



# **Planning Report**

## **Historic Preservation Code Amendments**

### **DCA17-0009**

### **Historic Landmark Commission**

### **October 9, 2017**

#### **REQUEST:**

Hold a public hearing and consider making a recommendation to the Planning and Zoning Commission and City Council regarding repealing and replacing Section 35.7.6, repealing Sections 35.7.7 and 35.7.8, adding Section 35.3.15, adding definitions to Section 35.23.2 and making changes to Section 35.4.3. of the Denton Development Code (DCA17-0009, Historic Preservation Code Amendments, Roman McAllen)

**APPLICANT:** City of Denton

#### **BACKGROUND:**

The Denton Development Code (DDC) defines two historic districts within the city, the Oak-Hickory Historic District and the West Oak Area Historic District and a separate historic conservation district, the Bell Avenue Historic Conservation District. Each district contains standards in the DDC for the protection and preservation of structures and defined procedures for submitting an Application for a Certificate of Appropriateness (COA). The DDC also provides procedures for the designation of Historic Landmarks.

The purpose of the proposed Code amendments are to specifically define administrative roles and responsibilities, clarify and organize procedures, streamline processes, and remove redundant language. Below is a summary of the key proposed revisions:

- Definitions have been aggregated into Section 35.23.2.
- Multiple references to Certificates of Appropriateness have been centralized in one cohesive section and clearly delineates when something may be administratively approved.
- The procedures for designations of Historic Landmarks, Historic Districts, and Conservation Districts have been revised for clarity and consistency.
- Procedures have been relocated and consolidated into Section 35.3.15.
- Language relating to exterior painting, fencing and landscaping was inserted per the public input process.
- It is recommended that the Bell Avenue Conservation District be recognized as a Historic District.
- COAs would be valid for one (1) year from the date of issuance.
- A Diagram of the proposed changes to the structure follows.

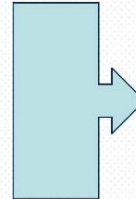
# Changes - Structure

## EXISTING

- 35.7.6. – Historic Landmark Preservation and Historic Districts Generally.
- 35.7.6.1. – Declaration of Policy
- 35.7.6.2. – Penalty.
- 35.7.6.3. – Notices.
- 35.7.6.4. – Designation of landmarks.
- 35.7.6.5. – Hearings.
- 35.7.6.6. – Recording of decision.
- 35.7.6.7. – Amendments.
- 35.7.6.8. – Exterior alterations and changes; minor exterior alteration, ordinary maintenance; appeals.
- 35.7.6.9. – Demolition or removal of historic landmarks.
- 35.7.6.10. – Procedures for obtaining permits pending landmark designation as historic landmark.
- 35.7.6.11. – Maintenance; omission of repairs.
- 35.7.6.12. – Effect of zoning district use classification.
- 35.7.7. – Historic Conservation District.
- 35.7.8. – Historic District.
- 35.7.9. – Oak-Hickory Historic District.
- 35.7.10. – Bell Avenue Historic Conservation District.
- 35.7.13. – West Oak Area Historic District.

## PROPOSED

- 35.7.6. – Historic Preservation
- 35.7.6.1. – Purpose
- 35.7.6.2. – Penalty
- 35.7.6.3. – Enforcement
- 35.7.6.4.
- 35.7.6.5.
- 35.7.6.6.
- 35.7.6.7.
- 35.7.6.8.
- 35.7.6.9.
- 35.7.6.10.
- 35.7.6.11.
- 35.7.6.12.
- 35.7.7.
- 35.7.8.
- 35.7.9. – Oak-Hickory Historic District
- 35.7.10. – Bell Avenue Historic District
- 35.7.13. – West Oak Historic District



## PROPOSED Section 35.3.14.

- 35.3.15. – Historic Preservation Procedures
- 35.3.15.1. – General Provisions
- 35.3.15.2. – Historic Landmarks
- 35.3.15.3. – Historic and Conservation Districts
- 35.3.15.4. – Certificates of Appropriateness
- 35.3.15.5. – Permits Pending Designation
- 35.3.15.6. – Maintenance; omission of repairs

## CONSIDERATIONS:

1. The amendment process began in 2016 with community meetings in each of the districts. Attendees voted for their preferences as to whether COAs for painting, fencing and landscaping in their respective districts, approved by the Historic Landmark Commission or by the administrative authority of the historic preservation officer.

### Meetings were held on:

- June 20, 2016 for the West Oak Historic District
- June 23, 2016 for the Bell Avenue Conservation District, and
- June 30, 2016 for the Oak Hickory District.

2. The expressed preferences of each district were incorporated into the proposed ordinance revisions and at a fourth meeting held on July 14, 2017, staff presented a draft of the changes to the public.
3. Upon further evaluation, staff recognized a need to comprehensively review and update the entire Historic Preservation Section. The Planning Division staff went through several iterations and internal reviews that resulted in the proposed Code amendments.
4. Staff is recommending adding Section 35.3.15.1 Historic Preservation Procedures to Subchapter 3 - Procedures. This section shall contain all procedural related preservation code, previously located in Section 35.7.6.
5. Subchapter 35.7.6 now contains only sections on purpose, penalty and enforcement and shall be followed by the individual sections pertaining to the districts.

## STAFF RECOMMENDATION:

Staff recommends repealing and replacing Section 35.7.6, repealing Sections 35.7.7 and 35.7.8 adding Section 35.3.15., adding definitions to Section 35.23.2. and making changes to Section 35.4.3. of the Denton Development Code.

**OPTIONS:**

1. Recommend approval as submitted
2. Recommend approval subject to conditions
3. Deny
4. Continue the item

**ATTACHMENTS:**

1. Proposed General Section of Code
2. Proposed Procedure Section of Code
3. Proposed Definitions to be added to Code
4. Proposed HLC Section as Amended
5. PowerPoint Presentation

Prepared By:



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Historic Preservation Officer

Reviewed By:



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Long Range Planning Administrator

## Proposed General Section of Code

### 35.7.6. Historic Preservation

#### 35.7.6.1. Purpose

The City Council hereby finds as a matter of public policy that the protection enhancement, preservation and use of historic landmarks is a public necessity and is required in the interest of culture, prosperity, education and general welfare. The purposes is to:

- A. Protect, enhance, promote and perpetuate historic landmarks which represent or reflect distinctive and important elements of the City's and State's architectural, archeological, cultural, social, economic, ethnic and political history and to develop appropriate settings for such places.
- B. Safeguard the City's historic and cultural heritage, as embodied and reflected in such historic landmarks by appropriate regulations;
- C. Stabilize and improve property values in such locations;
- D. Foster civic pride in the beauty and accomplishments of the past;
- E. Protect and enhance the City's attractions to tourists and visitors and provide incidental support and stimulus to business and industry;
- F. Strengthen the economy of the City;
- G. Promote the use of historic landmarks for the culture, prosperity, education, and general welfare of the people of the City and visitors of the City.

#### 35.7.6.2. Penalty

- A. It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze or maintain any building, structure or land with a historic landmark designation or located in a historic or conservation district in violation of the provisions of this Subchapter, and the City in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing or maintenance to restrain, correct or abate such violation to prevent any illegal act, business or maintenance in an about such premises.
- B. Any person violating any provision of this Section shall be guilty of a misdemeanor and shall be punished as provided in Section 35.1.10.4 of this Chapter.

#### 35.7.6.3. Enforcement

- A. No person shall construct, reconstruct, alter, remodel, renovate, restore, demolish, raze or maintain any building, structure or land with a Historic Landmark designation or a building, structure or land located in a locally designated Historic or Conservation District unless application is made for a Certificate of Appropriateness (COA) for said work and such a certificate is granted as provided in Section 35.3.14 of the Denton Development Code.
- B. The City in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing or maintenance to restrain, correct or abate such violation to prevent any illegal act, business or maintenance in an about such premises.
- C. Other regulations applicable to Historic Landmarks, Conservation Districts and Historic Districts as contained in any other section of this Subchapter or Code shall continue to apply, except as specifically modified in this Section.

- D. Any person violating any provision of this Subchapter shall be guilty of a misdemeanor and may be punished as provided in Section 35.1.10.4 of this Chapter, as amended.

### **35.7.9. Oak-Hickory Historic District.**

#### **35.7.9.1. Purpose**

The purpose of this Section is to ensure the protection and preservation of the Oak-Hickory Historic District by providing regulations for the use, construction, alteration, repair, improvement and alteration of buildings, structures, properties and sites within the district. All properties within the district must comply with the underlying zoning district and use classification regulations.

