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SECTION 4. OVERLAY DISTRICTS

Division 2. Historic Preservation

Sec. 4.2.1. Short Title

This division may be cited as the **Historic Preservation Ordinance**.

Sec. 4.2.2. Purpose

- (a) This division protects the City's historic buildings, sites, structures, objects, landscapes, landmarks, and historic districts.
- (b) The City Council finds that historic preservation benefits the public by protecting community character, supporting education and civic pride, encouraging reinvestment, and promoting the City's cultural and economic welfare.
- (c) This division is intended to do the following:
 - (1) Protect places that reflect the City's history, architecture, archeology, culture, and community identity;
 - (2) Encourage maintenance, repair, rehabilitation, and adaptive reuse of historic properties;
 - (3) Help new construction and exterior changes fit the character of historic districts;
 - (4) Provide a clear review process for property owners and applicants;
 - (5) Protect the City's attractiveness to residents, visitors, and businesses;
and
 - (6) Support orderly growth while preserving important historic resources.

Sec. 4.2.3. When This Division Applies

- (a) This division applies to historic landmarks, historic resources, and properties located in a historic district.
- (b) A certificate of appropriateness is required when this division requires City review before work begins.

- (c) The certificate of appropriateness requirements apply to the following:
 - (1) A designated historic landmark;
 - (2) A property located in a historic district; and
 - (3) A building, structure, object, site, landscape feature, or other improvement listed as a historic resource in the most recently approved City historic resource survey or applicable historic district resource survey.
- (d) Ordinary repairs and maintenance do not require a certificate of appropriateness unless the work includes a change that this division requires the City to review.
- (e) A certificate of appropriateness does not replace any other permit or approval required by the City Code.
- (f) If this division conflicts with another City rule, the more restrictive rule controls unless state or federal law requires a different result.

Sec. 4.2.4. Applicant's Responsibility

An applicant must show that the application meets this division, the applicable historic district standards, and any applicable design guidelines.

Sec. 4.2.5. Rules for Reading This Division and Definitions

- (a) Words defined in this section have the meanings stated in this section.
- (b) Words not defined in this section have the meanings given in the City Code.
- (c) Words not defined in this section or elsewhere in the City Code have their ordinary meaning.
- (d) The words "shall" and "must" mean that something is required.
- (e) The word "may" means that something is allowed but not required.
- (f) The word "should" means that something is recommended unless another part of this division makes it mandatory.
- (g) In this division, the following terms have the meanings stated below:

- (1) **Administrative Certificate of Appropriateness or Administrative COA** means a certificate of appropriateness approved by the Historic Preservation Officer without a full Commission hearing.
- (2) **Alteration** means a physical change to the outside of a building, structure, object, site, landscape feature, or other improvement.
- (3) **Applicant** means a property owner or a person authorized by the property owner to file an application.
- (4) **Building** means a structure used or intended for shelter, occupancy, housing, or enclosure.
- (5) **Certificate of Appropriateness or COA** means written City approval for specific work covered by this division.
- (6) **City** means the City of Dripping Springs, Texas.
- (7) **City Council** means the City Council of the City of Dripping Springs, Texas.
- (8) **Commission** means the Historic Preservation Commission.
- (9) **Concept site plan** means a drawing that shows the general layout of a proposed project and the information needed to review it.
- (10) **Design guidelines** means the historic district development and design guidelines adopted by the City Council, as amended.
- (11) **Historic district** means an area designated by ordinance as a historic overlay district.
- (12) **Exterior feature** means an outside feature of a property, including walls, windows, doors, porches, roofs, materials, paint colors, signs, lights, fences, sidewalks, driveways, parking areas, and landscape features.
- (13) **Historic landmark** means an individual building, structure, object, site, or landscape feature designated by ordinance as historic.
- (14) **Historic Preservation Officer or Officer** means the person appointed to administer this division, or that person's designee.

- (15) **Historic resource** or **resource** means a building, structure, object, site, landscape feature, or other improvement identified as a historic resource in an approved City historic resource survey.
- (16) **Historic Resource Survey** means a City-approved survey that identifies and evaluates historic resources.
- (17) **Ordinary repairs and maintenance** means work that prevents or fixes deterioration without changing the exterior design, appearance, size, location, or historic materials of the property.
- (18) **Person** means an individual, organization, business entity, trust, association, partnership, company, government entity, or other legal entity.
- (19) **Preservation priority rating** means the high, medium, or low rating assigned to a resource in an approved City historic resource survey.
- (20) **Public right-of-way** or **ROW** means a public street, alley, sidewalk, trail, or other public right-of-way.

