



## Nacogdoches Historic Landmark Preservation Committee

### Monday, February 5, 2024 at 4:00 PM

Notice is hereby given of a Regular Meeting of the Nacogdoches Historic Landmark Preservation Committee to be held on the above date in City Council Chambers of City Hall, 202 E. Pilar St., Nacogdoches, Texas, beginning at 4:00 p.m. for the purpose of considering the following agenda items.

Some Historic Landmark Preservation Committee members may attend via videoconference but a quorum of the Historic Landmark Preservation Committee and the Presiding Officer will be at the above-stated physical location. The meeting will be streamed live at <http://www.nactx.us/21> There will be an opportunity for the public to comment on agenda items either by teleconference or in person in Council Chambers.

1. CALL TO ORDER.
2. Approval of minutes
  - A. Consider approval of minutes from January 10, 2024 HLPC Meeting
3. Regular Agenda
  - A. Consider Certificate of Appropriateness for properties located along North Fredonia, Arnold, Mound and Park Streets. COA #2024-001
  - B. Consider Certificate of Appropriateness for property located at 411 Mound Street. COA #2024-002
  - C. Consider Certificate of Appropriateness for property located at 402 East Main Street. COA# 2024-003
  - D. Receive presentation and discuss proposed updates to Chapter 50 of the Nacogdoches Code of Ordinances
  - E. Discuss, consider and possibly appoint a subcommittee for the creation of policies and procedures for the Historic Landmark Preservation Committee.
4. ADJOURN.



The City Council Chambers is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to this meeting. Please contact Jessica Sowell, at 936-559-2960 for further information.

Jessica Sowell, Community Services Director

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Rhonda Lewis, Deputy City Secretary

I certify that the attached notice and agenda of items to be considered by the Historic Landmark Preservation Committee was removed by me from posting at City Hall on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**MINUTES**  
**Nacogdoches Historic Landmark Preservation Committee**  
**January 10, 2024 - 4:00 p.m.**  
**City Council Chambers**

**Commissioners Present:** Perky Beisel, Judy Kugle, Joanne Shofner, Charles Bradberry, Eric Gaylord, Zee Whitehead, Vickie Winthrop, Anne Keenan and Jeff Abt.

**Commissioners Absent:** None

**Others Present:** Jessica Sowell (City Staff) and Cecilia Sarmiento (City Staff) Jerry Baker (City Staff). Hallie Wurth and Ricardo Estrada.

**Call to Order:** Chairman Beisel calls the meeting to order at 4:00pm.

**1. Approval of Minutes: November 6, 2023**

Commissioner Bradberry makes a motion to approve the minutes as written.  
Commissioner Kugle seconds the motion and it passes unanimously.

**2. Agenda Item 3A– Review and discuss Open Meetings Act and role of Historic Landmark Preservation Committee. (Jerry Baker, City Attorney)**

City Attorney, Jerry Baker, presents information on the Texas Open Meetings Act.  
His presentation included information on the following topics:

- What a meeting is under TOMA
- Requirements for meetings under TOMA
- Exceptions
- Violations
- The Tried and True Formula
- The powers of the HLPC Board

The board had several questions, including whether a conversation with an attorney must pertain to an imminent legal issue, an example of economic growth, public feedback, regulations regarding public feedback and how to add to an agenda all of which Mr. Jerry Baker addressed.

**3. Agenda Item 3B - Consider Historic Restoration Grant reimbursement request for property located at 207 East Main Street. HRG #2023-006**

Mrs. Sowell explains the applicant was approved to replace 6 windows to match existing windows on the front and rear of the building and reinforce foundation at an estimated cost of \$35,672.00.

The applicant has provided staff with copies of invoices and proof of payments in the amount of \$32,837.11. The project was funded at 25% of the final project cost, not to exceed \$8,918.00.

The project's final cost was \$32,837.11. Staff recommends approval of the release of grant funds in the amount of \$8,209.27.

Board had no comments or questions.

Commissioner Abt makes a motion to approve the release of grant funds in the amount of \$8,209.27. Commissioner Kugle seconds the motion and it passes unanimously.

#### **4. Agenda Item 3C– Discuss and consider the 2024 Historic Restoration Grant budget.**

Mrs. Sowell explains that due to the number of Historic Restoration Grant applications, total project estimates and minimum grant funding, HLPC is being presented with two funding options for the 2024 HRG cycle. Projects associated with these grant requests were brought before HLPC at the November 6, 2023 meeting and all projects were approved.

The two options are:

Option A - Each applicant would receive an equal percentage of the \$25,000 grant fund. The grant amount will be 4.95% of their total project estimate.

Option B - The \$25,000 grant fund would be split evenly among all 17 grant applications. All applicants would receive equal dollar amounts and their project total would not be taken into account. For HRG application 2024-015 and HRG 2024-016 the total dollar amount would need to be lowered in order to not award over 50% of the project estimate, as laid out in our HRG application. The "Option B with adjustment" spreadsheet shows this adjustment.

The approved 2024 Historic Restoration Grant budget will be taken to the Nacogdoches City Council for final approval.

Commissioner Keenan asks if option A is with a scoring component that the board has previously used?

Mrs. Sowell confirms that is correct. Option A is most similar to what the board typically does.

Chairman Beisel asks if this is a larger amount of money being project estimates that HLPC has had in the past?

Mrs. Sowell states that yes, some of it is due to inflation relating to material and labor costs and some of it is due to applicants doing very large restoration projects.

Commissioner Shofner asks how long have the funds been \$25,000?

Mrs. Sowell states it has been \$25,000 since 1989. Within the first 5 to 7 years there were maybe about 3 applicants and everyone got about 50% of their project estimate. Even in the

last 10 years, there have consistently been 10 to 12 applicants. In years past, there were quite a few applicants that did not complete some of the bigger restoration projects and the money got rolled back in giving us a larger pot of money to allocate. That is not the case this year

Chairman Beisel asks how does the HLPC board ask for more funding money?

Mrs. Sowell said it is part of the city budgeting process. The funds that are given out are Hotel Occupancy Tax Funds. A certain amount goes out to the Expo Center, the Convention Visitors Bureau, HLPC gets the \$25,000 for Historic Restoration Grants and anything left over goes to the Historic Preservation projects, which in the past it was to Zion Hill. So if it is the desire of HLPC, staff can always take the request during the budgeting process, stating the HLPC has asked for more grant funding money.

Commissioner Shofner asks if staff knows any other cities the size of Nacogdoches and what their budgets are?

Mrs. Sowell does not have that information but will look into it. Mrs. Sowell states some organizations give these types of grants but it is more through a friends group. There are some cities that dogear bigger amounts for Historic Restoration Grants but she does not know what their budgets are.

Chairman Beisel asks if staff can add information of what other cities budget for their Historic Restoration Grants on the next agenda as a discussion.

Commissioner Abt states it would be nice if the board had actual figures of what the Hotel Occupancy Funds go to so they can see the total amount and how it is distributed.

Commissioner Shofner asks if staff is responsible for finding outside grants?

Mrs. Sowell states city staff can go apply for grants if there are any available. Typically those are grants that will go towards a specific project but staff has not seen any that would pay into a grant like the HRG.

Commissioner Kennan states that Option A is the best way to distribute the funds but asks if there was a reason why Option B was present to the board and if there was something they were missing that makes it a good option?

Mrs. Sowell stated that at the November meeting, because of the amount of applications and smaller funding amount that the board would be presented with options. .

Commissioner Shofner asks if the applicant who has the bigger estimated project is going to complain due to the board not sticking to the scoring?

Mrs. Sowell states that staff does not line out how the grant is going to be scored in the application. Staff informs applicants that they cannot get over 50%. Mrs. Sowell believes there will not be a complaint with that applicant due to staff explaining the two options and

explaining that we have the minimum amount of money this year. Mrs. Sowell has also been in contact with all applicants who understand the constraints we are facing this year.

Chairman Beisel asks if staff will find out what inflation is on the \$25,000 in 1989.

Commissioner Bradberry makes a motion to approve Option A that each applicant receive an equal percentage of the \$25,000 grant. Commissioner Shofner seconds the motion and it passes unanimously.

Commissioner Judy asks if staff can put on the next agenda to discuss updating the Historical Survey.

**5. Adjourn @ 5:04 pm.**

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Attest: Cecilia Sarmiento  
Community Services Coordinator

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Chairman Perky Beisel



## Historic Landmark Preservation Committee Meeting

Date: February 5, 2024

Agenda Item: 3.A.

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**ITEM/SUBJECT:** Consider Certificate of Appropriateness for properties located along North Fredonia, Arnold, Mound and Park Streets. COA #2024-001

### **STAFF REPORT:**

Case Number: COA 2024-001

Name of Applicant: Mike Salas

Location: N. Fredonia, Arnold, Mound and Park Street

Requested Action: Boring to install permanent fiber optic lines and utility boxes

### **PROPOSED WORK:**

The applicant is requesting to bore 6 to 8 feet under areas of North Fredonia, Arnold, Mound and Park Street consistent with lines marked on the attached map. Fiber optic cable will run parallel to existing City utilities and will be 6" off the edge of sidewalks, curbs and existing poles. In addition to boring under the surface, the applicant is requesting to install 5 permanent utility boxes.

### **STAFF COMMENTS**

Washington Square has been the focus of numerous archeological projects. The Texas Historical Commission serves as the arbiter of the Antiquities Code of Texas, and protects archeological sites within the state. Under the provisions of the Antiquities Code of Texas, Washington Square was designated as a State Archeological Landmark in 1992.

The Washington Square Overlay District is a mixture of historic residential and educational buildings, some of which have since been converted into commercial spaces. Two- and three-story Queen Anne and Stick houses line the east side of Mound Street. Along the west side, on Washington Square, is a wide assortment of educational buildings including the notable Greek Revival Old University Building (1859) and the Art Deco Thomas J. Rusk Building (1939). This district includes one of the highest concentrations of architect-designed homes in the city including several by Dietrich Rulfs and also has Arts & Crafts, Mission, Tudor Revival, and Spanish Colonial Revival examples. There are several churches in the district which add to its architectural diversity and importance in Nacogdoches society.

Staff find that City Ordinance Criteria **B, C, I and K** relate to the proposed construction.

