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DIVISION A.

Designation of Landmarks and Districts

DIVISION A. Designation of Landmarks and Districts

Sec. 10-780. Historic Landmarks

a. The City Council finds that the recognition and preservation of historic landmarks is in the public interest and serves to promote the welfare of the community. The purpose of sections 10-20 through 10-25 is to preserve the historic structures of the community through a voluntary program of owner participation, and to carry out the City's responsibilities as a Certified Local Government.

b. A "historic landmark" is defined as any site or area of historic or cultural importance or significance as designated by the Historical Preservation Board or City Council. Historic landmarks shall include historic structures, sites, districts or areas:

1. Within which the buildings, structures, appurtenances and places exemplify the cultural, political, economic or social history of the nation, state, region or community.
2. That are identified with the lives of historic persons or with important historical events.
3. That embody the distinguishing characteristics of an architectural type or specimen as to color, proportion, form, details, materials and craftsmanship. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-781. Authority

- a.** The Historical Preservation Board may recommend and the City Council may approve the expansion of an historic district or the application of such zoning district to a new area in accordance with this section.
- b.** The Historical Preservation Board may approve the designation of a landmark if the board finds that the proposed landmark merits such designation according to this Division. The Board shall have final authority to designate historic structures, sites or areas for inclusion on the landmark register, unless the Board's decision is appealed to the City Council pursuant to Chapter 1, Article IV., in which case the City Council shall have final authority. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-782. Designation of Historic Landmarks

- a.** The Historical Preservation Board must maintain a document designated as the "Tyler Historic Landmark Register."
- b.** A structure, site, or area may be nominated by the owner or by any interested third party, but may not be placed on the Tyler historic landmark register without the express consent of the property owner.
- c.** An application form will be required as prescribed by the board. The board will conduct public meetings to consider applications for inclusion of sites, structures, or areas on the Tyler historic landmark register. The board shall have final authority to designate historic structures, sites, or areas for inclusion on the register, unless the

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board's decision is appealed to the City Council pursuant to Chapter 1, Article IV., in which case the City Council shall have final authority.

- d.** In considering a structure, site or area for designation in the Tyler historic landmark register, the board and city council will consider the following:
1. Character, interest, or value as part of the development, heritage, or cultural characteristics of the city, State of Texas, or United States.
 2. Distinguishing characteristics of an architectural type or specimen.
 3. Elements of architectural design, detail, materials, or craftsmanship, which represent a significant architectural innovation.
 4. Relationship to other distinctive buildings, sites, districts, or areas which are eligible for preservation according to a plan based on architectural, historic, or cultural motif.
 5. Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style.
 6. Exemplification of the cultural, economic, social, ethnic, or historical heritage of the city, State of Texas, or United States.
 7. Location as the site of a significant historic event.
 8. Identification with a person(s) who significantly contributed to the culture and development of the city, State of Texas, or United States.
 9. Value as an aspect of community sentiment or public pride.
 10. Identification as the work of a designer, architect, or builder whose work has influenced city growth or development.
 11. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community, or the city.
 12. Archaeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.
 13. Demonstrated ability of the property owner to maintain the structure, site, or area in a sanitary, aesthetic, or lawful manner. (Ord. No. 0-2005-61, 8/17/05)
 14. The Planning Department will cause the designation of any structure, site, area, or district on the Tyler historic landmark register to be recorded in the Smith County deed records. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-783. Removal of Landmark Status by City Council

e. Property Owner's Authority to Request Removal

Any person or entity, that owns a majority interest in a historic building, structure or site as designated on the Tyler historic landmark register may have such property stricken from the register by notifying the Board in writing.

f. City Council Authority to Initiate Removal of Landmark Status

If, after a hearing, the board determines that an owner or person with an interest in a historic building, structure or site designated on the Tyler historic landmark register has, through action or inaction, adversely affected the historic character of the property, the board will make a recommendation to the city council. Following a hearing, the city council may order such property removed from the register, and may also order the owner or person in interest

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to remove the register plaque from the property and return it to the planning department within a specified time. It is unlawful to fail to comply with any city council order requiring removal and return of the register plaque.

