

**ORDINANCE NO. 2011**

**AN ORDINANCE OF THE CITY OF TERRELL, TEXAS, AMENDING CHAPTER 13, OF THE CITY OF TERRELL CODE OF ORDINANCES; ZONING; BY THE ADDITION OF SECTION 24-100, HISTORIC LANDMARK AND DISTRICT ZONING ORDINANCE ESTABLISHING A HISTORIC PRESERVATION COMMISSION; DESIGNATING LANDMARKS, SITES OR HISTORIC DISTRICTS, SETTING FORTH CRITERIA FOR THE DESIGNATION OF HISTORIC LANDMARK, SITES AND DISTRICTS, PROVIDING FOR CERTIFICATE OF APPROPRIATENESS AND CRITERIA FOR APPROVAL FOR ALTERATION OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS; PROVIDING PROCEDURES FOR OBTAINING CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OR RELOCATION OF HISTORIC LANDMARKS OF PROPERTY WITHIN A HISTORIC DISTRICT AND CRITERIA FOR APPROVAL, ORDINARY MAINTENANCE, EXEMPTION FROM BUILDING STANDARDS, ENFORCEMENT, PENALTIES; PROVIDING FOR A SEVERABILITY CLAUSE, AND PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TERRELL, TEXAS:**

HISTORIC LANDMARK AND DISTRICT ZONING ORDINANCE

CITY OF TERRELL, TEXAS

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**Historic Landmark and District Zoning ordinance**

WHEREAS, CH. 211 TEXAS LOCAL GOVERNMENT CODE, the Municipal Zoning Authority, specifically authorizes zoning functions and procedures for municipalities; and

WHEREAS, CH. 211 TEXAS LOCAL GOVERNMENT CODE, Section 211.003(b) provides that in the case of designated places and areas of historical, cultural or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures; and

WHEREAS, CH. 211 TEXAS LOCAL GOVERNMENT CODE, Section 211.005 authorizes the governing body of a municipality to divide the municipality into districts, within which the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land, and within which zoning regulations must be uniform for each class or kind of building in a district; however, zoning regulations may vary from district to district.

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

That the following Historic and District Zoning Ordinance is hereby adopted as part of the comprehensive zoning plan, pursuant to CH. 211 TEXAS LOCAL GOVERNMENT CODE.

**Section 1. Purpose**

The City Council of Terrell, Texas hereby declares that as a matter of public policy, the protection, enhancement of landmarks or districts 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 Terrell, Texas represents 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 act is intended to:

- (a) protect and enhance the landmarks and districts which represent distinctive elements of Terrell's historic, architectural, and cultural heritage;
- (b) foster civic pride on the accomplishments of the past;
- (c) protect and enhance Terrell's attractiveness to visitors and the support and stimulus to the economy thereby provided;

(d) insure the harmonious, orderly, and efficient growth and development of Terrell;

(e) promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within Terrell;

(f) encourage stabilization, restoration, and improvements of such properties and their values.

## **Section 2. Definitions**

The Commission shall mean the Terrell Historic Preservation Commission unless usage indicates otherwise.

City Council is the City Council of Terrell, Texas.

Historic District is an area deemed worthy of preservation.

Site is the location of a significant event, historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself possesses historical, cultural, or archeological value regardless of the value of the existing structure.

Structure is any man-made object, constructed or erected, the use of which requires permanent or temporary location on or in the ground, including but not limited to buildings, shelters, fences, gazebos, storage buildings, garages, and car ports.

## **Section 3. Historic Preservation Commission**

There is hereby created a commission to be known as the Terrell Historic Preservation Commission (hereinafter referred to as "the Commission").

(a) The Commission shall consist of 7 members to be appointed by the city council and shall to the extent possible include

at least one owner of a designated landmark or of a property in a designated historic district

at least one attorney

at least one member of the Terrell Heritage Society;

Ex-officio members shall include the building inspector and one representative from the Planning and Zoning Commission.

Initial Commission members shall be appointed within thirty (30) days after this ordinance is passed.

(b) All Commission members, regardless of their background, shall have a known and demonstrated interest, competence, or knowledge in historic preservation within Terrell.

(c) Commission members shall serve for a term of three years, with the exception that the initial term of 2 members shall be one year, 2 members shall two years and 3 members shall be three years. Thereafter terms shall be for three years.

(d) The Chair and vice Chair of the Commission shall be elected by and from the members of the Commission. The Chair shall be the Designated Preservation Officer for the City of Terrell for the purpose of communication with the Texas Historical Commission.

