

Seguin's Preservation Ordinance

Incorporated within the City of Seguin's Unified Development Code

1.2.4. Historic Preservation & Design Commission (HPDC)

There is hereby created a Commission to be known as the Historic Preservation & Design Commission, hereafter referred to as the "HPDC". The HPDC shall consist of five (5) members appointed by the Mayor, and at least two (2) of such members shall be business or property owners within a historic district overlay and one (1) shall be a design professional. A design professional is defined as someone having knowledge and demonstrated interest in preservation-related fields such as architecture, history, archaeology, planning, or urban or community design. All HPDC members shall have a knowledge of and demonstrated interest, competence or knowledge of historic preservation within the City.

Regardless of profession, background, or experience, members of the HPDC will require ongoing training and education in architectural history, historic preservation law, and other relevant topics. Initial and annual training for new members, as well as an up-to-date reference manual for Commissioners shall be provided.

HPDC members shall serve for staggered terms of three years. Members shall serve a maximum of two terms and shall be reappointed after the initial term is completed. The chairman and vice-chairman of the HPDC shall be elected by and from the members of the HPDC and shall remain in their elected position for one year.

The Commission shall be empowered to:

- A. Make recommendations to the City for the employment of professional consultants as necessary to carry out the duties of the Commission.
- B. Adopt bylaws, parliamentary rules and procedures necessary to carry out the business of the Commission.
- C. Adopt criteria for the evaluation of significance of historic landmarks and rules for the delineation of historic district boundaries, subject to ratification by the City Council.
- D. Review and take action on the designation of historic landmarks, and the delineation of historic districts, subject to ratification by the City Council.
- E. Recommend and confer recognition upon the owners of historic landmarks or properties within historic districts by means of certificates, plaques, or markers.

F. Review and recommend to City Council and other applicable City boards and Commissions all proposed changes to the zoning ordinance, building code, general plan or other adopted policies of the City that may affect the purpose of the ordinance.

G. Implement and maintain a system of survey or inventory of significant historic, architectural, and cultural properties or resources and all properties located within designated historic districts located in the City. Such information shall be maintained securely and made accessible to the public and should be updated at least every ten (10) years.

H. Monitor and report to the Texas Historical Commission all actions affecting any Recorded Texas Historic Landmark, State Archaeological Landmark, National Register property, and any locally designed property, as deemed necessary.

I. Create sub-committees from among its membership and delegate to these committees such responsibilities as necessary to carry out the purposes of this ordinance.

J. Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.

K. Review and take action on all certificate of appropriateness applications.

L. Review and take action on all appeals on action taken by the HPO regarding the administrative review of Certificate of Appropriateness applications.

M. Develop, prepare, and adopt specific design guidelines, subject to ratification by the City Council, for use in the review of all Certificates of Appropriateness applications.

N. Review and provide comments on National Register nominations and Section 106 reviews as necessary.

O. Make recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation of historic properties within the City.

P. Recommend to City Council the acquisition of historic properties endangered by demolition where their preservation is essential to the purpose of this ordinance and where private preservation is not feasible.

Q. Propose incentive program(s) to the City Council for the owners of historic properties.

R. Review and take action on all City preservation-related incentive program applications involving work on historic properties, for compliance with adopted “Design Guidelines for Historic Seguin, Texas” pursuant to this ordinance.

S. Recommend whether to accept, on behalf of City government, any donation of preservation easements and/or development rights, as well as any other gift of value for the purpose of historic preservation, subject to approval of City Council.

Sec. 1.2.7 E Historic Preservation Officer

The City Manager shall appoint a qualified City staff person to serve as Historic Preservation Officer. The City's Historic Preservation Officer (HPO) shall be charged with the role of supervising the historic preservation program.

In connection with his or her supervision of the program, the HPO shall:

- Develop application procedures for property owners and neighborhood or commercial groups interested in participating in the program, and distribute the executed applications to the appropriate recommending bodies.
- Assist property owners with state and national applications for historic markers to be submitted to the Texas Historical Commission and the National Park Service as appropriate.
- Conduct an initial review of all applications, local, State and national to determine if a property clearly does or does not meet the landmark criteria.
- Conduct surveys and maintain an inventory of significant historic, architectural and cultural landmarks and all properties located in historic districts within the City.
- Recommend acquisition of a landmark structure by the City where its preservation is essential to the purpose of this act and where private preservation is not feasible.
- Recommend the designation of historic districts that meet one or more criteria for designation of a landmark and constitute a distinct section of the City.
- Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs.
- Make recommendations to the City Council and other City boards concerning the utilization of State, Federal or private funds to promote the preservation of landmarks and historic districts within the City.
- Prepare and submit annually to the City Council a report summarizing the work completed during the previous year.
- Propose tax abatement programs for designated properties.
- Ensure proper posting and noticing of all Commission meetings, scheduled applications for Commission review, provide information packets to its members prior to the meetings, record meeting minutes, and facilitate all Commission meetings.
- Maintain written meeting minutes for all meetings of the Historic Preservation & Design Commission with distribution to all commission members for review and approval at subsequent meetings.

