

HERITAGE PRESERVATION ORDINANCE

AN ORDINANCE OF THE CITY OF WAXAHACHIE, TEXAS CREATING THE WAXAHACHIE HERITAGE PRESERVATION COMMISSION; DESCRIBING THE MEMBERSHIP THEREOF; PROVIDING FOR THE DESIGNATION OF HISTORIC RESOURCES AND HISTORIC DISTRICTS; CREATING THE REQUIREMENT OF OBTAINING A CERTIFICATE OF APPROPRIATENESS OR DEMOLITION PERMIT; PROVIDING FOR TAX INCENTIVES; PROVIDING FOR THE ENFORCEMENT THEREOF; PROVIDING FOR AN APPEALS PROCESS; CONTAINING A PENALTY CLAUSE AND PROVIDING FOR THE PUBLICATION THEREOF.

WHEREAS, Section 211.001 et. Sec. Of the Texas Local Government Code authorizes the City Council of the City of Waxahachie to:

Protect and preserve places and areas of historical and cultural importance and significance and to designate places and areas of historic and cultural importance, and to regulate and restrict the construction, alteration, reconstruction, or razing of buildings and other structures to maintain heritage and property values.

**Section 1-1. Purpose.**

The City Council of the City of Waxahachie does hereby declare that as a matter of public policy the protection, enhancement, and perpetuation of districts and landmarks of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that the Historic Resources of the City of Waxahachie represent the unique confluence of time and place that have shaped the identity of generations of citizens, collectively and individually, and these resources constitute the heritage of the citizens of Waxahachie. This act is intended to:

- (1) Perpetuate, protect, enhance, and preserve the Historic Resources, districts, and landmarks which represent distinctive elements of Waxahachie's historic, architectural, social, economic, ethnic, and political heritage and to develop appropriate settings for such places by allowing property owners a vehicle for protecting their property by participation in this ordinance;
- (2) Safeguard the city's historic and cultural heritage, as embodied and reflected in historic landmarks, by application of appropriate resources;
- (3) Stabilize and improve property values in such locations;

- (4) Provide property owners with an opportunity to voluntarily participate in the Historic Resource designation process and to receive all the benefits accrued by such participation. Additionally, property owners may choose to decline the opportunity to receive an Historic Resource designation within designated Historic Districts by written request to the Heritage Preservation Commission and the City Council per the process outlined in Section 1-5;
- (5) Foster civic pride in the beauty and accomplishments of the past, and to promote the use of historic landmarks for the culture, prosperity, education, and general welfare of the people of the City of Waxahachie;
- (6) Strengthen the economy of the city and to protect and enhance the city's attractions to tourists and visitors, as well as provide support and stimulus to business and industry;
- (7) Provide information to property owners and tenants as well as civic organizations concerned with historical preservation.

### **Section 1-2. Definitions.**

All terminology used throughout this Heritage Preservation Ordinance is defined in Appendix A, located at the end of this ordinance.

### **Section 1-3. Heritage Preservation Commission.**

This ordinance hereby creates a commission to be known as the Heritage Preservation Commission of the City of Waxahachie.

- (1) The Heritage Preservation Commission shall consist of ten (10) citizens of the City of Waxahachie to be appointed and confirmed by the City Council of the City of Waxahachie as follows:
  - a. One (1) member shall be from the architecture or design area of expertise.
  - b. Three (3) members shall have demonstrated an interest in the history of Waxahachie.
  - c. Three (3) members shall be historic property owners representing one or more of the Historic Districts or individual Historic Resources.
  - d. Ex-officio board members (non-voting members) shall include:
    1. One (1) representative from the Planning and Zoning Commission.
    2. One (1) representative from the City Manager's staff, such as the Heritage Preservation Officer.
    3. One (1) representative from the City Building Inspection staff.