**B** - Minimal alterations. Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.

**C** - Preservation of distinguishing qualities. The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

**I** - Archaeological resources. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

**K** - Preservation of historic features with new alterations. Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

**FINANCIAL:**

**CITY CONTACT:** Jessica Sowell, Community Services Director  
[sowellj@nactx.us](mailto:sowellj@nactx.us)  
936-559-2940

**ATTACHMENTS:**

1. Fiber Map 1
2. Fiber Map 2
3. Utility Box 1
4. Utility Box 2

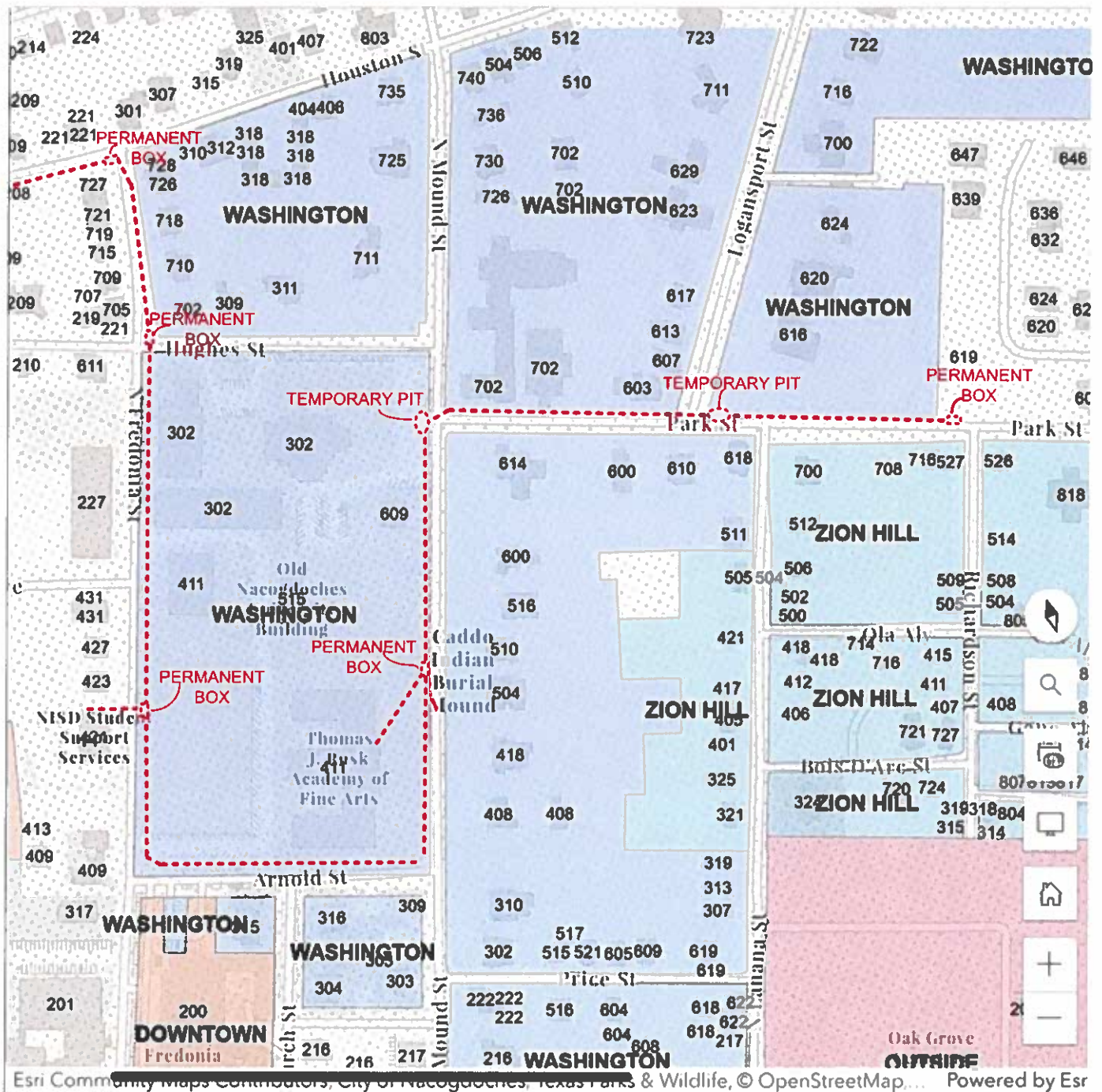
CNS Proposed Fiber Path running along existing City Utilities.

Mound Street & Park Street



- Water Main
- Sewage Main
- Water Hydrant
- Water Meter
- N.I.S.D, Fiber

# CN S Proposed Fiber Path for Nacogdoches ISD



Fiber Optic cable will be installed 6 to 8 feet underground. The bore machine will enter the ground at designated spots along the path way. The bore pits will either be covered back up or a permanent concrete box left at the designated spots. This will allow for future expansion and for service. CNS has noted the Permanent and the temporary bore pits on the above map.

The cable will run along the inside edge of the City Right-of-Way.







## Historic Landmark Preservation Committee Meeting

Date: February 5, 2024

Agenda Item: 3.B.

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**ITEM/SUBJECT:** Consider Certificate of Appropriateness for property located at 411 Mound Street. COA #2024-002

### **STAFF REPORT:**

Case Number: COA 2024-002

Name of Applicant: Army Curtis

Location: 411 North Mound Street

Requested Action: Repaving of existing parking lots and driveways, installation of a new parking lot, drainage improvements and utility improvements

### **PROPOSED WORK:**

The applicant is requesting to remove and replace all existing driveways and parking lots. Remove and replace paving and drop off walks at the back of the building and through the courtyard areas housing the portable buildings. This work includes drainage improvements, utility improvements and a new parking lot on the East side of the Old Univeristy Building.

### **STAFF COMMENTS**

Washington Square has been the focus of numerous archeological projects. The Texas Historical Commission serves as the arbiter of the Antiquities Code of Texas, and protects archeological sites within the state. Under the provisions of the Antiquities Code of Texas, Washington Square was designated as a State Archeological Landmark in 1992.

The Washington Square Overlay District is a mixture of historic residential and educational buildings, some of which have since been converted into commercial spaces. Two- and three-story Queen Anne and Stick houses line the east side of Mound Street. Along the west side, on Washington Square, is a wide assortment of educational buildings including the notable Greek Revival Old University Building (1859) and the Art Deco Thomas J. Rusk Building (1939). This district includes one of the highest concentrations of architect-designed homes in the city including several by Dietrich Rulfs and also has Arts & Crafts, Mission, Tudor Revival, and Spanish Colonial Revival examples. There are several churches in the district which add to its architectural diversity and importance in Nacogdoches society.

Staff find that City Ordinance Criteria **B, C, I and K** relate to the proposed construction.

**B** - Minimal alterations. Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.

**C** - Preservation of distinguishing qualities. The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

**I** - Archaeological resources. Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

**K** - Preservation of historic features with new alterations. Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

**FINANCIAL:**

**CITY CONTACT:** Jessica Sowell, Community Services Director  
[sowellj@nactx.us](mailto:sowellj@nactx.us)  
936-559-2940

**ATTACHMENTS:** 1. TJR Plan (1)





## Historic Landmark Preservation Committee Meeting

Date: February 5, 2024

Agenda Item: 3.C.

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**ITEM/SUBJECT:** Consider Certificate of Appropriateness for property located at 402 East Main Street. COA# 2024-003

### **STAFF REPORT:**

Case Number: COA 2024-003

Name of Applicant: Alex Shaw

Location: 402 East Main

Requested Action: Repaint wood trim around door and windows on the front facade, install 11 x 17 under awning sign and replace several pieces of rotten wood with matching wood.

### **PROPOSED WORK:**

The applicant is requesting to repaint wood trim around door and windows on the front facade, install 11 x 17 under awning sign and replace several pieces of rotten wood with matching wood.

### **STAFF COMMENTS**

402 East Main is listed as contributing to the Downtown Historic District. It is a 1-story rectangular brick structure with a flat roof and is in good condition. It is shown on the 1912 Sanborn Fire Insurance Map as a 1-story brick structure with frame awning, used as a hay and feed store.

Staff find that City Ordinance Criteria **B, C, F and G** relate to the proposed construction.

**B** - Minimal alterations. Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.

**C** - Preservation of distinguishing qualities. The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

**F** - Stylistic features and craftsmanship. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object, or site shall be kept where possible.

**G** - Repair and replacement of features. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. If replacement is necessary, the new material should reflect the material being replaced in composition, design, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence, rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

Chapter 10 of the Nacogdoches Design Guidelines also applies to this request.

2. These types of signs may be considered:

- Flush-mounted signs (usually mounted flat to the wall, just above the display windows)
- Short, free-standing signs (usually for auto-oriented businesses)
- Projecting signs (near the business entrance, near eye level)
- Window signs (painted on or hung just inside)
- **Awning signs (often including a symbol)**
- Mounument signs affixed to the ground for auto-oriented businesses
- Product display signs (lively and changing)

**FINANCIAL:**

**CITY CONTACT:** Jessica Sowell, Community Services Director  
[sowellj@nactx.us](mailto:sowellj@nactx.us)  
936-559-2940

**ATTACHMENTS:** 1. 402 East Main - Front  
2. 402 E Main Map



EE  
ELEGANT ENVY  
ESTHETICS  
BOUTIQUE





## Historic Landmark Preservation Committee Meeting

Date: February 5, 2024

Agenda Item: 3.D.

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**ITEM/SUBJECT:** Receive presentation and discuss proposed updates to Chapter 50 of the Nacogdoches Code of Ordinances

### **STAFF REPORT:**

Items highlighted in red are new additions to Chapter 50 (Historic Preservation) of the Nacogdoches Code of Ordinances. The intent of these updates is to codify the current Administrative Approval process, application requirements and formalize the duties of the Historic Preservation Officer.

Formal adoption of these updates will be done through the Nacogdoches City Council.

### **PROPOSED WORK:**

### **STAFF COMMENTS**

### **FINANCIAL:**

**CITY CONTACT:** Jessica Sowell, Community Services Director  
[sowellj@nactx.us](mailto:sowellj@nactx.us)  
936-559-2940

**ATTACHMENTS:** 1. Chapter 50 update - draft

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE CITY OF NACOGDOCHES, TEXAS, AMENDING CHAPTER 50 "HISTORIC PRESERVATION", ARTICLE II "LANDMARKS AND HISTORIC DISTRICTS", OF THE CITY OF NACOGDOCHES, TEXAS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

RECITALS:

WHEREAS, the City Council of the City of Nacogdoches has designated and zoned certain sites, districts, areas, buildings, and lands located in the City as historic landmarks to be protected, enhanced, and preserved in the interest of culture, prosperity, education, and general welfare of the people;

WHEREAS, the City Council has adopted ordinances deemed necessary for protection, enhancement, and perpetuation of these landmarks and historic districts; and

WHEREAS, the City Council has determined the need to amend certain portions of these Historic Preservation ordinances.

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NACOGDOCHES:

SECTION I

All above premises are hereby found to be true and correct legislative and factual findings.