#### **35.7.9.2. Boundaries**

The Oak-Hickory Historic District is generally bounded by Hickory Street to south, Welch Street to the west, Pearl Street to the north, and Williams Street to the east as established by Ordinance No. 87-224. Major Public Streets in the District are West Oak, West Hickory, Mounts, Denton, Pearl and Fulton Streets.



*Exhibit 1: Approximate Boundaries of The Oak Hickory Historic District*

#### **35.7.9.3. Architectural Requirements**

Architectural requirements in the Oak-Hickory Historic District shall be as follows:

- A. Primary structure. The primary structure must be compatible in scale with primary structures existing in the district. The combined square footage of all structures on a given lot may not exceed fifty percent (50%) lot coverage. Compatibility or the appropriateness with respect to additions or alterations to an existing structure shall be determined by comparison with historical photographs or documentation whenever available.
- B. Accessory buildings. Accessory buildings which are visible from any public street, as determined by the Historic Preservation Officer, must be compatible with the scale, shape, roof form, materials, detailing and color of the main building. The combined square footage of all structures on a given lot may not exceed fifty percent (50%) of the square footage of said lot. Compatibility and or the appropriateness with respect to additions or alterations to an existing structure shall be determined by comparison with historical photographs or documentation whenever available.
- C. Architectural detail. Materials, colors, structural and decoration elements and the manner in which they are used, applied or joined together must be compatible with nearby and adjacent structures.

- D. Destruction and demolition: If the exterior of historic structures are to be altered and if previous alterations have modified the original design, then the alteration process shall return the structure to a form based on historic documentation. In the case of destruction by natural forces, replacement structures and or repairs shall conform with the original form based on historical documentation, or if none exists, shall conform in scale and proportion to the remaining structure and or the scale and proportion of structures similarly designed.
- E. New Construction and additions: Generally, all buildings must be placed so as to not adversely affect the rhythm of spaces between buildings on the block. Additions and or replacement buildings shall have a front setback that is the average of the adjacent lots of contributing buildings.
- F. Chimneys: All chimneys must be compatible with the style of the proposed building. Chimneys must be constructed of brick, stucco, stone or other materials compatible in texture, color and style with the proposed main building.
- G. Additions: All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale, shape, roof form, materials, detailing and color of the existing building.
- H. Color:
  - 1. Color. Structures in The District may be painted any color from the following paint manufacturer's preservation color palettes: Sherwin Williams America's Heritage Historical Exterior Colors Palette, Valspar Paint National Trust Historic Colors, Pittsburgh Paints Historic Collection, or similarly intended pallets. Any paint brand is allowed. Fluorescent and metallic colors are not permitted on the exterior of any structure in the district.
  - 2. Dominant and trim colors. All structures must have a dominant color which shall not be of vivid saturation. The colors of a structure must be complementary to each other and the overall character of the main building.
  - 3. Gutters and downspouts. Gutters and downspouts must be of a color that matches or complements the color scheme of the main building.
  - 4. Roof colors. Roof colors must complement the style and overall color scheme of the structure.
  - 5. Masonry and brick surfaces. Masonry and brick surfaces not previously painted must not be painted unless it is determined that:
    - a. The painting is absolutely necessary to restore or preserve the masonry or brick; or
    - b. The color and texture of replacement masonry or brick cannot be matched with that of the existing masonry or brick surface.
  - 6. Stain. The use and color of stain must be typical of the style and period of the structure.
- I. Façade materials
  - 1. Generally. The permitted façade materials are brick, wood siding, wood, stone and stucco. The use of cementitious siding is also permitted on new construction and accessory buildings. Artificial facsimiles of these materials will be considered on a case by case basis as material technologies progress. All façade treatments and materials must be typical of the style and period of the main building.
  - 2. Wood façades. Existing wood façades must be preserved as wood façades.
- J. Front entrances and porches
  - 1. Detailing. Railings, moldings, tile work, carvings, and other detailing and architectural decorations must be applied in a manner typical of the style and period of the main building.
  - 2. Enclosures. A front entrance or porch may not be enclosed with any material, including iron bars, glass, or mesh screening.

3. Façade openings. New porches must not obscure or conceal any façade openings in the main buildings.
4. Floor coverings. Carpeting is not permitted as a porch floor or step covering.
5. Style. Each proposed main building must have a front porch or entry treatment with a shape, roof form, materials and colors that are typical of the style of the proposed main building. A front entry or porch must reflect the dominant horizontal and vertical characteristics of the proposed main building.

K. Roof Forms

1. Material and colors. Roof material and colors must complement the style and overall color scheme of the structure.
2. Patterns. Roof patterns must be typical of the style and period of the main building.
3. Slope and pitch. The degree and direction of the roof slope and pitch must be typical of the style and period of the main building.
4. Skylights and solar panels. The HLC may allow skylights and solar panels on a building if their placement does not have an adverse effect on the architecture of a building or the district as a whole. In the Oak Hickory Historic District, Skylights are permitted on the rear of accessory buildings only.

L. Windows and doors

1. Front façade openings. The location and size of windows and doors in proposed façades must be compatible in scale with the typical style and period of the main building.
2. Glass. Reflective, tinted, and mirrored glass and plastic are not permitted in any opening.
3. Screen, storm doors and storm windows. Screens, storm doors, and storm windows may be permitted if:
  - a. Their frames are painted to match or complement the color scheme of the main building; and
  - b. They do not obscure significant features of the windows and doors they cover.
4. Security and ornamental bars. Security and ornamental bars are only permitted on the exterior of an accessory building, the rear façade of the main building and the interior of the building.
5. Shutters. Shutters must be typical of the style of the proposed main building and appear to be installed in a manner to perform their intended functions.
6. Style. All windows and doors in the front façade of the main building must be proportionally balanced in a manner typical of the style and period of the building.
7. Size. The size and proportion of window and door openings located on the front and sides of the main building must be typical of the style and period of the main building.
8. Frames. The frames of the windows must be trimmed in a manner typical of the style and period of the building.
9. Openings. All windows, doors, and lights in the front and side façades of the main building must be typical of the style and period of the building. Sidelights must be compatible with the door.

- M. Outdoor lighting. Outdoor light fixtures must be compatible with the style and period of the main building and not obscure or conflict with significant architectural details of the building.

**35.7.9.4. Fences**

Fences are not mandatory; however when installed or replaced in the Oak-Hickory Historic District they shall meet the requirements of the section of the Development Code specific to fencing and shall require an administratively approved COA. They shall also comply with the following additional requirements:

1. Fences must be maintained in a vertical position.
  2. The top edge of a fence must be along a line that is either horizontal or substantially parallel to grade.
  3. In general fencing is discouraged between the setback line of structures and the street.
- A. Color and style. Fences must be of a color, style, and material which is compatible to the main building.
  - B. Masonry columns and bases. The color, texture, pattern, and dimensions of masonry and the color, width, type, and elevation of mortar joints in a fence column or base must match the masonry and mortar joints of the main building as nearly as practicable.

#### **35.7.9.5. Signs**

All signs located within the Oak-Hickory Historic District shall be subject to the provisions of Chapter 33 of the Code of Ordinances, except as modified as follows:

- A. Signs permitted. Wall signs are permitted. Ground, roof, projecting, portable, and off-premises signs are prohibited.
- B. Wall Sign regulations.
  1. Number of wall signs. Only one (1) wall sign per premises is permitted.
  2. Size. No wall sign shall have a maximum dimension which is greater than two (2) feet, measured along the greater distance of any one (1) line which defines the effective area of the sign.
- C. Address or name signs. The sign regulations of this Section shall not apply to the signs or numbers which are used solely to identify the street address of the premises or they identify by name the occupants of a residential building.
- D. Approval procedure for signs. No signs shall be constructed or located and no existing wall sign shall be altered, until a COA is issued in accordance with the procedure applicable to alterations or changes of the exterior architectural features of buildings.

#### **35.7.9.6. Parking**

The provisions of the Development Code applicable to parking shall apply to the Oak-Hickory District, except as modified as follows:

- A. Location. All off-street parking spaces for any building used as a multi-family dwelling or for a non-residential use shall be located between the building fronting the public street and the rear property line.
- B. Number of parking spaces. Each specified use shall provide the following number of parking spaces:
  1. Multi-family buildings shall have a minimum of two (2) parking spaces for each dwelling unit.
  2. Non-residential uses shall provide one and one-half (1.5) times the number of parking spaces required for that use by Subchapter 35.14.

