



FARMERSVILLE HISTORIC PRESERVATION AD HOC COMMITTEE

AGENDA – February 16, 2021

6:00 P.M. Farmersville City Hall

205 S. Main St. Farmersville, TX 75442

WATCH THE LIVE BROADCAST

This meeting will be broadcast live through the City’s website and by telephone. Members of the public who wish to watch this meeting, and not speak or participate in the discussion, may watch the live broadcast by

1. Going to the City’s website;
2. Clicking on “GOVERNMENT”;
3. Clicking on “AGENDAS AND MINUTES”;
4. Clicking on the “[click here](#)” link that is located to the right of “**LIVE STREAMING.**”

SPEAKING DURING PUBLIC COMMENTS

Members of the public wishing to speak during Public Comments may join the meeting by going online to www.blizz.com, and following the online prompts to input the “Dial-in Phone Number” and the “Meeting ID.”

Members of the public wishing to speak during Public Comments may also join the meeting by calling-in to the telephone number listed below, and inserting the Meeting ID listed below: Those members of the public calling in will not be able to participate through video and will only have an audio feed of the meeting on their telephone.

1. **Dial-in Phone Number: [\(646\) 769-9101](tel:6467699101)**
Please note that if you dial a toll number, your carrier rates will apply.
2. You will be prompted to enter the Meeting ID.
The Meeting ID for this meeting is [M190-913-46](#)
3. Please listen closely to the directions and follow the directions to gain access to the Blizz meeting.

I PRELIMINARY MATTERS

- A. Call to order (Kevin Casey Main Street Manager)
- B. Roll Call and recognition of members
- C. Recognition of visitors

II PUBLIC COMMENT

Anyone wanting to speak is asked to speak at this time with an individual time limit of three (3) minutes. This forum is limited to a total of thirty (30) minutes. If a speaker inquires about an item, the Main Street Board or City Staff may only respond with (1) a statement of specific factual information; (2) a recital of existing policy; or (3) a proposal that the item be placed on the agenda of a future meeting.

III ITEMS FOR DISCUSSION AND POSSIBLE ACTION

- A. Committee Chair Selection
- B. Set definition of Committee Scope, (Farmersville Sign Ordinance in regard to painted signage on buildings and Historic Preservation Ordinance)
- C. Review and discuss take possible action on Historic Preservation Ordinance Draft
- D. Review and discuss take possible action on Farmersville Sign Ordinance
- E. Review and discuss take possible action on Historic Preservation Ordinance District Map

IV APPROVE ITEMS TO BE PLACED ON FUTURE AGENDAS (Board Members)

V ADJOURNMENT

No action may be taken on comments received under "Recognition of Visitors". The Board may vote and/or act upon each of the items listed in the Agenda.

This facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive service must be made 48 hours prior to this meeting. Please contact the City Secretary's office at 972-782-6151 or FAX 972-782-6604 for further information.

I do hereby certify that this Notice of Meeting was posted in the regular posting place of the City Hall building of Farmersville, Texas in a place and manner convenient and readily accessible to the general public at all times, and said Notice was posted on February 12th, 2021 by 4:30 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.

Kevin Casey, Main Street Manager

**CITY OF FARMERSVILLE
ORDINANCE #**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING CHAPTER 56, "SIGNS AND ADVERTISING," THROUGH THE AMENDMENT OF ARTICLE II "DEFINITIONS AND REGULATIONS," OF THE CITY'S CODE OF ORDINANCES BY AMENDING SECTION 56-31, "DEFINITIONS; SIGN REGULATIONS AND REQUIREMENTS," BY AMENDING THE DEFINITIONS FOR THE FOLLOWING WORDS OR PHRASES "CENTRAL AREA (CA) ZONING DISTRICT OR CA – CENTRAL AREA DISTRICT," "GRAFFITI," "MURAL," "REAR WALL SIGN," AND "WALL SIGN," BY AMENDING SECTION 56-32, "PROHIBITED SIGNS" BY AMENDING SUBPARAGRAPH (L) TO PROHIBIT A SIGN TO BE PAINTED DIRECTLY ON TO THE EXTERIOR WALL OR FACADE OF A BUILDING OR STRUCTURE IN THE CENTRAL AREA (CA) ZONING DISTRICT SAVE AND EXCEPT A MURAL (IF OTHERWISE PERMITTED), A REAR WALL SIGN, AND/OR A WALL SIGN, AND BY AMENDING SECTION 56-53, "SIGNS FOR THE CENTRAL AREA (CA) ZONING DISTRICT" TO ALLOW A MURAL (IF OTHERWISE PERMITTED), A REAR WALL SIGN, AND/OR A WALL SIGN, TO BE PAINTED DIRECTLY ON TO THE EXTERIOR WALL OR FACADE OF A BUILDING OR STRUCTURE IN THE CENTRAL AREA (CA) ZONING DISTRICT; REPEALING ORDINANCES IN CONFLICT HERewith; PROVIDING FOR SEVERABILITY; PROVIDING FOR GOVERNMENTAL IMMUNITY; PROVIDING FOR INJUNCTIONS; PROVIDING A PENALTY; PROVIDING FOR THE PUBLICATION OF THE CAPTION OF THIS ORDINANCE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Farmersville, Texas, (the "City") is a Type A general-law city, located in Collin County, created in accordance with the provisions of Chapter 6 of the Texas Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, the City adopted the Code of Ordinances, City of Farmersville, Texas ("Farmersville Code"), for the protection of the public health and general welfare of the people of the City; and

WHEREAS, the City Council of the City of Farmersville ("City Council") previously adopted rules and regulations relating to signs and advertising; and

WHEREAS, the City Council now seeks to modify certain of the rules and regulations relating to signs and advertising; and

WHEREAS, the City Council finds that it is in the best interest of the public health, safety and welfare to modify certain of the rules and regulations relating to signs and advertising as provided hereinbelow.

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

Section 1. FINDINGS INCORPORATED.

All of the above premises are hereby found to be true and correct legislative and factual determinations of the City of Farmersville and they are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. AMENDMENT OF CHAPTER 56, "SIGNS AND ADVERTISING," THROUGH THE AMENDMENT OF ARTICLE II "DEFINITIONS AND REGULATIONS," OF THE CITY'S CODE OF ORDINANCES BY AMENDING SECTION 56-31, "DEFINITIONS; SIGN REGULATIONS AND REQUIREMENTS," BY AMENDING THE DEFINITIONS FOR THE FOLLOWING WORDS OR PHRASES "CENTRAL AREA (CA) ZONING DISTRICT OR CA – CENTRAL AREA DISTRICT," "GRAFFITI," "MURAL," "REAR WALL SIGN," AND "WALL SIGN"

From and after the effective date of this Ordinance, Chapter 56, "Signs and Advertising," is hereby amended through the amendment of Article II "Definitions and Regulations," of the City's Code of Ordinances by amending Section 56-31, "Definitions; Sign Regulations and Requirements" by amending the definitions for the following words or phrases "Central Area (Ca) Zoning District or Ca – Central Area District," "Graffiti," "Mural," "Rear Wall Sign," and "Wall Sign" to hereafter read as follows:

"Central Area (CA) Zoning District or CA – Central Area District.

(1) The area consists of the historic downtown area as established by Chapter 77, "Zoning," as it currently exists or may be amended by ordinance, and as indicated on the City Zoning Map.

(2) All signs for the CA – Central Area District shall be regulated according to the provisions of this Chapter. Refer to Section 56-53 regarding Signs in the Central Area Zoning District and see Section 56-54."

"Graffiti means pictures, words or slogans, images, or other artwork painted, drawn, scratched, carved, cut or applied in any other manner to exterior walls, fences, structures, vehicles, stone, statues, buildings, or other items in public view without obtaining a sign permit. Graffiti includes,

but is not limited to, the illegal or unauthorized defacing of a building, wall, or other edifice or object by painting or otherwise marking it with words, pictures, symbols, advertising, logos, relations with a group, indecent or vulgar images or offensive language. Graffiti is prohibited in the city and its extraterritorial jurisdiction.”

“*Mural* means noncommercial pictures or artwork painted, drawn or applied directly on to the exterior walls that do not depict or contain advertising, logos, or images of a product or service offered or sold on premises or off premises.

- (1) Murals shall not be used to advertise products or services of any kind offered or sold off premises or on premises. Any form of wording or logo shall be of secondary nature to a mural.
- (2) A sign permit is required.
- (3) A detailed drawing of the proposed mural shall be submitted to the city with the sign permit application for review to determine conformity with all applicable city, state and federal laws, statutes and ordinances.
- (4) The mural shall be executed in conformity to the detailed drawing of the proposed mural that is submitted to the city with the sign permit application.
- (5) A mural shall be located above grade and below a roof and only within a nonresidential zoning district. Murals shall not be applied to a roof or other similar cover of a building or structure. The maximum area of a mural shall not exceed the length or height of the exterior wall on which it is painted, drawn or applied. A mural shall not face a residential neighborhood unless separated by a major thoroughfare.
- (6) Murals are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district.
- (7) Murals shall not contain any matter that is obscene or pornographic, or which offends the public morals, or that is inappropriate viewing material for anyone under the age of 18 years including, but not limited to:

- a. Nudity or a state of nudity, specified anatomical areas and specified sexual activities, as those terms are defined in this section;
- b. Less than completely and opaquely covered human genitals, buttocks, or that portion of the female breast below the top of the areola; and
- c. Human male genitals in a discernibly turgid stage whether covered or uncovered.”

