

## **ORDINANCE NO. 5330**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, REPEALING AND RESTATING CHAPTER 30 OF THE CODE OF ORDINANCES OF THE CITY, THE SAME BEING THE HISTORIC PRESERVATION ORDINANCE OF THE CITY OF DENISON; PROVIDING FOR SAVINGS, REPEALING AND SEVERABILITY CLAUSES; PROVIDING A PENALTY; PROVIDING AN EFFECTIVE DATE; AND FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE WAS PASSED WAS OPEN TO THE PUBLIC AS REQUIRED BY LAW.**

**WHEREAS**, the City of Denison (the "City") is a Home Rule Municipality acting under its Charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, Section 214.00111 of the Texas Local Government Code provides authority to preserve substandard buildings as historic property which applies only to a City that is designated as a certified local government by the state historic preservation officer as provided by 16 U.S.C.A. Section 470 et seq.; and

**WHEREAS**, the City is designated as a certified local government by the state historic preservation officer as provide by 16 U.S.C.A. Section 470 et seq.; and

**WHEREAS**, the City Council adopted Chapter 30 of its Code of Ordinances, the same being the Historic Preservation Ordinance of the City, for the protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance as necessary to promote the economic, cultural, educational and general welfare of the public; and

**WHEREAS**, the City Council has considered the recommendations of the Historic Preservation Board concerning the appropriateness of the amendments herein in order to provide a more streamlined and concise approach to historical preservation in the City; and

**WHEREAS**, after complying with all legal notices, requirements, and conditions, and among other things, the necessity for orderly and appropriate regulations of the use of land and the erection of structures thereon, the City Council does hereby find that repealing and restating Chapter 30 "Historic Preservation" accomplishes such objectives.

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

**SECTION 1. INCORPORATION OF PREMISES.** The above and foregoing premises are true and correct and are incorporated herein and made a part hereof for all purposes.

**SECTION 2. HISTORIC PRESERVATION ORDINANCE AMENDMENTS.** Chapter 30 of the Code of Ordinances of the City of Denison, Texas, the same being the City's Historic Preservation Ordinance, is hereby repealed in its entirety and replaced as provided in Exhibit A, attached hereto and incorporated herein.



**SECTION 3. SAVINGS/REPEALING CLAUSE.** All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 4. SEVERABILITY.** Should any section, subsection, sentence, clause, phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City hereby declares that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional or invalid.

**SECTION 5. PENALTY.** Failure to comply with any of the provisions of this ordinance shall be deemed a violation, and the violator shall be liable for a misdemeanor charge and be subject to a fine not to exceed five hundred dollars (\$500.00), unless related to health and public safety 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. The City retains all legal rights and remedies available to it pursuant to local, state and federal law. The penalty if related to health and public safety will be the maximum allowed by law as set forth in the general penalty provision of the Code of Ordinances.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall become effective immediately upon its adoption and its publication as required by law.

**SECTION 7. OPEN MEETINGS.** That it is hereby 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 Article 551.041, Texas Government Code.

**AND IT IS SO ORDERED.**

On motion by Mayor Pro Tem Crawley, seconded by Council Member Hander, the above and foregoing ordinance was passed and approved on this the 18<sup>th</sup> day of December, 2023, by the following vote:

Ayes: Hander, Courtright, Thorne, Gott, Massey, Crawley and Thomas.


Abstentions:

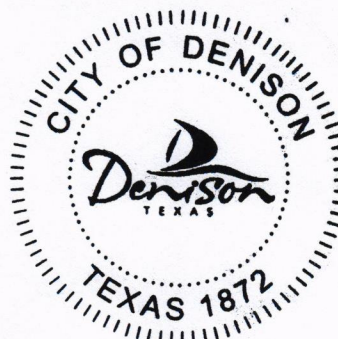
Nays:

At regular meeting December 18, 2023.