Sec. 4.2.6. Historic Preservation Officer

- (a) The Mayor shall appoint a qualified City official, staff person, or appropriate resident to serve as the Historic Preservation Officer.
- (b) The Officer shall administer this division.
- (c) The Officer shall help applicants understand the review process.
- (d) The Officer may approve, approve with conditions, or deny applications that are eligible for administrative review.
- (e) The Officer shall advise the Commission on matters submitted to the Commission.
- (f) The Officer shall coordinate the City's preservation work with public agencies and preservation organizations.
- (g) The Officer shall maintain or help maintain City records for historic landmarks, historic districts, historic resources, COAs, administrative COAs, and historic resource surveys.

Sec. 4.2.7. Historic Preservation Commission

- (a) The Commission has the powers and duties assigned by the City Code.
- (b) Under this division, the Commission reviews and acts on designation requests, COA applications, demolition and relocation requests, hardship requests, appeals from administrative decisions, and other historic preservation matters.

Sec. 4.2.8. How Historic Landmarks and Historic Districts Are Designated

- (a) The City Council may designate individual historic landmarks and historic districts by ordinance.
- (b) A historic district is shown as an “HO” historic overlay district on the official zoning map.
- (c) A designation request may be started by a property owner, the Commission, or the City Council.
- (d) An individual building or site may not be designated as a historic landmark without the owner’s consent.
- (e) Property owners must receive mailed notice at least ten (10) days before the Commission holds a hearing on a proposed designation or removal of designation.
- (f) At the Commission hearing, owners, interested persons, and experts may submit testimony and documents.
- (g) The Commission may recommend designation if the property or district meets at least one criterion in Sec. 4.2.9.
- (h) After a Commission recommendation, the proposed designation must be sent to the Planning and Zoning Commission within thirty (30) days.
- (i) The Planning and Zoning Commission must hold a hearing within forty-five (45) days after receiving the Commission’s recommendation.
- (j) Notice of the Planning and Zoning Commission hearing must be mailed to property owners within two hundred (200) feet and published in the official local newspaper at least ten (10) days before the hearing.

- (k) The City Council must hold a hearing within forty-five (45) days after receiving the Planning and Zoning Commission's recommendation.
- (l) Notice of the City Council hearing must be mailed to property owners within two hundred (200) feet and published in the official local newspaper at least ten (10) days before the hearing.
- (m) The City may give notice of the City Council hearing at the same time it gives notice of the Planning and Zoning Commission hearing.
- (n) After designation, the City shall record the designation in the appropriate City, county, appraisal district, and zoning map records.

Sec. 4.2.9. Criteria for Designation

A property or district may be designated if it meets one or more of the following criteria:

- (1) It is important to history, architecture, archeology, engineering, culture, or community development;
- (2) It is connected to events that made an important contribution to local, regional, state, or national history;
- (3) It is connected to the lives of important persons;
- (4) It shows the distinctive features of a type, period, style, or method of construction;
- (5) It represents the work of a master designer, builder, architect, engineer, landscape architect, artisan, or craftsperson;
- (6) It is an established and familiar visual feature of the City;
- (7) It has archeological importance or may provide important historic or prehistoric information; or
- (8) It contributes to the character of an existing or proposed historic district.

Sec. 4.2.10. Design Guidelines and Incentives

- (a) The City Council may adopt, amend, or replace historic district design guidelines by ordinance or resolution.

- (b) The Commission and Officer shall use adopted design guidelines when reviewing applications under this division.
- (c) The City shall make the design guidelines available to property owners.
- (d) A design guideline is mandatory only if it is written as a requirement or incorporated into this division or the applicable historic district standards.
- (e) The City Council may approve incentives for historic preservation by ordinance or resolution.
- (f) Incentives may include financial, regulatory, or other benefits approved by the City Council.
- (g) A person who performs work without a required COA or permit is not eligible for historic preservation incentives for the affected property unless eligibility is restored under the applicable incentive program or by City Council action.