- (2) All Heritage Preservation Commission members, regardless of background, shall have a known and demonstrated interest, competence, or knowledge in historic preservation within the City of Waxahachie.
- (3) Heritage Preservation Commission members shall serve for a term of two (2) years, with the exception that for the inaugural Commission, the City Council shall appoint four of the voting members to a term of three years and three of the voting members to a term of two years. The Ex-officio members may be appointed for either annual or non-rotating terms at the discretion of the City Council.
  - (a) The chairman, vice-chairman, and secretary of the Heritage Preservation Commission shall be elected by and from the members of the Heritage Preservation Commission.
  - (b) The functions of the Heritage Preservation Commission will include, but not be limited to, the following:
    - a. Prepare rules and procedures as necessary to carry out the business of the Heritage Preservation Commission.
    - b. Adopt criteria for the identification of historic, architectural, and cultural landmarks and the delineation of Historic Districts.
    - c. Develop and maintain a Historic Resource Preservation Plan that will be utilized by the Heritage Preservation Commission, Planning and Zoning Commission, the City Council of Waxahachie, and the City of Waxahachie.
    - d. Conduct surveys as necessary, maintaining and updating an inventory of significant historic, architectural, archaeological, and cultural landmarks and Historic Districts within the City of Waxahachie.
    - e. Designate Historic Resources and Historic Districts.
    - f. Approve requests for historical designation of resources voluntarily brought forward by property owners of historical landmarks or properties.
    - g. Create committees from among its membership, as necessary to conduct the work of the commission.
    - h. Maintain written minutes that record all actions taken by the Heritage Preservation Commission and the reasons for taking such actions. Minutes will be filed with the City Secretary.
    - i. Recommend conferral of recognition upon owners of Historic Resources or properties within Historic Districts by means of certificates, plaques, or markers.
    - j. Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.

- k. Make recommendations to the City Council concerning the utilization of governmental or private funds to promote the preservation of Historic Resources or Historic Districts within the City of Waxahachie.
  - l. Approve or disapprove applications for Certificates of Appropriateness in accordance with this act.
  - m. Recommend financial incentive programs (i.e. tax incentives, loan programs) for the preservation or rehabilitation of Historic Resources and Historic Districts.
  - n. Prepare specific guidelines for the review of Historic Resources and Historic Districts.
  - o. Informally review on an annual basis the conditions of the Historic Resources and Historic Districts and evaluate possible future needs.
- (6) The Heritage Preservation Commission shall meet at least monthly. Special meetings may be called at any time by the chairperson or on written request of any two (2) Heritage Preservation Commission members. All meetings shall be in conformance with the Texas Open Meetings Act, Texas Civil Statute, Article 6252-17.
- (7) A quorum for the transaction of business shall consist of four (4) of the Heritage Preservation Commission voting members.
- (8) A majority of the voting members present will constitute an official vote for the working mechanics of the Heritage Preservation Commission, but a minimum of four (4) affirmative votes will be required to grant a Certificate of Appropriateness.
- (9) The Heritage Preservation Commission shall be appointed by, serve at the pleasure of and be accountable to and governed by the City Council as determined by city ordinance.

**Section 1-4. Appointment of a Heritage Preservation Officer.**

The City Manager shall provide for the appointment of a qualified city staff person to serve as the Heritage Preservation Officer. The Heritage Preservation Officer shall administer this ordinance and advise the Heritage Preservation Commission on matters submitted to the Commission. In addition to serving as a representative of the Heritage Preservation Commission, the Heritage Preservation Officer is responsible for coordinating the city's heritage preservation activities with those of local, state, and federal agencies and with local, state, and national non-profit preservation organizations, as well as other municipal departments and the general public. The Heritage Preservation Officer shall maintain the Historic Preservation Plan, applicable surveys and historic information and shall update such information from time to time, as necessary.