SECTION II

Chapter 50, "Historic Preservation," and specifically, ARTICLE II of the Code of Ordinances of the City of Nacogdoches, Texas, is hereby amended, as set hereafter to read as follows:

**Sec. 50-31. - Ordinary maintenance.**

(a) Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district, which does not involve a change in design, material, or outward appearance, ~~including any kind replacement or repair is included in this definition of ordinary maintenance.~~

(b) "Ordinary maintenance and repair" shall mean any work, the purpose and effect of which is to correct any deterioration or decay of or damage to a building, structure, object, or site, or any part thereof, and to restore the same, as nearly as may be practicable, to its condition prior to such deterioration, decay, or damage, using the same materials or those materials available which are as close as practicable to the

original. The term “exterior architectural feature” shall include, but is not limited to, the kind, color, and basic texture of all exterior building materials, and such features as windows, doors, lights, and signs.

...

**Sec. 50-156. - Alteration or new construction affecting landmarks or historic districts.**

- (a) No person shall carry out any exterior reconstruction, alteration, restoration, rehabilitation of any historic landmark or any new construction on property within a historic district, nor shall any person make any material change in the light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of the historic landmark or any property within a historic district without first obtaining a certificate of appropriateness in accordance with this ordinance.~~from the committee.~~
- (b) A certificate of appropriateness is not required to remove, relocate, or demolish a designated historic landmark. Any person wishing to remove, relocate, or demolish a designated historic landmark or structure should refer to division 6, demolition or removal, sections 50-191 through 50-201 of this chapter.

(Ord. No. 1130, art. XI, § 7, 11-3-1998; Ord. No. 1380-11-04, 11-2-2004)

...

**Sec. 50-158. - Application.**

- (a) Prior to the commencement of any work requiring a certificate of appropriateness pursuant to this division, the owner shall file an application for such a certificate with the historic preservation officer~~historic landmark preservation committee~~. The application shall contain the following:
  - (1) The name, address and telephone number of the applicant.
  - (2) A detailed description of the proposed work.
  - (3) Location and photographs of the property and adjacent properties.
  - (4) Elevation drawings of the proposed changes, if available.
  - (5) Samples of materials to be used.
  - (6) If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination if any, and a plan showing the sign's location on the property.
  - (7) Any other information which the committee may deem necessary in order to visualize the proposed work.
- (b) The application shall not be accepted and processed until it is deemed complete by the historic preservation officer, including a sufficient description to adequately and completely convey the full effect of the work being proposed.

- (c) A certificate of appropriateness may be issued by the historic preservation officer as an administrative approval, without review by the historic landmark preservation committee, if the application is for work constituting ordinary maintenance and repair, as defined herein (Section 50-31).
- (d) If the historic preservation officer determines that the applicant is seeking a certificate of appropriateness to authorize work that is not ordinary maintenance and repair, the historic preservation officer shall immediately refer the application to the historic landmark preservation committee for review.

(Ord. No. 1130, art. XI, § 9.1, 11-3-1998)

**Sec. 50-159. - Certificate required before building permit.**

No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the historic preservation officer or historic landmark preservation committee, as applicable. The certificate of appropriateness required by this division shall be in addition to and not in lieu of any building permit that may be required by any other section of this Code or city ordinance.

(Ord. No. 1130, art. XI, § 9.2, 11-3-1998)

**Sec. 50-160. - Timeframe for review and decision.**

- (a) For applications which do not require review by the historic landmark preservation committee, the historic preservation officer shall approve, deny, or approve the application with modifications within 10 days of receipt of a completed application. The historic preservation officer shall apply the Criteria for Approval (Section 50-157) when assessing the application. All decisions of the historic landmark preservation officer shall be in writing.
- (b) An applicant may appeal the historic preservation officer's decision by submitting a written request for appeal within 10 days from the date the written decision is issued. The request for appeal of the historic preservation officer's decision starts the standard certificate of appropriateness review procedure by the historic landmark preservation committee.
- (c) The historic landmark preservation committee shall review ~~the-an~~ application for a certificate of appropriateness at a regularly scheduled meeting within 60 days from the date the application is received by the committee, at which time an opportunity will be provided for the applicant to be heard. The committee shall approve, deny, or approve the application with modifications ~~the permit~~ within 45 days after the review meeting unless the historic landmark preservation committee and the applicant mutually agree to extend the period of review. If the committee does not act within 90 days of the receipt of the application, a certificate of appropriateness permit may be granted.

(Ord. No. 1130, art. XI, § 9.3, 11-3-1998)

### SECTION III

**Severability.** If any word, article, phrase, paragraph, sentence, clause, or provision of this Ordinance shall be held to be invalid or unconstitutional, such holding shall in no way affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end provisions of this Ordinance are declared to be severable.

### SECTION IV

**Continuation.** All provisions of Chapter 50 of the Code of Ordinances existing prior to the date of passage of this Ordinance remain in full force and effect.

### SECTION V

**Repeal.** This Ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Nacogdoches, and this Ordinance shall not operate to repeal or affect any such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with provisions of this Ordinance, in which such conflicting provisions, if any, in such other ordinance or ordinances are hereby repealed.

### SECTION VI

**Effective Date.** This Ordinance shall take effect ten (10) days from its passage and publication as may be required by governing law.

### SECTION VII

**Proper Notice & Open Meeting.** It is hereby officially found and determined the meeting at which this Ordinance was passed was open to the public as required and public notice of time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

### SECTION VIII

**Official Public Records.** The City Secretary is hereby authorized and instructed to file a signed and sealed copy of this Ordinance in and among the records of the City of Nacogdoches.

**PASSED AND APPROVED** this the \_\_\_\_ day of \_\_\_\_\_, 2024, by a vote of \_\_\_\_ (ayes) to \_\_\_\_ (nays) of the City Council of the City of Nacogdoches.

**ATTEST:**

**CITY OF NACOGDOCHES**

\_\_\_\_\_  
Rhonda Lewis, Deputy City Secretary

BY: \_\_\_\_\_  
Randy Johnson, Mayor

**APPROVED AS TO FORM:**

**APPROVED AS TO CONTENT:**

\_\_\_\_\_  
Jerry Baker, City Attorney

\_\_\_\_\_  
Jessica Sowell, Community Services  
Assistant Director



## Historic Landmark Preservation Committee Meeting

Date: February 5, 2024

Agenda Item: 3.E.

---

**ITEM/SUBJECT:** Discuss, consider and possibly appoint a subcommittee for the creation of policies and procedures for the Historic Landmark Preservation Committee.

### **STAFF REPORT:**

Discuss potential policies and procedures for the Historic Landmark Preservation Committee. Staff has provided a draft version of the policies and procedures from the Nacogdoches Zoning Board of Adjustments as well as examples from two other communities. Staff has also created a skeleton outline of items that could be included in our policies and procedures.

Staff is requesting direction on the creation of these policies and procedures or the creation of a subcommittee to write and propose policies and procedures.

### **PROPOSED WORK:**

### **STAFF COMMENTS**

### **FINANCIAL:**

**CITY CONTACT:** Jessica Sowell, Community Services Director  
[sowellj@nactx.us](mailto:sowellj@nactx.us)  
936-559-2940

**ATTACHMENTS:**

1. ZBA Rules and Procedures - DRAFT
2. HLPC Policies and Procedures - Outline
3. Decatur Policies
4. Oak Park Village Policies

**CITY OF NACOGDOCHES  
ZONING BOARD OF ADJUSTMENT  
RULES AND PROCEDURES**

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**CITY OF NACOGDOCHES  
ZONING BOARD OF ADJUSTMENT  
RULES AND PROCEDURES**

**1. ORGANIZATION, OFFICERS, AND STAFF**

1.1. Organization

The Board of Adjustment (“Board”) shall consist of members appointed by the City Council and organized under the laws of the State of Texas and Zoning Ordinance Sec. 118-96, as may be amended (“Zoning Ordinance”), of the City of Nacogdoches (“City”).

1.2. Officers

A Chair shall be appointed in accordance with the Zoning Ordinance Sec. 118-97, as may be amended. The City Manager shall designate a member of City staff to serve the Board as Secretary.

1.3. Duties

- a. The Chair, shall preside at all meetings, shall decide all points of order or procedure and shall swear in witnesses and, when necessary, compel their attendance.
- b. In the absence of the Chair, the Acting Chair shall preside. The Acting Chair shall be a regular member (or if no regular member is present then an alternate member) whose last name is closest to the beginning of the alphabet.
- c. The Secretary shall be the custodian of the minutes and other official records, shall attend to the correspondence of the Board, and shall cause notices to be given as are required and in the manner prescribed by law.

1.4. Rules of Order

Robert’s Rules of Order, Newly Revised, shall be the Board’s final authority on all questions of procedures and parliamentary law not covered by these Rules of Procedure. A failure to strictly adhere to the procedures set forth in Robert’s Rules of Order shall not constitute grounds for the invalidation of any motion or order made by the Board.

1.5. City Planner

The City Planner, or his/her designee, shall perform the duties authorized under the Zoning Ordinance of the City of Nacogdoches and shall provide assistance to the Board as directed by the City Manager. The City Planner shall make interpretations of

the provisions of the Comprehensive Zoning Ordinance, Chapter 118 of the Ordinances of the City of Nacogdoches, as may be amended, and shall present to the City Council any revisions to the Zoning Ordinance recommended by the Board. The City Planner shall set the agenda for the Board's meetings and shall maintain all permanent records of the Board (including the official minutes).

#### 1.6. Secretary

The Secretary shall keep an accurate record of all the meetings of the Board, shall file the final actions of the Board with the Office of the Board within twenty-four (24) hours of the Board's meeting, shall prepare and submit minutes of all meetings of the Board in a timely manner, and shall support the Board in the manner directed by the City Manager or designee.

#### 1.7. City Attorney

The City Attorney may provide to the Board an oral or written opinion regarding any question of law, interpretation or application of these rules of procedure, or parliamentary rules, and shall review as to law any amendment to these rules of procedure prior to the amendment becoming effective.

## **2. MEETINGS**

#### 1.1. Quorum

A quorum of the board members shall be required to conduct a meeting of the board. A quorum shall consist of four (4) Members present. No proxies shall be allowed to establish a quorum or to transact business of the Board. In the absence of a quorum, the following persons (in the noted order) shall call the meeting to order. The Chair, the Acting Chair, or (if no Member is present) a staff member may call the meeting to order, announce the absence of a quorum, and announce the adjournment of the meeting until a specific date, time, and place when the scheduled agenda items/public hearings would be resumed. Should the absence of a quorum be known in advance of a scheduled meeting, the Chair authorizes the City Planner, or other staff member, to preside at the meeting by rescheduling the hearing to a date certain.