Sec. 4.2.11. When a Certificate of Appropriateness Is Required

- (a) A person must obtain a COA before starting any covered work on a historic landmark, historic resource, or property in a historic district.
- (b) Covered work includes construction, reconstruction, exterior alteration, restoration, rehabilitation, relocation, and demolition.
- (c) A person must obtain a COA before making a significant visible exterior change that affects the appearance or character of a historic landmark, historic resource, or property in a historic district.
- (d) Visible exterior changes may include changes to paint colors, lights, windows, doors, sidewalks, fences, signs, parking areas, porches, roofs, exterior materials, and other exterior features visible from a public right-of-way.
- (e) A person may not paint previously unpainted stone or masonry unless the City approves the work by COA.
- (f) The Commission issues COAs unless this division allows the Officer to issue an administrative COA.

- (g) The City may not issue a building permit, site development permit, sign permit, demolition permit, relocation permit, or other permit for work covered by this division until the required COA has been issued.
- (h) Approved work must follow the approved plans and all COA conditions.

Sec. 4.2.12. Work That Does Not Require a COA

- (a) Ordinary repairs and maintenance do not require a COA.
- (b) Ordinary repairs and maintenance include the following work if the work does not change exterior design, appearance, size, location, or historic materials:
 - (1) Repainting exterior surfaces using the existing paint colors;
 - (2) Replacing a non-historic door with a door that fits the character and era of the building;
 - (3) Painting a door with a color from the approved design guideline color palette;
 - (4) Removing non-historic features such as burglar bars, non-original awnings, or non-original shutters;
 - (5) Making slight changes to exterior steps, walkways, or stairways using the same or closely matching materials;
 - (6) Adding louvers or vents within an existing opening when no other exterior change is needed;
 - (7) Replacing roofing with roofing of the same or consistent material, height, color, and style;
 - (8) Installing temporary materials to protect, weatherize, or stabilize a historic resource, subject to City approval within a reasonable time if required; and
 - (9) Installing mechanical, electrical, plumbing, HVAC, antenna, or communication equipment that is not visible from a public right-of-way and does not require modification to a historic resource.

- (c) Even if a COA is not required, the owner must still obtain any other required City permit.

Sec. 4.2.13. How the City Reviews a COA Application

- (a) The Commission or Officer shall review the application using this division, the applicable historic resource survey, any preservation priority rating, applicable historic district standards, and adopted design guidelines.
- (b) The Commission or Officer shall apply the Secretary of the Interior's Standards for Rehabilitation when those standards are relevant.
- (c) The review should focus on whether the proposed work preserves important historic materials and features.
- (d) The review should also consider whether the proposed work is compatible with the property and the surrounding district.
- (e) Compatibility may include height, size, massing, materials, setbacks, orientation, proportion, rhythm, scale, roof form, and site features.
- (f) High-rated resources should receive the strongest protection from alteration and demolition.
- (g) Medium-rated resources should generally be protected from demolition and should maintain or improve important architectural features when possible.
- (h) Low-rated resources may be considered for alteration, relocation, or demolition if the Commission finds that the work will have little or no adverse effect on the district or property.

Sec. 4.2.14. COA Application Steps and Deadlines

- (a) Before starting work that requires a COA, the owner or applicant shall request a predevelopment meeting with the Planning Department.
- (b) The predevelopment meeting should identify the applicable zoning, preservation rating, design guidelines, required permits, and review process.
- (c) After the predevelopment meeting, the applicant shall file a complete application with the Planning Department on a City-approved form.
- (d) The application shall include the following materials unless the Officer waives a requirement because it is not needed:

- (1) Applicant name and contact information;
 - (2) Property owner name and contact information, if different from the applicant;
 - (3) Written owner authorization if the applicant is not the owner;
 - (4) A description of the proposed work;
 - (5) A description of how the proposed work fits the property, district, and applicable zoning requirements;
 - (6) Photographs of the property and nearby properties;
 - (7) A concept site plan if site layout is relevant;
 - (8) Elevation drawings if exterior changes are proposed;
 - (9) Material samples or descriptions;
 - (10) Color chips or color specifications, if colors are proposed;
 - (11) Proposed start and completion dates;
 - (12) Sign information if signs or lettering are proposed;
 - (13) Billing contact information for review fees, if required; and
 - (14) Any other information reasonably needed to evaluate the work.
- (e) The Planning Department or Officer shall determine whether the application is complete.
 - (f) If the application is incomplete, the City shall tell the applicant what is missing.
 - (g) Unless the application qualifies for administrative approval, the Commission shall review the application at a regular meeting within sixty (60) days after the application is deemed complete.
 - (h) The applicant must have an opportunity to be heard at the Commission meeting.

