold a public hearing on an application described in Subsection (D) within 45 days of receipt of a complete application.
- (G) **Except as provided in Subsection (H),** the building official shall not issue a building permit, relocation permit, or demolition permit for a structure to which this section applies until the earlier of:
 - (1) the date the Commission makes a decision not to initiate a historic zoning designation case regarding the structure;

KEY:	
Black:	Unchanged sections of the existing Code.
Blue:	New Code sections based upon the Council Resolution of August 4, 2011.
Red:	Sections of the August 4, 2011 Council Resolution with an alternative staff recommendation.
Green:	Alternative staff recommendation.
Purple:	ZAP comment.

- (2) the date on which the Commission approves an application for a certificate of appropriateness, or makes recommendations on an application for a building permit; or
- (3) the expiration of 75 days after the date of the first Commission meeting at which the application is posted on the agenda.
- (H) In the case of a contributing structure within a National Register Historic District or a pending historic area (HD) combining district, the building official shall not issue a relocation or demolition permit for a structure until the earlier of:
 - (1) The expiration of 180 days from the date of the filing of a complete application for demolition or relocation; or
 - (2) The approval by Council of a historic area (HD) combining district in which the property is deemed contributing to the historic character or the pending district.
- (I) If the Commission makes a decision to initiate a historic zoning designation case, a designation becomes pending on the structure under Section 25-11-214.
- (J) The historic preservation officer may approve applications for each of the following:
 - (1) Building permits for properties located within a National Register Historic District which are considered minor projects, including but not limited to:
 - (a) construction of a one-story ground-floor addition or outbuilding with no more than 600 square feet of gross floor area;
 - (b) construction of a second-story rear addition to a two-story building or structure if the addition is not visible from an adjacent public street; or
 - (c) construction of a pool, deck, fence, back porch enclosure, or other minor feature.
 - (2) Demolition permits for minor outbuildings within a National Register Historic District such as carports, detached garages, sheds, greenhouses, and other outbuildings determined by the historic preservation officer not to possess historical or architectural significance either as a stand-alone building or structure, or as part of a complex of buildings or structures on the site.
 - (3) Demolition or relocation permits for properties deemed non-contributing to the historic character of a National Register Historic District.
- (K) The building official may not release a demolition or relocation permit for a building or structure deemed contributing to a National Register Historic District or a historic area (HD) combining district until the Commission has reviewed and made recommendations on the application for a building permit for the site,

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

EXECUTIVE SUMMARY RECOMMENDATIONS

1. Designation Criteria

Committee Discussions:

General consensus to retain the existing criteria with modifications to address alterations to proposed landmarks, and to allow for the designation of vernacular architecture, especially in East Austin and South Austin. Designation criteria should be flexible enough to protect from demolition the more common buildings that represent the lives and history of ordinary people. The Committee discussed the question of historic zoning for just the footprint of the building rather than the entire parcel as is current practice. Committee members also discussed whether reversible alterations should restrict a building from landmark designation.

Commission Recommendation:

Followed the staff recommendation.

Staff Recommendation

Tighten the criteria to better ensure that the buildings nominated for landmark designation are truly significant to the history of the city because of their architecture, historical associations, or community value. Retain the existing designation criteria with modifications to stress an emphasis on the significance (historical, architectural, community) of the building, allow for the designation of vernacular and utilitarian architecture, and add three new provisions:

- a. The period of significance of a landmark must have been at least 50 years ago, in conformance with National Register designation criteria, unless the property has extraordinary significance as defined in National Register Bulletin 22.
- b. Any building located in a local historic district cannot be nominated for its architecture. The architectural character of the building is already protected by the design standards for the local historic district.
- c. No property can have alterations or additions which have significantly compromised its original height, scale, or materials, unless the alteration or addition is at least 50 years old, or the building is being nominated for extraordinary historical, cultural, or community significance.