#### 1.2. Agenda

An agenda shall be prepared by the Secretary for each meeting of the Board. The agenda shall include appeals and other matters scheduled for consideration by the Board. There shall be attached to the agenda a list of matters pending action by the Board. The agenda shall be posted on the official bulletin boards at Nacogdoches City Hall, 202 East Pilar, 1<sup>st</sup> Floor, Nacogdoches, Texas, 75961, pursuant to the Texas Government Code, Chapter 551.

#### 1.3. Board Meetings

- a. Regular Meetings - Regular meetings shall be held on the third (3<sup>rd</sup>) Thursday of each month at 4:00 p.m. in the City Council Chambers at City Hall unless otherwise posted. Should no matters be scheduled for consideration by the Board, no meeting shall be held except as directed by the Chairman of the Board.
- b. Special Meetings - Special meetings may be called at any time by the Chair or the City Planner and shall be subject to the Open Meetings Act. The City Planner shall cause notice of the special meeting to be sent to each Board Member and shall provide any information necessary for consideration of the Board. Any case requiring a public hearing and being considered in a special meeting shall meet the notice requirements set forth in the state statutes and in the Zoning Ordinance of the City of Nacogdoches.
- c. Work Sessions - The Board may schedule work sessions to address administrative matters or proposed ordinance revisions. These sessions are for discussion purposes only. No decisions on case-related matters shall be made.
- d. Executive Sessions (Closed Meetings) - The Board may convene into executive session, pursuant to section 551.071 of the Texas Open Meetings Act, to seek the advice of the City Attorney about pending or contemplated litigation or to seek or receive the attorney's advice with regard to legal issues relative to a case pending the Board's consideration. Proper notice under the Texas Open Meetings Act is required in order for the Board to participate in executive session.

#### 1.4. Meetings

All meetings of the board shall be open to the public. Meetings shall be held in full compliance with the provisions of the Texas Open Meetings Act, the City's Zoning Ordinances, and these Rules of Procedure

### **3. OFFICIAL RECORDS**

#### 2.1. Definition

The official records shall include these Rules of Procedures, and the minutes of the Board together with all findings, decisions, and other official actions. Stenographic notes of the Secretary and tape recordings of proceedings and discussions shall not constitute the official record of the Board.

#### 2.2. Recording of Vote

The minutes of the Board's proceedings shall show the vote of each member on each decision of the Board, or if absent or failing to vote shall indicate that fact.

### 2.3. Public Records

All requests and other matters coming before the Board shall be filed in the City's records and be available for public inspection during normal business hours. Original papers of all appeals shall be retained along with other special matters as the Secretary deems essential for permanent record.

### 2.4. Board Office

The Office of the Planning and Zoning Department shall be designated as the Board's office.

### 2.5. Written Decision

All decisions of the Board shall be in writing, shall indicate the decision of the Board and shall be filed in the Board's Office no later than the following business day after such decision has been made. However, the failure to timely file the decision in the Board's Office shall not have any effect on the validity of the decision.

## **4. APPLICATION PROCEDURES**

### 3.1. Types of Requests

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as may be amended, and under the Zoning Ordinance, as follows:

- a. to hear and decide an appeal that alleges error in an order, requirement, decision, or determination made by an administrative official in the enforcement of any order or ordinance pertaining to zoning (Exhibit "A");
- b. to hear and decide special exceptions to the terms of the zoning ordinance when the ordinance requires the board to do so (Exhibit "B");
- c. to authorize in specific cases a variance from the terms of the zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done (Exhibit "C"); and
- d. to hear and decide other matters authorized by the zoning ordinance.

### 3.2. Application Required

Every request for action of the Board shall be filed in the Board's Office on the application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property which is the subject of the request or shall be accompanied by a letter of authorization from such owner. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

### 3.3. Deadline for Filing Application

Every application for an appeal of a decision of the City Planner must be filed in accordance with these rules within a reasonable time, not to exceed 90 days, from the date the decision was made.

### 3.4. Guidelines for Application and Decision

Every application shall include a letter and site plan or other graphics and illustrations explaining the applicant's request, along with the required non-refundable application fee. Where two or more different types of requests are included in the same application, each set of regulations established by the Zoning Ordinance shall apply to the consideration of the requests.

### 3.5. Notice

- a. Public notice of any appeal affecting a specific property shall be given as prescribed in the Zoning Ordinance by means of a written notice deposited in the United States mail, postage prepaid, not less than sixteen (16) days prior to the date of hearing. The notice shall identify the applicant, the location of the property in question, the nature of the request, and the applicable zoning requirements.
- b. Public notice of any appeal seeking an interpretation of a Zoning Ordinance which would apply throughout the City, shall be given by means of a legal advertisement appearing in the official newspaper of the city not less than sixteen (16) days prior to the date of the hearing. Written notice shall also be given to the applicant and his agent provided in paragraph (a), above. The notices shall identify the applicant, the nature of the question involved, and the affected provisions of the zoning ordinance.

### 3.6. Consideration of Evidence

Decisions of the Board may be based on any credible evidence, including a member's own familiarity with a site. However, members of the Board should refrain from conducting independent investigations into any application and should consider only the evidence and testimony introduced at the meeting through the public hearing

process and the background information presented by City staff through the information packet. Where deemed necessary, the Board may request City staff to obtain any additional relevant information for the Board's consideration.

### 3.7. Withdrawal of Request

Any request may be withdrawn by an applicant upon written notice to the City Planner, but no request shall be withdrawn after public notice has been given without formal consent of the Board.

## **5. HEARINGS AND DECISIONS**

### 4.1. Public Hearings

Hearings on all matters on which a decision of the Board is required by law shall be open to the public. The applicant(s) may appear on their own behalf or be represented by the applicant's own counsel or agent.

### 4.2. Order of Business

The Chair shall call the meeting to order, and the Secretary shall record the members present and absent. The Chair shall publicly advise those present of the procedures followed in the hearing and disposition of appeals; he/she shall call each appeal in the order filed and shall announce the name of the applicant, the location of the property involved, and the nature of the request. The City Planner or designee shall publicly advise the board of any communications received. Supporting evidence for and against each case shall be presented to the board. Each case may be taken under advisement until all have been heard.

### 4.3. Procedures for Hearing

- a. After opening the public hearing, the Chair shall first call upon the applicant, if present, to present the applicant's case and all evidence supporting the applicant's request. A true and correct copy of all written evidence, documents, photographs, and audio or videographic evidence presented at the hearing shall be included in the record of the case.
- b. The Chair shall then call upon those members of the public who wish to express their support for the granting of the applicant's request. The Chair shall next call on those members of the public who wish to express opposition to the granting of the applicant's request. Each person who wishes to speak shall state their name and address for the record. The Chair may establish reasonable time-limits for the members of the public as deemed necessary by the Chair.

- c. The applicant shall then be given the opportunity to rebut the arguments presented by those in opposition.
- d. Each person speaking shall proceed without interruption by any other person, and all arguments and pleadings shall be addressed to the Board. It shall be the responsibility of the Chair to maintain order and proper decorum during the hearing. No questioning or arguments between individual witnesses will be permitted. During the hearing, no member shall argue an issue with the applicant, nor indicate the member's final vote on the applicant's request until such time as the vote is called. Nothing herein shall be construed to prohibit a member from expressing his or her opinion as to the merits of the applicant's request or as to the existence of any hardship.
- e. Following the applicant's rebuttal, the Chair shall order the public hearing closed. After the hearing is closed, the members may deliberate regarding the merits of the applicant's request and may vote on a motion made and seconded with respect to the disposition of the request.
- f. The Board may act on any request for which the applicant fails to appear after conducting the pre-scheduled public hearing.

#### 4.4. Board Review

The Chair may direct any question to the applicant or any persons speaking in order to bring out all relevant facts, circumstances and conditions affecting the request, and may call for questions from other members of the Board and from the City staff. At any time prior to the time a vote is called for, the Board may call back any applicant or speaker or staff member for clarification of fact presented in the hearing or to answer one or more questions of the members of the Board.

#### 4.5. Suspension of Rules

Any provision of these rules not governed by other law may be temporarily suspended by the affirmative votes of four (4) members or by unanimous consent.

#### 4.6. Disposition of Cases

- a. The Board may unconditionally grant, conditionally grant, or deny an applicant's request.
- b. The Board may, in conformity with the provisions of state law, reverse or affirm, wholly or partly, or may modify an order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the City Planner from whose action an appeal is taken.

- c. The Board may also defer action on any request in response to the applicant's request for deferral of the action or whenever it concludes that additional evidence is needed or that alternate solutions need further study.
- d. An applicant's request may be dismissed when the Board finds that the request has been improperly filed or, upon notification by the City, that permits have been issued for a conforming use or development of the property.

#### 4.7. Participation in Deliberations and Voting

All members present may participate in the deliberations of each case and may directly question the applicant/agent or staff members.

Only the five (5) regular members shall vote on the case unless absence or conflict of interest prevents their participation. Should any regular member be unable to vote, the alternate members shall be selected by the Chair, in numerical order beginning with Alternate Member #1 and ending with Alternate Member #4, to vote in the regular members' absence.

Should any member be unable to vote on any matter before the Board, he or she shall clearly acknowledge this for the record prior to the vote, and the Presiding Officer shall clearly designate, for the record and for the audience, which of the alternate members will be voting.

#### 4.8. Vote Required

The concurring vote of four (4) members of the five (5) members shall be necessary to grant, or to grant conditionally, any request made to the Board. When a motion to approve a request fails to receive four (4) affirmative votes, the request is denied. A motion to deny a request shall pass on the vote of a simple majority of the members. Should a motion to deny fail to receive a majority vote, another motion must be made (e.g., "motion to approve", "motion to postpone", etc.) to dispose of the case. Additionally, A simple majority vote of the members shall be required to approve an alternative motion. All motions must receive a second to be considered by the Board.

### **6. REAPPLICATION**

#### 5.1. Reapplication for Denied Request

No application for a request that has been denied shall be again filed earlier than one (1) year from the date of original denial unless other property in the immediate vicinity has, within the one-year period, been changed or acted on by the Board or City Council so as to alter the facts and conditions on which the previous Board action was based. Such change of circumstances shall permit the rehearing of a request by the Board prior to the expiration of one (1) year period, but such conditions shall in no way have any force in law to compel the Board, after a hearing,

to grant an applicant's subsequent request. Such subsequent request shall be considered entirely on its merits and the peculiar and specific conditions related to the property on which the request is brought.

## **7. EXPIRATION OF GRANTED REQUEST**

### **6.1. Expiration of Granted Request**

Any special exception or variance granted by the Board shall authorize the issuance of a building permit and/or a Certificate of Occupancy, as the case may be, for a period of ninety (90) days from the date of the favorable action of the Board unless said Board shall have in its action approved a different period of time and has so shown such specific period of time in the minutes of its action. In no event, however, shall such additional time granted exceed two (2) years. If the building permit and/or Certificate of Occupancy shall not have been applied for within said ninety (90) days, or such extended period as the Board may have specifically granted, then the special exception or variance shall be deemed to have been waived and all rights thereunder terminated. All applications for a request that have been denied shall be deemed to be denied with prejudice unless stated otherwise in the Board's written decision.