#### **35.7.10. Bell Avenue Historic District**

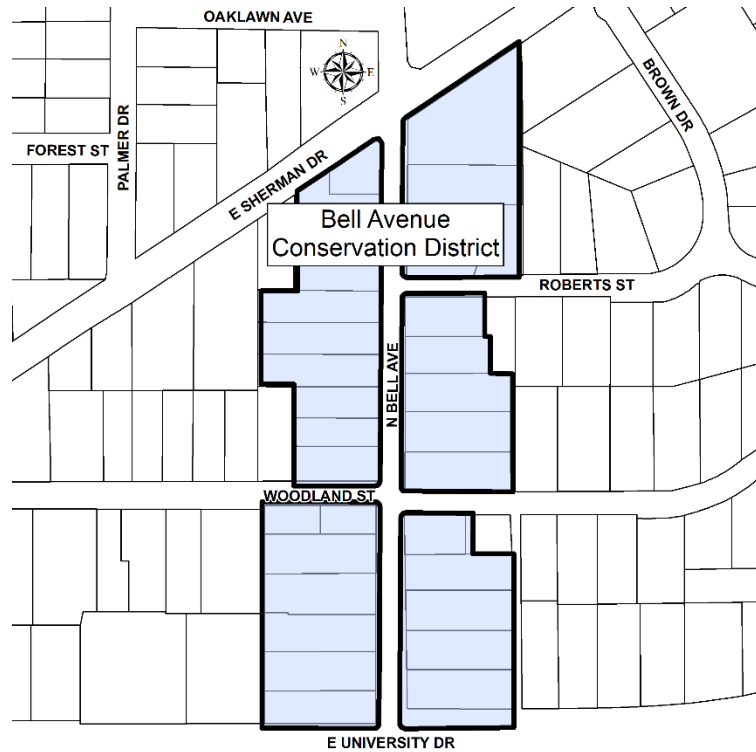
##### **35.7.10.1. Purpose**

The purpose of establishing the Bell Avenue Historic District is to safeguard the heritage of the City of Denton by preserving the Bell Avenue area of the City. The area contains landmarks, buildings, and/or



sites which reflect elements of the City's cultural, social, economic, political or architectural or archeological history. It is also to: ensure compatibility of new construction and structural alterations with the existing scale and characteristics of surrounding properties, foster civic pride in the beauty and accomplishments of the past, and identify and promote the use of historic resources for the education, pleasure, and welfare of citizens of the City of Denton.

35.7.10.2. **Boundaries.** The Bell Avenue Historic District includes all the properties that front Bell Avenue between East University Drive and East Sherman Drive established by Ordinance No. 2005-099.



*Exhibit 2: Approximate Boundaries of The Bell Avenue Historic District*

### 35.7.10.3. **Architectural Regulations**

Architectural requirements in the Bell Avenue Historic District shall be as follows:

- A. **Primary Structures.** Primary structures must be compatible in scale with primary structures existing in the district.
- B. **Accessory buildings.** Accessory buildings which are visible from any public street, other than an alley, as determined by the Historic Preservation Officer, must be compatible with the scale, shape, roof form, materials, detailing and color of the main building.
- C. **Architectural Detail.** Materials, colors, structural and decoration elements and the manner in which they are used, applied or joined together must be compatible with nearby and adjacent structures.
- D. **Additions.** All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale shape, roof form, materials, detailing and color of the existing building.
- E. **Color.** Colors of all structures should be complementary to each other and the overall character of the main building. The HPO may administratively approve re-painting of homes in this district.
- F. **Façade Materials.**

1. The permitted façade materials are brick, wood siding, wood, stone and stucco. The use of cementitious siding is also permitted on new construction and accessory buildings. Artificial facsimiles of these materials will be considered on a case by case basis as material technologies progress. All façade treatments and materials must be typical of the style and period of the main building.
  2. Brick or stone that was originally unpainted should remain so, since irreversible damage can result from attempts to remove paint by methods such as sandblasting. Painting or covering original brick or stone is discouraged.
  3. Retain significant character defining wooden or metal façade elements. Examples include cornice brackets, gingerbread, decorative trim elements, ornamental barge/fascia board, and soffit.
- G. Historic architectural elements of the façade are to be preserved if they are still historically accurate at the time of the creation of the district. Every effort should be made to repair damaged portions of original materials.
- H. Roof Material and Colors. Roof materials and colors must complement the style and overall scheme of the structure.
1. Existing roofs that are visible from the public right-of-way should retain their profile as it relates to shape and slope. Appropriate roof treatments include dimensional shingles, real or synthetic slate shingles or standing seam metal.
  2. Historic systems that are integral to the roof, such as flashing, and leader/conductor boxes, built-in gutters, downspouts or snow guards, should be retained and maintained on a regular basis, as these types of systems often were crafted of heavy gauge, resilient materials such as copper or zinc and generally outperform modern materials, as well as retain a patina and contribute to the appearance of the structure.
  3. Buildings that incorporate a sloped roof, such as a gable and/or hipped roof, often feature decorative elements that should be retained, including but not limited to, roof cresting, ridge caps and finials.
- I. Fencing. A certificate of appropriateness is not required to install a fence in the Bell Avenue Historic District; however fencing shall comply with the City's development code requirements.
- J. Doors. Replacement doors should be sized to fit in the existing opening. The opening should not be altered so as to accept either a smaller door (e.g., filling in excess space with material such as lumber, bricks or cement blocks) or to facilitate a larger door or doors (e.g., knocking out part of the surrounding wall and reframing the opening).
- K. Windows.
1. Window openings should not be altered to accommodate replacement windows (e.g., "blocking down" or "blocking in" the opening).
  2. Replacement windows should relate to and be appropriate for the age and architectural style of the structure.
  3. In situations where original windows remain, every effort should be made to repair such windows, rather than replace them outright.

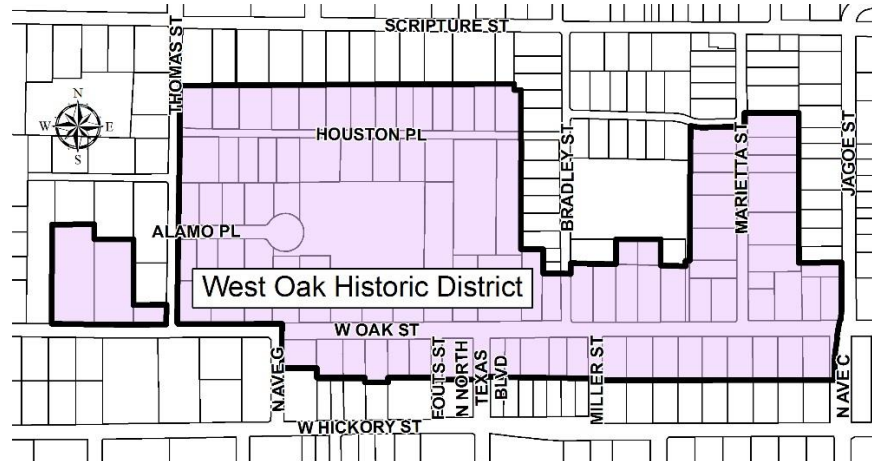
### **35.7.13. West Oak Area Historic District**

#### **35.7.13.1. Purpose**

The purpose of this subsection is to ensure the protection and preservation of the West Oak Area Historic District by providing regulations for the use, construction, alteration, repair, improvement and alteration of buildings, structures, properties and sites within the district.

### 35.7.13.2. Boundaries

The West Oak Historic District is generally bounded by Oak Street to the south, Thomas Street to the west, Houston Place to the north, and Jagoe Street to the east as established by Ordinance No. 2008-136.