(e) The Commission is empowered to:

- (i) Prepare rules and procedures necessary to carry out the business of the commission.
- (ii) Recommend to the City Council additional criteria as necessary for the designation of historic, architectural, and cultural landmarks and the delineation of historic districts by the Commission.
- (iii) Conduct surveys and maintain and update an inventory of significant historic, architectural, archaeological and cultural landmarks and historic districts within the City.
- (iv) Recommend the designation of resources as landmarks, sites and historic districts.
- (v) Maintain written minutes which record all actions taken by the Commission and the reasons for taking such actions.
- (vi) Recommend conferral of recognition upon owners of landmarks or within districts by means of certificates, plaques or markers.
- (vii) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
- (viii) Make recommendations to the City Council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the City of Terrell.
- (ix) Approve or disapprove applications for certificates of appropriateness pursuant to this ordinance
- (x) Propose specific design guidelines for the review of landmarks and historic districts.
- (xi) Exempt landmarks and structures in historic districts from City building standards under circumstances set forth in this ordinance.
- (xii) Maintain a system for the survey and inventory of historic properties in the City of Terrell.
- (xiii) Encourage public participation in the historic preservation process including the process of recommending properties to the National Register of Historic Places.
- (xiv) Prepare and submit annually to the City Council a report summarizing the work performed by the Commission during the previous year.

(f) The Commission shall meet at least monthly, if there is business before the Commission. Special meetings may be called at any time by the Chair or on the written request of any two Commission members. All meetings shall be held in conformance with the Texas Open Meeting Act, Texas Government Code, Section 551.001 et seq.

(g) A quorum for the transaction of business shall be four voting members of the Commission. When a quorum is present, a majority of voting members present shall govern all decisions of the Commission.

(h) The Commission shall serve at the pleasure of, be appointed by, and shall be accountable to the City Council of Terrell.

#### **Section 4. Designation of Landmarks, Sites or Historic Districts.**

(a) These provisions pertaining to the designations of landmarks, sites or historic districts constitute a part of the comprehensive zoning plan of the City of Terrell.

(b) Property owners of proposed historic landmarks, sites or property owners within a proposed historic district shall be notified in writing sent at least ten (10) days prior to the date of the hearing on the recommended designation. Such notice shall be by posting such notice properly **addressed and postage prepaid** to each taxpayer as the ownership appears on the last approved city tax roll. At the Commission'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, site or district.

(c) Upon recommendation of the Commission, the proposed historic landmark, site or historic district shall be submitted to the Planning and Zoning Commission of the City of Terrell within thirty (30) days after its approval by the Commission. The Planning and Zoning Commission shall give notice to property owners of proposed historic landmarks, sites or property owners within a proposed historic district in writing sent at least ten (10) days prior to the date of the hearing on the recommended designation.

Such notice shall be by posting such notice properly addressed and postage prepaid to each taxpayer as the ownership appears on the last approved city tax roll. The Planning and Zoning Commission shall conduct its hearing on the proposed designation within forty- five days of receipt of such recommendation by the Commission.

Such hearing shall be in the same manner and according to the same procedures as provided in the general zoning ordinance of the City of Terrell. The Planning and Zoning Commission shall make its recommendation to the City Council within forty-five (45) days subsequent to the hearing on the proposed designation.

(d) The City council shall schedule a hearing on the Commission's recommendation to be held within 45 days of receipt of the recommendation of the Planning and Zoning Commission. The City Council shall give notice at least fifteen (15) days in advance of such hearing following the publication procedure, hold a hearing, and make its determination in the same manner as provided in the general zoning ordinance of the City of Terrell. In the case of a historic district, if a protest is made in writing by owners of twenty per cent (20%) or more, of the area of the lots or tracts included in such proposed historic district, such historic district shall become effective only by a favorable vote of three-fourths (3/4) vote of the members of the City Council of the City of Terrell.

(e) Upon designation by the City Council, the City Council shall cause the designation to be recorded in the Deed Records of Kaufman County, the tax records of the City of Terrell and the Central Appraisal District. On City zoning maps, such landmarks or districts shall bear the words "Historic Planned Development" or "HPD" in their zoning designation. This subparagraph applies to designated historical land marks and historical districts and does not apply to a place or area designated solely as a historical site.

(f) The City street department shall add "Historic District" or another appropriate name to the top of city street signs in designated historic districts or sites where practical.

#### **Section 5. Criteria for the Designation of Historic Landmarks,**

## **Sites and Districts.**

A historic landmark may be designated if it:

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

A historic district may be designated if a distinct section of the City has several properties with meet one or more of the criteria for historic landmark status.

A historic site may be designated if it possesses associative significance or information potential or both. A site need not be marked by physical remains if it is the location of a historic event or pattern of events or associated with a person or persons of historical significance. A site may be a specific place or an area of historical significance.

## **Section 6. Certificate of Appropriateness for Alteration or New Construction Affecting Landmarks or Historic Districts.**

No person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any historic landmark or any property within a historic district, nor shall any person make any material change in the light fixtures, signs, fences, steps, paving, color or other exterior elements visible from a public right of way which affect the appearance of any historic landmark or any property within a historic district without obtaining a Certificate of Appropriateness from the Commission. This does not apply to a place or area designated solely as a historical site.

## **Section 7. Criteria for Approval of a Certificate of Appropriateness for Alteration or New Construction Affecting Landmarks or Historic Districts.**

- (a) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure or object and its environment.
- (b) The distinguishing original qualities or character of a building, structure, or object and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (c) All buildings, structures and objects shall be recognized as products of their own time. Alterations which have no historical basis and which seek to create an earlier appearance shall be discouraged.

