

ORDINANCE NO. 4168

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS CREATING AN HISTORIC PRESERVATION DISTRICT WITHIN THE CITY; ENACTING GUIDELINES, CRITERIA AND REQUIREMENTS FOR THE DISTRICT RELATING TO THE DEVELOPMENT OF REAL PROPERTY IN SAID DISTRICT; CREATING AN HISTORIC PRESERVATION BOARD; DESIGNATING AN HISTORIC PRESERVATION OFFICER; REQUIRING A CERTIFICATE OF APPROPRIATENESS FOR THE CONSTRUCTION, RESTORATION, ALTERATION OR DEMOLITION OF STRUCTURES WITHIN THE DISTRICT; PROVIDING FOR PROCEDURAL REQUIREMENTS AND OBLIGATIONS IN THE PURSUIT OF THE CERTIFICATE OF APPROPRIATENESS; PROVIDING FOR ENFORCEMENT OF ALL REQUIREMENTS RELATING TO THE DISTRICT; PROVIDING FOR A PENALTY FOR VIOLATION OF THE TERMS OF THIS ORDINANCE; PROVIDING FOR THE SEVERABILITY OF PROVISIONS OF THIS ORDINANCE; AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Denison finds that the protection, preservation and enhancement of its historically and culturally significant areas and structures are important elements of the economic, educational, and cultural welfare of the City of Denison; and

WHEREAS, the City Council finds historically and architecturally significant structures within a historically and architecturally area should be maintained in a manner that promotes the area and serves as a stimulus to the economic viability of the structure and the area; and

WHEREAS, the City Council finds that the preservation of the historic, architectural and cultural features will stabilize property values, ensure the harmonious, orderly and efficient growth of the area protected by this ordinance; and

WHEREAS, the City Council finds that the enhancement of the area and its structures is in the best interest of the and general welfare of the City of Denison; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

SECTION 1: That there is hereby enacted a new chapter to the Code of Ordinances of the City of Denison, Texas, such chapter to be numbered and read as follows:

“Chapter 30

HISTORIC PRESERVATION

Sec. 30-1. Purpose

- (1) *Purpose.* The City Council of Denison, Texas, hereby declares that as a matter of public policy the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance are necessary to promote the

economic, cultural, educational and general welfare of the public. It is recognized that the historic districts and landmarks within the City of Denison represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually and produced significant historic, architectural and cultural resources that constitute their heritage; and, therefore, this chapter is intended to:

- (a) Protect and enhance the district and landmarks which represent distinctive elements of the City of Denison's historic, architectural and cultural heritage;
- (b) Foster civic pride in the accomplishments of the past;
- (c) Protect and enhance the City of Denison's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (d) Ensure the harmonious, orderly and efficient growth and development of the city;
- (e) Promote the economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and
- (f) Stabilize and improve the values of such properties.

Sec 30-2. Historic Preservation Overlay District.

- (1) *Historic preservation overlay districts.* Areas designated as "H" historic preservation overlay districts, as provided by Section 30-5 hereof and shown accordingly on the zoning map for the City of Denison, shall be subject to the regulations of this section, which are intended to further the purposes of the "H" historic preservation overlay district.

Boundary. The Historic Preservation Overlay District includes the Downtown Historic District as recognized by the National Register of Historic Places and is more particularly described as follows:

Beginning at the common point of the east right of way line of North Barrett Avenue and the south right of way line of West Gandy Street;
Thence in an easterly direction with the south right of way line of West Gandy Avenue, across Houston Avenue, and along the south right of way line of East Gandy Avenue to the point where such line intersects the railroad right of way of the Union Pacific Railroad;
Thence in southerly direction with such railroad right of way to the point that intersects the north right of way line with East Main Street;
Thence in an easterly direction along the north right of way line of East Main Street to its intersection with the northerly projection of the east boundary line of Lot 14, Block 56, Original Town Plat of the City;
Thence in a southerly direction across East Main Street with a line that is the extension of the east boundary of said Lot 14, Block 56, (OTP) to a point for a corner being the southeast corner of The Travelers Hotel property that is also the southeast corner of said Lot 14;
Thence in a westerly direction along the south line of The Travelers Hotel

Property being the southern boundary of Lots 14, 15, and 16, Block 56, OTP to the point of intersection with the east right of way line with South Crockett Avenue;

Thence in a northerly direction along the east right of way line of South Crockett Avenue to the point of intersection with the south right of way line of East Main Street;