*Exhibit 3: Approximate Boundaries of The West Oak Historic District*

### 35.7.13.3. Architectural Requirements

Architectural requirements in the West Oak Area Historic District shall be as follows:

- A. Primary Structure. Primary structures must be compatible in scale with the primary structures existing in the district.
- B. Accessory buildings. Accessory buildings which are visible from any public street, other than an alley, as determined by the Historic Preservation Officer, must be compatible with the scale, shape, roof form, materials, detailing and color of the main building.
- C. Architectural detail. Materials, colors, structural and decoration elements and the manner in which they are used, applied or joined together must be compatible with nearby and adjacent structures.
- D. Awnings. Metal and corrugated plastic awnings are only permitted on an accessory building or the rear façade of a main building, if not visible from any public street, other than an alley, as determined by the Historic Preservation Officer. Other awnings must be typical of any proposed structure and the character of the main building.
- E. Building placement. All buildings must be placed so as to not adversely affect the rhythm of spaces between buildings on the block. A thirty (30) foot minimum setback is standard in this area and new construction shall follow that standard. Additions and or replacement buildings shall have a front setback that is the average of the adjacent lots of contributing buildings.
- F. Chimneys. All chimneys must be compatible with the style of the proposed building. Chimneys must be constructed of brick, stucco, stone or other materials compatible in texture, color and style with the proposed main building.
- G. Additions. All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale, shape, roof form, materials, detailing and color of the existing building.
- H. Color.
  - 1. Roof colors. Roof colors must complement the style and overall color scheme of the structure.
  - 2. Masonry and brick surfaces. Masonry and brick surfaces not previously painted must not be painted unless it is determined that:

- a. The painting is absolutely necessary to restore or preserve the masonry or brick; or
  - b. The color and texture of replacement masonry or brick cannot be matched with that of the existing masonry or brick surface; or
  - c. The structure is not a contributing structure to the district and or the brick and style of the building are not complimentary to such a degree that together they define an architecturally significant whole.
- 3. A COA shall not be required for exterior painting of structures in the West Oak Historic District; however, it is suggested that structures in the West Oak Historic District be painted colors from the following paint manufacturer's preservation color palettes: Sherwin Williams Preservation Palettes (including America's Heritage Historical Exterior Colors and Suburban Modern Historical Exterior Colors), Valspar Paint National Trust Historic Colors, Pittsburgh Paints Historic Collection, or similarly appropriate products.
- I. Façade materials.
  - 1. Generally. The permitted façade materials are brick, wood siding, wood, stone and stucco. The use of cementitious siding is also permitted on new construction and accessory buildings. Artificial facsimiles of these materials will be considered on a case by case basis as material technologies progress. All façade treatments and materials must be typical of the style and period of the main building.
  - 2. Wood façades. Existing wood façades must be preserved as wood façades.
- J. Front entrances and porches.
  - 1. Detailing. Railings, moldings, tile work, carvings, and other detailing and architectural decorations must be typical of the style and period of the main building.
  - 2. Enclosures. A front entrance or porch may not be enclosed with any material, including iron bars, glass, or mesh screening.
  - 3. Façade openings. Porches must not obscure or conceal any façade openings in the main buildings.
  - 4. Floor coverings. Carpeting is not permitted as a porch floor or step covering.
  - 5. Style. Each proposed main building must have a front porch or entry treatment with a shape, roof form, materials and colors that are typical of the style of the proposed main building. A front entry or porch must reflect the dominant horizontal and vertical characteristics of the proposed main building.
- K. Roof Forms.
  - 1. Material and colors. Roof material and colors must complement the style and overall color scheme of the structure.
  - 2. Patterns. Roof patterns must be typical of the style and period of the main building.
  - 3. Slope and pitch. The degree and direction of the roof slope and pitch must be typical of the style and period of the main building.
  - 4. Skylights and solar panels. The Commission may allow skylights and solar panels on a building if their placement does not have an adverse effect on the architecture of a building or the district as a whole.
- L. Windows and doors.
  - 1. Front façade openings. The location and size of windows and doors in proposed façades must be compatible in scale with the typical style and period of the main building.
  - 2. Glass. Reflective, tinted, and mirrored glass and plastic are not permitted in any opening.

3. Screen, storm doors and storm windows. Screens, storm doors, and storm windows may be permitted if:
  - a. Their frames are painted to match or complement the color scheme of the main building; and
  - b. They do not obscure significant features of the windows and doors they cover.
4. Security and ornamental bars. Security and ornamental bars are only permitted on the exterior of an accessory building, the rear façade of the main building and the interior of the building.
5. Shutters. Shutters must be typical of the style of the proposed main building and appear to be installed in a manner to perform their intended functions.
6. Style. All windows and doors in the front façade of the main building must be proportionally balanced in a manner typical of the style and period of the building.
7. Size. The size and proportion of window and door openings located on the front and sides of the main building must be typical of the style and period of the main building.
8. Frames. The frames of the windows must be trimmed in a manner typical of the style and period of the building.
9. Openings. All windows, doors, and lights in the front and side façades of the main building must be typical of the style and period of the building. Sidelights must be compatible with the door.
- M. Outdoor lighting. Outdoor light fixtures must be compatible with the style and period of the main building and not obscure or conflict with significant architectural details of the building.
- N. Fencing. A certificate of appropriateness is not required to install a fence in the West Oak Historic District; however fencing shall comply with the City's development code requirements

#### **35.7.13.4. Signs**

A Special Sign District is hereby established, imposing additional regulations upon all signs located within the West Oak Area Historic District subject to the additional provisions of Chapter 33 of the Code of Ordinances, except as modified as follows:

- A. Additional Wall and stake sign regulations.
  1. Number of wall signs. Only one (1) wall sign per premises is permitted.
  2. Size. No wall sign shall have a maximum dimension which is greater than two (2) feet, measured along the greater distance of any one line which defines the effective area of the sign.
- B. Address or name signs. The sign regulations of this section shall not apply to the signs or numbers which are used solely to identify the street address of the premises or they identify by name the occupants of a residential building.
- C. Approval procedure for wall signs. No new signs shall be constructed or located and no existing sign shall be altered, until a COA is issued in accordance with the procedure applicable to alterations or changes of the exterior architectural features of buildings, as provided for in this Subchapter.

#### **35.7.13.5. Parking**

The provisions of the Development Code applicable to parking shall apply to the West Oak Area District, except for the following modifications:

- A. Location. All off-street parking spaces for any building used as a multi-family dwelling or for a non-residential use shall be located between the building fronting the public street and the rear property line.

- B. Number of parking spaces. Each specified use shall provide the following number of parking spaces:
1. Multi-family buildings shall have a minimum of two (2) parking spaces for each dwelling unit.
  2. Non-residential uses shall provide one and one-half (1.5) the number of parking spaces required for that use by the Development Code.

## Proposed Procedure Section of Code

### 35.3.15 **Historic Preservation Procedures.**

35.3.15.1 **General Provisions.** The following are the general provisions applicable to Historic Landmarks, Historic Districts, and Conservation Districts within the City of Denton, as defined under Subchapter 23 of the Denton Development Code.

#### **A. Public Hearings**

1. The City Planning and Zoning Commission shall hold public hearings as required in the same manner and with the same notice provisions as provided for zoning regulations in V.T.C.A., Local Government Code § 211.006 – 211.007, as amended, to consider any Historic Landmark, Historic District or Conservation District designation ordinance after receiving a recommendation from the Historic Landmark Commission (HLC).
2. Within thirty (30) days after the public hearing, the City Planning and Zoning Commission shall set forth in writing its recommendation, including the findings of fact that constitute the basis for its decision, and shall transmit its recommendation concerning the proposed ordinance to the City Council along with the recommendation of the HLC.

#### **B. Notices**

Any notice required to be given under this Section, if not actually delivered, shall be given by depositing the notice in the United States mail, postage prepaid, addressed to the person or entity to whom such notice is to be given at his last known address. When notice is required to be given to an owner of property, such notice, delivered or mailed by certified or registered mail, may be addressed to such owner who has rendered his property for City taxes as the ownership appears on the last approved City tax roll.

#### **C. Recording of decision**

Upon passage of an Historic Landmark designation ordinance by the City Council, the City Secretary shall file a copy of the ordinance with the Denton County Tax Clerk, together with a notice briefly stating the fact of the designation, and shall send a copy of such notice to the owner of the affected property by certified mail.

#### **D. Amendments**

The regulations, restrictions and boundaries created under the authority of this Subchapter concerning Historic Landmarks and Historic and Conservation Districts may from time to time be amended, supplemented, changed, modified or repealed pursuant to the public notice and hearing requirements, as amended, herein. If there is a written protest against such change signed by the owners of twenty (20) percent or more either of the area of the lots or land included in such proposed change or of the lots or land immediately adjoining the change and extending two hundred (200) feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) of all members on the City Council.

#### **E. Completeness Determination**

Every application shall be subject to a completeness determination by the HPO. No application shall be accepted for processing unless it is accompanied by all documents required by and prepared in accordance with the requirements of this Subchapter and all applicable City ordinances, rules, and regulations. An application deemed incomplete shall not bind the City as the official acceptance of the application for filing, and the incompleteness of the application shall be grounds for denial or revocation of the application. The HPO will make his/her completeness determination within 10 days from the date of receipt of the application. An email or comment in the City's permit tracking program is considered a determination in writing. Applications will be deemed complete on the 11<sup>th</sup> business day after the application is received.