(d) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure or object site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure or object shall be kept where possible.

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

(g) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(h) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.

(i) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

(j) wherever possible, new additions or alterations to buildings, structures or objects shall be done in such a manner that if such additions alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.

(k) New construction of a building or structure in a historic district shall be of an architectural design compatible with the district and be of a size, scale, color, material, and character of the existing structures in the immediate vicinity of the property and the district as a whole.

## **Section 8. Certificate of Appropriateness Required for Demolition**

(a) A permit or order for demolition or relocation of a historic landmark or property within a historic district, including secondary buildings and landscape features, shall not be granted by the building inspector without a certificate of appropriateness.

Permitting a historic landmark or structure in a historic district to fall into a serious state of disrepair shall be demolition by neglect and in violation of this ordinance. This section does not apply to a place or area designated solely as a historical site.

(b) In the event a Code Enforcement Official or the Construction Board of Adjustment or similar body of the City of Terrell shall determine that a structure which is within Section 8 (a) above is unsafe and should be demolished, the Commission shall issue a certificate of appropriateness permitting demolition unless the Commission finds that the historical value of the structure is so important to the City of Terrell that even after consideration of the ordinances of the City of Terrell which govern determination of a structure being unsafe,

finds that a certificate of appropriateness should not be granted after balancing the historical importance with any dangers the condition of the structure presents.

### **Section 9. Criteria for Approval of Certificate of Appropriateness for Demolition Affecting Landmarks or Historic Districts.**

The Commission shall consider the state of repair of the building, reasonableness of the cost of restoration or repair, the existing and/or potential usefulness, and the City's interest in preserving the building as a historic structure. The Commission may consider if a reasonable economic return may be obtained from its existing character. The Commission may consider whether the property has been permitted by the owner or previous owners to fall into a serious state of disrepair. This section does not apply to a place or area designated solely as a historical site.

### **Section 10. Certificate of Appropriateness Application Procedure**

(a) Prior to the commencement of any work requiring a certificate of appropriateness the owner shall file an application for such a certificate with the Commission. The application shall contain:

(i) Name, address, telephone number of applicant, detailed description of proposed work.

(ii) Location and photograph of the property and adjacent properties.

(iii) Elevation drawings of the proposed changes, if available.

(iv) Samples of materials to be used.

(v) 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.

(vi) If demolition is requested, the proposal shall contain economic information regarding use of the present building and drawings of any proposed new building.

(b) No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Commission. The certificate of appropriateness required by this ordinance shall be in addition to and not -in lieu of any requirements for a building permit required by any other ordinance of the City of Terrell.

(c) The Commission shall review the application within sixty (60) days from the date the application is received, at which time an opportunity will be provided for the applicant to be heard. The Commission shall approve, deny, or approve with modifications the permit within thirty (30) days after the review meeting. In the event the Commission does not act within ninety (90) days after receiving the application, a building permit may be granted without a certificate of appropriateness.

(d) All decisions of the Commission shall be in writing. The Commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on that property and sent to building inspection.

(e) An applicant for a certificate of appropriateness dissatisfied with the action of the Commission relating to a decision on an application may appeal to Board of Adjustment as if it were an appeal from a decision of an administrative officer of the City and be governed by the ordinances pertaining to an appeal from an administrative decision. Such appeal shall be taken within fifteen (15) days time after the decision has been rendered by the Commission, by filing with the Commission and the Board of Adjustment, a notice of appeal specifying the grounds thereof. The Commission shall forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken.

### **Section 11. Ordinary Maintenance**

Nothing in this ordinance shall prevent the ordinary maintenance and repair of an exterior architectural feature of a landmark or property within a historic district without a Certificate of Appropriateness when the maintenance or repair does not change the design, material, or outward appearance. In-kind replacement or repair is included in the definition of ordinary maintenance.

### **Section 12. Exemption from Building Standards**

The Commission may exempt any landmark or any structure in a historic district from any of the building standards of the City of Terrell if the Commission finds that the historical integrity of the structure would be compromised by applying the building standard after giving due consideration of the importance and purpose of the building standard.

### **Section 13. Enforcement**

All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the building inspector to periodically inspect any such work to assure compliance. In the event the work is not being performed in accordance with the certificate of appropriateness, the building inspector shall issue a stop 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.

### **Section 14. Penalties**

Any person violating any of the provisions of this ordinance shall upon conviction, be fined any sum not exceeding two hundred dollars (\$200). Each and every day that the provisions of this ordinance are violated shall constitute a separate and distinct offense.

APPROVED on first reading this the 21<sup>st</sup> day of March, 2000.

ADOPTED on second reading this the 10<sup>th</sup> day of April, 2000.

*Section 14 Penalties approved on first reading March 2, 2004  
Adopted on second reading March 16, 2004*

— Original signature on file  
Mayor

Attest:

\_\_\_\_\_  
John Rounsavall, City Secretary

Approved as to Form:

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Mary Gayle Ramsey, City Attorney