“*Rear Wall Sign* means a sign erected on to or against, or painted, drawn or applied directly on to a wall with no main entrances or store fronts, and which wall does not face the front or side of the lot.

- (1) A sign permit is required.
- (2) A building may have a maximum of one rear wall sign.
- (3) Rear wall signs shall only be permitted in the CA Zoning District.”

“*Wall Sign* means any sign erected on to or against, or painted, drawn or applied directly on to an exterior wall or erected parallel directly onto a wall. A wall sign is a sign erected parallel to and extending not more than 12 inches from the facade of any building to which it is attached, supported throughout its entire length by the building face. A wall sign identifies the name or logo of a business.

- (1) A sign permit is required.
- (2) Wall signs are permitted only in conjunction with a nonresidential use or in a nonresidential zoning district.
- (3) Maximum wall coverage for signs placed on the front or side of a building, which wall contains a main entrance into the building, above the highest opening (window or door), shall be limited to 25 percent of the area, measured vertically from the highest opening (window or door) up to the highest point of the wall, and horizontally from outside corner to outside corner of such wall, including openings.

(4) Maximum wall coverage for signs placed on the front or side of a building, which wall contains a main entrance into the building, below the top of the first floor opening (window or door), shall be limited to ten percent of the area, measured vertically from the top of the highest opening (window or door) down to the sidewalk, and horizontally from outside corner to outside corner of such wall, including openings.

(5) Maximum wall coverage for rear wall signs shall be limited to 15 percent of the rear wall surface, measured vertically from the bottom of the wall to the roof, and horizontally from outside corner to outside corner of the rear wall.”

Section 3. AMENDMENT OF SECTION 56-32, “PROHIBITED SIGNS” BY AMENDING SUBPARAGRAPH (L) TO PROHIBIT A SIGN TO BE PAINTED DIRECTLY ON TO THE EXTERIOR WALL OR FACADE OF A BUILDING OR STRUCTURE IN THE CENTRAL AREA (CA) ZONING DISTRICT SAVE AND EXCEPT A MURAL (IF OTHERWISE PERMITTED), A REAR WALL SIGN, AND/OR A WALL SIGN

From and after the effective date of this Ordinance, Chapter 56, “Signs and Advertising,” is hereby amended through the amendment of Article II “Definitions and Regulations,” of the City’s Code of Ordinances by amending Section 56-32, “Prohibited Signs” by amending Subparagraph (l) to prohibit a sign to be painted directly on to the exterior wall or facade of a building or structure in the Central Area (CA) Zoning District save and except a Mural (if otherwise permitted), a Rear Wall Sign, and/or a Wall Sign to hereafter read as follows:

“(l) No portion of any sign save and except a Mural (if otherwise permitted), a Rear Wall Sign, and/or a Wall Sign in the CA – Central Area District shall be painted directly on to the exterior wall or facade of any building or structure other than on a window or a door. Murals remain prohibited throughout the City.”

Section 4. AMENDMENT OF SECTION 56-53, “SIGNS FOR THE CENTRAL AREA (CA) ZONING DISTRICT” TO ALLOW A MURAL (IF OTHERWISE PERMITTED), A REAR WALL SIGN, AND/OR A WALL SIGN TO BE PAINTED DIRECTLY ON TO THE EXTERIOR WALL OR FACADE OF A BUILDING OR STRUCTURE IN THE CA – CENTRAL AREA DISTRICT

From and after the effective date of this Ordinance, Chapter 56, “Signs and Advertising,” is hereby amended through the amendment of Article II “Definitions and Regulations,” of the City’s Code of Ordinances by amending Section 56-53, “Signs for the

Central Area (CA) Zoning District” to allow a Mural (if otherwise permitted), a Rear Wall Sign, and/or a Wall Sign to be painted directly on to the exterior wall or facade of a building or structure in the Central Area (CA) Zoning District to hereafter read as follows:

“Sec. 56-53. - Signs for the CA – Central Area District.

(a) *Policy and purpose.*

(1) The CA – Central Area District is a unique historical and cultural environment that provides a certain charm and aura to the city which cannot be replaced and is worthy of preservation.

(2) In an age of uniform franchise signs and generic, plastic box signs, historic signs and even new historic styled signs (signs which emulate or imitate historic signage) often attract by their individuality. Historic signage typically allowed buyers and sellers to communicate quickly using images that were the medium of daily life. By communicating names, addresses, prices, products, images and other fragments of daily life, historic styled signs also bring the past to life.

(b) *Design considerations.*

In order to preserve the benefits of the CA, all signs in the CA shall have a design appearance compatible with, reflective of, and incorporating materials and design elements utilized in, the original building design, time era, and historic downtown character of the CA. The following points should be considered when designing and constructing new signs for structures in the CA:

(1) New signs should emulate or imitate historic signage. The simple signs that were originally used on these buildings serve as the best example for new signs.

(2) Signs should be viewed as part of an overall graphics system for the historic building to which they are attached. Signs should work with the building, rather than against it.

(3) New signs should respect the size, scale and design of the historic building.

(4) Sign placement is an important decision and new signs should not obscure significant architectural features and building elements or design details of a historic building.

(5) New signs should also respect neighboring buildings and add to the tapestry and appeal of the CA. New signs should not overpower the historic building to which they are attached or adjacent historic buildings or structures.

(6) Sign materials should be compatible with the historic character of the building and the CA. Materials characteristic of the building's period and style, used in contemporary designs, can form effective new signs.

(7) New signs should be attached to the building carefully to prevent damage to historic fabric and to ensure the safety of pedestrians. Fittings should penetrate mortar joints rather than brick, for example, and sign loads should be properly calculated and distributed.

(8) New signs may also be painted, drawn or applied directly on to the building provided that the sign is painted, drawn or applied in a manner acceptable to the City Manager, or his designee, that will prevent damage to the historic fabric and structural integrity of the building and provided further that the sign itself is protected and sealed against the elements so as to provide a clean, well-defined, long-lasting, durable, non-fading, and non-running or streaking image.

(c) *Sign standards.*

(1) Allowable signs in the CA include general business signs, incidental signs, menu boards, nameplates, wall signs and rear wall signs.

(2) Signs shall be designed for pedestrian and slow-moving traffic. Big does not mean better.

(3) Signs shall be flat signs with an allowable thickness of no more than four inches, measured from the wall surface to that portion of the face of the sign which projects furthest away from the building wall.

(4) Signs should be placed under the lower cornice. No sign shall be allowed above the top of the second-story windows of a building.

(5) Signs may be placed on the building's fascia or on the sign frieze, which is the horizontal flat bank above the store windows. Such signs may be on a flat signboard; painted, drawn or applied directly to the building; or, made of individual letters or symbols attached to the building's fascia or sign frieze.

(6) Signs may be placed on an awning. The following shall apply:

- a. Only one awning sign is allowed per building.
- b. Awnings shall be positioned to emphasize special shapes or details of the facade, draw attention to shop entrances, or to emphasize a display window.
- c. Awning signs positioned along the first-floor level of the facade shall be no less than eight feet from the sidewalk to the sign.
- d. Awning signs shall not extend beyond the awning or canopy projection.
- e. Awnings and awning signs shall not be made of metal, shiny plastic, barrel or square extension awning, or internally-illuminated vinyl awning.

(7) Sandwich boards are allowed provided they adhere to the following criteria:

- a. One sign per primary entrance;
- b. May extend out a maximum of two feet from the building, with the maximum of six square feet of sidewalk area used.

(8) Projecting signs that hang over the sidewalk are discouraged because they often obscure individual buildings and interrupt the visual harmony of the street. A projecting sign that is attached to a wall and extends

out from a building may be used provided it meets the following criteria:

- a. The projecting sign shall not extend more than 15 inches in whole or in part horizontally or diagonally beyond the surface of the building to which it is attached;
- b. The projecting sign shall be placed along the first-floor level of the facade;
- c. Projecting signs must have a minimum clearance above the sidewalk of eight feet and shall not extend 12 feet or more above the sidewalk nor above the roof line of the building to which it is affixed;
- d. The projecting sign shall be of a unique shape and design or symbolize the services offered within the business being advertised, such as a bowl and trestle advertising a drug store or pharmacy; and
- e. The projecting sign shall be no more than four inches thick.

(9) Materials and colors shall be harmonious with the architecture of surrounding structures in the CA.

(10) Sign materials should be durable and easy to maintain.

- a. Appropriate and acceptable sign materials include:
 1. Painted or carved wood;
 2. Carved wooden letters;
 3. Galvanized sheet metal;
 4. Porcelain enamel;
 5. Slate, marble, or sandstone;
 6. Gold leaf;

7. Gilt, painted, stained, or sandblasted glass; or
 8. Stained glass.
- b. Plastic shall not be allowed unless it is determined to have the appearance of one of the appropriate sign materials identified herein.
- (11) A sign in the CA shall not visually dominate the structure to which it belongs or call undue attention to it.
 - (12) No Day-Glo, fluorescent, neon or brilliant bright colored signs shall be allowed in the CA. Standard or traditional colors shall be used.
 - (13) No rear lighted, or internally lighted, plastic signs shall be allowed in the CA.
 - (14) No sign shall contain any moving parts or be lit from behind or internally unless and except it is a historically accurate reproduction of a sign previously existing in the specific location proposed.”