- Report any actions affecting any county courthouses, Recorded Texas Historic Landmark (RTHL), State Archeological Landmarks (SAL), National Register (NR), National Historic Landmark (NHL) and any locally designated properties.

Sec. 2.8. - Certificates of appropriateness.

- Application of Requirements. This section applies in the following areas:

Property within City of Seguin City Limits	Property within City of Seguin ETJ
YES	NO

- Intent.

The purpose of a Certificate of Appropriateness is to help maintain the architectural significance of Seguin's historic districts and landmarks.

- Applicability.

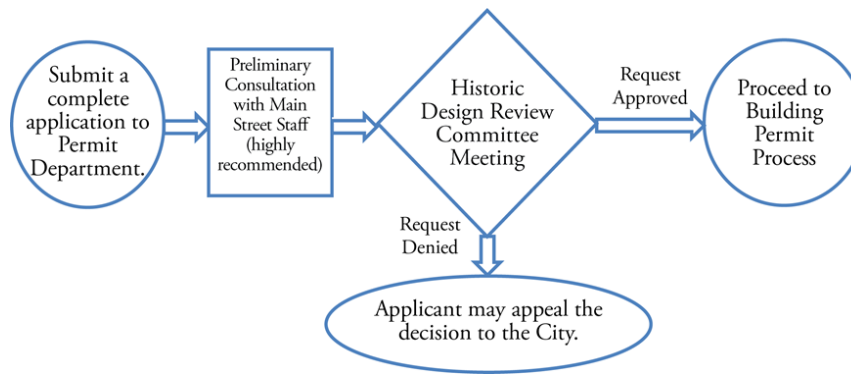
Any person carrying out any work that will result in an exterior alteration, restoration, reconstruction, new construction or moving of a landmark or property with a Historic Landmark Designation or located in a Historic District must first obtain a Certificate of Appropriateness.

- Criteria for Approval.

In considering an application for a Certificate of Appropriateness, the Historic Preservation and Design Commission and Historic Preservation Officer are guided by The Secretary of Interior's Standards for Rehabilitation of Historic Buildings and City of Seguin Design Guidelines. These standards can be found in the Technical Manual and can be accessed on the Main Street Department website.

- General Process.

Applications for a certificate of Appropriateness shall be made on forms provided by the City and must contain legal authorization by the property owner for the City to proceed with the request. Requirements for a complete application can be found in the technical manual and on the application. The application shall be filed with the HPO and will be reviewed by the HPO prior to being submitted to the Historic Preservation & Design Commission. Appeals of the Commission's decision shall be reviewed by the City Council.



Sec. 3.3.5. Historic Overlay Districts and Landmarks.

A. Intent.

The City Council of the City of Seguin, Texas has declared that as a matter of public policy the protection, enhancement and perpetuation of 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 historic properties 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. This historic overlay district and associated requirements are intended to:

- Protect and enhance the landmarks, which represent distinctive elements of the historic, architectural and cultural heritage of Seguin.
- Foster civic pride in the accomplishments of the past.
- Protect and enhance the attractiveness to visitors and the support and stimulus to the economy thereby provided.
- Insure the harmonious, orderly and efficient growth and development of Seguin.
- Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city.
- Encourage stabilization, restoration and improvements of such properties and their values.

B. Definitions

Alteration: shall mean any exterior change, demolition, or modification to a property with a landmark designation or located within a historic district, including but not limited to:

1. Exterior changes to or modifications of structures, architectural details, or visual characteristics.
2. Construction of new structures.
3. Disturbance or archeological sites or areas; or

4. Placement or removal of exterior objects that affect the exterior qualities of the property.

Applicant. The owner of record of a property designated as a landmark or located within a historic district, the agent or lessee thereof with the approval of the owner of record in a notarized form, or a person holding a bona fide contract to purchase the property with approval of the property owner.

Archeological resource. A site with archeological or paleontological value in that it has produced or can be expected to produce data affecting theories of historic or prehistoric interest.