Thence in a westerly direction along the south right of way line of East Main Street to a point of intersect with the western boundary of the railroad right of way of the Union Pacific Railroad;

Thence in a southerly direction along the western boundary of the railroad right of way of the Union Pacific Railroad to a point intersecting the easterly projection of the north right of way line of East Crawford Street;

Thence in a westerly direction along the north right of way line of East Crawford Street, across Houston Avenue, along the north right of way line of West Crawford Street to its intersection with the east right of way line of South Barrett Avenue;

Thence in a northerly direction along the east right of way line of South Barrett Avenue to a point of intersection with the easterly extension of the centerline of the alley separating the 700 blocks of West Main Street and West Chestnut Street;

Thence in a westerly direction along the centerline of such alley to a point of intersection with the east right of way line of South Armstrong Avenue;

Thence in a northerly direction along the east right of way line of South Armstrong Avenue, across West Main Street, then along the east right of way line of North Armstrong Avenue to a point of intersection with the south right of way line of West Woodard Street;

Thence in an easterly direction along the south right of way line of West Woodard Street to a point of intersection with the east right of way line of North Barrett Avenue;

Thence in a northerly direction along the east right of way line of North Barrett Avenue to the point of intersection with the south right of way line of West Gandy Street, said point being also the point of beginning.

The Historic Preservation Overlay District is shown by map as Attachment “A” which is attached hereto and incorporated herein for all intents and purposes.

(2) *Land use.* Land uses within the Denison Historic District are described in the schedule of uses in Section 28-94 of this Code.

Sec. 30-3. Historic Preservation Board.

There is hereby created a board to be known as the Denison Historic Preservation Board (HPB).

(a) The HPB shall consist of five (5) members appointed by the City Council, and at least two (2) of such members shall be business owners or property owners within the district.

- (b) All HPB members shall have a known and demonstrated interest, competence or knowledge of historic preservation within the city.
- (c) HPB members shall serve for staggered terms of two years. For the initial board members, the historic preservation officer shall conduct a blind draw to establish the staggered terms with three (3) of the initial board members serving 1-year terms and the remainder serving a full 2-year term.
- (d) The chairman and vice chairman of the HPB shall be elected by and from the members of the HPB and shall serve for a term of one year.
- (e) The HPB shall have the power to:
 - 1. Adopt rules and procedures as necessary to provide for the orderly conduct of HPB meetings.
 - 2. Recommend criteria for the identification of historic, architectural and cultural landmarks.
 - 3. Conduct surveys and maintain an inventory of significant historic, architectural and cultural landmarks and historic districts within the city.
 - 4. Recommend the designation of resources as landmarks and/or historic districts.
 - 5. Maintain written minutes that record all actions taken by the HPB and the reasons for taking such actions.
 - 6. Recommend conferral of recognition upon the owners of landmarks or within districts by means of certificates, plaques or markers.
 - 7. Increase public awareness of the value of historic, cultural and architectural preservation by encouraging and participating in public education programs developed by the historic preservation officer.
 - 8. Make recommendations to the city concerning the utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the city.
 - 9. Approve or disapprove applications for certificates of appropriateness pursuant to this chapter.
 - 10. Recommend the acquisition of landmark structures by the city where its preservation is essential to the purpose of this chapter and where private preservation is not feasible.
 - 11. Recommend specific design guidelines for the review of landmarks and districts to ensure compatibility within the district.

- (f) The HPB shall meet at least monthly if business is at hand. Special meetings may be called at any time as requested by the historic preservation officer. All meetings shall be held in conformance with the Texas Open Meetings Act.
- (g) A quorum for the transaction of business shall consist of three (3) of the HPB's members, but not less than a majority of the full, authorized membership may grant or deny a certificate of appropriateness.
- (h) Additionally, the Board shall have four (4) *ex officio*, non-voting members each of whom shall be entitled to notice of all meetings of the Board and to fully participate in the discussion and consideration of all business coming before the Board. The *ex officio* members shall be the Chief Building Official, the Planning and Zoning Director, the Business Development Director and the City Attorney.

Sec. 30-4. Appointment of Historic Preservation Officer.

The city manager shall appoint a qualified city staff person to serve as historic preservation officer. This officer shall administer this section and advise the HPB on matters submitted to it.

In addition to serving as representative to the HPB, the officer is responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state and national nonprofit preservation organizations.

Sec. 30-5. Designation of landmarks or historic districts.