## **8. CERTIFICATION AND AMENDMENTS**

### **7.1. Certified Copy**

A certified copy of these Rules of Procedure and of any amendments thereto will be placed on record in the office of the City Secretary within ten (10) days following their date of adoption.

### **7.2. Repealing Clause**

All previously adopted Rules of Procedure of the Board shall be and the same are hereby expressly repealed.

### **7.3. Amendment Procedure**

Amendments to these Rules of Procedure may be made by the Board at any meeting upon the affirmative vote of four (4) members, provided any such amendment is proposed at a preceding meeting and recorded on the minutes of such meeting. By unanimous consent of five (5) members present, amendments may be adopted at the meeting at which they are introduced but such amendments shall not become effective until the next regular meeting. It is recommended that the Board review these rules and procedures at least once every year.

### **7.4. Informal Advice**

The Board or its individual members shall not consider a request (formal or informal) for advice on theoretical or actual situations that potentially may come before the Board in the future as an appeal or application.

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## **EXHIBIT “A” INTERPRETATIONS**

### **APPLICATION PROCEDURES**

#### Types of Requests

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as may be amended, and under the Zoning Ordinance, as follows:

to hear and decide an appeal that alleges an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of any order or ordinance pertaining to zoning

#### Application Required

Every request for action of the Board shall be filed in the Board’s Office on the application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property which is the subject of the request or shall be accompanied by a letter of authorization from such owner. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

#### Deadline for Filing Application

Every application for an appeal of a decision of the City Planner must be filed in accordance with these rules within a reasonable time, not to exceed 90 days, from the date the decision was made.

#### Guidelines for Application and Decision

Every application shall include a letter and site plan or other graphics and illustrations explaining the applicant’s request, along with the required non-refundable application fee. Where two or more different types of requests are included in the same application, each set of regulations established by the Zoning Ordinance shall apply to the consideration of the requests.

#### Consideration of Evidence

Decisions of the Board may be based on any credible evidence, including a member’s own familiarity with a site. However, members of the Board should refrain from conducting independent investigations into any application and should consider only the evidence and testimony introduced at the meeting through the public hearing process and the background information presented by City staff through the information packet. Where deemed necessary, the Board may request City staff to obtain any additional relevant information for the Board’s consideration.

## **EXHIBIT “B” SPECIAL EXCEPTIONS**

### **APPLICATION PROCEDURES**

#### Types of Requests

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as may be amended, and under the Zoning Ordinance, as follows:

to hear and decide special exceptions to the terms of the zoning ordinance when the ordinance requires the board to do so

#### Application Required

Every request for action of the Board shall be filed in the Board’s Office on the application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property which is the subject of the request or shall be accompanied by a letter of authorization from such owner. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

#### Guidelines for Application and Decision

Every application shall include a letter and site plan or other graphics and illustrations explaining the applicant’s request, along with the required non-refundable application fee. Where two or more different types of requests are included in the same application, each set of regulations established by the Zoning Ordinance shall apply to the consideration of the requests.

#### Consideration of Evidence

Decisions of the Board may be based on any credible evidence, including a member’s own familiarity with a site. However, members of the Board should refrain from conducting independent investigations into any application and should consider only the evidence and testimony introduced at the meeting through the public hearing process and the background information presented by City staff through the information packet. Where deemed necessary, the Board may request City staff to obtain any additional relevant information for the Board’s consideration.

## **EXHIBIT “C” VARIANCES**

### **APPLICATION PROCEDURES**

#### Types of Requests

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as may be amended, and under the Zoning Ordinance, as follows:

to authorize in specific cases a variance from the terms of the zoning ordinance if the variance is not contrary to the public interest and, due to special conditions, a literal enforcement of the ordinance will result in unnecessary hardship, and so that the spirit of the ordinance is observed and substantial justice is done

#### Application Required

Every request for action of the Board shall be filed in the Board’s Office on the application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property which is the subject of the request or shall be accompanied by a letter of authorization from such owner. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

#### Guidelines for Application and Decision

Every application shall include a letter and site plan or other graphics and illustrations explaining the applicant’s request, along with the required non-refundable application fee. Where two or more different types of requests are included in the same application, each set of regulations established by the Zoning Ordinance shall apply to the consideration of the requests.

#### Consideration of Evidence

Decisions of the Board may be based on any credible evidence, including a member’s own familiarity with a site. However, members of the Board should refrain from conducting independent investigations into any application and should consider only the evidence and testimony introduced at the meeting through the public hearing process and the background information presented by City staff through the information packet. Where deemed necessary, the Board may request City staff to obtain any additional relevant information for the Board’s consideration.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Chair, Board of Adjustment

ATTESTED:

\_\_\_\_\_  
Aimee Cloutier, Board Secretary

Filed in the Office of the City Secretary this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_, Rhonda Lewis, Deputy City Secretary, City of Nacogdoches, Texas

DRAFT

**CITY OF NACOGDOCHES  
HISTORIC LANDMARK PRESERVATION COMMITTEE  
RULES AND PROCEDURES**

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*Sections and wording a suggestions and should be updated to reflect the needs of the  
Historic Landmark Preservation Committee*

**CITY OF NACOGDOCHES  
HISTORIC LANDMARK PRESERVATION COMMITTEE  
RULES AND PROCEDURES**

**1. ORGANIZATION, OFFICERS, AND STAFF**

1.1. Organization

The Board of Adjustment (“Board”) shall consist of members appointed by the City Council and organized under the laws of the State of Texas and Zoning Ordinance Sec. 118-96, as may be amended (“Zoning Ordinance”), of the City of Nacogdoches (“City”).

1.2. Officers

1.3. Duties

a.

1.4. Rules of Order

Robert’s Rules of Order, Newly Revised, shall be the Board’s final authority on all questions of procedures and parliamentary law not covered by these Rules of Procedure. A failure to strictly adhere to the procedures set forth in Robert’s Rules of Order shall not constitute grounds for the invalidation of any motion or order made by the Board.

1.5. Historic Preservation Officer

1.6 Establishment of Subcommittees

**2. MEETINGS**

1.1. Quorum

## 1.2. Agenda

An agenda shall be prepared by the Historic Preservation Officer for each meeting of the Board. The agenda shall be posted on the official bulletin boards at Nacogdoches City Hall, 202 East Pilar, 1<sup>st</sup> Floor, Nacogdoches, Texas, 75961, pursuant to the Texas Government Code, Chapter 551.

## 1.3. Board Meetings

- a. Regular Meetings -
- b. Special Meetings -
- c. Work Sessions -
- d. Executive Sessions (Closed Meetings) -

## 1.4. Meetings

All meetings of the board shall be open to the public. Meetings shall be held in full compliance with the provisions of the Texas Open Meetings Act, the City's Zoning Ordinances, and these Rules of Procedure

- a. Open Forum

# 3. **OFFICIAL RECORDS**

## 2.1. Definition

The official records shall include these Rules of Procedures, and the minutes of the Board together with all findings, decisions, and other official actions. Stenographic notes of the Secretary and tape recordings of proceedings and discussions shall not constitute the official record of the Board.

## 2.2. Recording of Vote

The minutes of the Board's proceedings shall show the vote of each member on each decision of the Board, or if absent or failing to vote shall indicate that fact.

## 2.3. Public Records

All requests and other matters coming before the Board shall be filed in the City's records and be available for public inspection during normal business hours. Original papers of all appeals shall be retained along with other special matters as the Secretary deems essential for permanent record.

## 2.4. Board Office

The Office of the Historic Preservation Officer shall be designated as the Board's office.

## 2.5. Written Decision

All decisions of the Board shall be in writing, shall indicate the decision of the Board and shall be filed in the Board's Office no later than the following business day after such decision has been made. However, the failure to timely file the decision in the Board's Office shall not have any effect on the validity of the decision.

# **4. APPLICATION PROCEDURES**

## 3.1. Types of Requests

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as may be amended, and under the Zoning Ordinance, as follows:

- a. Certificate of Appropriateness - *definition*
- b. Historic Overlay
- c. Demolition
- d. Demolition by Neglect
- e. Historic Restoration Grant

## 3.2. Application Required

Every request for action of the Board shall be filed in the Board's Office on the application forms provided by the City and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property which is the subject of the request or shall be accompanied by a letter of authorization from such owner. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

## 3.3. Deadline for Filing Application

## 3.4. Guidelines for Application and Decision

## 3.5. Notice

a.

### 3.6. Withdrawal of Request

Any request may be withdrawn by an applicant upon written notice to the Historic Preservation Officer, but no request shall be withdrawn after public notice has been given without formal consent of the Board.

## **5. HEARINGS AND DECISIONS**

### 4.1. Public Hearings

Hearings on all matters on which a decision of the Board is required by law shall be open to the public. The applicant(s) may appear on their own behalf or be represented by the applicant's own counsel or agent.

### 4.2. Order of Business

The Chair shall call the meeting to order. The Chair shall publicly advise those present of the procedures followed in the hearing and disposition of appeals; he/she shall call each appeal in the order filed and shall announce the name of the applicant, the location of the property involved, and the nature of the request. The Historic Preservation Officer or designee shall publicly advise the board of any communications received. Supporting evidence for and against each case shall be presented to the board. Each case may be taken under advisement until all have been heard.

### 4.3. Procedures for Application Review

- a. Presentation of information by HPO
- b. Public Comment (if any)
- c. Board discussion and questions of applicant (if any)
- d. Vote

### 4.4. Board Review

The Chair may direct any question to the applicant or any persons speaking in order to bring out all relevant facts, circumstances and conditions affecting the request, and may call for questions from other members of the Board and from the City staff. At

any time prior to the time a vote is called for, the Board may call back any applicant or speaker or staff member for clarification of fact presented in the hearing or to answer one or more questions of the members of the Board.

#### 4.5. Disposition of Cases

- a. Approve
- b. Deny
- c. Table
- d. Decisions referred to City Council

#### 4.6. Participation in Deliberations and Voting

All members present may participate in the deliberations of each case and may directly question the applicant/agent or staff members.

#### 4.7. Vote Required

### **6. REAPPLICATION**

#### 5.1. Reapplication for Denied Request

### **7. EXPIRATION OF GRANTED REQUEST**

#### 6.1. Expiration of Granted Request

### **8. CERTIFICATION AND AMENDMENTS**

#### 7.1. Certified Copy

A certified copy of these Rules of Procedure and of any amendments thereto will be placed on record in the office of the City Secretary within ten (10) days following their date of adoption.