Architectural feature. The architectural elements embodying style, design, general arrangement, and components of the exterior of any building or structure, include, but not limited to, the kind, color, and texture of the building materials, and the style and type of all windows, doors, lights, signs, and porches.

Building. A structure for business or residential use, created to shelter people or things, such as a house, barn, church, hotel, warehouse or similar structure, including a historically related complex, such as a courthouse and jail or a house and barn. When separated by dividing walls without openings, each portion of such structure so separated shall be deemed a separate building.

Certificate of Appropriateness. The certificate issued by the City approving alteration, rehabilitation, construction, reconstruction, or improvement of a property with a landmark designation or located within a historic district.

Certified Local Government. A federal government program authorized by the National Historic Preservation Act, 16 U.S.C. 470 et seq., that provides for the participation of local governments in a federal/state/local government partnership.

City. The City of Seguin, Texas, as represented by the Mayor and City Council.

Commission. The Historic Preservation & Design Commission (HPDC) created under this section.

Construction. The addition or placement of any improvement to a property within a landmark designation or located within a historic district.

Contributing. A building, structure, site, or object within a designated historic district which:

- o Embodies the significant physical features and characteristics of the district, or adds to the historical association, historical architectural qualities, or archeological values identified for the district; and
- o Was present during the period of significance relating to the documented significance of the district; and
- o Possesses historic integrity or is capable of yielding important information about the period.

Dangerous structure. A structure that poses an imminent threat to public health or safety.

Demolition. The complete or partial removal of a building, structure, object, or site, including landscape features and archeological sites.

Demolition by neglect. Improper maintenance, neglect in the maintenance of, or lack of maintenance of any structure or property within a landmark designation or located within a historic district, which results in deterioration of the structure and threatens the preservation of the structure.

Design guidelines. The “Design Guidelines for Historic Seguin, Texas” as adopted by the City Council and as may be amended from time to time.

Designation. The process by which the City Council may designate certain buildings, land, areas, and districts in the City within a landmark designation or located within a historic district and define, amend, and delineate the boundaries thereof.

Economic hardship. The inability of an owner to obtain a reasonable return or a reasonable beneficial use from a property in the landmark designation or located within a historic district. A reasonable economic return does not have to be the most profitable return possible or allow the highest and best use of the property.

Historic district. An area of the City containing a grouping of historic properties that are designated within a landmark designation or located within a historic district that may contain properties that are both contributing and non-contributing, but that is united historically or aesthetically. For the purpose of this section, the entirety of a landmark designation or located within a historic district.

Historic Landmark. Any building, structure, object, site, or portion thereof within a landmark designation or within a historic district.

Historic preservation officer. A City of Seguin staff person designated by the City Manager shall serve as the historic preservation officer for the City and shall oversee the historic preservation program of the City.

Historic resource. Any building, structure, or object within the landmark designation or located within a historic district being considered for relocation.

Improvement. Any building, structure, or object constituting a physical betterment of real property, or any part of such betterment, including but not limited to streets, alleys, curbs, lighting fixtures, signs and the like.

Initiated designation. The historic designation procedure is considered to be initiated immediately when the City Council, the Planning and Zoning Commission, or the Historic Preservation & Design Commission votes to initiate it or, in the case of initiation by the property owner(s), when the designation report is filed with the Historic Preservation Officer.

Landscape. Any improvement or vegetation including but not limited to: shrubbery, trees, plantings, outbuildings, walls, courtyards, fences, swimming pools, planters, gates, street

furniture, exterior lighting, and site improvements, including but not limited to subsurface alterations, site grading, fill deposition, and paving.

Low-income homeowner. Any homeowner that meets the U.S. Department of Housing and Urban Development (HUD) qualifications for low income.

National Historic Landmark. A district, site, building, structure, and/or object that has been formally designated as a National Historic Landmark by the U.S. Secretary of the Interior and possesses exceptional value or quality in illustrating or interpreting the heritage of the United States in history, architecture, archeology, engineering, and culture and that possesses a high degree of integrity of location, design, setting, materials, workmanship, feeling, and association. National Historic Landmarks are automatically listed in the National Register.

National Register of Historic Places. A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic and archeological resources. The National Register Program is administered by the Commission, by the state historic preservation office, and by the National Park Service under the Department of the Interior. Significant federal benefits may accrue to owners of properties listed or determined eligible for listing in the National Register.