- (a) The City Council may designate by zoning ordinance certain buildings, sites, structures and objects as historic landmarks and certain areas as historic districts. Such landmarks and districts shall bear the word "historic" in their zoning designation and shall be represented by designation "H" on the zoning map.
- (b) The HPB may recommend to the City Council a building or historic district, site, structure or district to be designated as a landmark. Property owners of a proposed landmark or within a proposed historic district shall be notified prior to the HPB's hearing on the designation. At the HPB's public hearing, HPB members, owners and interested parties may present testimony or documentary evidence that will become part of a record regarding the historic, architectural or cultural importance of the proposed historic landmark or district. The record also may contain staff reports, public comments or other evidence offered outside of the hearing.

Upon recommendation of the HPB, the proposed historic landmark or district shall be submitted to the planning and zoning commission for its review and recommendation. The planning and zoning commission shall give notice, conduct its public hearing and make recommendations to the City Council in the same manner and according to the same procedures as specifically provided in the general zoning chapter of the Code. The City Council shall give notice, follow the publication procedure, hold public hearings and make its determination in the

same manner as provided in the general zoning chapter of the code.

The HPB shall make its recommendation, to be forwarded to the planning and zoning commission, within 30 days from the date of submittal of the designation request. The planning and zoning commission shall schedule a public hearing on the HPB's recommendation to be held within 45 days of receipt of such recommendation.

Upon designation of an area as a historic landmark or district, the designation should be recorded in the tax records of the city and the city's official zoning maps. All zoning maps should indicate the designated landmarks and districts by an appropriate mark.

A historic landmark or district may be designated if it:

1. Possesses significance in history, architecture, archeology and/or culture.
 2. Is associated with events that made a significant contribution to the broad patterns of local, regional, state and/or national history.
 3. Is associated with the lives of persons significant in our past.
 4. Embodies the distinctive characteristics of a type, period and/or method of construction.
 5. Represents the work of a master designer, builder and/or craftsman.
 6. Represents an established and familiar visual feature of the city.
- (c) The HPB may recommend a district or a landmark to the City Council to be designated if it:
1. Contains properties which meet one or more of the criteria for designation of a landmark.
 2. Constitutes a distinct section of the city.

The boundaries of each historic district designated henceforth shall be specified in detail and shall be filed, in writing, in the city secretary's office for public inspection.

Sec. 30-6. Building permit required.

No person shall carry out any exterior alteration, restoration, reconstruction, new construction or moving of a landmark or property within an historic district; nor shall any person make any material change in the appearance of such a property, its light fixtures, signs, sidewalks, fences, steps, paving or other exterior elements visible from a public right-of-way or adjacent property which affect the appearance of the historic landmark or district, without first obtaining a building permit from the City of Denison inspections

department.

Sec. 30-7. Certificate of appropriateness.

Any person carrying out any work which requires a building permit for exterior alteration, restoration, reconstruction, new construction or moving of a landmark or property within a historic district visible from a public right-of-way or an adjacent property must first obtain a certificate of appropriateness from the HPB. Any addition or deletion of landscape materials or landscape design elements need not receive a certificate of appropriateness from the HPB.

The HPB and the historic preservation officer shall follow the "*Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings*" in its consideration of all applications for a Certificate of Appropriateness. These standards shall be made available to the property owners of historic landmarks or within historic districts.

Any person wishing to paint a structure within an historic district may not do so without first receiving a certificate of appropriateness from the HPB. The Denison Historic Preservation Officer and/or the HPB may provide review and comment as requested by the property owner with regards to color selection and design. If the building is currently painted a color approved by the HPB and the owner wishes to repaint using the same color, no certificate of appropriateness shall be required.

Sec. 30-8. Criteria for approval of a certificate of appropriateness.

The following standards, guidelines and criteria should be used in a balanced evaluation of the property in question:

- (a) The HPB shall follow the *Secretary of the Interiors Standards for Rehabilitation* and guidelines for rehabilitating historic buildings to assist in its consideration of all applications for certificates of appropriateness. These standards and guidelines shall be made available to property owners of historic landmarks or within a district zoned historic or with a historic overlay.
- (b) The HPB shall utilize a checklist of design elements to be reviewed and considered by the HPB in reaching its determination. Such checklist shall be initially approved by the City Council and modified from time to time as the City Council deems necessary.

Sec. 30-9. Certificate of appropriateness procedures.