2. Historic District Designation Process

Committee Discussions:

The Committee addressed public concerns that the process for designating local historic districts is too burdensome and recommended the establishment of a fund or program to enable neighborhood groups to hire a consultant to perform the survey, research the history of the district, and write the nomination. Individual committee members recommended lowering the threshold of support required in the historic district nomination from 51% to 41%, establishing conservation districts in addition to local historic districts to better protect large areas of the city, creation of a template for design standards for local historic districts, and establishing greater entitlements for historic

landmarks, such as easing site development regulations regarding parking, impervious cover, and setbacks.

Commission Recommendation:

Adopt staff recommendation and the additional recommendation for the creation of a fund to help neighborhood groups hire a consultant to work on historic district nominations.

Staff Recommendation

- a. Change the requirements for owner support to allow the owners of 51% of the property within the district or 51% of the property owners within the district to sign the petition of support for the district, following the San Antonio provision, and to promote greater proportional representation in the creation of historic districts.
- b. Strengthen the protections for contributing properties within National Register Historic Districts with a goal of establishing local historic districts. Adopt standard advisory design guidelines for all National Register Historic Districts and provide a greater bar to demolition of contributing structures within the district. Adoption of design guidelines will encourage more sensitive design decisions for contributing properties in National Register Historic Districts.

Currently, the only protection from demolition currently in place for contributing structures in National Register districts is the determination that the building qualifies as a historic landmark. Local historic districts in Austin require a Certificate of Appropriateness for the demolition of a contributing structure; this protection should extend to contributing structures in National Register Districts as well.

Designation as a local historic district requires the adoption of binding design standards by a majority of the owners or the owners of the majority of the land within the district; designation as a local historic district will also qualify property owners for the property tax incentive for the rehabilitation of contributing structures.
- c. Institute a demolition delay on contributing properties within National Register and pending local historic districts for up to 180 days after the date of mailing of notice for the first public hearing on the application at the Historic Landmark Commission. Austin now has a pendency of designation statute to protect individual buildings which are before the Historic Landmark Commission for designation as a historic landmark from demolition; this protection should be extended to contributing buildings within National Register and nominated local historic districts. Demolition delays exist to protect potential landmarks and nominated historic districts in most of our peer cities.
- d. Staff recommends exceptions to the demolition delay for dangerous buildings which pose a threat to public health and safety, demonstration of economic

hardship, and non-contributing buildings as well as an education process for the public on this provision.

3. Modify the tax incentive structure for historic landmarks

The average City exemption for an owner-occupied homestead is \$2,581. The average exemption for an income-producing property is \$2,763.

Committee Discussions:

- a. Adopt and apply the property tax incentive for the rehabilitation of contributing buildings in local historic districts to historic landmarks. Most other cities and states provide a rehabilitation incentive for historic structures.
- b. Support the process for establishing a cap on owner-occupied homestead landmarks set forth by the Heritage Society of Austin, and phase in the cap over time, either when the property is sold, or stepped down over a period of years. The exemption should be in perpetuity, depending on an annual application and successful inspection.
- c. Request the City Manager to initiate a dialogue with other taxing entities to encourage participation in the property tax exemption program for historic landmarks.

Commission Recommendation:

- a. Adopt the staff recommendation for a cap of \$2,000 on all owner-occupied residential landmarks, with a cap of \$2,250 for all owner-occupied residential landmarks over 100 years old. Review the amount of the exemption every 5 years.
- b. Maintain the current exemptions for income-producing landmarks.
- c. Establish a revolving/low-interest loan fund to provide assistance to low-income landmark owners and to encourage façade rehabilitations in the Central Business District.
- d. No recommendation vote on whether to limit the duration of the incentive or to phase in the proposed cap.
- e. Limit the exemption on income-producing properties to the historic portion of the building.

Staff Recommendation:

Staff recommends the following changes to the tax incentive structure for historic landmarks:

OWNER-OCCUPIED HOMESTEAD RESIDENCES

- a. Retain the existing formula for calculating the exemption on all historic landmarks, which is 100% of the value of the structure and 50% of the value of the land for owner-occupied homestead landmarks, and 50% of the value of the structure and 25% of the value of the land for income-producing landmarks OR base the exemption on 60% of the total property value to realize higher savings – the 60% exemption will affect lower-end properties, especially if a cap is also applied.
- b. Institute a cap of \$2,000 as the maximum amount of the tax exemption for all owner-occupied homestead landmarks, to become effective January 1, 2013 to allow the owners of residential landmarks to make necessary modifications to their budgets. Staff recommends that there be no limit on the duration of the capped “maintenance” type of preservation incentive.