Noncontributing. A building, site, structure, or object that is located within a designated historic district, but does not add to the historic associations, historic architectural qualities, or archeological values for which the district is significant because:

- o It was not present during the period of significance;
- o It does not relate to the documented significance of the property; and/or
- o Due to alterations, disturbances, additions, or other changes, it no longer possesses historic integrity and/or is capable of yielding important information about the period.

Object. A material thing of functional, cultural, historical, or scientific value that may be, by nature of design, movable, yet is related to a specific setting or environment.

Ordinary repair or maintenance. Ordinary maintenance shall be defined as any work that does not constitute a change in design, material, or outward appearance, and that includes in-kind (same original material) replacement or repair.

Relocation. Any changes in the location of a building, object, or structure, either within its present setting or to another setting.

Secretary of the Interior's Standards for the Treatment of Historic Properties. A federal document providing standards and guidelines for the appropriate rehabilitation, preservation, restoration, and reconstruction of historic buildings.

Site. The location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value regardless of the value of any existing buildings, or objects.

Structure. A work made up of interdependent and interrelated parts in a definite pattern of organization constructed by man. The term includes, but is not limited to engineering projects, earthworks, and bridges.

C. Designation of Historic Landmarks and Districts.

Criteria for Designation

Any building, structure, site, or object, may be designated for a local historic landmark designation if it is significantly associated with the history, architecture, archaeology, engineering, or cultural heritage of the community; if it has integrity; is at least fifty years old, or is of lesser age and has exceptional importance; and if it falls in at least one of the following categories.

1. Is associated with events that have made a significant contribution to the broad patterns of national, state, or local history.
2. Embodies the distinctive architectural characteristics of a type, period, style or method of design or construction, or represents a significant and distinguishable entity whose components may lack individual distinction.
3. Is an outstanding work of a designer, builder, or architect who has made a substantial contribution to their field.
4. Exemplifies or reflects special elements of the county's history.
5. Is associated with the lives of persons significant in national, state, or local history.
6. Has yielded or may be likely to yield important archaeological information related to history or prehistory.
7. Is an historic building or cultural resource removed from its original location but which is significant for architectural value, or association with an historic person or event, or prehistory.
8. Is a birthplace or grave of a prehistoric or historical figure of outstanding importance and is the only surviving structure or site associated with that person.
9. Is a cemetery or burial site which derives its primary significance from age, from distinctive design features, or from association with historic events, or cultural patterns.
10. Is a reconstructed building that has been executed in an historically accurate manner on the original site.

Designation of historic districts will need to contain properties and an environmental setting which meet one or more of the criteria for designation of a landmark and constitutes a distinct section of the City of Seguin. Additional criteria considered for designation of districts is included in the Technical Manual.

Process for Designation

The designation of historic landmarks and districts shall be subject to the following requirements:

1. Each property designated as an historic landmark or located within a designated historic district shall be recorded with the City Historic Preservation Officer and the City Planning Director. An historic landmark designation shall mean that such property is subject to the terms of this Code; however, with regard to site plans, uses, setbacks and other development land use regulations, such property shall be governed by the zoning regulations of the City.
2. An historic landmark or historic district or expansion of a district shall be considered for approval only with the written application submitted by the property owner(s) or initiated by the City of Seguin. Property owners of proposed historic landmarks and districts shall be notified to any hearing or vote on the recommended designation. At the City Council's public hearing, owners, interested parties and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural or cultural importance of the proposed historic landmark.
3. All applications for historic landmark or historic district designation, shall have an initial review by the HPO, who will then distribute to the Board of Directors of the Seguin Conservation Society and the Guadalupe County Historical Commission to allow them fifteen (15) days to provide comments. After the comment period, the application shall be placed on the agenda of the next HPDC for action.

Individual Landmark Applications: If HPDC recommends approval of designation, Seguin City Council will act on designation

Historic District Applications: If HPDC recommends approval of a new district or expansion of an existing district, the Planning and Zoning Commission shall take action at their next meeting. After Planning and Zoning Commission recommendation, Seguin City Council will act on designation.

4. The City Council shall take appropriate action on the recommendation from the Historic Preservation & Design Commission's within forty-five (45) days of receipt of the recommendation of the Commission.
5. Upon designation of a building, object, site or structure as an historic landmark, the HPO shall cause the designation to be recorded in the Real Property Records of Guadalupe County, Texas, the tax records of the city and the Guadalupe County Appraisal District.