Sec. 10-784. Review Criteria

Factors that the board and city council may consider include:

- a.** Significant alteration of architectural feature of building or structure;
- b.** Demolition of building or structure;
- c.** Allowing property to fall into state of disrepair; and
- d.** Such other factors as the board and city council may deem appropriate. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2005-70, 9/14/05)

DIVISION B. Certificate of Appropriateness

Sec. 10-785. Applicability

No person or entity may construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or relocate any building or structure designated on the Tyler historic landmark register unless a Certificate of Appropriateness or Certificate of Demolition has been issued pursuant to this Division. The term “exterior architectural feature” shall include, but not limited to, the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights, signs and other exterior features. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-786. Authority to File

Applications for certificates of appropriateness will be made on a specified form to the board and must include two copies of all detailed plans, elevations, perspectives, specifications, or other suitable plans for the proposed work.

Sec. 10-787. Notice and Hearing by Historical Preservation Board

Within forty-five (45) days of the receipt of a completed application, the board must hold a public meeting, as scheduled by the Planning and Zoning Department. Property owners must be notified of the date, time and place of the public hearing. If the subject property was initially tagged as substandard and in violation of the Minimum Urban Standards, Chapter 7, Art. III., or successor, or a Certificate of Demolition is being sought, then property owners and known mortgagees and lien holders must be notified of the date, time and place of the public hearing by certified mail, return receipt requested, restricted signature, at least ten (10) days prior to the hearing. If the subject property was so tagged as substandard or a Certificate of Demolition is being sought, then the Planning and Zoning Department must also send a copy of the notice letter described herein to the Neighborhood Services Director. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-788. Review by the Historical Preservation Board; City Council review required for substandard structures and/or Certificates of Demolition

Upon review of the application, the board must determine whether the proposed work will adversely affect any exterior architectural feature or adversely affect the historical character of the building, structure or site, whether any proposed rehabilitation of an historic building, structure or site is consistent with the guidelines in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and whether such work is appropriate and consistent with the spirit and intent of this article. The board shall have final authority to grant a Certificate of Appropriateness, except as follows:

1. If the board’s decision regarding a Certificate of Appropriateness is appealed to the City Council pursuant to Chapter 1, Article IV., then the board must then forward its recommendations to the City Council, which will have final authority to grant a Certificate of Appropriateness. Property owners must be notified of the date, time and place of the public hearing.
2. If the subject property was initially tagged as substandard and in violation of the Minimum Urban Standards, Chapter 7, Art. III., or successor, or if a Certificate of Demolition is being sought, then the board must then forward its recommendations to the City Council, which will have final authority to grant a Certificate of Appropriateness or Certificate of Demolition. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-789. Certificate of Appropriateness Issuance

Following the board's or City Council's decision, as applicable, the Planning Department must forward to the property owner either a Certificate of Appropriateness, which will include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, or notice that the board or City Council has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure. If no action has been taken by the board or City Council within 60 days of original receipt of the application, a Certificate of Appropriateness will be deemed issued. (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-790. Building Permit Issuance

Upon completion of the board or City Council hearing and recommendation to the property owner or within 60 days, whichever occurs first, a building permit will be issued in accordance with the application of the property owner, provided that such application complies with the building code and other ordinances. (Ord. No. 0-98-81, 10/7/98) (Ord. No. 0-2009-99; 9/23/09)

Sec. 10-791. Temporary Emergency Repairs

If the chief building official determines that a building or structure designated on the Tyler historic landmark register poses an immediate threat to persons or property, the chief building official may order or conduct any temporary emergency repairs necessary to make the building or structure safe without the requirement of a certificate of appropriateness. The chief building official will send a written explanation of such temporary emergency repair order to the board. However, once such temporary emergency repairs have been completed, no further work may be done on the building or structure unless a certificate of appropriateness is obtained pursuant to this division. It is unlawful to fail to comply with a temporary emergency repair order issued by the chief building official. (Ord. 0-99-52, 7/21/99) (Ord. No. 0-2005-70, 9/14/05)

Sec. 10-792. Alteration or Demolition of Historic Landmarks

- a. No person or entity may construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a building or structure or relocate any building or structure designated as historic landmarks, or structures within local or national districts, or structures 50 years or older where federal funding is involved unless a Certificate of Appropriateness for Rehabilitation or a Certificate of Demolition has been issued by the board or City Council, as applicable. The term "exterior architectural feature" shall include, but not be limited to, the kind, color and basic texture of all exterior building materials and such features as windows, doors, lights, signs and other exterior fixtures.
 - b. Application procedure: Applications for Certificates of Appropriateness and Certificates of Demolition and other required information shall be submitted to the Planning and Zoning Department which will then submit the documents to the Chief Building Official for a structural and financial feasibility review prior to public hearing before the Historical Preservation Board, except as otherwise directed in this Section.
1. Applications for Certificates of Appropriateness for Rehabilitation shall be made on a specified form and shall include two (2) copies of detailed plans, elevations, perspectives, specifications or other suitable plans for the proposed work, including information regarding the financial feasibility of the plans and proof of financial resources to complete the work.