35.3.15.2. **Historic Landmarks.** The City Council may designate buildings, structures, sites, areas and lands in the City as Historic Landmarks. This is a zoning designation in addition to any other use designation. A Historic Landmark does not have to be located in a Historic or Conservation District. The zoning map shall reflect the designation of Historic Landmarks.

**A. Procedures for Designation.**

1. The owner of the property seeking designation, or owner's representative, the Historic Landmark Commission (HLC), Planning and Zoning Commission, Historic Preservation Officer (HPO), or the City Council may initiate a Historic Landmark designation by filing an application with the HPO.
2. Requests for designation shall be made on a form obtained from the HPO.
3. Nominations prepared and submitted by an authorized agent shall contain the signatures of the owner or owners unless created by resolution of the city council or the HLC.
4. Applications shall be considered by the HLC at a regular meeting which shall make a recommendation to the Planning and Zoning Commission regarding such designation. The Planning and Zoning Commission, after a regular meeting, must make a recommendation to City Council for its consideration. The decision at City Council, after a regular meeting, is final and cannot be appealed.
5. Historic Landmark Commission-approved medallions for designated structures may be prepared and, subject to the approval of the owners, may be affixed to individually designated Historic Landmarks.

**B. Criteria for approval, Generally.** The following criteria will be used in the designation of a Historic Landmark.

1. Character, interest or value as part of the development, heritage or cultural characteristics of the City, State or the United States;
2. Recognition as a recorded state historic landmark, a national historic landmark or entered into the National Register of Historic Places;
3. Reflects a distinguishing characteristic of an architectural type or specimen;
4. Identification as the work of an architect or master builder whose individual work has influenced the development of the City;
5. Reflects elements of architectural design, detail, material or craftsmanship which represent a significant architectural innovation;
6. Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on architectural, historic or cultural motif;
7. Portrayal of the environment of a group of people in an area of history characterized by a distinctive architectural style;
8. Archeological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest;
9. Exemplification of the cultural, economic, social, ethnic or historical heritage of the City, state, or United States;
10. Location as the site of a significant historic event;
11. Identification with a person who significantly contributed to the culture and development of the City, state or United States;
12. A building or structure that because of its location has become of value to a neighborhood, community area or the City; or
13. Value as an aspect of community sentiment or public pride.



35.3.15.3. **Historic and Conservation Districts.** The City Council may designate buildings, structures, sites, areas and lands in the City as part of a Historic or Conservation District and define, amend, and delineate the boundaries thereof. This is a zoning designation in addition to any other use designation. The zoning map shall reflect the designation of Historic and Conservation Districts.

A. **Applications.** Applications for consideration of a proposed District shall be based upon architectural, historical, archeological or cultural importance or value and accompanied by the following information:

1. A map showing the boundaries of the proposed district drawn to a scale of one (1) inch equals two hundred (200) feet and the location of each structure of importance or value identified by a number or letter designation;
2. Any evidence which would show recognition by either the state and/or the national government.
3. A list of specific buildings, structures, sites, areas or lands of importance or value located within the proposed District boundaries and a description of the particular importance or value of each such building, structure, site, area or land.
4. Sufficient photographs of each building, structure, site, area or land of importance or value showing the condition, color, size and architectural detail of each, and where possible:
  - a. Date of construction;
  - b. Builder or architect;
  - c. Chain of uses and ownership;
  - d. Architectural style;
  - e. Materials;
  - f. Construction technique; and
  - g. Recognition by state or national government as architecturally or historically significant, if so designated.

B. **Procedures for Designation.**

1. **Initiation.** Designation as a District may be initiated by the Historic Landmark Commission (HLC) or by written petition in the form prescribed by this Section. Such a request shall designate clearly the land proposed to be included.
2. **Applications.** Requests for designation shall be made on a form obtained from the city HPO. Completed applications shall be returned to the HPO for review and processing as applicable. The HPO is the administrative official with original jurisdiction to review applications and submitted written support for completeness.
3. **Time Limits.** Properly submitted applications shall remain valid for one (1) year from the date it is deemed complete and thereafter shall be expired.
4. **Petition Required.** The applicant must submit with the application, a petition with signatures of more than fifty (50) percent of the owners of the property within the proposed District who collectively own more than fifty (50) percent of the land area within the proposed District. Property ownership shall be verified utilizing the last certified tax rolls of the appropriate county tax assessor collector for the proposed area. For purposes of calculating the support of more than fifty (50) percent of the property owners, each property as listed on the tax rolls shall be counted individually, regardless of whether an individual or group owns multiple properties within the proposed area. Properties owned by governmental entities shall not be counted in the more than fifty (50) percent support

requirement, although their written preference may be submitted to any board, commission or to city council for their consideration. Additionally, for properties owned by more than one (1) party, only one (1) property owner need submit written support in order for the HPO to count the property in the calculation.

5. Decision. Once the HPO receives a completed application, the HPO must call a public hearing in front of HLC. The HLC shall make its recommendation for either approval or denial within thirty (30) days from the date of the public hearing for consideration by the Planning and Zoning Commission. The Planning and Zoning Commission shall schedule a public hearing to be held within sixty (60) days of receipt of the HLC's recommendation and shall forward its recommendation for either approval or denial to the City Council. The city council shall, at a public hearing, review and either approve or deny the proposed district. Upon passage of any ordinance designating an area, or removing the designation of a district, the city shall send notice of the fact by mail to the owner or owners of affected property.
6. Increasing Boundaries. Applications to increase the boundaries of a District may be made when one or more of the following criteria are met:
  - a. When buildings, structures, sites, areas or lands of importance or value related to the district are requested for inclusion; or
  - b. When facts previously undisclosed to or unknown by the HLC are revealed which indicate that a particular building or site is possessed of special architectural, archeological, cultural or historical importance or value.
7. Reducing Boundaries. Applications to reduce the boundaries of a District may be made when one or more of the following criteria are met:
  - a. When it can be shown that a particular building, site, area or land has no historic, architectural archeological or cultural importance or value to the viability of the district; or
  - b. When it can be shown that no degradation of the district, either physical, historical, architectural, archeological or cultural, will result from exclusion of property from the district.
8. Appeal. If the HLC determines at a public hearing that the area is not eligible for a District classification, it shall notify the applicant of the fact in writing. Notice is given by depositing the notice, properly addressed and postage paid, in the United States mail. The notice must be sent to the address shown on the application. The decision of the HLC that an area is not eligible for Historic or Conservation District classification may be appealed to the Planning and Zoning Commission. The Planning and Zoning Commission's determination of eligibility on appeal is final. If the Planning and Zoning Commission determines that the area is not eligible as a District classification, no further applications for a District classification may be considered, for the area of request, for two (2) years from the date of the decision. A property owner in the area of the request may apply for a waiver of the two (2)-year limitation pursuant to the Planning and Zoning Commission and must show changes in circumstances that alter the facts and conditions upon which the first decision was determined.
9. Economic Hardship. Application for inclusion or exclusion may be made when either continued exclusion or inclusion of property within the district would render it an economic hardship for reasonable continuation in its present exterior form. In order to establish such economic hardship, the owner must show that no reasonable alternative use exists which allows the exterior of the building to remain in its original style. In evaluating economic return, the HLC may request the owner to document the value, rents, returns, tax burden and/or contracts pertaining to the property.

10. Established Districts. Requirements of Subchapter 7 "Special Purpose and Overlay Districts" shall apply to the Historic or Conservation Districts, however, any conflict between this Section and other provisions of Subchapter 7 shall be resolved in favor of this Section.
11. Regulations. The ordinance creating the District must contain design guidelines based on the U.S. Secretary of the Interior's Standards for Rehabilitation, and may further contain any additional regulations, special exceptions, or procedures that the City Council considers necessary to conserve the distinctive atmosphere or character of the area, or to minimize potential adverse impacts which could result from the creation of the district. In addition, all property owners must conform to existing building codes and zoning regulating land uses.

C. **Criteria for Approval, Generally.** The purpose of Historic and Conservation Districts is to geographically define areas possessing significant concentration, linkage, or continuity of buildings, structures, sites, areas, or land which are united by architectural, historical, archeological, or cultural importance or significance for preservation purposes. They may also include a landmark or a group of landmarks. A District must meet the following criteria:

1. The proposed district must include buildings, structures, or sites that have common character defining features and be of common form.
2. The proposed district must include buildings, structures, or sites which are similar in size, massing and scale. The proposed district may also have a common streetscape or have similar spatial relationships or contain common visual qualities such as vegetation, vistas, orientation, set back, spacing, site coverage, exterior features, or materials.
3. Any District in the City of Denton that is listed on the National Register of Historic Places is presumed to be qualified for designation as a historic or conservation district or included as part of a larger Historic or Conservation District.
4. For designation as a Historic District, a minimum of fifty-one (51) percent of buildings, structures, or sites in the proposed District must be fifty (50) years of age or be of historical significance.
5. For designation as a Conservaton District, a minimum of two (2) buildings must be fifty (50) years of age or be of historical significance.