## Section 1-5. Designation of Historic Resources or Historic Districts.

### (1) Designation Criteria:

A Historic Resource or Historic District may be designated if it meets one of the following criteria:

- (a) Possesses significance in history, architecture, archeology, or culture of the city, county, state, or nation.
- (b) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
- (c) Is associated with the lives of persons significant in Waxahachie's past.
- (d) Embodies distinctive characteristics of a type, period, or method of construction.
- (e) Represents the work of a master designer, builder, or craftsman.
- (f) Represents an established and familiar visual feature of the City of Waxahachie.
- (g) Is the location of a significant historic event.

### (2) Methods of Designation

#### (a) Type 1: Property Owner Requests

Upon request by a property owner, the Heritage Preservation Commission, may designate certain buildings, sites, structures, and objects as Historic Resources and certain areas as Historic Districts. Such Historic Resources and Historic Districts shall be listed in the Heritage Preservation Commission's List of Historic Resources and Historic Districts.

#### (b) Type 2: Heritage Preservation Commission Designation for Individual Historic Resources

The Commission may designate a building, site, or structure as a Historic Resource. Owners of said property shall be notified prior to the Commission's hearing. At the aforementioned public hearing, commissioners, owners, and other 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 Resources or district. The record may also contain staff reports, public comments, or other evidence offered outside of the hearing.

Property owners may exclude their property from historic designation by written notice to the Commission within ten (10) days of the Commission's notification to designate.

(c) Type 3: Heritage Preservation Commission Designation for Historic Districts

The Commission may designate a district if it:

- (1) Contains properties that meet one or more of the criteria for designation contained in this Section 1-5, or
- (2) Constitutes a distinct section of the City of Waxahachie.

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. If a property owner possesses an historic landmark, site, structure, or area within a proposed designated Historic District and chooses not to designate his/her property as historical, the property owner is not required to list property as a historic resource and will not receive the benefits accrued with such a designation.

Property owners may exclude their property from historic designation by written notice to the Commission within ten (10) days of the Commission notification to designate.

Property that does not meet historic designation criteria contained in this Section 1-5 will not be considered in any designation process and would not be included in any Historic Districts.

Upon designation of an area as a Historic Resource or Historic District, the designation shall be recorded in the Official Public Records of Real Property of Ellis County and the tax records of the City of Waxahachie.

The designation as a Historic Resource or Historic District does not necessarily impose the obligation on the property owner to improve, alter, or change a property. However, owners of designated property shall comply with the provisions of this ordinance and all other city ordinances.

**Section 1-6. Pre-Designation of Historic Resources or Historic Districts.**

An existing structure for which an application for designation has been filed and approved by the Heritage Preservation Officer using the criteria found in Section 1-5 shall be subject to the same benefits and conditions as apply to designated heritage resources under this article. Once an application for designation has been filed and approved by the Heritage Preservation Officer, it cannot be withdrawn without the consent of the Heritage Preservation Commission after notice and public hearing.

## **Section 1-7 – Removal of Designation**

The historic designation of Historic Resources and/or Historic Districts may be removed with the approval of the Commission.

## **Section 1-8. Certificate of Appropriateness for Alteration, Restoration, or New Construction Affecting Landmarks or Historic Districts.**

If property owners voluntarily designate their property as historic as defined under Section 1-5, or property is included in a Historic District designated by the Heritage Preservation Commission as defined under Section 8.5-5, no property owner shall:

- (1) Implement any exterior alteration, restoration, reconstruction, new construction, or movement of a Historic Resource, or property within a Historic District (excluding Minor In-kind Repairs and Ordinary Maintenance as described in Section 1-10) without first applying for and receiving a Certificate of Appropriateness from the Heritage Preservation Commission.
- (2) Make any change in the appearance of such property, (i.e. light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from the public right-of way, excluding Minor In-kind Repairs and Ordinary Maintenance as described in Section 1-10) which affect the appearance and cohesiveness of the Historic Resource or Historic District without first applying for and receiving a Certificate of Appropriateness from the Heritage Preservation Commission.
- (3) Any new construction within a historic district or on the site of a historic resource will require that design and construction be in keeping with the architecture of the district and will require a Certificate of Appropriateness from the Commission.