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2. If the building or structure is placarded as substandard and a public nuisance as defined by the City of Tyler Minimum Urban Standards at City Code Chapter 7, Sec. 7-69 and 7-70 and the property owner desires to rehabilitate the property, the Application for Certificate of Appropriateness for Rehabilitation and attachments shall be submitted to the Neighborhood Services Director with the required Rehabilitation Plan of Action and within the time frame described in Sec. 7-71.
3. Applications for Certificates of Demolition shall be made on a specified form to the Board and shall include two (2) copies of an explanation of the deteriorated and/or dilapidated condition of the building, including visual exhibits such as photographs, and/or copies of the Inspection Report for Substandard Building prepared by City staff if the property has been placarded as substandard and a public nuisance as defined by the City of Tyler Minimum Urban Standards, in which case the Application documents shall be submitted to the Neighborhood Services Director.
4. Applications submitted to the Neighborhood Services Director shall be forwarded to the Planning and Zoning Department which will forward to the Chief Building Official providing a sufficient time for review prior to the hearing scheduled before the Board.
 - c. **Time and Notice of Board Hearing:** Within forty-five (45) days of the receipt of a completed Application, the Board shall hold a public hearing, as scheduled by the Planning and Zoning Department. Property owners and known mortgagees and lien holders shall be notified of the date, time and place of the public hearing. If the subject property was initially tagged as substandard and in violation of the Minimum Urban Standards, Chapter 7, Art. III., or if a Certificate of Demolition is being sought, then property owners and known mortgagees and lien holders shall be notified of the date, time and place of the public hearing by certified mail, return receipt requested, restricted signature, at least ten (10) days prior to the hearing. If the subject property was so tagged as substandard or a Certificate of Demolition is being sought, then the Planning and Zoning Department shall also send a copy of the notice letter described herein to the Neighborhood Services Director.
 - d. **Procedure for Board Review and Public Hearing before City Council under certain circumstances:**
 1. Upon review of the Application for Certificate of Appropriateness for Rehabilitation or for Certificate of Demolition, and considering the Chief Building Official's recommendations, the Board shall determine:
 - (a) Whether demolition is recommended, if applicable, or whether the proposed rehabilitation work will adversely affect any exterior architectural feature or adversely affect the historical character of the building, structure or site;
 - (b) Whether any proposed work is consistent with the guidelines in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings;
 - (c) Whether such work is appropriate and consistent with the spirit and intent of this chapter; and
 - (d) Whether sufficient evidence of financial resources to complete the work has been presented.
 - (e) Time for completion. As part of the review of an application for a Certificate of Appropriateness or for a Certificate of Demolition, the Board may recommend

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to the City Council a specific time period for completion of all work under the Certificate of Appropriateness or Certificate of Demolition. When considering the specific time for completion in each individual case, the Board and City Council may take into account the proposed scope of the work, the size and dimensions of the property, the cost of the work, and any other specific circumstances affecting the particular building, structure or property. If work under a Certificate of Appropriateness or Certificate of Demolition issued under this section has not been completed within the time period established by the City Council pursuant to this subsection, the person or entity must file an application for a new Certificate of Appropriateness or Certificate of Demolition pursuant to this section. It shall be unlawful for a person or entity to perform work governed by an expired Certificate of Appropriateness or Certificate of Demolition without obtaining a new Certificate of Appropriateness or Certificate of Demolition.

2. If the Board's decision on a Certificate of Appropriateness is appealed to the City Council pursuant to Chapter 1, Article IV., or if the Board conducts a hearing on a property that has been tagged as substandard under Chapter 7 or for which a Certificate of Demolition is being sought, then the Planning and Zoning Department shall place the Board's recommendation on the next available City Council agenda. The Board's recommendations shall be forwarded to the City Council, which shall have final authority to grant a Certificate of Appropriateness for Rehabilitation or Certificate of Demolition, as applicable. If the City Council is considering an appeal of a Certificate of Appropriateness pursuant to Chapter 1, Article IV., then notice of the date, time and place of such hearing before the City Council shall be provided to the property owner. If the City Council is conducting a hearing on a property that has been tagged as substandard under Chapter 7 or for which a Certificate of Demolition is being sought, notice of such hearing before the City Council will be provided to the property owner and known mortgagees and lien holders by certified mail, return receipt requested, restricted signature at least ten (10) days prior to the hearing. At either type of hearing, the City Council shall review the Board recommendation and make a final decision regarding the issuance of a Certificate under this chapter.
3. Following the board's or City Council's decision, as applicable, the Planning and Zoning Department shall either hand-deliver or forward to the property owner within two (2) days of the hearing, the following:
 - (a) For situations not involving a substandard structure and not involving a request for Certificate of Demolition, in which only the board conducted a hearing:
 - (1) A Certificate of Appropriateness for Rehabilitation, which shall include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; or
 - (2) Notice that the board has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure;