#### 7.2. Repealing Clause

All previously adopted Rules of Procedure of the Board shall be and the same are hereby expressly repealed.

#### 7.3. Amendment Procedure

Amendments to these Rules of Procedure may be made by the Board at any meeting upon the affirmative vote of four (4) members, provided any such amendment is proposed at a preceding meeting and recorded on the minutes of such meeting. By unanimous consent of five (5) members present, amendments may be adopted at the meeting at which they are introduced but such amendments shall not become effective until the next regular meeting. It is recommended that the Board review these rules and procedures at least once every year.

#### 7.4. Informal Advice

The Board or its individual members shall not consider a request (formal or informal) for advice on theoretical or actual situations that potentially may come before the Board in the future as an appeal or application.

## EXHIBIT “A” INTERPRETATIONS

### APPLICATION PROCEDURES

#### Types of Requests

The Board shall only consider requests authorized under section 211.009 of the Texas Local Government Code, as may be amended, and under the Zoning Ordinance, as follows:

to hear and decide an appeal that alleges an error in an order, requirement, decision, or determination made by an administrative official in the enforcement of any order or ordinance pertaining to zoning

#### Application Required

Every request for action of the Board shall be filed in the Board’s Office on the application forms provided by the City, shall be accompanied by the prescribed fee, and shall be complete in all respects before being accepted for filing. The application shall bear the signature of the owner of the property which is the subject of the request or shall be accompanied by a letter of authorization from such owner. An incomplete application or a communication purporting to be an application and not made in the form prescribed shall be regarded only as a notice of intent to appeal, and shall not be considered or acted upon by the Board.

#### Deadline for Filing Application

#### Guidelines for Application and Decision

Every application shall include a letter and site plan or other graphics and illustrations explaining the applicant’s request, along with the required non-refundable application fee. Where two or more different types of requests are included in the same application, each set of regulations established by the Zoning Ordinance shall apply to the consideration of the requests.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_  
Chair, Historic Landmark Preservation Committee

ATTESTED:

\_\_\_\_\_  
Jessica Sowell, Community Services Director

Filed in the Office of the City Secretary this \_\_\_\_ day of \_\_\_\_\_, 2024.

\_\_\_\_\_, Rhonda Lewis, Deputy City Secretary, City of Nacogdoches, Texas

## **Decatur Historic Preservation Commission**

### **Community Development Department**

The following Rules of Procedure for the Historic Preservation Commission conform to the statutory authority of the Decatur Municipal Code. Amendments to these Rules of Procedure may be made annually, and as municipal code is updated, by a 2/3 vote of the entire Historic Preservation Commission membership.

## **Decatur Historic Preservation Commission Rules of Procedure**

### **Section I: Introduction**

Sections 18-26 and 18-45 of Decatur Municipal Code establishes a mechanism for the Historic Preservation Commission to consider certificates of appropriateness and authorizes it to adopt Rules of Procedure.

The following Rules of Procedures have been adopted by the Historic Preservation Commission of the City of Decatur, and all previously adopted Rules of Procedures are hereby repealed.

Pursuant to the Decatur Municipal Code, this commission shall be known as the Historic Preservation Commission, hereinafter referred to as "Commission."

### **Section II: City Staff Liaison**

A non-voting city staff liaison, the City's Historic Preservation Specialist, shall organize and supervise clerical details of the Commission's business and shall be responsible to the Commission for the proper preparation and maintenance of meeting records, hearings, official actions, and all public records. This person shall serve as the primary professional liaison for Commission business, and may make recommendations or generate opinions for adoption by the Commission.

### **Section III: Administrative Procedures**

#### **A. Membership**

Membership on the Commission will be in accordance with Section 18-42 of the Decatur Municipal Code, which states that, the commission shall be comprised of at least seven voting members. Members of the Commission shall not hold any other city municipal office or position on a standing city municipal board, commission or authority, other than on temporary committees, task forces, or similar ad hoc groups.

- 1) **Nominations-** Members of the preservation commission shall be nominated by the chief executive officer of Decatur and appointed by the city council following a public hearing. Members of the commission shall include at least one (1) member who shall have

demonstrated training or expertise in the fields of history, architecture, architectural history, urban planning, archaeology, or law. Nominations and appointment of commission members should be composed of persons with training or special interest in the fields of history, architecture, architectural history, urban planning, historic preservation, archaeology, or law, to the extent that such professionals are available in the community. Each city council district should have at least one (1) of its district's residents serving on the commission when feasible.

- 2) Terms of Office- Terms of office shall be for three (3) years with members limited to two consecutive terms. Partial terms do not count towards the two full term limits. A two-term commission member may be reelected after sitting out a term. Extension of term limits is allowable if the City is unable to find members to fill key professional positions (registered architect). At the expiration of a partial term, removal of a commissioner, resignation, or death, the resulting vacancy shall be filled for the unexpired term of said member in the same manner as provided above. Commission members should remain in place until their successor is appointed.
- 3) Committees- The Historic Preservation Commission may establish such committees as it deems advisable and assign each committee specific duties or functions. The Chair shall designate the members of each committee and shall name the Chair of each committee. The Chair shall fill vacancies on the committees as they are created.
- 4) Commission Member Responsibilities- Each Commission member and anyone serving the Commission in a technical/professional capacity is required to meet the minimum State training requirements specified for members of a Certified Local Government. The state preservation office keeps a list of annual training events, and the number of mandated training hours each year. Commission members are also expected to follow Alabama's Open Meetings Act.
- 5) Resignation- Resignation of members shall be made in writing to either the Chair of the Board, or the city staff liaison that serves the commission. The resignation of a board member shall be effective immediately upon receipt and verification by either the Chair of the Board or the city staff liaison, and the resignation will be forwarded to the City Clerk upon verification.
- 6) Removal of Members- Members may be removed by the City Council for inefficiency, neglect of duty, unexcused absences as defined in Section III E.7 of the Historic Preservation Commission Policies or malfeasance in office.

## **B: Election of Officers**

- 1) Officer Election- The Commission will elect its own Chairperson and Vice-Chairperson, and other officers from time to time as it determines necessary, all of whom shall be members

of the Commission. Officers will be elected at their first regular meeting of each year, and the candidate receiving a majority vote of the entire membership of the Commission shall be declared elected.

*Officer Qualification Considerations*

Officers should be interested in holding the position(s), be able to devote sufficient time to Commission business, be committed to attend as many regular and special Commission meetings as possible, be prepared to make presentations to City Council, citizens, committees, neighborhood groups, and service clubs regarding commission responsibilities, projects, plans, and policies, and have sufficient experience on the Commission to understand its role and function and to have a basic understanding of the City's applicable policies and development regulations.

- 2) Terms- Officers shall serve for one year or until his/her successor takes office. Officers shall be eligible for reelection; but no member shall serve as Chair for more than two (2) consecutive years.
- 3) Absence of Chair and Vice-Chair- When both the Chair and Vice-Chair are absent from a meeting, the members present shall select a member to temporarily act as Chair for that meeting by consensus or by a majority vote.
- 4) Officer Vacancy- A vacancy in an officer position shall be filled by election at the next regular or special meeting of the Commission from current Commission members. Until such election, the Vice-Chair shall serve as acting Chair, if the Chair position is vacant. All members elected to fill an officer position shall serve until the next annual officer election.

**C: Officer Duties**

- 1) Duties of Chairperson- The Chairperson shall preside at all meetings and hearings of the Historic Preservation Commission and shall have the duties normally conferred by parliamentary usage of such offices. The Chairperson may succeed himself/herself subject to the conditions outlined in Section B part 2 above. The Chairperson shall have the privilege of discussing all matters before the Commission and to vote thereon. All resolutions adopted by the Commission and Commission correspondence shall be signed in his/her name as the Chair of the Commission.
- 2) Duties of Vice-Chairperson- The Vice-Chairperson shall assume the duties and responsibilities of the Chair in the event that the Chair is absent or unable to perform their duties.

**D: Agenda**

- 1) Agenda Items- Applicants desiring to place any item of business on the agenda for consideration by the Commission shall submit all required supporting data to Decatur's

Historic Preservation Specialist, no later than 15 working days prior to the meeting where the matter is to be considered by the Commission.

- 2) Agenda Packets- One week prior to the scheduled meeting, the City Historic Preservation Specialist shall prepare an agenda of items to be brought before the Historic Preservation Commission, and provide digital links via email to a complete packet of the agenda, minutes, and evaluation of each item including comments from any relevant agencies, technical advisors, or individuals, to commission members and relevant city departments.
- 3) Items not on the Agenda: No petition for any item of business shall be considered or voted on by the Commission unless such an application or petition appears on the agenda and all complete information is submitted.

#### **E: Meetings**

- 1) Regular Meetings- Regular meetings will be held on quarterly, in March, June, September, and December, on the Tuesday before the regularly scheduled Architectural Review Board (ARB) meeting that month. The ARB meets on the second Thursday of each month, so the HPC will meet two days before the second Thursday of each month. Meeting time is 4pm, held in Council Chambers, first floor of city hall.
- 2) Special Meetings- Special Meetings may be called by the Chair plus one regular Commission member. When a special meeting is scheduled, all Commission members must be notified at least twenty-four (24) hours prior to the time set for such meeting by phone or written notice (fax, email, or hand delivery) including a listing of the agenda for the meeting. Formal action taken at a special meeting called in accordance herewith shall be considered as though it were taken in a regular meeting and will be restricted to only those matters referred to on the agenda. Notice for Special Meetings must comply with the provisions of the Alabama Open Meetings Act.
- 3) Quorum- Four members shall constitute a quorum for the transaction of business and the taking of official action. Whenever of quorum is not present at a regular or special meeting, no action taken at such meeting shall be final unless and until it is ratified and confirmed at a subsequent meeting where a quorum is present. If during the course of a meeting, attendance is less than a quorum members, no official action can be taken.
- 4) Rules of Procedure- In the absence of any provision that rules to the contrary, the rules of procedure provided by Roberts Rules of Order shall prevail. The Chair may, at their discretion, call for a motion to end the meeting, or may declare the meeting ended without a formal motion.
- 5) Voting- All members are required to vote unless recused or disqualified from voting due to personal involvement with a project. A member of the Commission shall disqualify themselves from voting on any application or petitioner to which he or she has any

knowledge of the following conditions: (a) the member, spouse of the member, or any immediate family of the member holds pecuniary interest, either as agent or owner, in the property in question; (b) the member, spouse of the member, or any immediate family of the member, is employed or is the employer, retained, or acting as agent for any party directly involved in the petition or application at any time during the six months preceding the date on which the petition or application is brought before the Commission, whether or not that party is present; (c) the member, spouse of the member, or immediate family of the member has performed any professional service in the connection with the property involved in the application or petition at any time during the six months preceding the date the matter is brought before the Commission. In the event that a member is disqualified from voting, this will be registered as "abstained." It shall be the duty of any party involved in a matter before the Commission to inform the Chairperson if said party has knowledge of any reason why any member of the Commission should disqualify himself from voting on the matter before the Commission. In the event that a member fails to disqualify himself from voting on any application or petition when such disqualification is required, the Chair shall have the power to disqualify the member from voting on the application or petition in question. If a vote of the matter has been taken prior to such disqualification, the Chair shall declare the vote of the disqualified member to be null and void and the disposition of the appeal or application shall be as if the disqualified member has not voted. In the event such disqualification results in the lack of a quorum, no action shall be taken on the matter.