Section 5. CUMULATIVE REPEALER

This Ordinance shall be cumulative of all other Ordinances and shall not repeal any of the provisions of such Ordinances except for those instances where there are direct conflicts with the provisions of this Ordinance. Ordinances or parts thereof in force at the time this Ordinance shall take effect and that are inconsistent with this Ordinance are hereby repealed to the extent that they are inconsistent with this Ordinance. Provided however, that any complaint, action, claim or lawsuit which has been initiated shall continue to be governed by the provisions of such Ordinance and for that purpose the Ordinance shall remain in full force and effect.

Section 6. SAVINGS

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances,

same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

Section 7. SEVERABILITY

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

Section 8. GOVERNMENTAL IMMUNITY

All of the regulations provided in this ordinance are hereby declared to be governmental and for the health, safety and welfare of the general public. Any member of the City Council or any City official or employee charged with the enforcement of this ordinance, acting for the City of Farmersville in the discharge of his/her duties, shall not thereby render himself/herself personally liable; and he/she is hereby relieved from all personal liability for any damage that might accrue to persons or property as a result of any act required or permitted in the discharge of his/her said duties.

Section 9. INJUNCTIONS

Any violation of this ordinance can be enjoined by a suit filed in the name of the City of Farmersville in a court of competent jurisdiction, and this remedy shall be in addition to any penal provision in this ordinance or in the Code of the City of Farmersville.

Section 10. ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

Section 11. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication of the caption as required by law.

PASSED on first reading on the ____ day of _____, 2021, and the second reading on the ____ day of _____ 2021, at properly scheduled meetings of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

APPROVED THIS ___ DAY OF _____, 2021.

APPROVED:

By: _____
BRYON WIEBOLD, Mayor

ATTEST:

By: _____
SANDRA GREEN, TRMC, City Secretary

CITY OF FARMERSVILLE
ORDINANCE # O-2017-____-____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FARMERSVILLE, TEXAS, AMENDING THE CODE OF ORDINANCES, CITY OF FARMERSVILLE, TEXAS, AS HERETOFORE AMENDED, BY ADOPTING A NEW CHAPTER TO BE PLACED IN ARTICLE VII OF CHAPTER 77, "ZONING," THAT WILL CREATE A HISTORIC PRESERVATION OVERLAY ZONING DISTRICT WITHIN THE CITY'S ZONING ORDINANCE THAT WILL ALLOW FOR THE PROTECTION AND PRESERVATION OF INDIVIDUAL HISTORIC STRUCTURES AND PROPERTIES AS WELL AS THE PROTECTION AND PRESERVATION OF BOTH POTENTIAL AND DESIGNATED HISTORIC DISTRICTS TOGETHER WITH INDIVIDUAL HISTORIC STRUCTURES AND PROPERTIES AND CONTRIBUTING STRUCTURES AND PROPERTIES WITHIN SUCH POTENTIAL AND DESIGNATED HISTORIC DISTRICTS BY AND THROUGH THE ADOPTION OF ORDINANCES CONTAINING BY WAY OF ILLUSTRATION, AND NOT LIMITATION: DEFINITIONS; DESIGN GUIDELINES; THE ESTABLISHMENT OF A HISTORIC PRESERVATION BODY; A PROCESS THROUGH WHICH STRUCTURES AND DISTRICTS ARE DESIGNATED AS BEING HISTORIC; MINIMUM MAINTENANCE REQUIREMENTS; A CERTIFICATE OF APPROPRIATENESS PROCESS FOR MODIFICATIONS TO AND RENOVATIONS OF HISTORIC STRUCTURES AND CONTRIBUTING STRUCTURES; PROHIBITIONS AGAINST DEMOLITION OF HISTORIC STRUCTURES AND CONTRIBUTING STRUCTURES WHETHER BY NEGLIGENCE OR OTHERWISE; AND, A PERMITTING PROCESS FOR DEMOLITION OF DANGEROUS AND SUBSTANDARD HISTORIC STRUCTURES AND CONTRIBUTING STRUCTURES; AND BY DESIGNATING AND REZONING THE PROPERTIES AND STRUCTURES SITUATED WITHIN THE CENTRAL AREA (CA) DISTRICT WITH THE NEW HISTORIC PRESERVATION OVERLAY ZONING DISTRICT DESIGNATION OF HISTORIC DISTRICT ("HD"); PROVIDING FOR SEVERABILITY; PROVIDING A REPEALER CLAUSE; PROVIDING A PENALTY; PROVIDING FOR PUBLICATION; PROVIDING ENGROSSMENT AND ENROLLMENT; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Farmersville, Texas ("City") is a Type A General – Law Municipality located in Collin County having a population of less than 5,000 persons as determined by the most recent federal census, created in accordance with the provisions of Chapter 6 of the Local Government Code, and operating pursuant to the enabling legislation of the State of Texas; and

WHEREAS, Chapter 211 of the Texas Local Government Code, as amended, authorizes a municipality to adopt and update zoning ordinances for the purpose of promoting the public health, safety, morals, or general welfare and protecting and preserving places and areas of historical, cultural, or architectural importance and significance; and

WHEREAS, the City has previously adopted a Zoning Ordinance under the authority of Chapter 211 of the Texas Local Government Code, which Zoning Ordinance is codified as Chapter 77 of the Farmersville Code; and

WHEREAS, Section 211.003(b) of the Texas Local Government Code 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.

WHEREAS, Section 211.005(a) of the Texas Local Government Code 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 regulation must be uniform for each class or kind of building in a district; however, zoning regulations may vary from district to district.

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

WHEREAS, the City Council of the City of Farmersville, Texas ("City Council"), desires to amend Chapter 77 of the Farmersville Code to provide a Historic Preservation Overlay Zoning District to protect the historic structures and areas within the City; and

WHEREAS, after public notice and public hearing as required by law, the Planning and Zoning Commission of the City of Farmersville, Texas, has recommended the adoption of a Historic Preservation Overlay Zoning District as well as a change in zoning classification of the property described herein and has recommended amending the official zoning map of the City of Farmersville, Texas, regarding the rezoning of the property hereinafter described with the Historic Preservation Overlay Zoning District designation; and

WHEREAS, all legal requirements, conditions, and prerequisites have been complied with prior to these matters coming before the City Council of the City of Farmersville; and

WHEREAS, the City Council of the City of Farmersville, after public notice and public hearing as required by law, and upon due deliberation and consideration of the recommendation of the Planning and Zoning Commission of the City of Farmersville and of all testimony and information submitted during said public hearings, has determined that in the public's best interest and in support of the health, safety, morals, and general welfare of the citizens of the City, the Historic Preservation Overlay Zoning District should be adopted as provided herein and that the zoning of the property described herein shall be changed and that the official zoning map of the City of Farmersville, Texas, should be amended to reflect the rezoning of the property herein described as being identified with the Historic Preservation Overlay Zoning District designation; and

WHEREAS, the City Council of the City of Farmersville, Texas, does hereby find and determine that the adoption of this Ordinance is in the best interest of the public health, safety, morals, and general welfare of the City of Farmersville.

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

SECTION 1. INCORPORATION OF FINDINGS

The findings set forth above are hereby found to be true and correct and are hereby incorporated into the body of this Ordinance and made a part hereof for all purposes as if fully set forth herein.

SECTION 2. ADOPTING A NEW CHAPTER TO BE PLACED IN ARTICLE VII OF CHAPTER 77, "ZONING," THAT WILL CREATE A "HISTORIC PRESERVATION OVERLAY ZONING DISTRICT" WITHIN THE CITY'S ZONING ORDINANCE THAT WILL ALLOW FOR THE PROTECTION AND PRESERVATION OF INDIVIDUAL HISTORIC STRUCTURES AND PROPERTIES AS WELL AS THE PROTECTION AND PRESERVATION OF BOTH POTENTIAL AND DESIGNATED HISTORIC DISTRICTS TOGETHER WITH INDIVIDUAL HISTORIC STRUCTURES AND PROPERTIES AND CONTRIBUTING STRUCTURES AND PROPERTIES WITHIN SUCH POTENTIAL AND DESIGNATED HISTORIC DISTRICTS BY AND THROUGH THE ADOPTION OF ORDINANCES CONTAINING BY WAY OF ILLUSTRATION, AND NOT LIMITATION: DEFINITIONS; DESIGN GUIDELINES; THE ESTABLISHMENT OF A HISTORIC PRESERVATION BODY; A PROCESS THROUGH WHICH STRUCTURES AND DISTRICTS ARE DESIGNATED AS BEING HISTORIC; MINIMUM MAINTENANCE REQUIREMENTS; A CERTIFICATE OF APPROPRIATENESS PROCESS FOR MODIFICATIONS TO AND RENOVATIONS OF HISTORIC STRUCTURES AND CONTRIBUTING STRUCTURES; PROHIBITIONS AGAINST DEMOLITION OF HISTORIC STRUCTURES AND CONTRIBUTING STRUCTURES WHETHER BY NEGLIGENCE OR OTHERWISE; AND, A PERMITTING PROCESS FOR DEMOLITION OF DANGEROUS AND SUBSTANDARD HISTORIC STRUCTURES AND CONTRIBUTING STRUCTURES

From and after the effective date of this Ordinance Chapter 77, "Zoning Ordinance," of the Farmersville Code is amended by adopting a new Article VI entitled "Historic Preservation Overlay Zoning District" to read as follows:

**“ARTICLE VII. - HISTORIC PRESERVATION OVERLAY
ZONING DISTRICT**

Sec. 77.501. – Purpose.