## **Section 1-9. Certificate of Appropriateness Application Review and Process.**

- (1) Prior to the commencement of any work requiring a Certificate of Appropriateness, the property owner shall file an application for such a certificate with the Heritage Preservation Commission. The Commission, if requested, shall aid the property owner in preparation and completion of the application. The application form shall contain the following:
  - (a) Name, address, telephone number of the applicant, and a detailed description of the proposed work.
  - (b) Location and photographs of the property and adjacent properties (historical photographs may also be helpful).
  - (c) Drawings and/or descriptions of the proposed changes.

- (d) Samples of materials to be used, to include samples and information on any materials to be used that differ from existing or original materials.
  - (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, method of illumination (if any), and a plan showing the sign's location on the property.
  - (f) Site plan if site modifications are requested.
  - (g) Any other reasonable information that the Commission may deem necessary in order to visualize the proposed work.
- (2) No building permit shall be issued until an application for a Certificate of Appropriateness has been reviewed and approved by the Commission. The Certificate of Appropriateness shall be in addition to, and not in lieu of, any building permit that may be required by any other ordinance of the City of Waxahachie. Local Design Guidelines based on the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings (the "Secretary of the Interior's Standards")* shall be used in this process. If no local Design Guidelines have been established for Historic Resources or Historic Districts, then the *Secretary of the Interior's Standards* shall serve as guidelines.
- (3) The Heritage Preservation Commission shall hold a public meeting on the application within thirty (30) days of receipt of the completed application. All applications received ten (10) days in advance of the next meeting will be reviewed and discussed at the next scheduled Commission meeting.
- (4) All decisions of the Heritage Preservation Commission shall be in writing and will be sent to the applicant and the Heritage Preservation Officer within ten (10) working days of the Commission's decision. A copy will be filed with the City Secretary's office for public inspection.
- (5) No change shall be made in the scope of work for any building permit after issuance of Certificate of Appropriateness without resubmitting to the Commission and approval thereof in the same manner as provided above. If a property owner wishes to change the scope of work under a Certificate of Appropriateness, the property owner shall consult the Heritage Preservation Officer who shall have the authority to approve non-substantive changes. If the Heritage Preservation Officer deems the requested changes to be substantive, such changes shall be referred to the Heritage Preservation Commission for action.
- (6) If the Heritage Preservation Commission has not made a final decision within forty-five (45) days of the application filing date, a Certificate of Appropriateness shall be deemed issued by the Commission.

### **Section 1-10. Minor In-Kind Repairs and Ordinary Maintenance.**

Nothing in this section shall be construed to prevent minor in-kind repairs or routine maintenance. Minor in-kind repairs and ordinary maintenance, including painting, do not require a Certificate of Appropriateness.

Local Design Guidelines should be consulted when performing minor in-kind repairs or ordinary maintenance. If no local Design Guidelines have been established for Historic Resources or Historic Districts, then the *Secretary of the Interior's Standards* shall serve as guidelines. The Heritage Preservation Officer is also available as an additional resource and should be consulted concerning questions about minor in-kind repairs and ordinary maintenance. If the Heritage Preservation Officer deems a Certificate of Appropriateness necessary, the standard rules for its procedures shall apply.

### **Section 1-11. Demolition or Removal of Historic Resources.**

A permit for the demolition or relocation of a Historic Resource or property within a Historic District shall not be granted by the building inspector without the review and approval of a completed application by the Heritage Preservation Commission.