D. Certificate of Appropriateness

a. Applicability. A certificate of appropriateness shall be required in the following circumstances before the commencement of development within or work upon any property with a local historic landmark designation and/or within a historic district overlay:

1. Whenever such work or development requires a building permit issued by the City;
2. Whenever such work includes the erection, moving, demolition, reconstruction, restoration, or alteration of the exterior of a property with a historic landmark designation

or within a historic district overlay, except when such work satisfies all the requirements of ordinary maintenance and repair as defined in Section B of Sec. 3.3.5 of the Seguin Unified Development Code.

b. Certificate of Appropriateness required. No building permit shall be issued by the building official for any property with a historic landmark designation or located within a historic district overlay zoning until the application for such permit has been reviewed and a certificate of appropriateness has been approved by the HPO or the Commission.

c. Procedures.

1. After an application for a certificate of appropriateness is submitted, the HPO shall determine whether the application shall be eligible for administrative review or the application shall be considered by the Commission.

2. An application shall be eligible for administrative review by the HPO for the following:

- a. Paint colors for the exterior of a structure including siding, trim, doors, steps, porches, railings, and window frames. This shall not include painting or otherwise coating previously unpainted masonry;
- b. The placement and screening, if necessary, of roof-mounted equipment and other mechanical equipment of various types;
- c. The placement and design of screening treatments for trash and recycling receptacles;
- d. Fences to be installed in the rear and/or side yard;
- e. Ground lighting;
- f. Elements attached to a façade or any building, garage or carriage house including, but not limited to door hardware, hinges, mailboxes, light fixtures, sign brackets, street address signage and historic interpretive signage.
- g. Replacing roofing materials or color on a flat roof that will not be visible from the ground or from immediately adjacent taller buildings;
- h. Gutters and downspouts;
- i. Installation or removal of landscaping, including trees;
- j. Accessibility ramps;
- k. Changes to awning fabric color for an existing awning;
- l. Signage;
- m. Landscape elements, including but not limited to walks, paving, benches, outdoor furniture, planters, pools, trellises, arbors and gazebos;

- n. Installation of any elements required by other codes such as emergency lighting;
- o. Modifications that are considered non-permanent such as, but not limited to, window films and temporary features to weatherize or stabilize a historic resource;
- p. Minor modifications to an existing certificate of appropriateness that still meets the intent of the original approval;
- q. Renewal of an expired certificate of appropriateness.

3. If an application for administrative review is approved or approved with conditions, the HPO shall issue a certificate of appropriateness pursuant to section (d) below.

4. The HPO will forward the application to the Commission if it does not meet the criteria administrative review, or if the applicant wishes to appeal the administrative decision or associated conditions of the certificate of appropriateness application. An appeal of an administrative decision shall be filed with the Commission within ten business days of said decision.

5. When an application is to be considered by the Commission, the HPO shall inform the applicant of the meeting date at which the application shall be considered. The applicant shall have the right to be heard and may be accompanied or represented by counsel and/or one or more construction or design professionals at the meeting.

6. The HPO shall review the application and make a recommendation based on the Secretary of the Interior's Standards to the Commission during the meeting at which the application shall be considered.

7. After hearing the applicant and any other interested parties, and considering the recommendation from the HPO, the Commission shall take one of the following actions:

- a. Approve the proposed work or development and issue a certificate of appropriateness.
- b. Approve the proposed work or development with conditions and issue a conditional certificate of appropriateness.
- c. Disapprove the certificate of appropriateness.

8. In the case of the disapproval of a certificate of appropriateness by the Commission, the Commission shall state in writing the reasons for such disapproval and may include suggestions in regard to actions the applicant might take to secure the approval of the Commission concerning future issuance of a certificate of appropriateness.

d. Certificate.

1. It shall be the responsibility of the HPO to issue the actual certificate of appropriateness following administrative approval for approval by the Commission with

any designated conditions, and to maintain a copy of the certificate of appropriateness, together with the proposed plans. These shall be public documents for all purposes.

2. Work performed pursuant to the issuance of a certificate of appropriateness shall conform to the requirements of such certificate. It shall be the duty of City staff to inspect from time to time any work performed pursuant to a certificate of appropriateness to assure such compliance. In the event that such work is not in compliance, the building official shall issue a stop work order and/or citation. The Commission may request that the building official inspect the work and issue a stop work order.

e. Criteria. The HPO or the Commission shall determine whether to grant a certificate of appropriateness based on the proposed work meeting the Secretary of Interior's Standards for the Treatment of Historic Properties, adopted City of Seguin Design Guidelines and other criteria as defined in the City of Seguin Technical Manual

h. Certificate of appropriateness for demolition.