The City Council of the City of Farmersville hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks and districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. This act is intended to:

- (a) protect and enhance the landmarks and districts which represent distinctive elements of Farmersville’s historic, architectural, and cultural heritage;
- (b) foster civic pride in the accomplishments of the past;
- (c) protect and enhance Farmersville’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 the city that is sensitive to its historic resources;
- (e) promote economic prosperity and welfare of the community by encouraging the most appropriate use of historic properties within the city;
- (f) encourage stabilization, restoration, and improvements of such properties and their values by offering incentives for rehabilitation.

Sec. 77.502. – Definitions.

Architectural Details shall mean the small details like moldings, carved woodwork, etc. that add character to a building.

Alteration shall mean any act or process that changes one of more historic, architectural, or physical features of an area, site, place, and/or structure including, but not limited to the erection, construction, reconstruction or removal of any structure.

Applicant means a person seeking a designation or authorization under this Chapter or the person's designated and duly authorized agent or representative. This term may include the property owner, occupant of the site, the Historic Preservation Commission ("HPC") or City Commission.

Appurtenant features means the features that define the design of a building or property including but not limited to porches, railings; columns, shutters, steps, fences, attic vents, sidewalks, driveways, garages, carports, outbuildings, gazebos, and arbors.

Archeological property/site means any locale where there is physical evidence of past human activity that is either prehistoric or historic in age.

Building shall refer to a dwelling, such as a house, barn, church, hotel, or similar structure created to shelter any form of human activity. The term may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. The term also includes mobile homes, manufactured homes, and industrial housing.

Certificate of Appropriateness shall mean an order issued by the Historic Preservation Commission indicating approval of plans for alteration, construction, or removal affecting a designated landmark or property within a designated district.

Contributing building shall mean a historic building that is at least 50 years old or older that retains a significant amount of its physical integrity and character defining features including location, setting, design, construction, workmanship, and/or association with historical persons or events.

Design Guidelines shall mean guidelines of appropriateness or compatibility of building design within a community or historic district. Often in the form of a handbook, design guidelines contain drawings accompanying "do's and don'ts" for the property owner. The Historic Preservation Commission has authority to administer design guidelines.

Design review shall refer to the decision making process conducted by the ~~heritage preservation board or an appointed heritage preservation officer that is guided by established terms~~ historic preservation commission or appointed historic preservation officer that is guided by weighing design

[guidelines against building owners application for a certificate of appropriateness.](#)

Demolition by Neglect shall mean allowing a building to fall into such a state of disrepair that it becomes necessary or desirable to demolish it.

Exterior Architectural Feature shall mean but not be limited to architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to the view from a public way.

Façade shall mean the entire building front including the parapet.

Historic Preservation Commission (HPC) shall mean the five member Board established under this ordinance and appointed by City Council.

Historic designations means an official recognition of the significance of a building, property or district. Designation can occur on three different levels:

Federal - The National Register of Historic Places (for both individual buildings and entire districts);

State - Recorded Texas Historic landmarks (only for individual buildings) and State Archeological Landmarks; or

Local - designated under a municipal historic ordinance either individually as a landmark or as a locally designated district.

Historic Districts, designated by the suffix "HD," shall mean any neighborhood or region designated by City Council as a historic district.

Historic Landmarks, designated by the suffix "HL," shall mean a building, structure object or site designated by City Council as a historic landmark.

Historic Preservation means the protection, reconstruction, rehabilitation, repair and restoration of places and structures of historic, architectural, or archeological Significance.

Historic Rehabilitation shall mean the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Historic Resource shall mean any building, structure, object or site that is 50 years or older or any resource that has been identified as a high or medium priority because of its unique history or architectural characteristics.

Historic Resources Survey means a systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance.

Integrity means the authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or prehistoric period.

Inventory means a list of historic properties that have been identified and evaluated as meeting specified criteria of significance.

Local Historic District means a geographically and locally defined area that possesses a significant concentration, linkage, or continuity of buildings, objects, sites, structures, or landscapes united by past events, periods, or styles of architecture, and that, by reason of such factors, constitute a distinct section of the City. Historic sites within a local district need not be contiguous for an area to constitute a district. All sites, buildings, and structures within a local historic district, whether individually contributing or not are subject to the regulations of the district.

Local Historic Landmark means any site, building, structure, or landscape of historic significance that receives designation by the City pursuant to this Chapter.

National Register of Historic Places shall mean the nation's official list of buildings, districts, and sites (including structures and objects) significant in American history and culture, architecture, archeology, and engineering maintained by the National Park Service and administered on a state-wide basis by the Texas Historical Commission. Restrictions on these properties exist only when there is an undertaking

that uses federal funds or that requires a federal permit or license.

Object means a physical item associated with a specific setting or environment that is movable by nature or design, such as statuary in a designed landscape. The term object is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed.

Order of Demolition shall mean an order issued by the Heritage Preservation Board indicating approval of plans for demolition of a designated landmark or property within a designated district.

Ordinary Maintenance shall mean repair of any exterior or architectural feature of a landmark or property within a historic district which does not involve a change to the architectural or historic value, style or general design. In-kind replacement or repair is included in this definition of ordinary maintenance.

Overlay District shall mean zoning, applied over one or more other districts, creates a second, mapped zone that is superimposed over the conventional zoning districts. Overlay district typically provide for a higher level of regulations in certain areas such as transit station areas, downtown areas, and historic districts, but may also be used to permit exceptions or less restrictive standards (fewer parking spaces in a downtown or transit station area, or more density in an economic development area).

Owner shall mean the individual, corporation, partnership, or other legal entity in whom is vested the ownership, dominion, or title of property and who is responsible for payment of ad valorem taxes on that property; including a Lessor or Lessee if responsible for payment of ad valorem taxes.

Preservation shall mean the stabilization of an historic building, its materials and features in their present condition to prevent future deterioration. Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time. (Protection and Stabilization have now been consolidated under this treatment.)

Preservationist shall mean someone with experience, education or training in the field of preservation.

Reconstruction shall mean the act or process of reproducing by new construction the exact form and detail of a vanished building as it appeared at a specific period of time. A technique used earlier in the 20th century, reconstruction is rarely used today because of the preference to use limited financial resources to preserve existing historic buildings.

Recorded Texas Historical Landmark shall mean a state designation for buildings important for their historical associations and which have retained a high degree of their original historic fabric. They must be at least 50 years of age and retain their original exterior appearance. State historical landmarks receive greater legal protection than National Register of Historic Places designations.

Rehabilitation means the act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

Restoration shall mean returning a property to a state indicative of a particular period of time in its history, while removing evidence of other periods.

Secretary of the Interior Standards for Rehabilitation shall mean the standards established by the Secretary of the Interior for advising federal agencies on the preservation/rehabilitation of historic properties listed or eligible for listing on the National Register of Historic Places.

Site means 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 possesses historical, cultural, or archeological value regardless of the value of any existing structure.

Stabilization Proposal is a document that provides the historic preservation commission and officer a step by step plan to mitigate the need to demolish a building by explaining work to be done to stabilize said building. This proposal shall include the name of the contractor, a timeline, and work to be done.

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State Archeological Landmark shall mean a designation made by the Texas Historical Commission and, in the case of privately owned property, with the landowner's permission. Although called "archeological" landmarks, this designation can include buildings as well as archeological sites. For a building to be designated as a State Archeological Landmark, it must first be listed on the National Register of Historic Places. Damage to a State Archeological Landmark is subject to criminal, not civil, penalties.

State Historic Preservation Office (SHPO) shall mean the State Office responsible for administering federal historic preservation programs as defined in the National Historic Preservation Act of 1966 as amended and subsequent legislation. The Executive Director of the Texas Historical Commission serves as SHPO for the State of Texas.

Site is 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 possesses historical cultural or archeological value regardless of the value of any existing structure.

Structure is a term used to distinguish specific types of functional constructions from buildings that are usually made for purposes other than creating shelter.

Zoning means a police power measure, enacted by a municipality, including the City, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards.

Sec. 77.503. - Historic ~~Perservation~~Preservation Commission.

There is hereby created a commission to be known as the Historic Preservation Commission, hereafter referred to as the "HPC."

- 1) The HPC shall consist of ~~seven-five~~ (57) members to be appointed, upon application and demonstration of their qualifications to the extent available among the residents of the community, by the City Council with primary consideration given to professional members from the disciplines of architecture, history, urban planning, real estate, legal, archeology, or other disciplines related to historic preservation. When a professional in the fields of history, architecture, architectural history, planning, or archaeology is not represented in the membership of the HPC, then the city shall seek and provide outside expertise in the appropriate discipline when considering National Register nominations and all federal undertakings that will affect historic properties which are normally evaluated by a professional in such disciplines.
 - (a) Members of the HPC shall be nominated using City of Farmersville board policy and will approved by majority vote of the city council, and shall serve for a term not to exceed three years, or until their successors are appointed and qualified. Members of the HPC, regardless of professional background, should be residents of the city. At least ~~four-three~~ (34) members shall reside or own property within the city limits; other members can reside or own property in the Farmersville Independent School District.
 - (b) All HPC members should have a known and demonstrated interest, competence, or knowledge in historic preservation within the city and/or the county.
 - (c) The HPC as a whole should represent the ethnic makeup of the city.
 - (d) HPC members shall be identified by place numbers 1 through ~~57~~ and the terms of office shall be staggered. The initial term for even-numbered Places shall serve for two years and odd-numbered Places shall serve for three years. The City Council may re-appoint HPC

members as their terms expire not to exceed three consecutive terms. The City Council shall fill any vacancies that may occur before a term has expired, only for the remainder of the term.