- (a) Prior to the commencement of any work requiring a certificate of appropriateness, the owner or the owner's representative shall file an application for such certificate with the chief building official or his designee. The property owner or the owner's representative shall consult with the historic preservation officer prior to submission of the application with regard to applicable standards and guidelines for the property.
- (b) The application shall contain:

1. The name, address, telephone number of the applicant and a detailed description of the proposed work.
 2. The location and photographs of the property and adjacent properties (historical photographs may also be helpful).
 3. Elevation drawings of the proposed changes, and, preferably, in color.
 4. Samples of materials to be used including colors that will be used.
 5. 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, the method of illumination (if any) and a plan showing the sign's location on the property.
- (c) No building permit shall be issued for such proposed work until a certificate of appropriateness has been issued by the HPB or, upon appeal, to the City Council pursuant to subsection (f) herein. The certificate of appropriateness required by this section shall be in addition to and not in lieu of any building permit that may be required by another ordinance of the city.
- (d) The HPB shall approve, approve with modifications, or deny an application within 45 days from receipt of the application. With ten (10) days notice to the applicant, the HPB shall hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views. Should the HPB not take action within the 45-day period, the certificate of appropriateness shall be automatically approved.
- (e) All decisions of the HPB shall be in writing. A certificate of appropriateness shall be sent to the applicant and a copy attached to the building permit for public inspection. The HPB's decision shall state the reasons for denying or modifying any application.
- (f) Within six (6) months of the date of the HPB decision, an appeal may be made by the applicant in accordance with the provisions of Section 30-18 herein.

Sec. 30-10. Demolition.

A permit for the demolition of a historic landmark or property within a historic district, including secondary buildings, shall not be granted by the chief building official without the review of a completed application and issuance of a certificate of appropriateness for demolition by the HPB.

The HPB shall hold a public hearing on each application within 60 days from the date the application is received by the chief building official. Following the hearing, the HPB has 30 days in which to prepare a written recommendation to the chief building official. In the event that the HPB does not act within 90 days of the receipt of the application, a permit may be granted.

Nothing herein shall be construed to impair, limit or suspend the emergency powers of the City of Denison and its officials pertaining to demolition of structures in times of emergencies of calamity or natural disasters.

Sec. 30-11. Economic hardship criteria.

- (a) For deviations: If the HPB refuses to issue the certificate of appropriateness on the ground that the proposed work will not comply with the criteria set forth in Sections 30-7 and 30-8 above, and any design guidelines for the property, the owner shall have the right to seek deviations from the design guidelines and criteria on the basis of economic hardship. In order to be entitled to a deviation from the guidelines, the owner must prove by a preponderance of the evidence that he will have no reasonable opportunity to recover the cost of the proposed work if he is required to perform the work in accordance with the criteria and design guidelines. If the HPB finds that the owner has failed to satisfy this burden of proof, the certificate of appropriateness will be denied. If the HPB finds that the owner would have no reasonable opportunity to recover the cost of the proposed work if performed in accordance with the criteria and the design guidelines, the HPB shall grant a deviation from the criteria and any applicable design guidelines and may issue a certificate of appropriateness for the required work, with or without conditions.

The HPB may consider the following factors in determining the extent of the deviation granted:

1. The cost to perform the work in compliance with the criteria and design guidelines;
 2. The value of the property;
 3. The extent to which a deviation is necessary to allow the owner a reasonable opportunity to recover the cost of the work;
 4. Whether granting the deviation will harm an existing or proposed historic or landmark district or structure or property designated with a high priority rating; and/or
 5. Whether the proposed work is in harmony with the spirit and purposes of this section.
- (b) For demolition: An applicant whose certificate of appropriateness for a proposed demolition has been denied may apply for relief on the ground of hardship. In order to prove the existence of hardship, the applicant must prove by a preponderance of the evidence that:
1. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

2. The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;
3. Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and/or
4. The structure or property is in such a condition as to be irreparably damaged and, as such, poses a nuisance to the surrounding area and is a threat to the health, safety and general welfare of the community in a manner consistent with the provisions of Chapter 5, Article VIII of this Code.

Sec. 30-12. Economic hardship application procedure.