1. Certificate required. No historic property shall be demolished or removed unless such demolition shall be approved by the Commission and a certificate of appropriateness for such demolition shall be granted.

2. Procedure.

a. The procedure for issuance of a certificate of appropriateness for demolition shall be the same as for the issuance of other certificate of appropriateness with the following modification.

b. After the hearing, the Commission may approve the certificate of appropriateness, thereby authorizing the demolition, or the Commission may disapprove the certificate of appropriateness and postpone the demolition for removal for a period of one hundred twenty (120) days. The purpose of such a postponement would be to allow the Commission and any interested parties to explore alternatives to demolition.

c. The Commission may extend the postponement period for an additional sixty (60) days in order to enable the completion of ongoing negotiations.

d. Notwithstanding any provision of this ordinance, the City Council reserves the right to prohibit the demolition of a landmark structure with a majority vote.

3. Supplemental demolition criteria. In determining whether to issue a certificate of appropriateness for demolition, the Commission, and, on appeal, the City Council, shall consider the following criteria, in addition to the criteria specified in this section.

a. The uniqueness of the property as a representative type or style of architecture, historic association, or other element of the original designation criteria applicable to such structure or tract.

b. The condition of the property from the standpoint of structural integrity and the extent of work necessary to stabilize the property.

c. The economically viable alternatives available to the demolition applicant, including:

1. Donation of a part of the value of the subject structure or site to a public or nonprofit agency, including the conveyance of development rights and façade easement.
2. The possibility of sale of the property, or any part thereof, to a prospective purchaser capable of preserving such property.
3. The potential of the property for renovation and its potential for continuing use.
4. The potential of the property for rezoning in an effort to render such property more compatible with the physical potential of the property. The ability of the property to produce a reasonable economic return or investment for its owner, provided, however, that this factor shall not have exclusive control and effect, but shall be considered along with all other criteria contained in this section.

i. Certificate of appropriateness for relocation.

1. Certificate required. No historic resource shall be relocated unless such relocation shall be approved by the Commission and a certificate of appropriateness for such relocation shall be granted. For the purposes of this subsection concerning relocation, the term “historic resource” shall be used to describe an individual building, structure, or object designated according to the procedures in Section 29.8.

2. Procedure. The procedure for issuance of a certificate of appropriateness for relocation shall be the same as for the issuance of other certificates or appropriateness with the following additions.

a. If the historic resource is a Recorded Texas Historical Landmark or listed on the National Register of Historic Places, the applicant shall be required to notify the appropriate party at the Texas Historical Commission and receive a response in writing, prior to submitting an application for the relocation to the HPDC.

b. Documentation shall be provided to the Commission at the time of application for a certificate of appropriateness that provides the following information:

1. Overview of the proposed relocation of the historic resource, including,
 - a. Reasons for relocating the historic resource; and
 - b. Reasons for selection of destination site.

2. Photographs, which document all aspects of the historic resource. Requirements for photographs shall be provided by the Commission. At a minimum, photographs provided by the applicant shall include but are not limited to:

- a. Each elevation of the building;
- b. Street view;
- c. All prominent architectural features; and
- d. Any additional accessory buildings that also have historic overlay zoning, showing how they relate to the primary structure.
- e. Requirements for photographs shall be maintained and provided by the Commission.

3. Site plan of historic resource in current location.

4. Site plan of historic resource in new location.

c. Public notices of the proposed relocation shall be required as follows:

1. Mailed notice.

a. Ten (10) business days prior to the Commission meeting when the application will be heard, written notices shall be mailed to each owner, as indicated by the most recently approved City tax roll, of real property within 300 feet of the existing property with the resource proposed for relocation and 300 feet of the proposed new location. Notice may be served by its deposit in the U.S. Mail in the City, properly addressed with postage paid.

b. Mailed notices shall contain at least the following specific information:

1. The general location of land that is the subject of the application and/or a location map.
2. The legal description of street address;
3. The substance of the application;
4. The time, date and location of the HPDC meeting;
5. A phone number to contact the City; and
6. A statement that interested parties may appear at the hearing.

d. When a historic resource is relocated to a new site, the historic resource shall retain the historic overlay and therefore continue to be subject to the requirements of a certificate of appropriateness.

3. Supplemental relocation criteria. In determining whether to issue a certificate of appropriateness for relocation, the Commission, and, if necessary, on appeal, the City Council, shall consider the following criteria, in addition to the criteria specified in this subsection:

a. The historic resource is imminently threatened by demotion or removal of historic overlay zoning.

b. Reasonable alternative have been examined to mitigate the threat to the historic resource, in lieu of relocation. Alternatives may include, but are not limited to:

1. Modification of the proposed project affecting the historic resource to avoid its impact on the location of the historic resources.