35.3.15.4. **Certificates of Appropriateness.** A Certification of Appropriateness (COA) shall be obtained prior to the issuance of a Building Permit. A COA may also be required for work not otherwise requiring a Building Permit. The COA shall be required in addition to, and not in lieu of, any required Building Permit.

A. **General Provisions.**

1. Application. Prior to commencement of any work for which a COA is required, the applicant shall file an application for a COA with Development Services. The application shall contain such information as is requested from a form prepared by the HPO, the provisions of which have been approved by the City Attorney. Applications will be subject to the Completeness Determination in this Subchapter.
2. HPO Discretion. Upon receipt of an application for a COA, the HPO shall determine whether the application is to be administratively reviewed or reviewed by the HLC, using the requirements in this Section. Generally, certificates of appropriateness for exclusively ordinary maintenance and minor exterior alternations may be administratively approved; however, the Director of Planning, his or her designee, or the HPO may place a request for a COA on the agenda to be heard by the HLC at a public meeting based on the significance of the project or its potential for impact to a Historic District or a Historic Landmark.
3. Expiration. The Certificate of Appropriateness shall expire 1 year from the date of issuance; existing COAs shall expire one year from the adoption of this ordinance.

4. Time Bar. After a final decision is reached denying a COA, no further applications may be considered for the subject matter of the denied COA for one (1) year from the date of the final decision unless changed circumstances of a completed action regarding the property or project are sufficient to warrant a new meeting, in opinion of the HPO.
5. Amendment. A COA may be amended by submitting an application for amendment to the HPO. The application shall then be subject to the standard COA review procedure.
6. Emergency procedure. If a structure requiring a COA is damaged and the Building Official determines that the structure or property that is a landmark or that is within a Historic or Conservation District will suffer additional damage without immediate repair, the Building Official may allow the property owner to temporarily protect the structure. In such a case, the property owner shall apply for a COA within ten (10) days of the occurrence, which caused the damage. The protection authorized under this Section must not permanently alter the architectural features of the landmark or of the structure in the Historic or Conservation District.
7. New construction. Design for new construction on the site of a property, either individually designated as a Historic Landmark or located in a Historic or Conservation District, shall conform to applicable adopted design guidelines and a COA shall be required.
8. Appeal. If a COA is subject to Administrative Review and no action is taken by the HPO within ten (10) working days, a COA is deemed to be approved. The applicant may appeal the HPO's decision to deny a COA by submitting to the HPO a written request for appeal within ten (10) days of the decision. The written request for appeal starts the HLC Review procedure in this Subchapter.

**B. Administrative Review.** The HPO may administratively approve or deny a COA if the proposed work meets the following criteria:

1. Ordinary maintenance. Ordinary maintenance is defined as the process of stabilizing or repairing, deteriorated or damaged architectural features (including but not limited to roofing, windows, columns, siding and repainting), and includes any work that does not constitute a change in design, material, color or outward appearance, and includes in-kind replacement or repair. If the applicant is seeking a COA for ordinary maintenance only, the HPO may review the application to determine whether the proposed work complies with the regulations contained in this Subchapter and all applicable ordinances, and the HPO may administratively approve or deny the work.
2. Minor exterior alteration. Minor exterior alteration shall be defined as the installation of or alteration to awnings, signage, fences, gutters and downspouts, incandescent lighting fixtures, hardscaping comprising more than twenty-five (25) percent of the front or side yard, restoration of original architectural features that constitute a change from existing conditions, painting of wood or other appropriate elements that constitutes a change in color from existing color, and additions and changes not visible from any street, as determined by the HPO, to the rear of the main structure or to an accessory structure. If the applicant is seeking a COA to authorize minor exterior alterations only, the HPO may review the application to determine whether the proposed work complies with the regulations contained in this Subchapter and all applicable ordinances and administratively approve or deny the application.
3. Conservation Districts. If the applicant is seeking a COA to authorize any work, other than demolition or new construction, on sites located in Conservation Districts, the HPO must review the application to determine whether the proposed work complies with the regulations contained in this Subchapter and all applicable ordinances and administratively approve or deny the application.

**C. Historic Landmark Commission Review.** COAs for all other projects not subject to Administrative Review shall be approved by the HLC at a public meeting pursuant to these procedures.

1. **Compliance Required.** In considering an application for a COA, the HPO and the HLC shall review it for compliance with The United States Secretary of Interior Secretary of the Interior's Standards for the Treatment of Historic Properties (The Standards), any applicable adopted design guidelines and any guidelines provided in this subchapter of the Denton Development Code.
2. **Sustainability Guidelines.** The use of sustainable practices in design is encouraged and the HPO and HLC shall use the Secretary of Interior's Guidelines on Sustainability for Rehabilitating Historic Buildings as a guide for decisions related to renewable energy such as: solar technology, wind power, insulation, HVAC and similarly related topics.
3. **Building Code Requirements.** Historic buildings may be exempted from building code requirements due to their status at the discretion of the Building Official. Applicants should verify with the HPO or the Building Official regarding the possible application to a specific project of certain exemptions to the Energy Code, Building Code and Residential Code.
4. **Effect of Approval.** If a COA has been approved by the HLC, then a certificate will be issued to the applicant, and copies of the certificate will be filed with the Planning Division in the Department of Development Services, and with the Building Official if a building permit is required for the proposed work.
5. **Deemed Approval.** If final action has not been taken by the HLC within sixty (60) days of the posting of the application on the HLC's agenda by the HPO, then the COA will be deemed approved and a certificate will be issued to the applicant. If all other requirements of the Denton Development Code and applicable regulations are met, and a Building Permit is required for the proposed work, the Building Official shall issue a Building Permit to the applicant for the proposed work.
6. **Appeal.** If a COA has been denied, the applicant may appeal the decision in writing to the City Council by filing a written notice with the City Secretary within ten (10) days of receiving the notice of the denial. City Council's decision is final and no further applications shall be considered.

**D. Demolition or Removal.**

1. **Criteria.** The HLC must consider the following criteria for a COA for Demolition or Removal:
  - a. The state of repair of the building;
  - b. The reasonableness of the cost of restoration or repair;
  - c. The existing and/or potential usefulness, including economic usefulness of the building;
  - d. The purposes behind preserving the structure as an Historic structure; and
  - e. The character of the neighborhood and all other factors it finds appropriate.
2. **Appeal.** Any applicant or the owner of any property located within two hundred (200) feet of any landmark or structure in a Historic or Conservation District requiring a COA for Demolition or Removal, and who is aggrieved by a ruling of the HLC concerning the landmark or structure in a Historic or Conservation District, under the provisions of this Section may, within sixty (60) days after the ruling of the HLC, appeal to the City Council. Following a public hearing to be held within thirty (30) days of the filing of a notice of such appeal with the City secretary, the City Council may, by a simple majority vote, uphold or overturn any ruling of the HLC made pursuant to this Section.