- (a) After receiving written notification from the HPB of the denial of a certificate of appropriateness, an applicant may, within ten working days, commence the hardship process, unless the hardship application is filed simultaneously with the application for a certificate of appropriateness. No consideration or action may be taken on the hardship application unless a denial of the certificate of appropriateness has been issued. No building permit or demolition permit shall be issued unless the HPB makes a finding that a hardship exists.
- (b) The HPB may hold a public hearing on the hardship application at which an opportunity will be provided for proponents and opponents of the application to present their views.
- (c) The HPB and the historic preservation officer, in consultation with local preservation groups and other interested parties, shall explore with the owner, or his designated representative, alternatives for the performance of the proposed work that will preserve the structure or property to the greatest extent possible, while being economically feasible.
- (d) If a deviation is granted, the certificate of appropriateness for the proposed work shall state the terms and conditions of the deviation.
- (e) All deviations shall be in compliance with other city codes and ordinances.
- (f) All decisions of the HPB shall be in writing. A copy shall be sent to the applicant and a copy filed with the city secretary's office for public inspection. The HPB's decision shall state the reasons for granting or denying the hardship application.
- (g) The hardship determination may be appealed in accordance with Section 30-18 herein.
- (h) In the event of an unresolved difference of opinion existing between the HPB and the Chief Building Official concerning the soundness of the structure and the appropriateness of demolition, the application shall be heard by the City Council whose decision shall be final.

Sec. 30-13. Enforcement.

All work performed pursuant to a certificate of appropriateness issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Inspection Department to inspect periodically any such work to assure compliance. In the event work is found that is not being performed in accordance with the certificate of appropriateness, the historic preservation officer shall issue a stop work order, and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. Work may be reinstated, however, upon assurance that compliance will henceforth exist.

Sec. 30-14. Ordinary maintenance.

Nothing in this section shall be construed to prevent the ordinary maintenance, replacement or repair of any exterior architectural feature of a landmark or property within a historic district that does not involve a change in design or material, color or outward appearance. In-kind replacement or repair is included in this definition of "ordinary maintenance".

Sec. 30-15. Demolition by neglect.

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the HPB, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of buildings and structures so designated or included within the district and the interior portions thereof when such maintenance is necessary to prevent deterioration and decay of the exterior. All such buildings or structures shall be preserved against decay and deterioration and free from structural defects through prompt corrections of any of the following defects:

- (1) Facades which may fall and injure persons or property;
- (2) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
- (3) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
- (4) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;
- (5) Defective or insufficient weather protection for exterior wall covering, including lack of paint or weathering due to lack of paint or other protective covering; or
- (6) Any fault or defect in the building which renders it not properly watertight or structurally unsafe.

- (7) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for public safety.

Sec. 30-16. Fees.

A filing fee of \$50.00 for each of the following actions shall be collected by the historic preservation officer:

- (a) Application for a certificate of appropriateness for alteration or new construction.
- (b) Application for a certificate of appropriateness for demolition.
- (c) Designation of landmarks or historic districts.

Sec. 30-17. Penalties.

Failure to comply with any of the provisions of this chapter shall be deemed a violation, and the violator shall be liable for a misdemeanor charge and be subject to a fine not to exceed \$500.00, and each day that such violation continues shall constitute a separate offense and shall be punishable accordingly. These penal provisions shall not prevent an action on behalf of the city to enjoin any violation of the terms of this section or an action for mandatory injunction to remove any previous violation hereof.

Sec. 30-18. Appeals.

Any person aggrieved by a decision of the HPB relating to economic hardship or a certificate of appropriateness may, within 15 days of receipt of the written decision, file a written application with the City Council, through the office of the city secretary, for review of the decision and the approval, denial, modification of, or deviation from, the HPB's decision. The appeal application shall be set before the City Council at the first available City Council meeting. The City Council's decision shall be final.

Sec. 30-19. No vested interest.

No developer or property owner shall acquire any vested interest in this section or specific regulations contained herein. This section and regulations may be amended or repealed by the City Council in the manner provided by law.”

SECTION 2: It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and, if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared to be invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such invalid or unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3: That this ordinance shall be effective from and after September 1, 2003.

SECTION 4: That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by City Councilman Broyles, seconded by City Councilman Pryor, the above and foregoing ordinance was passed and approved on this the 21st day of July, 2003, by the following vote:

Ayes: Broyles, Pryor, Lindsay, Williams, Malvern

Nays: Mooney

Abstentions:

At regular meeting July 21st, 2003.