Staff also recommends consideration of an alternative philosophy to the provision of the tax exemption to provide a higher cap to older landmarks (over 100 years old), recognizing that the everyday maintenance and preservation of older landmarks generally entails a greater expense than the maintenance and preservation of more recent buildings. Shifting some of the focus of the tax incentive away from pure property value towards the age and maintenance of the building will also benefit more landmarks throughout the city, especially in areas where property values are lower, and may enable smaller preservation projects that would not normally qualify for the proposed rehabilitation property tax incentive. If this approach were adopted, staff recommends a maximum cap of \$2,250 for historic landmarks over 100 years old.

- c. Adopt and apply to historic landmarks the property tax incentive for rehabilitation of contributing buildings within local historic districts to encourage and promote continued rehabilitation projects on historic buildings.
- d. Establish a revolving low-interest loan fund for low-income owners of historic landmarks to more fully participate in the preservation and rehabilitation of their historic homes, with the qualification that they cannot sell or transfer the property for a period of years after completion of the rehabilitation project without financial consequences. This will allow low-income landmark owners to better maintain their properties and will guard against a temptation to get a low-interest loan to restore a house and then “flip” it.

INCOME-PRODUCING PROPERTIES

- a. Retain the existing property tax incentives for historic landmarks – 50% of the value of the structure and 25% of the value of the land with no cap. Large downtown buildings are valued at many times the value of the land,

so to institute a flat percentage and cap such as that proposed for owner-occupied residential landmarks (where structure and land values are generally more evenly matched up) makes no sense and would work a severe detriment to the preservation of Austin's most noticeable and important downtown historic buildings.

- b. Institute a rehabilitation property tax incentive identical to that now offered for the qualified rehabilitation of contributing buildings within local historic districts to encourage and promote continued rehabilitation projects on historic buildings.
- c. Establish a revolving low-interest loan fund for façade rehabilitations on historic income-producing buildings in the CBD to encourage better preservation of historic facades and even the restoration or reconstruction of historic facades that have been replaced by modern storefronts.

4. Additional recommendations

Committee Discussions:

- a. Continue the current Code limiting the number of owner-initiated historic zoning cases to no more than 3 per month.
- b. Review applications for historic zoning more stringently to require the applicant to provide a complete application, including all research necessary for the consideration of a historic zoning case.
- c. Require property owners to prove compliance with all permit approval requirements before the Historic Landmark Commission takes action on an application for a Certificate of Appropriateness.
- d. Establish a more thorough inspection process for the annual inspection of historic landmarks.
- e. Establish a fee for landmark property owners to pay for the more thorough inspections of their properties to qualify for the property tax exemption.
- f. Provide a technical and loan assistance program to better enable the rehabilitation of historic structures in South and East Austin.

Commission Recommendations:

- a. Initiate a dialogue with other taxing entities to encourage participation in the program.
- b. Revise the application for historic zoning and require complete applications.
- c. Strengthen the annual inspection process of historic landmarks.

- d. Create an enterprise fund for all historic preservation application fees to enable the creation of the fund for neighborhoods to hire a consultant, and establish a revolving/low-interest loan fund for rehabilitation of historic landmarks and façade rehabilitations in the CBD.
- e. Provide technical and financial support for underserved areas of the city to promote preservation.

Staff Recommendations:

- a. Establish a fund to provide plaques for every landmark in the City. The plaques currently cost around \$98 each, and many existing landmarks have never received a plaque. Staff believes that every landmark property in the city should be recognized with a plaque, as public awareness and education is one of the primary goals of the historic preservation program. Staff further recommends that the cost of the plaque be included in the application fee for any new historic landmark.