Certain information must be submitted by the applicant along with an application for a permit for demolition prior to the Heritage Preservation Commission making a ruling on demolition. The applicant must supply the following information before the application is considered complete:

- (1) Information describing the condition of the structure.
- (2) An estimate of the cost of restoration or repair.
- (3) Demonstration that adaptive use or restoration of the structure has been seriously considered.
- (4) Any available historic records of the building (drawings, photographs).
- (5) Architectural drawings for the proposed new construction which is intended to replace the historic structure.
- (6) Any conditions proposed by the property owner to be placed on the land or new development that would mitigate the loss of the historic structure.
- (7) Any other information deemed appropriate by the Commission to assist in rendering a decision on the application.

The Heritage Preservation Commission shall review the application within sixty (60) days, during which time it shall consider the state of repair of the building, reasonableness of the cost of restoration or repair, the existing and/or potential usefulness, the purpose behind preserving the structure as a Historic Resource, the character of the neighborhood, and all other factors it finds appropriate. If the Commission determines that, in the interest of preserving historical values, the structure should be preserved, it shall notify the building official that the application has been disapproved. If disapproved, no demolition of the property will be allowed. However, property owner must adhere to all other city ordinances.

#### **Section 1-12. Demolition by Neglect.**

No owner or person with an interest in real property designated as a Historic Resource or included in a Historic District shall allow property to fall into a serious state of disrepair without requesting a demolition permit. Demolition by Neglect is defined as deterioration of any exterior architectural feature which would, in the judgement of the Heritage Preservation Commission, produce a detrimental effect upon the character of the Historic District as a whole or the life and character of the property itself.

Any such property falling into the condition described above shall be considered "Demolition by Neglect". All Notices for Demolition by Neglect shall be issued in writing by the Heritage Preservation Commission and shall be sent to the property owner (by registered mail). A copy of such notices shall be filed with the city secretary's office for public inspection. Property owners must adhere to all city ordinances.

Examples of such deterioration shall include, but are not limited to, the following:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration of exterior chimneys.
- (4) Deterioration or crumbing of exterior stucco or mortar.
- (5) Ineffective waterproofing of exterior walls, roofs, or foundations, including broken windows or doors.
- (6) Deterioration of any feature so as to create a hazardous condition that could lead to the claim that demolition is necessary for the public safety.
- (7) Deterioration of ornamental features.

**Section 1-13. Tax Incentives.**

(1) Historical Appraised tax value exemption (Residential and Non-Residential)

Historic Resources shall be eligible for a historical appraised tax value exemption of twenty-five percent (25%) of the appraised value of the property not to exceed twenty-five thousand dollars (\$25,000.00), based on meeting all of the following criteria:

1. All modifications or expansions are completed pursuant to the issuance of Certificate(s) of Appropriateness.
2. The Historic Resource is listed on the National Register of Historic Places, designated as a Recorded Texas Historic Landmark or State Archaeological Landmark by the Texas Historical Commission, or has been designated by the City of Waxahachie as a historically significant site in accordance with the Texas Property Tax Code.
3. The Historic Resource must adhere to all city ordinances.

To be eligible for the historical appraised tax value exemption, the owner of the Historic Resource must make application annually prior to the 15<sup>th</sup> day of March to the City of Waxahachie. Failure to apply for exemption will result in the loss of exemption for the appropriate tax year.

(2) Residential Tax Incentive Program

Eligible Historic Resources shall be entitled to a reinvestment tax incentive of up to 50 percent of the total property tax bill for restorations amounting to one thousand two hundred and fifty dollars (\$1,250) or more based on meeting all of the following criteria:

1. All modifications or expansions are completed pursuant to the issuance of Certificate(s) of Appropriateness provided for in Sections 1-8 and 1-9.
2. The Historic Resource is listed on the National Register of Historic Places, designated as a Recorded Texas Historic Landmark or State Archaeological Landmark by the Texas Historical Commission, or has been designated by the City of Waxahachie as a historically significant site in accordance with the Texas Property Tax Code.
3. The Historic Resource must adhere to all city ordinances.