- (e) Any member may resign by submitting a letter of resignation to the City Council. HPC members serve at the will and pleasure of the city council. Any member may be removed before their terms of office expire.
- (f) The Chairperson and Vice Chairperson of the HPC shall be elected by and from its membership.
- (g) A quorum for the transaction of business shall consist of not less than ~~four~~three (34) members of the HPC.
- (h) The HPC shall meet monthly, only if business is at hand. Special meetings may be called at any time by the HPC Chairperson, ~~Vice Chairperson or City Manager~~HPO or City Manager. All meetings shall be held in conformance with the Texas Open Meetings Act, Chapter 552 of the Texas Government Code, as amended.

2) The HPC shall be empowered to:

- (a) Review and take action on all Certificates of Appropriateness applications for compliance with adopted Design Guidelines pursuant to this Article.
- (b) Review and take action on all appeals on action taken by the HPO regarding the administrative review of Certificates of Appropriateness applications for compliance with adopted Design Guidelines pursuant to this Article.
- ~~(a)~~(c) Make recommendations to the city for the employment of staff and professional consultants as necessary to carry out the duties of the HPC.
- ~~(b)~~(d) Adopt parliamentary rules and procedures necessary to carry out the business of the HPC, which shall be ratified by the City Council.

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~~(e)~~(e) Review and take action on the designation of Landmarks and the delineation of Districts, which shall be ratified by the City Council.

~~(d)~~(f) Recommend and confer recognition upon the owners of Landmarks or properties within Districts by means of certificates, plaques, or markers.

~~(e)~~(g) 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 than may affect the purpose of this Article.

~~(f)~~(h) Conduct public hearings and provide comment on buildings, objects, sites, structures, and districts for nomination to the National Register of Historic Places to the Texas Historic Commission. Such recommendations shall be guided by the criteria established in the National Historic Preservation Act of 1966, as amended.

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

~~(h)~~(j) 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 designated Landmark, as deemed necessary.

~~(i)~~(k) Create sub-committees from among its membership and delegate to these committees' responsibilities to carry out the purposes of this Article.

~~(j)~~(l) Maintain written meeting minutes which are recorded by staff and demonstrate all actions taken by the HPC and the reasons for taking such actions.

~~(k)~~(m) Increase public awareness of the value of historic, cultural, and architectural preservation by

developing and participating in public education programs.

~~Review and take action on all Certificates of Appropriateness applications for compliance with adopted Design Guidelines pursuant to this Article.~~

~~Review and take action on all appeals on action taken by the HPO regarding the administrative review of Certificates of Appropriateness applications for compliance with adopted Design Guidelines pursuant to this Article.~~

~~(h)(n)~~ (n) ~~Develop, prepare and adopt~~ Adjust specific Design Guidelines outlined in section 77.507 or any further Design Guidelines created by this commission which shall be ratified by the City Council, for use in the review of all Certificates of Appropriateness applications.

~~(m)(o)~~ (o) Prepare and submit annually to the City Council a report summarizing budget costs, goals and objectives and work completed during the previous year, as well as anticipated budgetary requests.

~~(n)(p)~~ (p) Make recommendations to the city concerning the utilization of state, federal, or private funds to promote the preservation of Landmarks and Districts within the city.

~~(o)(q)~~ (q) Recommend to City Council the acquisition of endangered Landmarks by demolition where its preservation is essential to the purpose of this Article and where private preservation is not feasible.

~~(p)(r)~~ (r) Propose incentive program(s) to City Council for local property owners of historic Landmarks or within local Districts.

(s) Review and take action on all city preservation-related incentive program applications involving work on Landmarks and Districts for compliance with adopted Design Guidelines pursuant to this Article.

(t) Accept on behalf of the city government donations of preservation easements and development rights as well as any other gift of value for the purpose of

historic preservation, subject to the approval of City Council

- (u) Provide comment to the Texas Historical Commission on any federal undertakings (projects utilizing federal funds or requiring a federal permit) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended

Sec. 77.504. – Appointment of Historic Preservation Officer.

- 1) The City Manager shall appoint a qualified city official, or staff person to serve as Historic Preservation Officer (HPO). The HPO must have an interest, knowledge and a demonstrated background in the disciplines of architecture, history, urban planning, real estate, legal, archeology, or other disciplines related to historic preservation. In the absence of a qualified official or staff person of the municipality, a volunteer resident of the city may be appointed by City Council as HPO. The HPO shall be empowered to:
 - (a) Administer this ordinance and advise the HPC on matters submitted to it.
 - (b) To maintain and hold open for public inspection all documents and records pertaining to the provisions of this Article.
 - (c) Receive and review all applications pursuant to this Article to ensure their completeness.
 - (d) Review and take action on all Certificates of Appropriateness applications subject to administrative review pursuant to this Article.
 - (e) Review and forward with any recommendations all applications for Certificates of Appropriateness subject to review by the HPC pursuant to this Article.
 - (f) Ensure proper posting and noticing of all HPC meetings, schedule applications for HPC review, provide packets to its members prior to the meetings, record meeting minutes and facilitate all HPC meetings.

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(g) Review and help coordinate the city's preservation and urban design activities with those of local, state and federal agencies and with local, state, and national preservation organizations in the private sector.

2) The HPO shall have administrative review and approval of the following changes to buildings without approval from the HPC.

(a) The Certificate of Appropriateness proposes the repair of a deteriorated architectural element with similar materials in order to exactly replicate the element or other similar "in-kind" repairs.

(b) Improvements to the rear façade of the building.

(c) The removal of an unhistorical element of the building as deemed by the HPO.

3) The HPO shall reserve the right to forward any COA's that fall under their purview to the HPC for review if he or she so chooses.

Sec. 77.505. – CRITERIA FOR DESIGNATION OF LOCAL HISTORIC LANDMARKS AND DISTRICTS.

Properties that are listed as a Recorded Texas Historic Landmark (RTHL), State Archeological Landmark (SAL) or individually listed on the National Register of Historic Places or contributing to a National Register District (NR) shall be considered recognized as local Landmarks and shall fall under the guidelines of this ordinance upon its adoption.

The designation of landmarks not currently adopted shall be carried out as follows:

1) An individual Landmark may be designated if it is at least fifty (50) years old and it substantially complies with two or more of the following:

(a) Possesses significance in history, architecture, archeology, and culture.

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- (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 events that have made a significant impact in our past.
 - (d) Represents the work of a master designer, builder, or craftsman.
 - (e) Embodies the distinctive characteristics of a type, period, or method of construction.
 - (f) Represents an established and familiar visual feature of the city.
- 2) A District may be designated if it substantially complies with both of the following:
- (a) Contains properties and an environmental setting which meet two or more of the criteria for designation of a landmark, and;
 - (b) Constitutes a distinct section of the city.

Sec. 77.506. – DESIGNATION OF LOCAL HISTORIC LANDMARKS AND DISTRICTS.

- 1) These provisions pertaining to the designation of historic landmarks constitutes a part of the Comprehensive Zoning Plan of the City of Farmersville.
- 2) The procedure for designating a local historic Landmark or to establish or amend a Local Historic District may be initiated by the City Council, HPC, ~~or~~ by the individual property owner(s), or by at least 20% of the residents of the potential District. An application for Determination of Significance shall be made on forms as prescribed by the city and shall be filed with the HPO along with fees in accordance with the master fee schedule. Buildings, structures, sites or areas located within the city which substantially complies with the criteria found in Section 77.505 may be recommended to the City Council as Landmarks or Districts by the HPC. The application shall contain:

- (a) Name, address, telephone number of applicant, and physical address of the individual property, or
 - (b) Name, address, telephone number of applicant, and signed petition of at least 20% of the proposed area.
 - (c) Site plan of the individual property or map indicating the geographic boundaries of the proposed area showing all affected buildings and/or structures.
 - (d) Detailed historic description and background on the property or area.
 - (e) Current photographs of the overall property or area along with any historical photographs, if available.
 - (f) Any other information which the HPO or HPC may deem necessary.
- 3) Upon receipt of a completed Determination of Significance application, the HPO shall schedule a hearing at the next available regularly scheduled HPC meeting. Notice of the application shall be mailed to the property owner(s) and posted on the property by the city for a minimum period of fourteen (14) days prior to the scheduled hearing. A published notice of the scheduled hearing shall also be made in accordance with the Texas Open Meeting Act. Notice of applications for proposed Districts shall be mailed to each affected property owner and posted at least four (4) separate locations that are visible from the public right-of-way at its external boundaries for a minimum period of fourteen 14 days prior to the scheduled hearing. A published notice of the scheduled hearing shall also be made in accordance with the Texas Open Meeting Act.
- 4) An individual property or area that is under review by the city for a formal Determination of Significance shall be protected by and subject to all of the provisions of this Article governing demolition, minimum maintenance standards and penalties until a final decision by the City Council becomes effective.
- 5) At the hearing, the applicant shall have an opportunity to present testimony and evidence to demonstrate the historical significance, or insignificance of the subject

property or area. Other interested parties and technical experts may also present testimony or documentary evidence which will become part of a record. The burden of proof shall be upon the applicant.