#### 35.3.15.5 Permits Pending Designation.

- A. From and after the date on which the question of whether or not a building, structure, or site within the City should be designated as an Historic Landmark is placed upon the agenda for any special or regular meeting of the HLC or from and after the date on which such agenda is posted in accordance with the provision of Chapter 551 of the Government Code (Texas Open Meetings Act), as amended, or from and after the date that the HLC approves or recommends a Preservation Plan or any amendment of any existing Preservation Plan which embraces or includes the building, structure or site within the City, whichever date first occurs, no Building Permit allowing the construction, reconstruction, alteration, change, restoration, removal or demolition of any exterior architectural feature of any building or structure then existing included or embraced in whole or in part within the scope of such agenda consideration or such preservation plan or such amendment thereof, as the case may be, and no Permit allowing the demolition or removal of all or any part of any such building or structure may be issued by any official of the City nor, if no such Permit is required, may any person or entity construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of any such building or structure until the earliest of the following conditions have been met:
1. A final and binding COA for the removal or demolition, as may be appropriate, has been issued by the HLC;
  2. The HLC fails to make a recommendation that some part or all of any such building or structure be designated an historic landmark or be included within an historic landmark or within a Preservation Plan or an amendment thereof within sixty (60) days following the earliest of the dates described in this Subsection, under the circumstances; or
  3. A final and binding decision has been made by the City Council that no part of any such building or structure shall be designated an historic landmark or shall be included within any designated historic landmark. However, should the City Council fail to act within ninety (90) days from the date an appeal is filed, the requested Permit shall be granted. The ninety (90)-day time limitation may be waived by the appellant to allow the City Council an additional thirty (30) days in which to act.
- B. It shall be the duty of the HPO to furnish the Building Official with a copy or written notice of each such written order or such agenda or such Preservation Plan or amendment thereof, as the case may be, as promptly after the preparation thereof as is practicable. The failure to so furnish the Building Official with a copy or written notice thereof however, shall not have the effect of validating any Building Permit, Removal Permit or Demolition Permit issued without knowledge of any such written order or agenda. In any instance in which any such Permit may not be required, it shall be the duty of the HPO to give notice of any such written order or such agenda or such Preservation Plan or amendment thereof to the owner of any building or structure included within the scope thereof, which notice shall be deemed complete when actually given, orally, or in writing, to such owner or when written notice there is deposited in the United States mail, postage prepaid, certified or registered, with return receipt requested, addressed to such owner, whichever event first occurs.
- C. Any Permit issued to any person from or after the date of any such written order or such agenda or the approval or recommendation of such preservation plan or amendment thereof, as the case may be, shall be null, void and of no force or effect until the earliest of the events described in subsections A.1, A.2 and A.3 of this Section occur.
- D. Notwithstanding any other provision of this Subsection, no building permit, removal permit or demolition permit shall be issued by the building official for any structure located in a national register district except as authorized by this subsection. The Building Official shall notify the HPO immediately of any application requesting a building permit, removal permit or demolition permit for a structure located in a national register district. No such permit shall be issued by the building official before the HLC has made a recommendation or scheduled the structure on its agenda or before the expiration of forty (60) calendar days, whichever is sooner. If a structure is placed on an agenda item it shall be scheduled for a public hearing as soon as adjacent property owners are notified.

#### 35.3.15.6 **Maintenance; omission of repairs**

- A. The exterior of any structure in a designated district, any designated Historic Landmark and any building determined by the HLC to meet the criteria for Landmark designation shall be maintained to ensure structural integrity.
- B. If the HLC finds that there are reasonable grounds to believe that the exterior of any structure in a designated district or any designated historic landmark is structurally unsound or in imminent danger of becoming structurally unsound, the HLC shall notify the HPO, who shall notify in writing the owner of the structure of such fact.
- C. Upon giving a ten (10) day written notice to the owner of record of such structure, the HLC shall hold a public meeting to determine if the structure is structurally unsound or in imminent danger of becoming structurally unsound. The HLC's report may include evidence of economic hardship or willful neglect.
- D. At the conclusion of the meeting, if the HLC finds that the structure is structurally unsound or in danger of becoming structurally unsound and that no valid reason exists as to why the owner cannot or should not undertake to safeguard the structural soundness of the building, it shall in writing notify the owner of record of the finding.
- E. The owner of record of a structure who has been notified by the HLC that such landmark is structurally unsound or in danger of so becoming shall within ninety (90) days of receipt of such notice, satisfy the HLC that reasonably necessary repairs to safeguard the structural soundness of the landmark have been effected.
- F. If the HLC determines that the building is structurally unsound but there are valid reasons why the owner cannot or should not undertake to safeguard the structural soundness of the building, it shall forward to the City Council its recommendation as to what action, if any, should be taken on the structure.
- G. Any applicant or interested person aggrieved by a ruling of the HLC under the provisions of this Section may, within thirty (30) days after the date of such ruling, appeal to the City Council.

## Proposed Definitions to be added to Code

### 35.23.2. - Definitions and Terms.

**Certificate of Appropriateness (COA).** A Certificate of Appropriateness (COA) is required for projects that would alter the exterior appearance or character of an individually designated historic property or any property located in a Historic or Conservation District and shall be obtained prior to the issuance of a Building Permit.

**Demolition by Neglect.** This term is used to describe a situation in which a property owner allows a property to deteriorate, potentially beyond the point of repair, through neglect in the maintenance or repair of any structure on property designated as an historic property or located in a Historic or Conservation District.

**Historic District.** Historic District means geographically definable areas possessing significant concentration, linkage or continuity of buildings, structures, sites areas or land which are united by architectural, historical, archeological or cultural importance or significance. In a Historic District, 51 percent of the buildings, structures, or sites must be of architectural, historical, archeological or cultural importance or significance.

**Historic Conservation District.** A geographically defined area including a landmark or a group of landmarks, created for the purpose of historic preservation. Such a district may be differentiated from a historic district due to Conservation Districts having 50% or less of buildings older than 50 years of age.

**Historic Preservation.** The protection, reconstruction, rehabilitation, repair or restoration of landmarks of historical, architectural or archeological significance.

**Historic Site.** The location of a significant event, a prehistoric or historic occupation or activity, which may include open spaces, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historic, cultural, or archeological value regardless of the value of any existing structure.

**Historic Landmark Commission (HLC).** The City of Denton Historic Landmark Commission.

**HPO.** The Historic Preservation Officer for the City of Denton (HPO).

**Historic Landmark.** Refers to a building, district, object, site, or structure that is officially recognized by the State of Texas, or the United States government, for its outstanding architectural, archeological, cultural, social, economic, ethnic and political history significance.

**Local Historic Landmark.** Refers to a building, district, object, site, or structure that has been officially recognized by the City of Denton for its outstanding architectural, archeological, cultural, social, economic, ethnic and political history significance.

**National Register.** This term refers to the National Register of Historic Places. This is the official list of the Nation's historic places. Authorized by the National Historic Preservation Act of 1966, as amended, the National Park Service's National Register of Historic Places is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect America's historic and archeological resources.

**The United States Secretary of Interior Standards for the Treatment of Historic Properties.** This refers to a document that includes guidelines for preserving, rehabilitating, restoring and reconstructing historic buildings.



## Proposed HLC Section as Amended

### 35.4.3. Historic Landmark Commission.

- A. There is hereby created a commission to be known as the Historic Landmark Commission (HLC) of the City composed of nine (9) members appointed by the City Council. The HLC shall include at least one (1) representative from each of the following organizations or professions:
  - 1. County Historical Commission;
  - 2. The county bar association;
  - 3. A certified public accountant;
  - 4. A registered architect;
  - 5. An owner of real property in the City.
- B. The other members of the HLC shall be appointed from such other individuals and organizations as the City Council may in its discretion wish to consult or consider; provided that no one business or professional interest shall constitute a majority membership of the HLC.
- C. In addition to the nine (9) members appointed by the City Council, the following persons or their designees shall sit on the HLC as ex officio members:
  - 1. The Director of Development Services;
  - 2. The Building Official;
  - 3. The Chairperson of the County Historical Commission.
- D. None of the ex officio members shall have voting power, but shall assist the HLC in its various functions.
- E. The fact that one or more representatives from five (5) fields of expertise may not at any given point be a member of the HLC, for whatever reason, shall not affect the validity of any decision or act of the HLC.
- F. Members of the HLC shall be appointed for two (2)-year staggered terms. Vacancies in an unexpired term shall be filled by the City Council for the remainder of the term.

#### 35.4.3.1. Operational Procedures.

The HLC shall meet as often as necessary to dispose of the business of the HLC or upon call by the HLC chair or upon petition of a simple majority of HLC members. Five (5) members present shall constitute a quorum for the transaction of business, and all issues shall be decided by a majority of those members present and voting, except that in those instances where only a quorum of five (5) is present at a meeting, all issues shall be decided by at least four (4) affirmative votes. The HLC shall adopt appropriate rules and regulations for the conduct of its business and the election of its chair and other officers. The minutes of each meeting shall be filed in the office of the City Secretary.