- 6) Official Actions- Every official act taken by the Commission shall be by resolution or by motion by an affirmative vote of a majority of the quorum. Notwithstanding Robert's Rules of Order, the Chair shall vote on all resolutions or motions.
- 7) Absences- Commissioners unable to attend a meeting may request excusal from the meeting in advance of the meeting by notifying staff, who shall present the request to the Chair, or may request excusal in person at the next regular meeting following the absence. The Commission shall then approve or deny the request. Upon a member's missing three (3) unexcused consecutive regular meetings, the Commission shall formally afford such member consideration to determine whether the absences are to be excused. If the Commission determines not to excuse such absences, then the Commission shall determine the question of whether the Commission shall recommend to the City Council that such member should be deemed to have forfeited their office and a new member be appointed to fill the unexpired term.

#### **F: Conduct of Meetings**

- 1) Order of business
  - a) Roll Call
  - b) Excusal of Absences
  - c) Approval of Minutes not previously approved
  - d) General public comments regarding regular agenda items
  - e) Review of Nominations to the Register (Local, State, or Federal)
    - i) Preliminary meeting for a nomination

- Staff reports
  - Presentation by applicant
  - Comments by property owner/s
  - Board discussion and questions
  - Actions: forward nomination, do not forward nomination, or defer if more information is required
- ii) Regular meeting for a locally designated nomination
  - Staff reports
  - Presentation by applicant
  - Comments by property owner/s
  - Public testimony
  - Close of testimony
  - Actions: forward nomination to City Council, do not forward nomination to City Council, or leave the comment period open to a certain date.
- f) Board Briefings
  - Staff introduction
  - Presentation
  - Questions and discussion
  - Action if appropriate
- g) Comments by the Chair
- h) Comments by Staff
- i) Commission business/preservation planning

The preceding order of business may be modified for any meeting by a suspension of the rules, concurred with by a majority of the voting members present, except that consideration of matters set for public hearing must occur at or following the time indicated on the hearing notice.

- 2) Conduct of public meetings:
  - a) The Chair of the Commission shall preside over all public meetings of the Commission.
  - b) The Chair introduces the agenda items.
  - c) The Historic Preservation Specialist or their representative, if appropriate, summarizes the staff report or other information prepared or received by staff on the agenda item.
  - d) The Chair shall allow for comments or presentations by representatives of the applicant.
  - e) For normal agenda items that do not require public testimony or public hearings, comments by the public may be permitted, but only at the discretion of the Chair.
  - f) The Commission takes appropriate action, if an action is required.
- 3) Conduct of public hearings and special public meetings:
  - a) The Chair of the Commission shall preside over all public hearings and special meetings conducted by the Commission, except as provided for in Section B 3 and C 2 of these rules.
  - b) The Chair calls the public hearing or special meeting to order and announces the procedure as established by the Commission.

- c) The Historic Preservation Specialist for the City or their representative, if appropriate, summarizes the staff report or other information prepared or received by staff on the hearing item.
- d) Any communications not contained in the Commission's report, received concerning the hearing item, are presented to the Commission.
- e) The Chair asks for reports from advisory committees if appropriate.
- f) Commission hears those persons wishing to give testimony.
- g) The Chair either closes the hearing or special meeting and announces the date upon which the record of the hearing will remain open to receive additional written comments, or continues the hearing to a later date, if there is a finding by the Chair that all interested parties have not been afforded an adequate opportunity to testify before the Commission or if new information is to be considered.
- h) If, in the judgement of the Commission, action is appropriate based on public testimony and comment received, the Commission may elect to take action on the item immediately following the close of the public hearing or special meeting.
- i) At a meeting(s) subsequent to the public hearing or special meeting, the Commission considers all oral and written testimony concerning the hearing item and acts to approve, disapprove, modify, or defer the decision making.

#### **D: Regular Commission Business**

1) Historic Register Nominations- Nominations to the Alabama Register of Landmarks and Heritage and the National Register of Historic Places- the commission shall respond to requests by the Alabama Historical Commission to review and comment regarding pending nominations to the Alabama Register of Landmarks and Heritage and the National Register of Historic Places. Such requests may then be forwarded to the Mayor's office for any additional comment if required or at the discretion of the Historic Preservation Specialist.

3) Section 106 Review- From time to time the Historic Preservation Specialist or lead agency conducting review under Section 106 may solicit comments from the Commission. This will include federally owned or at times permitted sites not typically subjected to City permitting processes. (Section 106 Review refers to Section 106 of the National Historic Preservation Act of 1966 (NHPA) which requires federal agencies to consider the effects on historic properties of projects they carry out, assist, fund, permit, license, or approve throughout the county. Section 106 gives interested parties and the public a chance to weigh in on these matters before a final decision is made.)

4) Special Business- From time to time Commissioners may propose and vote on special items, including Commission resolutions and official Commission policy recommendations. These items shall be proposed in advance of the meeting at which the Commission shall vote with sufficient time that it will appear on the agenda under board business.

5) Requests for opinion or other advisory actions- from time to time City departments and other organizations may request review of preservation related items not generally under the

Commission's jurisdiction. These items generally shall appear under Board Briefings on the agenda, and any vote taken will be an advisory vote.

#### **E: Community Outreach**

- 1) Preservation Awards- The Commission should, on an annual basis, if possible, nominate and vote on individuals, organizations, and/or projects to be recognized by the City for Outstanding Achievement in Historic Preservation. The Commission should forward the awards to the Mayor for a proclamation and recognition. The Commission should solicit a list of individuals, organizations, and/or projects from the Architectural Review Board for the preservation awards as well. The Commission, at its discretion, may solicit nominations from members of the public.
- 2) Special Programs- The Commission may from time to time recommend and implement special programs, including educational sessions, tours, and presentations, as subject to available departmental resources. The Historic Preservation Specialist may advise the Commission regarding City resources and staff available for such projects, and convey requests by the Commission to the Community Development Department if special funding is required.

#### **F: Annual Report to the City Council**

- 1) Annual Report- The Commission shall annually report to the City Council regarding accomplishments and the status of planning efforts in the previous year, and if applicable, the outlook of planning issues for the coming year. This report will typically be given shortly after the annual Certified Local Government report is filed with the Alabama Historical Commission.

#### **G: Records**

- 1) Official Records- The Commission's adopted minutes of the public meetings shall be the official records. The written recording of each hearing item shall be the official record for such item.
- 2) Supplemental Records- Supplemental records pertaining to matters of public meetings and hearings shall be kept on file in the Community Development Department as required by law. These may include but not be limited to: items submitted as part of the agenda and written communications concerning the matter.

**RULES OF PROCEDURE FOR  
THE HISTORIC PRESERVATION COMMISSION**  
*(Adopted January 18, 1994)*

**ARTICLE I**

***GENERAL PROVISIONS***

Section 1.1        The following procedural rules are intended to supplement the basic procedures set forth in Chapter 7, Article 9 of the Village code entitled "Historic Preservation." No rule shall be proposed or adopted herein which conflicts with any provision in Chapter 7 Article 9 of the Village Code. If a conflict does arise between any provision of Chapter 7 Article 9 of the Village code and any provision of these rules, the provision set forth in Chapter 7 Article 9 shall prevail.

Section 1.2        Any Commission member who has a proprietary interest or other conflict of interest, in any matter before the Commission shall not vote thereon and shall remove himself or herself from any meeting or hearing at which said matter is under consideration. If more than four members of the Commission remove themselves from a hearing, the Commission shall refer the matter to the President and board of Trustee for their direction.

Section 1.3        The Commission shall hold its hearings in the Oak Park Village Hall, unless, in a particular case, Chapter 7 Article 9 of the Village Code or the applicable statutes of Illinois requires a hearing or hearings of the Commission to be held in another location, or unless the Commission, for good cause shown, determines that a particular hearing be held elsewhere.

**ARTICLE II**

***OFFICERS AND DUTIES***

Section 2.1        The officers of the Commission shall be a Chair, an Acting Chair, and a Secretary.

Section 2.2        The Chair shall be designated by the President of the Village of Oak Park, with the consent of the Village Board. The Commission shall elect from among its members an Acting Chair to preside whenever the Chair is absent. The Secretary shall be an employee of the Village who has experience in taking minutes and record keeping. In the event of death, removal for cause, or resignation of any of the above-mentioned officers, a successor shall be named by the respective appointing authority.

Section 2.3        The Chair shall supervise the affairs of the Historic Preservation Commission. He or she shall preside at all hearings or meetings of the Commission, shall appoint such committees and subcommittees of the Commission as may be necessary to carry out the

purposes of the Commission, and shall administer or authorize the administration of oaths. The Chair shall be an ex officio member of all committees and subcommittees appointed.

Section 2.4 In case of the absence or disability of the Chair, the Acting Chair shall perform all the duties and exercise all the powers of the Chair.

### **ARTICLE III**

#### ***MEETINGS***

Section 3.1 Regular meetings shall be held on the second Thursday of each month at 7:30 p.m. and at such other times as the Chairperson or any six (6) members of the Commission may direct.

Section 3.2 Regular meetings may be cancelled by the Chair when there are no cases pending or when it is apparent that there will not be a quorum, in which event notification of said cancellation shall be given to members of the Commission.

Section 3.3 The Commission may hold special meetings at the call of the Chair or at the written request of six (6) members of the Commission, provided at least 48 hours notice of any such meeting is given in person or by mail to each member.

Section 3.4 All regular meetings, including public hearings, of the Commission shall be open to the public and no official action shall be taken except in public and in accordance with Article X hereof.

Section 3.5 No public hearing shall be held or official action taken unless a quorum is present. A quorum shall consist of six (6) members of the Commission.

### **ARTICLE IV**

#### ***ESTABLISHMENT OF ARCHITECTURAL REVIEW COMMITTEE***

Section 4.1 The Chair will appoint an Architectural Review Committee consisting of the five (5) Commissioners.