BILL LINDSAY, MAYOR

ATTEST:

Nina Jones, City Clerk

APPROVED:

Tom Akins, City Attorney

ORDINANCE NO. 4199

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS AMENDING ORDINANCE NO. 4168 CREATING AN HISTORICAL PRESERVATION DISTRICT AND AN HISTORICAL PRESERVATION BOARD, *INTER ALIA*, BY REPEALING SECTION 30-3(h) AND BY ENACTING A NEW SECTION 30-3(h) PROVIDING FOR *EX OFFICIO* MEMBERSHIP ON THE HISTORIC RESERVATION BOARD AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council of the City of Denison, Texas has heretofore created an Historical Preservation Board and has included membership on the Board for individuals by virtue of the office held; and

WHEREAS, the City Council now wishes to alter the makeup of the Board by reducing the number and nature of the *ex officio* members; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

SECTION 1: That Section 30-3(h) of Ordinance No. 4168 be, and is hereby, amended by deleting such subsection in its entirety so as to be of no further force and effect.

SECTION 2: That a new subsection be, and is hereby, enacted to be numbered and read as follows:

“Sec. 30-3(h).

Additionally, the Board shall have three (3) *ex officio*, non-voting members each of whom shall be entitled to notice of all meetings of the Board and to fully participate in the discussion and consideration of all business coming before the Board. The *ex officio* members shall be the Chief Building Official, the Main Street Director and the City Attorney.”

SECTION 3: That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilman Williams, seconded by Councilman Pryor, the above and foregoing ordinance was passed and approved on this the 19th day of January, 2004, by the following vote:

Ayes: All present voted aye.

Nays:

Abstentions:

At regular meeting January 19, 2004.

BILL LINDSAY, MAYOR

ATTEST:

Nina Jones, City Clerk

APPROVED:

Tom Akins, City Attorney

ORDINANCE NO. 4204

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS AMENDING ORDINANCE NO. 4168 CREATING A HISTORIC PRESERVATION DISTRICT AND CREATING STANDARDS FOR THE PRESERVATION OF STRUCTURES WITHIN THE DISTRICT, *INTER ALIA*, TO BE CODIFIED AS CHAPTER 30 OF THE CODE OF ORDINANCE OF THE CITY BY AMENDING SECTION 30-16, ENTITLED FEES BY PROVIDING A NEW FEE STRUCTURE AND FINDING AND DETERMINING THE MEETING AT WHICH THIS ORDINANCE IS ADOPTED TO BE OPEN TO THE PUBLIC AS REQUIRED BY LAW.

WHEREAS, the City Council has received a recommendation from the Historic Preservation Board to amend the fee structure for applications for a Certificate of Appropriateness under the requirements of Ordinance No. 4168 to be codified as Chapter 30 of the City's Code of Ordinances; and

WHEREAS, the City Council wishes to amend said ordinance by adopting the recommendations of the Historic Preservation Board; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS:

SECTION 1: That Section 30-16 of the Code of Ordinances of the City of Denison, Texas be, and is hereby, repealed in its entirety so as to be of no further force and effect.

SECTION 2: That a new section pertaining to fees to be collected for an application for a certificate of appropriateness in the rehabilitation of a structure in the Historic Preservation District be, and is hereby, adopted, such section to be numbered and read as follows:

“Sec. 30-16. Fees

An application filing fee of one percent (1%) of the cost of the work to be performed pursuant to a proposed certificate of appropriateness for alteration or new construction shall be collected by the historic preservation officer at the time the application is filed with such officer. For the purpose of calculating the fee to be collected, the cost shall be determined by the historic preservation officer after consultation with the applicant and the Chief Building Official. In no event shall the fee be less than five dollars (\$5.00), nor more than fifty dollars (\$50.00).

An application seeking a certificate of appropriateness for demolition or designation of a historic landmark or historical district shall be

accompanied by a filing fee of fifty dollars (\$50.00), such fee to be collected by the historic preservation officer at the time an application is filed with such officer.

SECTION 3: That it is hereby officially found and determined that the meeting at which this ordinance was passed was open to the public as required by law, and that public notice of the time, place, and purpose of said meeting was given all as required by Section 551.041, Texas Government Code.

AND IT IS SO ORDERED.

On motion by Councilman Mooney, seconded by Councilman Malvern, the above and foregoing ordinance was passed and approved on this the 2nd day of February, 2004, by the following vote:

Ayes: All councilmembers present voted aye.

Nays:

Abstentions:

At regular meeting February 2, 2004.

BILL LINDSAY, MAYOR

ATTEST:

Nina Jones, City Clerk

APPROVED:

Tom Akins, City Attorney