  
JANET GOTT, MAYOR

ATTEST:

  
Christine Wallentine, City Clerk





**EXHIBIT "A"**  
**Chapter 30 Historic Preservation**

**Chapter 30 HISTORIC PRESERVATION**

**Sec. 30-1. Purpose.**

*Purpose.* The City Council of Denison, Texas ("City Council"), 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. (Ord. No. 4937, § 3, 3-19-18)

**Sec. 30-2. Appointment of historic preservation officer.**

The City Manager or their designee shall appoint a qualified city official or staff person to serve as historic preservation officer (HPO). The HPO must have an interest, knowledge, and a demonstrated background in the disciplines of architecture, history, urban planning, real estate, legal, archeology, or other disciplines related to historic preservation. In the absence of a qualified official or staff person of the municipality, a consultant may be appointed to serve as HPO. The HPO shall be empowered to:

- (a) Administer this ordinance [from which this chapter derives] and advise the Historic Preservation Board (HPB) on matters submitted to it.
- (b) To maintain and hold open for public inspection all documents and records pertaining to the provisions of this article.
- (c) Receive and review all applications pursuant to this article to ensure their completeness.
- (d) Review and take action on all certificates of appropriateness applications subject to administrative review pursuant to this article.
- (e) Review and forward with any recommendations all applications for certificates of appropriateness subject to review by the HPB pursuant to this article.
- (f) Ensure proper posting and noticing of all HPB meetings, schedule applications for HPB review, provide packets to its members prior to the meetings, record meeting minutes and facilitate all HPB meetings.
- (g) Review and help coordinate the city's preservation and urban design activities with those of local,



state, and federal agencies and with local, state, and national preservation organizations in the private sector.

- (h) Develop and maintain a set of Denison Historic District Design Guidelines.
- (i) Coordinate with Main Street Office pertaining to design

guidelines. (Ord. No. 4937, § 3, 3-19-18)

### **Sec. 30-3. Designation of landmarks or historic districts.**

- (a) The City Council may designate by zoning ordinance certain buildings, sites, structures and objects of at least 50 years of age as historic landmarks and certain areas as historic districts. The designation can be at the request of the property owner, members of the community, the historic preservation board, or City Council. If the owner does not consent to the designation, a  $\frac{3}{4}$  vote of the City Council, planning and zoning, and historic preservation board is required. For properties owned by a religious organization, owner consent is required for designation. Such landmarks and districts shall bear the word "historic" in their zoning designation and shall be represented by designation "H" on the zoning map. The existing overlay district in the zoning ordinance is "CH" Commercial Historic Overlay District.
- (b) The HPB may recommend to the City Council, by way of the Planning and Zoning Commission, a building, site, structure to be designated as a landmark and/or a group of buildings, sites, and structures to be designated as a historic overlay district. Property owners of a proposed landmark or within a proposed historic district shall be notified 30 days 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 and 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 thirty (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 forty-five (45) days of receipt of such recommendation.

Upon designation of an area as a historic landmark or historic district by the City Council, 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 is at least 50 years old and demonstrates that 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.



7. Is designated as a "high" or "contributing" classification in the Denison Historic Resources Survey, listed as a Recorded Texas Historic Landmark (RTHL), State Antiquities Landmark (SAL) or listed on the National Register of Historic Places (NR).
- (c) The HPB may recommend a district or a landmark to the City Council by way of Planning and Zoning Commission to be designated if it:
1. Contains properties which meet one (1) or more of the criteria for designation of a landmark.
  2. Constitutes a distinct historical significance 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. 30-4. Activities requiring a Certificate of Appropriateness.**

- (a) Prior to the commencement of any work that affects the exterior of a designated historic landmark or a structure within a designated historic district (in accordance with section 30-3), a certificate of appropriateness ("COA") shall be required. The application is available via the City website (at: <https://www.cityofdenison.com/historic-preservation>) or may be obtained from the Historic Preservation Officer. Any work must begin within six months of the issuance of the COA, or the COA will be null and void. The applicant is responsible for obtaining the required building permits before commencing work. Routine maintenance described in section 30- 11 does not require a COA.

COA shall be required from the appropriate body for the following activities:

1. All exterior painting requires a COA. No exterior painting is considered routine maintenance.
2. Minor modifications, including like-for-like replacement of equipment, landscaping, new signage including window vinyl, and window film shall require a COA approved by the historic preservation officer in accordance with the guidelines in section 30-5 and 30-6.
3. Major modifications, including changes to windows or doors, roofs, awnings, the addition of a new material, and substantial alterations to a structure shall require a COA approved by the historic preservation board in accordance with the guidelines in section 30-5 and 30-6.
4. New construction, the moving of, demolition of, and additions to landmarks or historic structures or within Denison's historic district shall require a COA approved by the historic preservation board in accordance with the guidelines in section 30-5 and 30-6.
5. Any exterior modifications to buildings and properties that are designated historic landmarks or within Denison's historic district require a COA be approved before modifications may begin. The COA from the HPB allows the applicant to proceed with planned work to the building following issuance of a building permit, if a building permit is required for the work. Any work initiated prior to receipt of a COA and/or without the appropriate building permit is in violation and is subject to penalties.
6. Any repairs considered emergency require notification to the HPO who can issue an emergency COA if in accordance with guidance in section 30-5.