- 6) The HPC may take action to approve, postpone requesting additional information or deny the application. The HPO shall forward any final recommendation to the Planning and Zoning Commission within thirty (30) days of the hearing. Denials may be appealed directly to City Council.
- 7) The Planning and Zoning Commission shall give notice and conduct its hearing upon receipt of the recommendation from the HPC. Notice for such hearing shall be in the same manner and the hearing held according to the same procedures as specifically provided in the general zoning ordinance of the City of Farmersville. The Planning and Zoning Commission shall review the application to ensure that the recommended designation will not pose a conflict with the underlying land use zoning and shall forward its recommendation to the City Council within thirty (30) days after taking action on the application.
- 8) Upon receipt of the joint recommendation on the application from the HPC and the Planning and Zoning Commission, the City Council shall schedule a hearing on the application within thirty (30) days. Notice for such hearing shall be in the same manner and the hearing held according to the same procedures as specifically provided in the general zoning ordinance of the City of Farmersville. Significance shall be considered only on the record made before the HPC and the Planning and Zoning Commission.
- 9) Upon designation of a Landmark or District by the city council, the designation shall be recorded by legal description on the city's official zoning maps, in the records of real property of Collin County, and with the tax appraisal office.
- 10) The applicant, or any persons adversely affected by any determination of the HPC, may appeal the decision to city council. Appeal requests shall be on forms as prescribed by the city and shall be filed with the HPO within seven (7)

days of the HPC's decision and scheduled for the next available regularly scheduled city council meeting. Notice for such hearing shall be in the same manner and the hearing held according to the same procedures as specifically provided in the general zoning ordinance of the City of Farmersville. Appeals to city council shall be considered only on the record made before the HPC, and may only allege that the HPC's decision was arbitrary, capricious, or illegal.

Sec. 77.507. – DESIGN AND REVIEW CRITERIA FOR CERTIFICATES OF APPROPRIATENESS FOR ALTERATIONS OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS

No building permit shall be issued by the City of Farmersville to any external work of a landmark prior to HPC review and approval of a Certificate of Appropriateness (COA).
All buildings in an historic district will fall under these guidelines.

In considering an application for a Certificate of Appropriateness, the HPO and the HPC shall review it for compliance with *The Secretary of the Interior's Standards for Rehabilitation* and adopted Design Guidelines in this section and any past or future guidelines created by the HPC and ratified by the City Council. The Standards and any applicable adopted Design Guidelines shall apply in all zones within the city bearing the suffix "HD" or individual properties bearing the suffix "HL."

The Secretary of the Interior's Ten Standards for Rehabilitation are as follows:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site environment;
2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided or at least minimized;

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3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken;
4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved;
5. Distinctive stylistic features or examples of skilled craftsmanship that characterize a building, structure, or site shall be treated with sensitivity;
6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall, as closely as possible, match the old in design, color, texture, materials and other visual qualities. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence whenever it is available;
7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of the structures, if appropriate, shall be undertaken using the gentlest means possible;
8. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken;
9. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment;
10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

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In making the final determination whether to approve or deny an application for the COA, the HPO and HPC shall be guided by the following broad design guidelines:

1. The height and scale of any proposed alteration or new construction should be compatible with the style and character of the landmark and with surrounding structures;
2. The proportions and relationships between doors and windows should be compatible with the architectural style of the landmark;
3. The design of the roof, parapet, and cornice should be compatible with the architectural style and of correct materials;
4. Facades should be of the correct texture and materials appropriate for the building's vintage;
5. Anything affixed to the building in a permanent manner, such as signs, canopies, or awnings, shall be historically accurate. ~~Canopies, and awnings~~ should not use posts as support unless historically accurate for that building;
6. Colors applied to the building should be of a historically appropriate palette;
7. Any alterations or construction should use period materials when possible. If period materials are not available, the most similar materials should be used;
- 4-8. New buildings in the district should resemble the immediately surrounding historic structures in all of the above categories.

All review criteria shall be made available to the applicant, property owners of Landmarks and properties located within Districts. The HPC shall promulgate and make recommendations to update the adopted Design Guidelines as necessary, provided that the changes do not pose a conflict with underlying land-use zoning and the changes do not take effect until ratified by the City Council.

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Sec. 77.508. – PROCEDURE FOR CERTIFICATES OF APPROPRIATENESS FOR ALTERATIONS ~~OR~~ NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS

The procedure for obtaining a Certificate of Appropriateness may be initiated by the city for all city-owned Landmarks or proposed work within a District, or by the individual property owner(s) of the subject Landmark or for a property located within a District. The application must be submitted for, reviewed and approved by the HPO ~~and or~~ the HPC prior to the commencement of any work. An application for Certificate of Appropriateness shall be made on forms as prescribed by the city and shall be filed with the HPO along with fees in accordance with the municipal fee schedule.

1) An application for a COA shall contain:

(a) The applicants name, mailing address, subject property address, and telephone number;

(b) A description of work to be done to the structure;

(c) Photographs of the property and historical imagery if possible;

(d) Elevation drawings of the proposed changes or new construction, if applicable;

(e) Samples of colors to be used, if applicable;

(f) If a sign is to be applied to the building, a scale drawing, font types, and materials to be used should be described.

2) HPC design review affecting Landmarks and properties located in Districts.

(a) Upon receipt of a completed Certificate of Appropriateness application as determined by the HPO, the HPO shall review the application for a preliminary determination of compliance with the Secretary of the Interior's Standards for Rehabilitation and any applicable adopted Design Guidelines. The

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applicant is encouraged to schedule a meeting with the HPO prior to the submittal of an application to discuss the proposed work and ~~get~~receive initial design direction.

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(b) Within five (5) days of receipt of a completed Certificate of Appropriateness that meets the administrative approval of the HPO pursuant to section 77.504 of this ordinance, the HPO shall sign off of the COA and no public hearing or posting is needed.

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~~(a)~~(c) Within five (5) days of receipt of a completed Certificate of Appropriateness ~~and a preliminary determination of compliance, that contains changes that do not fall under the HPO's administrative approval,~~ the HPO shall schedule a public hearing at the next available regularly scheduled HPC meeting. Notice of the pending HPC hearing for compliance with the Secretary of the Interior's Standards for Rehabilitation and any adopted Design Guidelines shall be mailed to the property owner(s), to all immediate adjacent property owner(s), and posted on the property by the city establishing a fourteen (14) day period in which written comments may be submitted to the HPO. A published notice of the scheduled hearing shall also be made in accordance with the Texas Open Meeting Act. All review criteria and the formal written report to the HPO shall be made available to the applicant prior to the hearing.

~~(b)~~(d) The HPC shall review the application at a regularly scheduled meeting. At that time, the applicant shall have an opportunity to be heard, present testimony and evidence to demonstrate that the proposed work is in compliance with the Secretary of the Interior's Standards for Rehabilitation and any adopted Design Guidelines. Other interested parties and technical experts may also present testimony or documentary evidence which will become part of a record. The burden of proof shall be upon the applicant.

~~(c)~~(e) The HPC may take action to approve, postpone requesting additional information or deny the application. ~~If no hearing has been scheduled within~~

~~ninety (90) days of the original receipt of the application by the HPO, a Certificate of Appropriateness shall be deemed issued and the HPO shall so advise the applicant in writing.~~

~~(d)~~(f) If approved, the HPO shall issue a Certificate of Appropriateness to the applicant ~~with the written findings of fact, conclusions of law~~ and any specific conditions of approval, if any, supporting the decision. The HPO shall also provide anyone who submitted written comments with a copy and forward the HPC's decision to the Development Services Department. Any specific conditions of approval made by the HPC shall be attached to the construction documents prior to the issuance of any building permits. No subsequent changes shall be made to the approved design without the prior review and approval of the HPO or HPC. An applicant shall have one (1) year from the date of issuance of a Certificate of Appropriateness to secure a building permit for the specified improvements or it shall become null and void.

~~(e)~~(g) If the HPC finds the proposed work ~~of the COA~~ will have an Adverse Effect on the Landmark, or property located within a District, or if the proposed work is inconsistent with the Secretary of the Interior's Standards for Rehabilitation or any applicable adopted Design Guidelines, the HPC shall advise the applicant at the hearing of the disapproval of the application and of any changes to the application which are necessary to approval of the same. Within five (5) days following the meeting, the HPO shall provide the applicant and any written commenter noticing in writing of the disapproval of the application and of any changes to the application which are necessary for approval of the same. A Certificate of Appropriateness application that has been denied may not be resubmitted without incorporating changes to the application which are necessary for approval of the same.

~~(f)~~(h) The applicant or any persons adversely affected by the action of the HPC may appeal the decision to the City Council. Appeal requests shall be filed in writing to the HPO within ten (10) days of the HPC's decision. The HPO must schedule the appeal for a public hearing at the next available regularly scheduled

HPC meeting. Notice of the appeal shall be posted on the property for a period of fourteen (14) days upon receipt of a formal appeal request. A written notice of the public hearing for the appeal request shall also be provided to all parties who received mailed notice for the HPC hearing.

~~(g)~~(i) The City Council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city. Appeals to the City Council shall be considered only on the record made before the HPC, and may only allege that the HPC's decision was arbitrary, capricious, or illegal.