Section 4.2 The Architectural Review Committee and/or staff may approve applications for Certificates of Appropriateness and Certificates of Advisory Review when the proposed work involves (1) restoration of original conditions, (2) no changes in materials, (3) changes not visible from the street, (4) a non-contributing structure, or (5) other types of activities determined by the Commission to have limited effect on the historic, architectural, or aesthetic qualities of Landmarks or districts.

Section 4.3 The Review Committee and/or staff shall use the guidelines listed in Section 7-9-12(A) of the Historic Preservation Ordinance and other guidelines adopted by the Commission to determine if the proposed work is appropriate-under said guidelines.

Section 4.4 A Certificate of Appropriateness may be issued upon the concurring vote of a majority of a quorum of the Architectural Review Committee.

Section 4.5 If the Architectural Review Committee can not reach a decision within five (5) working days from receipt of the application by the Commission or votes to deny the application it shall refer the matter to the full Commission in a timely fashion so that the time limits established by the Historic Preservation Ordinance may be met by the Commission.

Section 4.6 If two (2) members of the Architectural Review Committee concur in a decision to approve a Certificate of Appropriateness or Certificate of Advisory Review, the Committee shall issue the appropriate certificate and shall notify the applicant and appropriate Village staff of its decision and shall provide the original certificate to the applicant and copies thereof to appropriate Village staff as soon as possible.

Section 4.7 Except in the case of Landmarks, applications for Electric Permits, Plumbing Permits, Fence Permits, and Street Obstruction Permits will be considered to have limited effect on the historic, architectural or aesthetic qualities of the building and will automatically be granted a Certificate of Appropriateness with no review by the Commission. *(Amended May 18, 1998)*

## **ARTICLE V**

### **ORDER OF BUSINESS**

Section 5.1 The order of business of the Commission shall be as follows: unless otherwise set by the Chair:

- (a) Roll call and declaration of a quorum;
- (b) Approval of minutes of previous meeting(s);
- (c) Introduction of guests
- (d) Call of cases of agenda and hearing of requests for continuances;
- (e) Consideration of nominations for preliminary eligibility for designation, advisory reviews of permit work within Historic Districts, reviews of the impact of requests for zoning variations, zoning ordinance amendments and special use permits on Historic Preservation, hearings for Historic Landmark designation, hearings on applications for Certificates of Appropriateness, and hearings on applications for Certificates of Economic Hardship.
- (f) Any other business presented by members of the Commission.
- (g) Adjournment

## **ARTICLE VI**

### ***CONTINUANCES***

Section 6.1 Continuances may be granted at the discretion of the Commission and only upon good cause shown. It is recognized that where notice of a hearing has been published, considerable inconvenience may result to many interested persons in the event continuances are freely granted. Except in extreme circumstances, once a hearing is commenced, every effort shall be made to take all evidence and close testimony on the night the hearing is set.

## **ARTICLE VII**

### ***FAILURE OF NOMINATOR OR OWNER/APPLICANT TO APPEAR***

Section 7.1 Whenever a nominator or owner/applicant or the nominator's or owner/applicant's representative fails to appear, the Chair may entertain a motion from the Commission to dismiss the case for want of prosecution. In the absence of such a motion, the Chair will rule.

Section 7.2 In cases which are dismissed for want of prosecution, the nominator or owner/applicant shall be furnished written notice by the Secretary of the Commission.

Section 7.3 Dismissal for want of prosecution is not a determination on the merits and shall not of itself bar the filing of a new nomination or owner's application for Certificate of Appropriateness or Certificate of Economic Hardship.

## **ARTICLE VIII**

### ***PROCEDURES FOR APPEAL***

Section 8.1 The Commission recommends the designation of Historic Landmarks to the Village Board which has exclusive and final authority to make such designations. Nominators, owner(s) of record and other interested persons who either agree or disagree with the recommendation of the Commission shall have an opportunity to express their views at the public meeting of the Village Board at which the recommendation of the Commission is considered. Therefore, with an avenue of direct access to the Village Board already in place for Commission recommendations for designation, an appeal process for the recommendation of the Commission to the Village Board is neither necessary or warranted and none shall be had.

Section 8.2 The denial by the Commission of a nomination for designation of a site, property, improvement, or structure as a Historic Landmark shall be a final administrative decision and no appeal may be had to the Village Board.

Section 8.3 An appeal may be taken to the Village Board by an aggrieved owner or owner(s) of record of a denial by the Commission of a Certificate of Appropriateness or a Certificate of Economic Hardship with regard to such owner's property, improvement or structure.

Section 8.4 An appeal shall be considered by the Village Board only if filed in the Office of the Village President located in the Village Hall within 15 days after the date of the alleged erroneous decision of the Commission, with notice thereof being filed simultaneously with the Secretary of Commission. The appeal shall be on such forms and in such number of copies as are prescribed by the Commission.

Section 8.5 Upon receiving notice of appeal, the Secretary to the Commission shall promptly transmit to the Office of the Village President all papers constituting the record upon which the Commission made the decision appealed.

## **ARTICLE IX**

### ***PROCEDURE FOR HEARINGS***

Section 9.1 At the time of the hearing, the nominator or owner/applicant may appear in his or her own behalf or be represented by an agent or attorney.

Section 9.2 All witnesses and owner/applicants shall testify under oath.

Section 9.3 The nominator or owner/applicant or his or her representative may make a brief operating statement, outlining the nature of the request prior to introducing evidence.

Section 9.4 Evidence shall be presented in the following order, except as modified by the Chair:

- (a) All exhibits shall be marked and presented to the Commission fourteen (14) days prior to the hearing, and shall include evidence as described in Section 7-9-14 of Article 9, Chapter 7 of the Oak Park Village Code. Exhibits submitted to the Commission less than fourteen (14) days prior to the hearing shall be excluded from the hearing, except in those instances where the Chair, for good cause shown, shall, in the Chair's sole discretion, waive the fourteen (14) day requirement.
- (b) A list of witnesses accompanied by a resume or curriculum vitae shall be submitted to the Commission at least fourteen (14) days prior to the hearing.
- (c) The Chair or the Secretary may state the nature of the case and whether a designation of Historic Landmark, a Certificate of Appropriateness, or a Certificate of Economic Hardship is being sought.

- (d) The nominator or owner/applicant presents evidence.
- (e) Commission members cross-examine witnesses as presented.
- (f) Interested citizens present evidence.
- (g) Commission members cross-examine witnesses as presented.
- (h) Questions which are designated for specific witnesses may be submitted to the Commission by the nominator, owner(s) of record or interested citizens, which the Commission may ask of such witnesses on cross-examination;
- (i) Evidence by additional witnesses called by the Commission;
- (j) Rebuttal by nominator or owner/applicant as to new matters presented by any party in opposition to the nominator or owner/applicant;
- (k) Closing of all evidence and consideration by the Commission.
- (l) Once deliberations have begun and testimony is closed, no responses are allowed from witnesses except at behest of the Chair of the Commission.
- (m) Commissioners are strictly prohibited from communicating with any applicants, witnesses or other interested persons prior to or following a hearing until such time as a decision has been reached. Such contact may result in the removal of the Commissioner by the Chair from participation in deliberations and/or voting.

Section 9.5 The Commission shall not be bound by strict rules of evidence, but it may exclude such irrelevant, immaterial, incompetent or unduly repetitious testimony or other like evidence as appropriate to insure an orderly proceeding. The Chair shall rule on all questions relating to the admissibility of evidence. Any evidentiary ruling by the Chair may be overruled by a majority of the Commission members present.

Section 9.6 Every person appearing before the Commission or in attendance at a hearing shall abide by the order and direction of the Chair. Discourtesy, or disorderly or contemptuous conduct shall be regarded as a breach of order and of the privileges of the Commission and such misconduct shall be dealt with as the Chair deems proper, up to and including ordering the removal of such persons from the hearing room.

## **ARTICLE X**

### ***DECISIONS***

Section 10.1 Final decisions or recommendations shall be made within the time frames set forth in Chapter 7 Article 9 of the Village Code, and if no time frame is set forth therein, then within a reasonable time after the date of the closing of the hearing. A nominator or owner applicant may withdraw his or her nomination or Certificate application at any time prior to the decision thereon by the Commission.

Section 10.2 The Commission shall conduct its vote in a public session. The Commission may vote on any matter before it at the same meeting at which evidence as to such matter is concluded, or, if the Commission considers additional time for deliberation necessary, then the Commission may defer its vote to a subsequent public session.

Section 10.3 Final disposition of any application for a Certificate of Appropriateness or a Certificate of Economic Hardship shall be in the form of a resolution granting or denying the Certificate and shall include the Commission's findings of fact. The Commission may require such conditions, restrictions or limitations as it deems necessary to be imposed upon any Certificate granted, but any such conditions, restrictions or limitations shall be made part of the resolution. The resolution may also request the Code Administration Department to take any action necessary for the effectuation of any Certificate granted.

Section 10.4 Members of the Commission absent and not hearing all the evidence shall not be eligible to vote on any matter, provided that a member who was absent but who has listened to the recording of the meeting, and reviewed any documentary evidence submitted, and affirms on the record that he or she has listened to the recording of the meeting and reviewed the documentary evidence shall be eligible to vote. The concurring vote of six (6) members shall be necessary for any decision in favor of nominator or an owner/applicant for designation or issuing of a Certificate. If the resolution denying the designation or application shall be formerly entered on the record; however, if the votes of absent but eligible members, when added to the number voting in favor of the nominator or owner/applicant, would total six (6) or more, the matter will be postponed to a subsequent meeting to provide those absent members with an opportunity to hear the tape and review any documentary evidence.

Section 10.5 In the case of nomination for the designation of sites, property, improvements of structures as Historic Landmarks, the concurring vote of a majority of the members of the Commission shall be necessary for any resolution and recommendation in favor if designation.

Section 10.6 If a summary record (as opposed to a verbatim transcript) of any hearing is made, such summary record shall be approved as to accuracy by the members of the Commission and shall be kept as a part of the public record in the files of the Commission.

Section 10.7 As soon as practicable after a decision of the Commission is reached notice thereof shall be given to the nominator and/or owner(s) of record and to such other parties of record as have requested such notice.

Section 10.8 No order of the Commission permitting construction, or the alteration, or the demolition of a property, an improvement or a structure shall be valid for period longer than 12 months from the date of such order, unless an application for building permit for such erection or alteration is filed within such period and/or such erection or alteration is commenced and proceeds to completion in accordance with the terms of the permit when issued.

## **ARTICLE XI**

### ***RECORDS***

Section 11.1 A file of decisions, recommendations, and all deliberations relating to each case shall be kept by the Secretary in the office of the Commission as a part of the public records of the Commission.

Section 11.2 All records of the Commission pertaining to recommendations of designation or owner(s) of record applications for Certificates of Appropriateness and Certificate of Economic Hardship shall be maintained as public records.