2. Incorporation of the historic resource, in its entirety, into the proposed project that would affect the location of the historic resource.

c. When relocated, the historic resource shall remain in the City of Seguin.

d. The structural condition of the historic resource has been examined so that it has been determined that the historic resource may be moved and that damage to the historic resource which would result for the move can be minimized. Stabilization of the historic resource prior to and/or during the move may be required.

e. A new location for the historic resource has been determined that would be compatible with the architectural aspects of the historic resource, to the extent possible.

Consideration shall include the review of all of the following:

1. Size of the resource and destination lot;

2. Massing;

3. Architectural style;

4. Review of all adopted design guidelines by the Commission in determining compatibility; and

5. Other historic resources, which are not the primary resource on the site, but are historically associated with the primary resource, also should be relocated, if possible, and may be considered for relocation with the primary resource on the same certificate of appropriateness.

f. Any historic resource relocated pursuant to this section shall be required to conform to any siting conditions at the new location. These siting conditions shall include, but are not limited to, setback requirements, structural alteration requirements such as enclosed

parking requirements, and architectural requirements such as exterior finishes and orientation.

g. The applicant agrees to the following additional conditions of the certificate of appropriateness.

1. The historic resource shall be secured from vandalism and other damage for the time that it remains vacant as a result of the relocation process.
2. The applicant shall be required to display a plaque, provided and paid for by the City, which documents the historic resource's original location, date of relocation, and reason for relocation.
3. The historic overlay shall convey with the historic resource to its new location.
4. The historic overlay shall be removed from the originating property, unless one of the following applies:
 - a. The property is located within an historic district; or
 - b. Only an accessory structure has been moved and the primary structure on the site remains; or
 - c. The site itself is historically significant.
5. The City may apply the historic overlay to the destination lot(s), by following the procedures for applying historic overlay in Section 29.8 of this code. If the historic resource is being moved into an already designated historic district, the historic overlay shall remain and apply to the destination lot or lot(s).
6. The applicant shall provide photographs to the HPO of the relocated historic resource once relocation is complete.
7. Information regarding the relocation shall be filed in the appropriate City and county records.

j. Appeals. Appeals of certificate of appropriateness decisions made by the Commission shall be made within fifteen (15) days to 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 HPO and the HPDC'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.

E. Ordinary maintenance.

Nothing in this chapter shall be construed to prevent the ordinary maintenance, or repair of any exterior architectural feature of an historic landmark or a property or structure within an historic district that does not involve a change in design or material, or outward appearance. In-kind replacement or repair and repainting is included in this definition of "ordinary maintenance", unless painting involves an exterior masonry surface that was not previously painted. However, no person shall make any material or aesthetic change

in the light fixtures, windows, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way which affects the appearance and cohesiveness of any historic landmark or any property within a historic district without applying for a Certificate of Appropriateness. The HPO shall determine what is “ordinary maintenance.”

F. Minimum maintenance standards

No owner or person with an interest in real property designated as an historic landmark or a property located within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the significant deterioration of any exterior architectural feature which would, in the judgement of the Commission, create a detrimental effect upon the historic character of the landmark or district.

Examples of serious disrepair or significant deterioration include:

- a. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
- b. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
- c. Deterioration or crumbling of exterior plaster finishes, surfaces or mortars.
- d. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
- e. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
- f. Rotting, holes, and other forms of material decay.
- g. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
- h. Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the contributing structure.
- i. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

G. Demolition by Neglect.

Demolition by Neglect refers to the gradual deterioration of a property when routine or minimum maintenance is not performed. The HPO and the planning department staff work together in an effort to reduce Demolition by Neglect involving properties with historic overlay zoning. A Demolition by Neglect citation as determined by the Commission may be issued against the owner of the property for failure to comply with the minimum maintenance standards by

permitting the subject property to exhibit serious disrepair or significant deterioration as outlined in minimum maintenance standards herein.

Initial identification is made by visual inspection of the area by the HPO, a HPDC member, fire marshal or building official, or a written referral submitted by the public to the HPO.