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- (b) For situations not involving a substandard structure and not involving a request for Certificate of Demolition, in which the board conducted a hearing, but the board's decision was appealed to the City Council pursuant to City Code Chapter 1, Article IV.:
 - (1) A Certificate of Appropriateness for Rehabilitation, which shall include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; or
 - (2) Notice that the City Council has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure;
- (c) For situations involving a substandard structure or request for Certificate of Demolition, in which the City Council conducted a hearing in addition to the board hearing:
 - (1) A Certificate of Appropriateness for Rehabilitation, which shall include a copy of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures; or
 - (2) Notice that the City Council has made a determination that the proposed work would adversely affect the historic character of the site or structure and a recommendation of an alternative course of action which would preserve the historic character of the structure; or
 - (3) Certificate of Demolition which shall mandate that demolition and clearance shall be completed by a date certain.
 - (4) Appeal to District Court: An interested party may appeal the final decision of the City Council to the district court by filing a verified petition within thirty (30) days of the date the Certificate or other final notice is provided to the party pursuant to this Chapter. On expiration of the thirty (30) day appeal period, any City Council decision shall be final.
- e. Issuance of Building permit: A building permit consistent with a Certificate issued under this chapter may be applied for and issued following the appropriate board or City Council hearing. (Ord. No. 0-98-81, 10/7/98)
- f. Temporary Emergency Repair Orders. If the Chief Building Official, in consultation with the Neighborhood Services Director, if applicable, determines that a building or structure designated on the Tyler historic landmark register poses an immediate threat to persons or property, the Chief Building Official may order or conduct any temporary emergency repairs necessary to make the building or structure safe without the requirement of a Certificate of Appropriateness for Rehabilitation. The Chief Building Official shall send the Board a written Temporary Emergency Repair Order explaining the work done to remove the immediate threat. However, once such temporary emergency repairs have been completed, no further work may be done on the building or structure unless a Certificate of Appropriateness for Rehabilitation is obtained pursuant to this section. If the City incurs costs associated with abating the

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immediate threat and the City desires to assess costs against the owner, a certified statement of costs shall be prepared by the Chief Building Official, verified by the Chief Financial Officer, and forwarded to the property owner by certified mail, return receipt requested, with instructions regarding the owner's responsibility to pay those costs. The City may place a lien on the property for unpaid costs associated with this section by filing an affidavit of lien and the certified statement of charges with the ""Smith' "County" land records. It is unlawful to fail to comply with a Temporary Emergency Repair Order issued by the Chief Building Official. (Ord. 0-99-52, 7/21/99) (Ord. No. 0-2005-70, 9/14/05) (Ord. No. 0-2007-101, 8-22-07)

DIVISION C. Tax Abatement

Sec. 10-793. Tax Abatement

In accordance with state law, the City Council finds that all designated landmarks structures are historically significant and entitled to tax relief in order to encourage historic preservation. Fifty percent (50%) of the assessed value of any building, structure or site listed on the Tyler historic landmark register and the land necessary for access to and from the building, structure, or site, up to a maximum assessed value amount of \$ 2,000,000, must be exempt from annual City ad valorem taxation, provided that such building, structure or site is listed on the register on the first day of January of the applicable tax year. As long as the property remains on the Tyler historic landmark register, has not changed ownership, and otherwise remains in compliance with all applicable ordinances, the owner shall not be required to re-apply for exemption on an annual basis. (Ord. 0-98-81, 10/7/98); (Ord. 0-2005-61; 8/17/05)