- (b) Any COA must conform to the City of Denison Historic District Design Guidelines.

#### **Sec. 30-5. Criteria for approval of a Certificate of Appropriateness.**

To provide for a balanced evaluation of the project in question, the HPO and HPB shall follow the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as well as City of Denison Historic District Design Guidelines approved by Denison City Council and incorporated into this chapter by reference, and which may be updated from time to time ("Design Guidelines"), to assist in



its consideration of all applications for COA. These standards and guidelines shall be made available to property owners of historic landmarks or property within a historic district.

#### **Sec. 30-6. Certificate of appropriateness procedures.**

- (a) Prior to the commencement of any work requiring a COA, the owner or the owner's representative shall submit an application for such certificate to the historic preservation officer. 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 complete application shall contain information the HPO deems necessary, including:
  - (a) The name, address, telephone number of the applicant and a detailed description of the proposed work.
  - (b) The location and current photographs of the site, structure, and adjacent properties, as well as historic photographs, if available.
  - (c) Color elevation drawings of the proposed changes.
  - (d) Tangible samples of materials to be used including paint samples of colors.
  - (e) 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 attachment of the sign, the method of illumination (if any) and a plan showing the sign's location on the property.
  - (f) Letter of intent with details of request including materials proposed and areas affected, size and requested placement of signage, proposed colors and paint scheme.
- (c) A complete application must be received no later than two (2) weeks before the HPB meeting. Incomplete applications will not be accepted.
- (d) No building permit shall be issued for such proposed work until a COA has been issued by the HPO or HPB or, upon appeal, to the City Council pursuant to subsection (f) herein. The COA 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.
- (e) After an application for COA is submitted, the HPO shall determine whether the application shall be eligible for administrative review, or the application shall be considered by the HPB. An application shall be eligible for administrative review by the HPO for minor modifications, including like-for-like replacement of material or features, landscaping, new signage including window vinyl, and window film in accordance with the guidelines in section 30-5 and 30-6. The HPO can approve minor modifications to an existing COA that still meets the intent of the original approval.
- (f) The HPO or HPB will approve, approve with modifications, table, or deny an application within forty-five (45) days, not including demolition requests, from receipt of a complete application.
- (g) All decisions of the HPO and HPB shall be in writing. For approved applications, a COA shall be sent to the applicant and a copy attached to the building permit for public inspection. The HPO or HPB's decision shall state the reasons for denying or modifying any application, adhering to the Secretary of Interior Standards for Rehabilitation and the City of Denison Historic District Design Guidelines.
- (h) Subsequent to a decision by the HPO or HPB, an appeal may be made by the applicant in accordance with the provisions of section 30-15 herein.
- (i) The applicant is highly encouraged to appear at the HPB meeting to present their application. If the applicant fails to appear, the HPB may table or deny the application.