Each property owner who desires to apply for an historic reinvestment tax incentive shall apply for said incentive on or before March 15<sup>th</sup> of the year the tax incentive is to be granted. The incentive, if granted, shall be applicable for only one year. Subsequent incentives for additional projects must be applied for each year. Application shall be made on the official form provided by the City of Waxahachie, Texas.

### (3) Non-Residential Tax Incentive Programs

Historic landmark structures which are non-residential and which are Listed on the National Register of Historic Places, or Recorded as a Texas Historic Landmark or State Archaeological Landmark by the Texas Historical Commission or which are designated as historical and appear on the Historic District map maintained by the Commission, shall be eligible for historic reinvestment tax incentives upon terms and conditions as hereinafter ordained.

(a) Eligible Historic Resources shall be entitled to a reinvestment tax incentive of up to 50 percent of the total property tax bill for restorations amounting to one thousand two hundred and fifty dollars (\$1,250) or more. Investments eligible for this incentive shall be those made for:

- structural repairs and improvements
- electrical repairs and improvements
- plumbing repairs and improvements
- mechanical repairs and improvements
- interior repairs and improvements
- exterior restoration

When any of the eligible investments are being considered, the Heritage Preservation Officer shall be consulted. If the Heritage Preservation Officer deems a Certificate of Appropriateness necessary, the standard rules for its procedure shall apply.

Investments in personal property shall not be eligible for the reinvestment tax incentive. Each property owner who desires to apply for an historic reinvestment tax incentive shall apply for said incentive on or before March 15<sup>th</sup> of the year the tax incentive is to be granted. The incentive, if granted, shall be applicable for only one year. Subsequent incentives for additional projects must be applied for each year. Application shall be made on the official form provided by the City of Waxahachie, Texas.

(b) In addition to the above requirements, each applicant must submit documentation reflecting the cost of the eligible reinvestment project and complete the project within the agreed time frame. If facade restoration is contemplated, the project must comply with local Design Guidelines, if established. In the absence of local Design Guidelines, the project must comply with the Secretary of Interior's Standards. Prior to beginning the reinvestment project, the property owner shall apply for and receive approval of a Certificate of Appropriateness provided for in Sections 1-8 and 1-9.

The Heritage Preservation Commission must approve all contemplated reinvestment projects via a Certificate of Appropriateness. The applicant must secure all city permits and must secure periodic city inspection of the project to insure proper completion of the project.

## **Section 1-14. Tax Incentive Application and Approval Process.**

- (1) Prior to filing an application with the Heritage Preservation Officer, the applicant shall:
  - (a) Certify to the Heritage Preservation Officer that the subject property is a Historic Resource.
  - (b) Certify to the Heritage Preservation Officer that the tax incentive request is for a project that has received a Certificate of Appropriateness.
  - (c) Certify to the Heritage Preservation Officer that the project for which the applicant wishes to apply a tax reduction has been completed.
- (2) An application for a tax incentive shall be initiated by the owner of the subject property or by his or her agent, by completion of the appropriate application forms provided by the Heritage Preservation Officer. The application shall include all receipts for the cost of the project as well as an affidavit affirming that all information on the application is correct and the receipts presented are for the cost of the project. Said application shall be received by the Heritage Preservation Officer at least twenty (20) days prior to a public meeting by the Heritage Preservation Commission.
- (3) No fees shall be required either upon filing of the application or upon approval or disapproval by the Heritage Preservation Commission.
- (4) The Heritage Preservation Officer shall prepare a report for the Heritage Preservation Commission delineating the contents of the application, an assessment as to whether the project was completed as put forth in the Certificate of Appropriateness and other materials deemed useful by the Commission in performing its duties.
- (5) The Heritage Preservation Commission shall hold a public meeting on all requests for tax incentives. Said meeting shall not be scheduled until the completed application form is submitted.
- (6) At the public meeting, the Heritage Preservation Commission shall determine from the data submitted by the applicant and the information provided by the Heritage Preservation Officer, if the completed project is substantially in compliance with the Certificate of Appropriateness. If the Commission finds that additional information relative to the pending application is necessary for its review, the Commission may postpone the public meeting on an application until such information is provided.