Sec. 77.509. – MINIMUM MAINTENANCE STANDARDS

No owner or person with an interest in real property designated as a Landmark or any property located within an 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 judgment of the HPC, create a detrimental effect upon the historic character of the Landmark or District, or endanger other properties in the District.

- 1) 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.

Sec. 77.510. – PROCEDURE TO MITIGATE 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 Development Services Department staff shall work together in an effort to reduce Demolition by Neglect involving Landmarks or properties located within Districts within the city. A Demolition by Neglect citation as determined by the HPC 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 Section ~~40-40777.509~~ herein.

- 1) Due to the time consuming nature of pursuing enforcement under this section, no more than one property will be under consideration during each of the following quarters (January- March, April-June, July-September, and October- December).
- 2) While the HPO will act as the point of contact, the Development Services Department staff shall, when needed, assist with inspections. If there is a dispute between the HPO and Development Services Department

staff, the City Manager may be consulted as a mitigating party.

3) The procedure for citing a property for Demolition by Neglect shall be as follows:

(a) Initial identification is made by visual inspection of the area by the HPO or an HPC member or by referral from someone in the area. All referrals shall be made in writing and shall be submitted to the HPO.

(b) Once the initial identification is made, followed by a preliminary determination by the HPO, the property owner shall be notified by US mail of the defects of the building and informed of various incentive programs that may be available for repair. The owner is given thirty (30) days ~~in which to respond to the preliminary determination by submitting a stabilization proposal to HPO to acknowledge receipt and an additional thirty days to submit a stabilization proposal to the HPO.~~ Upon receipt, the stabilization proposal will be presented to the HPC at the next available meeting. If the HPC approves the proposal, a Certificate of Appropriateness ~~(if necessary) may be issued administratively by the HPO~~ may be administered if needed. 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 HPC on the status of the property ~~every thirty (30) days once work begins on the property at every consecutive HPC meeting until work is complete.~~

(c) If the property owner receives the letter regarding the preliminary determination, but fails to respond in the allotted thirty (30) days, a second notice shall be sent in the same manner as described above.

(d) 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 HPC 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 in accordance with the provisions of this Article, and a public hearing on the citation is scheduled.

(e) At the public hearing the owner is invited to address the HPC's concerns and to show cause why a citation should not be issued. The HPC 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.

(f) If the owner is cited for the condition of Demolition by Neglect of the property, ~~he is the owner is~~ given ~~fourteen-thirty (1430)~~ days to submit a stabilization proposal to the HPO, and at the discretion of the HPC, up to one (1) year to correct the defects. The HPO shall update the HPC on the status of the property ~~every thirty (30) days at HPC meetings~~ once work begins on the property.

~~(g)~~ If the owner does respond with a stabilization proposal, the matter is turned over to the City Attorney's office for action in Municipal Court.

~~(h)~~
~~(i)~~ ~~Sec. 77.511. ORDINARY MAINTENANCE~~

~~(j)~~
~~(k)~~ ~~Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district which does not involve a change in design, material, or outward appearance that require the issuance of a building permit. In kind repair/replacement and repainting is included in this definition of ordinary maintenance unless painting involves an exterior masonry surface that was not previously painted. The HPO shall be in charge of making the decisions as to what is "ordinary maintenance."~~

~~(l)~~
~~(m)~~ ~~Sec. 77.512. CERTIFICATES OF APPROPRIATENESS FOR ALTERATIONS OR NEW CONSTRUCTION AFFECTING LANDMARKS OR HISTORIC DISTRICTS~~

~~(n)~~
~~(o)~~ ~~No person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any Landmark or any property within a~~

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~~District, nor shall any person make any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of any Landmark or any property within a District without a Certificate of Appropriateness application. The application must be reviewed and approved by the HPO or the HPC prior to the issuance of any building permit involving any Landmark or property located within a District. The application shall be required in addition to, and not in lieu of, any required building permit.~~

~~(p)(g)~~

Sec. 77.5113. – DEMOLITION OF LANDMARKS

It is the intent of this and succeeding sections to preserve the historic and architectural resources of the city through limitations on demolition and removal of Landmarks to the extent it is economically feasible practical and necessary. The demolition or removal of historic buildings structures and sites in the city diminishes the character of the city's historic Districts and it is strongly discouraged. Instead the city recommends and supports preservation rehabilitation and relocation within the historic district. It is recognized however that structural deterioration, economic hardship and other factors not entirely within the control of the property owner may result in the necessary demolition or removal of a historic building structure or site.

- 1) Removal or repair of hazardous or dangerous Landmarks.
 - (a) If the building official determines a Landmark to be structurally unsound and a hazardous or dangerous building pursuant to the provisions found in the city's adopted building code, the building official shall be required to provide written notice to the HPC of the ordered removal or repair of the Landmark prior to taking such action.
 - (b) The provisions contained in Section 214.00111 of the Texas Local Government Code provides additional authority to the city to preserve substandard historic buildings and are effective immediately upon designation as a Certified Local Government by the US Department of the Interior, National Park Service

and Texas State Historic Preservation Officer as provided by 16 U.S.C., Section 470 et seq.; and

- (c) The property owner(s) of the demolished Landmark removed under this procedure is subject to the penalties found in Section [7740-517420](#) herein.

**Sec. 77.5124. – ~~CERTIFICATES OF APPROPRIATENESS~~
~~FORSTAY OF DEMOLITION AFFECTING~~
LANDMARKS OR HISTORIC DISTRICTS**

No person shall carry out the demolition of a Landmark or property within a District, including secondary buildings and landscape features that are not previously deemed a hazardous or dangerous building by the building official, or without the review and approval of a Certificate of Appropriateness for Demolition application by the HPC. The application shall be required in addition to, and not in lieu of, any required building permit. All demolition permits require a sixty (60) day stay of demolition to allow for exploration of options to preserve the structure.

- 1) In the absence of a determination by the building official of the subject property as a hazardous or dangerous building, the HPC may consider an application for a Certificate of Appropriateness for Demolition of a Landmark or property located within a District, only if it meets compliance with one of the following:
 - (a) The subject property of the application is not a recognized Landmark.
 - (b) The subject building, structure or object is not an accessory building and/or landscape features that is integral to the historic interpretation or integrity of the Landmark.
 - (c) The applicant is requesting a Certificate of Appropriateness for Demolition of a Landmark on the basis of Economic Hardship pursuant to Section [77.51546](#).
 - (d) The subject building, structure or object has lost its architectural significance and integrity over time for reasons not entirely within the control of the current or previous property owner(s).

Sec. 77.51~~35~~. – PROCEDURE FOR CERTIFICATES OF APPROPRIATENESS FOR DEMOLITION AFFECTING LANDMARKS OR HISTORIC DISTRICTS

The procedure for obtaining a Certificate of Appropriateness for Demolition may be initiated by the city for all city-owned Landmarks or proposed work within a District, or by the individual property owner(s) of the subject Landmark or property within a District. The application must be submitted to the HPO for review and approval by the HPC prior to the commencement of any work. An application for Certificate of Appropriateness for Demolition shall be made on forms as prescribed by the city and shall be filed with the HPO along with fees in accordance with the municipal fee schedule.

- 1) The application shall contain:
 - (a) Name, address, telephone number of applicant, and physical address of the individual property.
 - (b) Site plan of the individual property or map indicating the area of the proposed demolition showing all affected buildings and/or structures on the site.
 - (c) Photographs of existing conditions as well as any historical photographs, if available.
 - (d) All future development plans for the property, if available.

~~Any other information which the HPC may deem necessary pursuant to Section 40-117 of this Article.~~

- 2) An individual property that is under review by the city for a Certificate of Appropriateness for Demolition shall be protected by and subject to all of the provisions of this Article governing demolition, minimum maintenance standards and penalties until a final decision by the HPC becomes effective.
- 3) The procedure for a Certificate of Appropriateness for Demolition shall be the same as provided for in Section 10 herein.

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4) The procedure for a Certificate of Appropriateness for Demolition application involving a claim of Economic Hardship shall be as follows:

(a) Upon receipt of a completed Certificate of Appropriateness for Demolition application, the HPO shall review the application for a preliminary determination of compliance with the standards for economic hardship and the criteria for review found in Section [40-11777.514](#) herein. The applicant is encouraged to schedule a meeting with the HPO prior to the submittal of an application to discuss the application and ~~get~~receive initial direction.

(b) Within five (5) days of receipt of a completed Certificate of Appropriateness involving a claim of Economic Hardship and a preliminary determination of compliance, the HPO shall schedule a public hearing at the next available regularly scheduled HPC meeting. Notice of the pending HPC hearing for compliance with the standards for economic hardship and the criteria for review. Notice of the hearing shall be mailed to the property owner(s), to all immediate adjacent property owner(s), and posted on the property by the city. The owner shall be required to stabilize and secure the property subject to the penalties of this Article until a final decision by the HPC becomes effective. A published notice of the scheduled hearing shall also be made in accordance with the Texas Open Meeting Act. All review criteria and the formal written report to the HPO shall be made available to the applicant prior to the hearing.

(c) The HPC shall conduct its initial review of the application at a regularly scheduled meeting. At that time, the applicant shall have an opportunity to be heard, present testimony and evidence to demonstrate that standards for economic hardship and the criteria for review have been met. Other interested parties and technical experts may also present testimony or documentary evidence, which will become part of a record. The burden of proof shall be upon the applicant. In the event the HPC does not act within ninety (90) days of receipt of the application, a Certificate of Appropriateness for Demolition may be granted.