## **Sec. 30-7. Demolition and Catastrophic Loss Standards.**

- (a) A permit for demolition of a historic landmark or property within a historic district, including secondary buildings, shall not be granted by the Chief Building Official until the issuance of a COA for demolition by the HPB. In the event an Emergency Demolition is determined necessary by the Chief Building Official, the HPO may grant a COA to allow the Chief Building Official to approve an Emergency Demolition and issue a permit for that Emergency Demolition.
- (b) The HPB shall hold a public hearing on each COA application for Demolition within sixty (60) days from the date a complete application is received by the historic preservation office. Notice of the hearing shall be mailed to the property owner(s). Following the hearing, the HPB has thirty (30) days in which to prepare a written recommendation to the Chief Building Official detailing the deterioration and substantiating the demolition. If the HPB does not act within ninety (90) days of receipt of the application, a demolition permit may be granted.
- (c) In addition to the criteria and procedures established in Sect. 30-6, the HPB will use the criteria of this section in considering applications for demolition of designated historic landmarks and properties in a historic district:
  - 1. Professionally prepared cost estimates for continued maintenance of the property in its current condition, of rehabilitation, and of demolition.
  - 2. A stamped engineer or architect's report as to structural soundness to demonstrate that the property is not structurally sound despite evidence of their efforts to maintain it and that it cannot be preserved, restored, rehabbed, or reused.
  - 3. The HPB must determine that it is not possible or feasible to prevent demolition of the building.
- (d) 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.
- (e) Applications for a COA for Demolition must include a Post-Demolition Redevelopment Plan, which must propose a building to replace the demolished building, and must include the following:
  - 1. Complete Architectural Drawings of proposed replacement building or, in cases where an existing underlying façade will be the replacement façade, a rendering of the expected appearance of the underlying façade, including a proposed restoration work;
  - 2. A written guarantee between the owner and the city that demonstrates the owner's intent and financial ability to construct a replacement building or façade or restore an existing underlying façade. The guarantee must:
    - a. Contain a covenant to construct the proposed structure by a specific date in accordance with architectural drawings depicting no shared walls that are approved by the city through the COA;
    - b. Require the owner or construction contractor to post a performance and payment bond, letter of credit, escrow agreement, cash deposit, or other agreement approved by the City Manager or designee to ensure construction of the new structure; and
    - c. Be approved as to form by the city attorney.
  - 3. When demolition of a building is proposed, the Post-Demolition Redevelopment Plans shall also include the following:
    - a. Site Plan for proposed replacement structure; and
    - b. Plan for temporary construction fencing. The plan shall include a depiction of any decorative elements that will be added to temporary construction fencing.
- (f) Temporary Construction Fencing meeting the following standards shall be installed following



any building demolition or creation of a vacant lot due to catastrophic loss:

1. All temporary construction fencing requires an application for and approval of both a COA and a permit from the Department of Development Services.
  2. Temporary construction fencing must be comprised of chain-link metal and at least 6' in height. The fencing may be chain link metal panels. The fence should shield the entire site from view and access from right-of-way.
  3. Temporary construction fencing must provide a continuous opaque screen along the front property line.
  4. Temporary construction fence may include decorative elements, such as a mural, but such decorative elements shall require a COA approved by the HPB.
- (g) Emergency Demolition or Vacant Lot Due to Catastrophic Loss: the following standards shall apply to an emergency demolition, or a vacant lot caused by catastrophic loss of a building due to a fire or other act of God:
1. Emergency Demolition requires approval by the Building Official and issuance of an Emergency COA prior to the issuance of a demolition permit.
  2. Temporary fencing meeting the standards must be installed within fifteen (15) days of the date of the emergency demolition or catastrophic loss. The fencing shall be on all visible sides of the lot.
  3. If building construction activity onsite has not begun within one year of the date of the emergency demolition or catastrophic loss of the building, the temporary fence must be replaced by one of the options below. One extension of up to six months may be approved by the HPO if construction plans for the site have been submitted.
    - a. Landscaped site, with non-opaque fence, meeting the following standards:
      1. The applicant shall submit a scaled plan showing the vacant lot layout, the proposed landscaping and irrigation, and the proposed maintenance plan, which shall include provisions for trash removal, erosion management, and landscape maintenance.
      2. Surface shall include grass or other living ground cover, in any combination, provided that the total site is covered.
      3. Irrigation shall be provided consistent with the applicable standards for such systems.
    - b. Minimum six feet tall screening wall constructed out of brick, stone, or brick or stone veneer.
      1. Wall must be aligned with front wall of adjoining buildings.
      2. Wall shall provide a continuous opaque screen along the entire length of the front property line.
      3. Property owner must provide for ongoing maintenance of the wall in compliance with minimum property standards.
      4. Upon redevelopment of the site, the screening wall must be removed.
    - c. Alternative plan for beautification or activation of lot in line with the purpose and overall intent of the district, as approved by City Council.

### **Sec. 30-8. Economic hardship criteria.**

- (a) For *Deviations*. If an application for COA is denied on the grounds that the proposed work will not comply with the criteria set forth in sections 30-5, and 30-6 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 as referenced in the Application for Economic Hardship that they will have no reasonable opportunity to recover the cost of the proposed work if they are 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 COA 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 COA 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 COA for a proposed demolition has been denied may apply for relief on the grounds of economic hardship. In order to prove the existence of hardship, the applicant must prove by a preponderance of the evidence as referenced in the Application for Economic Hardship that:
1. The property is incapable of earning a reasonable return, regardless of whether that return represents the highest and best use.
  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. The property has been listed with a licensed realtor for no less than 60 days; 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, as amended.