The Commission shall have the authority to approve or disapprove an application for a tax incentive, or to approve a request with such conditions as the Commission deems necessary to bring the project into compliance with the approved Certificate of Appropriateness. The Commission shall not approve requests for tax incentives where the project was completed prior to the adoption of this ordinance, where the applicant has not obtained a Certificate of Appropriateness, or where the applicant has not substantially complied with the requirements imposed on a Certificate of Appropriateness.

(7) Effective Date

Upon approval by the Heritage Preservation Commission, the Heritage Preservation Officer shall, within 10 working days of said decision, notify the Ellis County Appraisal District. The Appraisal District shall reduce the taxes for the subject property in accordance with the provisions herein and as indicated by the approved request.

**Section 1-15. Enforcement.**

All work performed pursuant to a Certificate of Appropriateness issued under this Ordinance shall conform to all requirements included herein. It shall be the duty of the building inspector to periodically inspect any such work to ensure compliance.

In the event that work being performed is found to not be in accordance with the Certificate of Appropriateness, or upon notification of such fact by the Heritage Preservation Commission, the building inspector 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. A decision shall be made by the Heritage Preservation Commission concerning the stop work order within forty-eight (48) hours, excluding weekends and holidays.

**Section 1-16. Appeals.**

Any person aggrieved by a decision of the Heritage Preservation Commission may within fifteen (15) days of receipt of the written decision, file a written application with the Planning and Zoning Commission for review of the decision.

**Section 1-17. Penalties.**

Failure to apply for a Certificate of Appropriateness, failure to apply for a Demolition Permit, or failure to respond to receipt of Notice of Demolition by Neglect shall be deemed a violation and the violator shall be liable for a misdemeanor charge, and be subject to the fine structure set in place by City of Waxahachie. For the purpose of this section, each day during which there exists any violation of any provisions herein shall constitute a separate violation of such provisions.

**HISTORIC PRESERVATION ORDINANCE**  
**Appendix A - Definitions**

**Archaeology** - the science or study of the material remains of past life or activities and the physical site, location or context in which they are found, as delineated in the Department of the Interior's Archaeological Resources Protection Act of 1979.

**Area** - a specific geographic division in the City of Waxahachie.

**Building** - any structure created to shelter people or things, such as a house, barn, church, office, hotel, or similar structure.

**Certificate of Appropriateness** - a signed and dated document evidencing the approval of the Heritage Preservation Commission and/or Heritage Preservation Officer for work proposed by an owner or applicant.

**Citizen** - a legal resident of the City of Waxahachie.

**Demolition Delay** - a structure or site which satisfies one (1) or more of the criteria set out in Section 1-5 and for which the Commission has issued a temporary stoppage to a pending removal or demolition.

**Demolition** - an act or process (not withstanding acts of God, criminal activity, etc.) which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

**Design Guidelines** - guidelines adopted by the Heritage Preservation Commission for property designated as a Historic Resource or Historic District to protect, perpetuate and enhance the historical, cultural, architectural or archaeological character of an object, site, structure or district.

**Development Review** - means processing of proposed development requests.

**District** - a geographically definable area, urban or rural, possessing a significant concentration, linkage or continuity of objects, sites or structures united by past events or aesthetically by plan or physical development.

**Heritage Preservation, Heritage Commission or Commission** - the Heritage Preservation Commission of the City of Waxahachie, established in accordance with Section 1-3.

**Heritage Preservation Officer (HPO)** - a staff person for the City of Waxahachie whose duties encompass all historic preservation activities for the city as established in accordance with Section 1-4.

**Historic Resource Preservation Plan (or Preservation Plan)** - a document established by the Heritage Preservation Commission and adopted by the City Council to provide a current inventory of Historic Resources and Historic Districts and policy recommendations to guide historic preservation activities for the City of Waxahachie.