Once the initial identification is made, followed by a preliminary determination by the HPO, the property owner shall be notified by U.S. mail of the defects of the building and informed of various incentive programs that may be available for repair. The letter may or may not include specific code violations. The owner is given thirty (30) days in which to respond to the preliminary determination by submitting a stabilization proposal to the HPO. The stabilization proposal will be presented to the HPDC at the next available meeting. If the HPDC approves the proposal, a Certificate of Appropriateness (if necessary) may be issued administratively by the HPO. The approval will detail the specific work which is necessary to correct the Demolition by Neglect conditions, as well as a time period to begin and complete the work. The HPO shall update the HPDC on the status of the property every thirty (30) days once work begins on the property.

If the property owner disagrees with the determination of the letter, they may request a hearing to present evidence that the property is not in neglect.

If the property owner receives the letter regarding the preliminary determination, but fails to respond, a second notice shall be sent in the same manner as described above.

If the property owner fails to receive and/or respond to the letter regarding the preliminary determination after two (2) attempts, the matter returns to the HPDC for a citation hearing. The HPO shall send a third notice via certified mail informing the owner of the hearing, the property is posted with a notice of the violation, surrounding property owners are notified via mail of the hearing, and a public hearing on the citation is scheduled.

At the public hearing the owner is invited to address the HPDC's concerns and to show cause why a citation should not be issued. The HPDC may take action to approve any proposed work, defer the matter to give the owner more time either to correct the deficiencies or make a proposal for stabilization, or issue a citation to the owner of the property for failure to correct the Demolition by Neglect conditions. If the property owner is given more time, the owner must put a bond in an amount to be determined by the HPDC, allowing the City of Seguin to make the necessary repairs if the owner fails to do so.

If the owner is cited for the condition of Demolition by Neglect of the property, he is given fourteen (14) days to submit a stabilization proposal to the HPO, and at the

discretion of the HPDC, up to one (1) year to correct the defects. The HPO shall update the HPDC on the status of the property every thirty days once the work has begun on the property.

After being cited, if the owner fails to submit a stabilization proposal within the fourteen days, at the discretion of the City Attorney in consultation with the HPO and building official, the property owner will begin incurring fines as set forth in Section 1-14 of the City of Seguin's Code of Ordinances of up to \$2,000 per day the property is in violation. If funds are available, the City may consider making the necessary repairs and placing a lien on the property.

H. Economic Hardship

No certificate of appropriateness for demolition involving a claim of economic hardship may be approved, nor shall a demolition permit be issued by the City unless the owner proves compliance with the following standards for economic hardship:

- a. The property is incapable of earning a reasonable return in its current or rehabilitated state, regardless of whether that return represents the most profitable return possible; and
- b. The property cannot be adapted for any other use, whether by the current owner or by the purchaser, which would result in a reasonable return; and
- c. Earnest and reasonable efforts to find a purchaser interested in acquiring the property and preserving it have failed; and
- d. The property cannot be moved or relocated to another site similar site or within the District.

1. The City shall adopt by resolution separate criteria for review in considering claims of economic hardship for investment for income-producing and non-income-producing properties, as recommended by the Commission. Non-income properties shall consist of owner-occupied single-family dwellings and non-income-producing institutional properties. All standards for review shall be made available to the owner prior to the hearing. The information to be considered by the City may include, but not be limited to, the following:

- a. Purchase date price and financing arrangements.
- b. Current market value
- c. Form of ownership
- d. Type of occupancy
- e. Cost estimates of demolition plans for development
- f. Maintenance and operating costs
- g. Inspection report by licensed architect or structural engineer having experience working with historic properties

- h. Costs and engineering feasibility for rehabilitation
 - i. Property tax information
 - j. Rental rates and gross income from the property
 - k. Other additional information as deemed appropriate
2. Claims of economic hardship by the owner shall not be based on conditions resulting from:
- a. Evidence of demolition by neglect or other willful and negligent acts by the owner
 - b. Purchasing the property for substantially more than market value at the time of purchase
 - c. Failure to perform normal maintenance and repairs
 - d. Failure to diligently solicit and retain tenants
 - e. Failure to provide normal tenant improvements
3. Throughout the process, the applicant shall consult in good faith with the HPO, local preservation groups, and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be demonstrated to the Commission at the hearing.

I. Enforcement

All work performed pursuant to a certificate of appropriateness issued under the ordinance shall conform to any requirements included therein. It shall be the duty of the building inspector to inspect periodically any such work to assure compliance. In the event that work is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the Commission and verification by the HPO, the building inspector shall issue a stop work order and all work shall immediately cease. The property owner shall then be required to apply for a hearing before the Commission to explain the non-compliance. No further work shall be undertaken on the project as long as a stop work order is in effect until a decision is rendered by the Commission on the application.