### **Sec. 30-9. Economic hardship application procedure.**

- (a) After receiving written notification from the HPB of the denial of a COA, an applicant may, within ten (10) working days, commence the hardship process by completing a request for economic hardship, unless the hardship application is filed simultaneously with the application for a COA. No consideration or action may be taken on the hardship application unless a denial of the COA 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 shall 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. Notice of the hearing shall be mailed to the property owner(s).
- (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 COA 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 Clerk'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 30-15 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. 30-10. Enforcement.**

All work performed pursuant to a COA issued under this chapter shall conform to any requirements included therein. It shall be the duty of the Building and/or Neighborhood Services Departments in coordination with the HPO and/or HPB to inspect any such work to ensure compliance. In the event work is found that is not being performed in accordance with the COA, a code compliance officer, building inspector, or the HPO 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. Any violation of the stop work order may be subject to penalties in accordance with section 30-14. Work may be reinstated after the appropriate approvals and/or permits are granted.

### **Sec. 30-11. Routine maintenance.**

Nothing in this section shall be construed to prevent the routine maintenance, replacement or repair of any exterior architectural feature of a landmark or property within a historic district. A COA shall not be required for routine maintenance is maintenance that involves no change in materials, dimensions, design, configuration, texture, surface coating, or visual appearance for work meant to remedy damage deterioration of configuration, texture, surface coating, or visual appearance for work meant to remedy damage or deterioration of site elements, structures, or their supplemental fixtures. The HPO shall make all final decisions on whether an activity is "routine maintenance." Routine maintenance is considered maintenance that meets all the following criteria:

- (a) Does not require a building permit or COA;
- (b) Shall be limited to repairing broken elements, replacing roofs like-for-like (i.e. gray asphalt shingles with gray asphalt shingles), replacing door hardware, or replacing broken window glass or reglazing historic windows;
- (c) does not involve a change in design or material, color, painting or outward appearance; and
- (d) Keeps a structure unimpaired and in good condition through ongoing minor intervention, undertaken from time to time, in its exterior condition.

### **Sec. 30-12. 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 nor should an owner sell a property without full disclosure. Any failure to disclose may cause owner to be subject to penalties in accordance with section 30-14. 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:

- (a) Facades or parts of facades which may fall and injure persons or property;
- (b) Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports;
- (c) Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration;
- (d) Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations, or floors, including broken windows or doors;
- (e) 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



- (f) Any fault or defect in the building which renders it not properly watertight or structurally unsafe.
- (g) Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for public safety.
- (h) Once it has been determined that any building or structure designated as a landmark or included within a historic district has any of the above defects or has failed to be preserved in a manner that prevents deterioration of the exterior, the building owner will have 60 days to present a plan to the Historic Preservation Board. HPB will determine timeline and convey to the property owner.

### **Sec. 30-13. Fees.**

An application for a COA for building or modifications will require no fee. An application seeking a COA for demolition or designation of a historic landmark or historic district shall be accompanied by an application fee, as set within the City's comprehensive fee schedule, such fee to be collected by the historic preservation officer or designee at the time of application.

Any application for additions or extensions of work undertaken at the same location within six (6) months of the original application may be included in a revised application for a COA without incurring an additional application fee. Any subsequent additions or extensions will require a fee, as set within the City's comprehensive fee schedule, such fee to be collected by the historic preservation officer or designee at the time of request for modification or extension.

### **Sec. 30-14. 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 five hundred dollars (\$500.00), unless related to health and public safety 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. City of Denison retains all legal rights and remedies available to it pursuant to local, state and federal law.

The penalty if related to health and public safety will be the maximum allowed by law as set forth in the general penalty provision of the Code of Ordinances. (Ord. No. 4937, § 3, 3-19-18)

### **Sec. 30-15. Appeals.**

Any person aggrieved by a decision of the HPO relating to a COA may, within fifteen (15) days of receipt of the written decision, file a written application with the historic preservation board, through the historic preservation officer, for review of the decision and the approval, denial, modification of, or deviation from, the HPO's decision. The appeal application shall be set before the HPB at its first available meeting.

Any person aggrieved by a decision of the HPB relating to economic hardship, a COA, or an appeal of a decision by the HPO to the HPB may, within fifteen (15) days of receipt of the written decision, file a written application with the City Council, through the office of the city clerk, 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. 30-16. 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.