Sec. 10-794. Tax Abatements for Historic Landmarks

- a.** The tax abatement provided for in this section is intended to encourage historic preservation within the City of Tyler. Any building or structure that has been designated as a historic landmark pursuant to the terms of this Article, and which is substantially rehabilitated as provided herein, may have abated one hundred percent (100%) of the amount of any increase in the assessed value for purposes of ad valorem taxes levied by the City of Tyler in excess of the assessed value of the property for a period of five (5) years following issuance of a Certificate of Appropriateness. Said tax abatement must only apply to the increase in the assessed value of the property over the assessed base value of the property, regardless of the actual value of any permits and improvements. In order to be eligible for tax abatement, said renovations must be at a minimum cost of thirty thousand dollars (\$30,000.00) and must be completed within a period of two (2) years from the date of issuance of a Certificate of Appropriateness. The tax abatements would become applicable to the property in January of the first tax year following the date of issuance of a Certificate of Appropriateness. The tax abatements must continue in effect during the established five-year period as long as the property remains on the Tyler historic landmark register. The total amount of said improvements subject to tax abatement per year for the five-year period on a single piece of property must not exceed two million dollars (\$2,000,000).

- b.** To be eligible for property tax abatement under this section, a property must meet the following requirements:

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1. The building or structure must meet the requirements for, and have previously been designated as, a historic landmark pursuant to section 10-782.
 2. The structure or building upon which the renovation is to occur must be at least fifty (50) years old or older;
 3. The tax abatement under this section is available for buildings or structures on both residential and commercial property.
 4. Any renovations or improvements must conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, a copy of which is available in the Planning and Zoning Department.
- c.** Application process. Applications for tax abatement under this section are voluntary. Any owner seeking tax abatement under this section must file an application for a Certificate of Appropriateness in conformance with section 10-786. Said application must include a projection of the estimated construction time and predicted completion date of the historic repair or rehabilitation. The requirements of sections 10-786 and 10-783 must govern the application, granting and removal, and maintenance process for the Certificate of Appropriateness. However, the actual granting of the tax abatement under this section shall be subject to the discretion and approval of the City Council. After a public hearing, the City Council may by ordinance approve the abatement provided for in this section. If approved by City Council, the applicant for abatement shall cause a copy of the ordinance and application for exemption to the Smith County Appraisal District not later than January 1st of each subject tax year.
- d.** Time for completion; re-capture. If the improvements, renovation or restoration repair work on a particular piece of property are not completed within two (2) years from the date of issuance of the Certificate of Appropriateness, any and all tax abatements previously received on said property during the two-year period must be revoked, and the City may re-capture all tax abatements that the property owner received during said two-year period. In addition to the re-capture, the property owner shall not be eligible for the tax abatement for the remaining three (3) years.
- e.** Eligible costs. Eligible costs must include construction, reconstruction, alteration, change, restoration, removal or demolition of any exterior architectural feature of a building or structure on the Tyler historic landmark register. Materials and labor for repairing, replacing or adding any of the following shall be eligible, if expressly approved as part of the Certificate of Appropriateness:

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1. Structural walls;
 2. Exterior doors;
 3. Windows;
 4. Exterior brick veneers or treatments;
 5. Roof and gutter where necessary for structural integrity;
 6. Facade items;
 7. Limited demolition, not more than fifteen percent (15%) of the original structure, and cleanup related to the eligible costs in this subsection;
 8. Exterior paint (consistent with those colors available during the time period that the structure was built);
 9. Foundations;
 10. Structural subfloors;
 11. Structural ceilings;
 12. Termite damage and treatment;
 13. Fixtures and decorative items attached to the main structure, or that contribute to the historic integrity of the property;
 14. Fencing that contributes to the historic integrity of the property.
- f.** Ineligible costs. Ineligible costs shall include the following:
1. Overhead;
 2. Taxes;
 3. Supervisor payroll;
 4. Repairs of construction equipment;
 5. Tools;
 6. Plumbing and electrical wiring;
 7. Mechanical equipment; air conditioning systems;
 8. Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure, except that interior items for commercial properties shall be allowed.

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- g.** Use in conjunction with other incentives. The tax abatement authorized by this section may be used in conjunction with other types of abatements or incentives, either existing and that may be developed in the future, unless otherwise prohibited by statute or ordinance.
- h.** Sunset review. Before the fifth anniversary of the date of adoption of this section, the City Manager shall review the tax abatement program established herein. The City Manager shall review the effects of, and any benefits or problems associated with, this program. Following such review, the City Manager shall make a recommendation to the City Council regarding whether to continue, modify, or repeal this section. (Ord. No. 0-2005-61; 8/17/05) (Ord. No. 0-2008-8; 1/9/08)

Sec. 10-795 – 799. Reserved