**Historic Preservation** - the identification, evaluation, recordation, documentation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance and reconstruction of Historic Resources, or any one or a combination of the foregoing activities.

**Historic Property** – the full range of properties identified in the Historic Resource Survey and/or special studies which are significant in history, pre-history, architecture, engineering, archaeology and culture, including properties significant to the whole nation or those significant at the state, regional, or local level.

**Historic Resources** - a structure, site, building, or landmark, which satisfies one (1) or more of the criteria, set out in Section 1-5 and which is designated as such in accordance with that Section.

**Historic District** – an area which includes two (2) or more structures or sites which satisfy one (1) or more of the criteria set out in Section 1-5, together with their accessory buildings, fences, and other appurtenances, and which is designated as such in accordance with that Section. A Historic District may have within its boundaries other structures that, while not of such historical, cultural, architectural or archaeological significance as to be designated as an Historic Resource, nevertheless contribute to the overall visual setting of or characteristics of the Historic District.

**Historic Resource Survey** - the survey of Historic Resources published by the Heritage Preservation Commission, as amended from time to time.

**Landmark** - a structure or property that is of value in preserving the historical, cultural, architectural or archaeological heritage, or is an outstanding example of design or a site closely related to an important personage, act or event in history.

**Minor In-kind Repairs** – small scale repairs to correct minor problems or damage to the exterior. Minor in-kind repairs do not include a change in design, material or outward appearance, only in-kind replacement or repair. Examples of minor in-kind repair include, but are not limited to touch-up painting, replacement of a window pane, caulking, securing loose boards, etc.

**Non-Historic Resource** – a structure, site, building, or landmark, which does not satisfy any of the criteria, set out in Section 1-5 and which is designated as such in accordance with that Section.

**Ordinary Maintenance** - any work, the purpose and effect of which is to correct any deterioration or decay of or damage to a structure or property, 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 possible to the original and all of which must comply with applicable codes and ordinances. Ordinary Maintenance does not include a change in design, material or outward appearance, but does include in-kind replacement or repair. Examples of Ordinary Maintenance include, but are not limited to: replacement or repair of roofing materials, **painting** or other minor architectural features, etc.

**Pending Designation** - a structure or site for which a notice of nomination for designation as a Historic Resource or Demolition Delay, or for inclusion in a Historic District have been received by the Heritage Preservation Commission. The Heritage Preservation Officer or his/her designee will mail notifications for Pending Designation by certified mail, return receipt requested, to the owner or owners.

**Relocation** - any change of the location of a structure, object or material thing in its present setting or to another setting.

**Resource** - a source or collection of objects, sites, structures, or property that exemplifies the cultural, social, economic, political, archaeological, or architectural history of the nation, state or city.

**Restoration** - the act or process of accurately recovering the form and details of a structure or property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work.

**Secretary of the Interior's Standards for Rehabilitation** - the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings, reported at 36 Code of Federal Regulations 67.7, or as recodified.

**Site** - the location of a significant event, a prehistoric or historic occupation or activity, or a structure or cluster of structures, whether standing, ruined or vanished, where the location itself maintains historical or archaeological value, regardless of the value of any existing structure.

**Stabilization** - the act or process of applying measures designed to reestablish a weather resistant enclosure and the structural stability of an unsafe or deteriorated structure or property while maintaining the essential form as it presently exists.

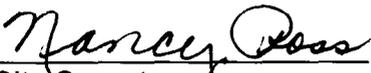
**Structure** - anything constructed or erected which requires location on the ground, or is attached to something having a location on the ground, including, without limitation, buildings.

This Ordinance shall be effective 30 days after passage and publication which shall be March 8, 2000.

PASSED, APPROVED AND ADOPTED on this 7<sup>th</sup> day of February, 2000.

  
MAYOR

ATTEST:

  
City Secretary