#### 35.4.3.2. Powers and Duties of the Historic Landmark Commission.

- A. The HLC shall thoroughly familiarize itself with buildings, structures, sites, districts, areas and lands within the City which may be eligible for designation as historic landmarks, shall have review authority over the City's Historic Preservation Plan, and shall:
  - 1. Establish criteria to be used in determining whether certain buildings, structures, sites, districts, areas, lands and other objects should be designated as historic landmarks;
  - 2. Establish guidelines to be used in determination of whether to grant or deny certificates of appropriateness and certificates of appropriateness for demolition;
  - 3. Suggest sources of funds for preservation and restoration activities and acquisitions, to include federal sources, state sources, private and foundation sources, as well as municipal sources;

4. Recommend to the proper agencies incentives designed to encourage historic preservation.
- B. The Preservation Plan shall be presented to the Planning and Zoning Commission for consideration and recommendation to the City Council for inclusion in the Comprehensive Plan of the City.
  - C. The HLC shall recommend to the Planning and Zoning Commission ordinances designating certain buildings, structures, sites, districts, areas and lands in the City as historic landmarks. The HLC shall hold a public hearing on all proposed ordinances and the owner of any land included in the proposed ordinance shall be given at least ten (10) days' written notice of the public hearing.
  - D. If the HLC finds that buildings, structures, sites, districts, lands or areas cannot be preserved without acquisition, the HLC may recommend to the City Council that the fee or a lesser interest of the property in question be acquired by gift, device, purchase, eminent domain or otherwise, pursuant to the Charter and state and federal law.
  - E. Where there are conditions under which the required preservation of an historic landmark would cause undue hardship on the owner, use district changes may be recommended by the HLC.
  - F. The designation of an historic landmark may be amended or removed using the same procedure provided in this article for the original designation.
  - G. The HLC shall provide information and counseling to owners of designated historic landmarks.
  - H. Any person making application to have any building, structure, site, district, area or land designated as an historic landmark pursuant to the provisions of this article shall pay to the Planning and Development Department a filing fee in an amount determined and as from time to time amended by ordinance by the City Council, a copy of which ordinance is on file with the Department.

# **Historic Preservation Proposed Revisions**

# Updated Timeline

- **April 2016** – HLC & CC briefed and input received to go forward with amendment process
- **June & July 2016** – Public meetings held with 3 districts and an additional public follow up meeting along with public input solicitation via an online survey.
- **September, 2017** – Draft presented to HLC with Public Hearing
- **September, 2017** – Draft to be presented to P&Z
- **October, 2017** – Draft to be presented to City Council



# Major Changes

## – Clean-Up & Efficiency

- Ordinance structure
- Multiple references to Certificates of Appropriateness have been centralized in one section that clearly delineates administrative approval (35.3.15.4)
- Definitions have been aggregated (35.23.2)
- The criteria and procedures for designations of Historic Landmarks, Historic Districts, and Conservation Districts have been arranged sequentially and revised for clarity and consistency (35.3.15.2, 35.3.15.3)
- All procedurally oriented subsections were combined and sequenced into one section (35.3.15)

# Major Changes

## – Substantive Changes

- Recognition of the Bell Avenue Conservation District as a Historic District (35.7.10)
- A more efficient process was introduced for local designation of properties and districts previously recognized by the State of Texas or the National Park Service (35.3.14.3.C.3.)
- Language relating to COAs for exterior painting, fencing and landscaping was inserted per the public input process (35.7.9.3.H.1.)-OHHD
  - » (35.7.9.4.)
  - » (35.7.10.3.E.) - BAHD
  - » (35.7.10.3.I.)
  - » (35.7.13.3.H.3) – WOHD
  - » (35.7.13.3.N)
- Maintenance clause for structures eligible for designation (35.3.14.6.A.)

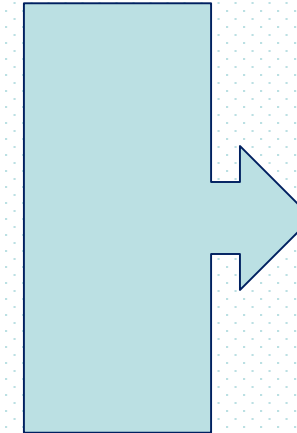
# Changes - Structure

## EXISTING

- 35.7.6. – Historic Landmark Preservation and Historic Districts Generally.
- 35.7.6.1. – Declaration of Policy
- 35.7.6.2. – Penalty.
- 35.7.6.3. – Notices.
- 35.7.6.4. – Designation of landmarks.
- 35.7.6.5. – Hearings.
- 35.7.6.6. – Recording of decision.
- 35.7.6.7. – Amendments.
- 35.7.6.8. – Exterior alterations and changes; minor exterior alteration, ordinary maintenance; appeals.
- 35.7.6.9. – Demolition or removal of historic landmarks.
- 35.7.6.10. – Procedures for obtaining permits pending landmark designation as historic landmark.
- 35.7.6.11. – Maintenance; omission of repairs.
- 35.7.6.12. – Effect of zoning district use classification.
- 35.7.7. – Historic Conservation District.
- 35.7.8. – Historic District.
- 35.7.9. – Oak-Hickory Historic District.
- 35.7.10. – Bell Avenue Historic Conservation District.
- 35.7.13. – West Oak Area Historic District.

## PROPOSED

- 35.7.6. – Historic Preservation
- 35.7.6.1. – Purpose
- 35.7.6.2. – Penalty
- 35.7.6.3. – Enforcement
- 35.7.6.4.
- 35.7.6.5.
- 35.7.6.6.
- 35.7.6.7.
- 35.7.6.8.
- 35.7.6.9.
- 35.7.6.10.
- 35.7.6.11.
- 35.7.6.12.
- 35.7.7.
- 35.7.8.
- 35.7.9. – Oak-Hickory Historic District
- 35.7.10. – Bell Avenue Historic District
- 35.7.13. – West Oak Historic District



## PROPOSED Section 35.3.14.

- 35.3.15. – Historic Preservation Procedures
- 35.3.15.1. – General Provisions
- 35.3.15.2. – Historic Landmarks
- 35.3.15.3. – Historic and Conservation Districts
- 35.3.15.4. – Certificates of Appropriateness
- 35.3.15.5. – Permits Pending Designation
- 35.3.15.6. – Maintenance; omission of repairs

# Minor Changes

35.23.2. – Definitions Moved –

Certificate of Appropriateness (COA)

Demolition by Neglect

Historic District

Historic District

Historic Conservation District

Historic Preservation

Historic Site

Historic Landmark Commission (HLC)

HPO

Historic Landmark

Local Historic Landmark

National Register

The United States Secretary of Interior Standards for the Treatment of Historic Properties

35.4.3. – Historic Landmark Commission – 35.4.3.1 Chairman to Chair, usage of HLC throughout

35.4.3.2.A. Insertion “along with staff”



# Public Meetings

| FENCING AND GENERAL LANDSCAPE  |
|--|
| Generally, with respect to fencing and other landscape fixtures, or alterations I think:   |
| A) Fencing and landscape should be very uniform and controlled. A Certificate of Appropriateness should be required with Landmark Commission oversight.  |
| B) Someone with an eye towards preservation and the neighborhood integrity should have to approve (someone like a preservation officer). A Certificate of Appropriateness is required, but not a meeting of the Landmark Commission. |
| C) Leave all district property owners alone and let them build fencing and make changes as long as regular City Code is followed. No Certificate of Appropriateness should be required.  |
| D) Some regulation of fencing that is a bit more restrictive than what the City at large requires. I am just not sure what that regulation should look like.   |

| PAINTING  |
|---|
| A) Landmark Commission or the District selects a pallet of colors from which homeowners may choose. (No Certificate of Appropriateness required.) |
| B) Any time one paints a house a color different from the current, they must have HLC approval. (COA required)                                    |
| C) The preservation officer may approve painting of homes. (Certificate of Approval, but no HLC meeting required.)                                |
| D) No input at all, just let people paint their historic district homes any color that they wish.   |

| ADMINISTRATIVE AUTHORITY   |
|--|
| In general, I would like to see more administrative authority, as long as the person meets the Standards for professional qualifications and only substantive building alterations be required to have Historic Landmark Commission oversight. |
| Agree?   |
| Disagree?  |
| In general, I would like to see, assuming the oversight is efficient and well managed, more of the City of Denton's historic resources protected.  |
| Agree?   |
| Disagree?  |

- Oak Hickory Historic District

| FENCING AND GENERAL LANDSCAPE  |
|--|
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| Agree?   |
| Disagree?  |

- Bell Avenue Conservation District

| FENCING AND GENERAL LANDSCAPE  |
|--|
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| Disagree?  |
| In general, I would like to see, assuming the oversight is efficient and well managed, more of the City of Denton's historic resources protected.  |
| Agree?   |
| Disagree?  |

- West Oak Historic District

- Voting
- Concerns: Varied by district but clarity of, and deference to, administrative approvals

# Next Steps

- **September 11** – HLC Review and Recommendations with Public Hearing
- **September 27** – Planning and Zoning?
- **October 17**- City Council?



**Questions?**