- (d) In considering the application, the HPC shall take action to postpone the application in order to establish a Stay of Demolition period, during which time the owner shall allow the city to post a sign stating that the property is subject to demolition. Said sign shall be at least three feet by two feet 3 X 2 readable from a point of public access and state that more information may be obtained from the HPO for the duration of the stay. The owner shall conduct in good faith with the city local preservation organizations and interested parties a diligent effort to seek an alternative that will result in the rehabilitation of the Landmark. Negotiations may include but is not limited to such actions to utilize various preservation incentive programs sell or lease the Landmark, or facilitate proceedings for the city to acquire the Landmark under its power of eminent domain, if appropriate, and financially possible. If negotiations are successful, the Certificate for Demolition application shall be considered withdrawn and all associated applications closed.
- (e) At the end of the one hundred and eighty (180) days, if prior negotiations are unsuccessful and the request for demolition stands, the HPO shall schedule a second public hearing on the application at the next available regularly scheduled HPC meeting pursuant to the same manner described above in Subsection (b).
- (f) At the end of the second hearing, the HPC may take action to approve, postpone requesting additional information or deny the application. If no hearing has been scheduled within sixty (60) days of the end of the stay period, a Certificate of Appropriateness shall be deemed issued and the HPO shall so advise the applicant in writing.
- (g) If approved, the HPO shall issue a Certificate of Appropriateness to the applicant with the written findings of fact, conclusions of law and any specific conditions of approval (if any) supporting the decision. The HPO shall also provide anyone who submitted written comments with a copy and forward the HPC's decision to the Development Services Department. The approval shall be valid for one (1) year from the hearing date of the HPC's final decision. The historic

property shall immediately be removed from the city's inventory of historic properties the official public records of real property of Anderson-Collin County and the official zoning maps of the city.

- (i) Prior to demolition, the city may, as a condition of approval, require the owner to provide documentation of the demolished historic property at the owner's expense in accordance with the standards of the Historic American Building Survey (HABS). Such documentation may include photographs, floor plans, measured drawings, an archeological survey, or other information as specified.
- (ii) Forward a recommendation to the Planning Commission to place limitations on future development on the subject property in regard to square footage, building footprint, scale mass, height, setbacks, etc. of the demolished Landmark to help ensure infill that is architecturally compatible.
- (iii) Approval for the demolition of a structure may be conditioned upon the construction of an acceptable replacement structure, or landscape or park plan. A bond or other financial guaranty in the amount of the cost of the replacement structure may be required in order to assure the construction of the replacement structure, or park, or landscape plan.

~~Forward a recommendation to the Planning Commission to place limitations on future development on the subject property in regard to square footage, building footprint, scale mass, height, setbacks, etc. of the demolished Landmark to help ensure infill that is architecturally compatible.~~

~~The city may also require the owner to incorporate an appropriate memorialization of the building, structure or site such as a photographic display or plaque into any proposed future development project on the property.~~

- (h) Denial of a Certificate of Appropriateness application for Demolition involving Economic Hardship shall prevent the owner from demolishing the property or reapplying for another Certificate of Appropriateness application for Demolition for a period of three (3) years from the hearing date of the HPC's final

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decision, unless substantial changes in circumstances have occurred other than resale of the property or those caused by acts beyond the control of the owner. It shall be the responsibility of the owner to stabilize and maintain the minimum maintenance standards for the property so as not to create a hazardous or dangerous building as identified in Section 40-113(1) herein.

- (i) The city may continue to provide the owner with information regarding financial assistance for the necessary rehabilitation or repair work as it becomes available.
- (j) The owner may appeal the decision of the HPC to the City Council. Appeal requests shall be filed in writing to the HPO within ten (10) days of the HPC's decision. The City Council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city. Appeals to the City Council shall be considered only on the record made before the HPC, and may only allege that the HPC's decision was arbitrary, capricious, or illegal.

**Sec. 77.5147. – ECONOMIC HARDSHIP
INVOLVING CERTIFICATES OF
APPROPRIATENESS FOR
DEMOLITION AFFECTING
LANDMARKS**

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.
- (b) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return.

- (c) Earnest and reasonable efforts to find a purchaser interested in acquiring the property and preserving it have failed.
 - (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 HPC. 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 and post 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 HPC at the hearing.

Sec. 77.51~~58~~. – 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 inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the certificate of appropriateness, or upon notification of such fact by the HPC 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 HPC to explain the non-compliance. No further work shall be undertaken on the project as long as a stop work is in effect until a decision is rendered by the HPC on the application.

Sec. 77.51~~69~~. – PENALTIES

It shall be unlawful to construct, reconstruct, significantly alter, restore, or demolish any building or structure designated as a Landmark or in a designated District in violation of the provisions of this Article. The city in addition to other remedies may institute any appropriate action or proceeding to prevent such unlawful construction reconstruction significant alteration or demolition to restrain correct or abate such violation or to prevent any illegal act

business or maintenance in and about such premises including acquisition of the property

- 1) Any person firm or corporation violating any provision of this ~~division-ordinance~~ shall be guilty of a class C misdemeanor punishable by a fine of not less than two hundred and fifty dollars (\$250.00 or more than two thousand dollars (\$2,000.00). Each day the violation continues shall be considered a separate offence. Such remedy under this section is in addition to the abatement restitution.”

SECTION 3. AND BY DESIGNATING AND REZONING THE PROPERTIES AND STRUCTURES SITUATED WITHIN THE CENTRAL AREA (CA) ZONING DISTRICT CLASSIFICATION WITH THE NEW HISTORIC PRESERVATION OVERLAY ZONING DISTRICT DESIGNATION

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From and after the effective date of this Ordinance, the property described herein shall be rezoned as set forth in this section, and the Official Zoning Map of the Comprehensive Zoning Ordinance, Ordinance No. 2004-01, as amended, of the City of Farmersville, Texas, is hereby amended and changed in the following particulars to reflect the action taken herein, and all other existing sections, subsections, paragraphs, sentences, definitions, phrases, and words of the City's Zoning Ordinance are not amended but shall remain intact and are hereby ratified, verified, and affirmed, in order to create a change in the zoning classification of the property described herein, as follows:

The area of the City that is currently zoned as Central Area (CA) District as more particularly depicted on Exhibit A attached hereto and incorporated herein by reference for all purposes allowed by law is hereby rezoned from Central Area (CA) District uses to Specific Use Permit to Central Area (CA) District uses with a Historic Preservation District (HD) Overlay designation in accordance with the specific requirements contained in the City's Master Plan and Zoning Ordinance, and as stated herein and in the exhibits attached hereto.

SECTION 4: OFFICIAL ZONING MAP TO BE MODIFIED

It is directed that the official zoning map of the City of Farmersville be changed to reflect a zoning classification of CA-HD as established by this Ordinance.

SECTION 5. SEVERABILITY

It is hereby declared to be the intention of the City Council that the several provisions of this Ordinance are severable, and if any court of competent jurisdiction shall judge any provisions of this Ordinance to be illegal, invalid, or unenforceable, such judgment shall

not affect any other provisions of this Ordinance which are not specifically designated as being illegal, invalid or unenforceable.

SECTION 6. REPEALER

This Ordinance shall be cumulative of all other Ordinances, resolutions, and/or policies of the City, whether written or otherwise, and shall not repeal any of the provisions of those ordinances except in those instances where the provisions of those ordinances are in direct conflict with the provisions of this Ordinance. Any and all ordinances, resolutions, and/or policies of the City, whether written or otherwise, which are in any manner in conflict with or inconsistent with this Ordinance shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

SECTION 7. PENALTY

Any person, firm, partnership, corporation, or other entity violating any provision contained in this Ordinance shall, upon conviction, be fined an amount not more than \$500.00; and each day a violation exists shall be deemed a separate offense. A culpable mental state is not required.

SECTION 8. PUBLICATION

The City Secretary of the City of Farmersville is hereby directed to publish in the Official Newspaper of the City of Farmersville the Caption, Penalty and Effective Date Clause of this Ordinance as required by Section 52.011 of the Local Government Code.

SECTION 9. ENGROSSMENT AND ENROLLMENT

The City Secretary of the City of Farmersville is hereby directed to engross and enroll this Ordinance by copying the exact Caption and the Effective Date clause in the minutes of the City Council of the City of Farmersville and by filing this Ordinance in the Ordinance records of the City.

SECTION 10. SAVINGS

All rights and remedies of the City of Farmersville are expressly saved as to any and all violations of the provisions of any Ordinances which have accrued at the time of the effective date of this Ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such Ordinances, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the courts.

SECTION 11. EFFECTIVE DATE

This Ordinance shall take effect immediately upon its adoption and publication in accordance with and as provided by Texas law.

[Remainder of page intentionally left blank.]

PASSED on first reading on the ____ day of _____, 201~~8~~7, and second reading on the ____ day of _____, 201~~8~~7 at properly scheduled meetings of the City Council of the City of Farmersville, Texas, there being a quorum present, and approved by the Mayor on the date set out below.

APPROVED THIS ____ DAY OF _____, 201~~8~~7.

APPROVED:

BY: _____
Diane C. Piwko
Mayor

ATTEST:

Sandra Green
City Secretary

APPROVED AS TO FORM AND LEGALITY:

Alan D. Lathrom
City Attorney