- (i) The Commission shall approve, approve with conditions, approve with modifications, or deny the application within forty-five (45) days after the meeting at which the application is reviewed, unless the applicant agrees in writing to more time.
- (j) If the Commission does not act within ninety (90) days after the application is deemed complete, the application is approved by operation of law unless the applicant agrees in writing to more time or the delay is caused by the applicant's failure to provide required information.
- (k) All decisions must be in writing and must state the reasons for the decision.
- (l) The City shall send the decision to the applicant and keep a copy in the property file.
- (m) A COA expires two (2) years after issuance if the approved work has not started.
- (n) A COA expires three (3) years after issuance if the approved work has not been completed.
- (o) A COA may be extended for up to six (6) months for good cause.
- (p) The City should confirm whether the Officer, Commission, or City Council will approve COA extensions.
- (q) A denied COA application may not be resubmitted for twelve (12) months unless the Officer determines that the new application includes a significant change.
- (r) A COA may be issued for separate phases of a project.
- (s) An applicant may appeal a Commission decision to the City Council by filing a written appeal within thirty (30) days after receiving notice of the decision.
- (t) The City Council shall hold a hearing within thirty (30) days after receiving the appeal.
- (u) The City Council shall decide the appeal within thirty (30) days after the hearing.
- (v) If the Commission unanimously recommends denial, City Council approval requires a two-thirds vote of the City Council members present and voting.

Sec. 4.2.15. Administrative COA for Minor Work

- (a) The administrative COA process allows faster review for minor work that still requires a COA.
- (b) The Officer may approve, approve with conditions, or deny an administrative COA without public notice or a hearing.
- (c) The Officer shall decide a complete administrative COA application within fifteen (15) business days.
- (d) The following work may qualify for an administrative COA if it meets this division and the applicable design guidelines:
 - (1) Changing paint colors on previously painted surfaces using approved color palettes;
 - (2) Changing fabric colors using approved color palettes;
 - (3) Removing paint to expose original masonry;
 - (4) Replacing existing windows or shutters with similar windows or shutters, without changing the size or location of the opening;
 - (5) Replacing exterior historic doors facing a public right-of-way or alley without relocating entry or exit points;
 - (6) Replacing exterior light fixtures facing a public right-of-way or alley;
 - (7) Removing, replacing, or painting a historic fence facing a public right-of-way or alley;
 - (8) Constructing a rear addition under two hundred (200) square feet on a low-rated structure if the addition uses the same non-historic material and keeps the existing roof ridgeline;
 - (9) Constructing ADA ramps, porches, decks, pools, fountains, and similar yard amenities when Commission review is not otherwise required; and
 - (10) Similar work that the Officer determines is comparable in size, visibility, and potential impact.

- (e) The exception in subsection (d)(8) does not apply if the property is in the Old Fitzhugh Road Historic District and has frontage on both Old Fitzhugh Road and Ranch Road 12.
- (f) If the Officer denies an administrative COA, the applicant may appeal to the Commission by filing a written appeal with the Planning Department within thirty (30) days after the denial.
- (g) The Commission shall review the appeal at the next practicable Commission meeting.
- (h) The Commission may approve, approve with conditions, deny, or continue the application to a specific later date for stated reasons.
- (i) A Commission decision on an administrative COA appeal may be appealed to the City Council under Sec. 4.2.14.

Sec. 4.2.16. Alternative Exterior Design Standards

- (a) An applicant may request alternative exterior design standards for new construction in a historic district when strict compliance is undesirable or impractical because of site conditions.
- (b) The applicant must submit the request with the COA application.
- (c) The request must explain the alternative standards and why they are needed.
- (d) (d) The alternative standards, taken as a whole, must meet or exceed the purpose of the adopted design guidelines.
- (e) If the applicant asks to reduce or modify one design requirement, the applicant should propose other design features, landscape features, preservation measures, or enhancements to offset the change.
- (f) The Commission shall approve, approve with conditions, or deny the alternative standards as part of the COA review.
- (g) The applicant may appeal the Commission's decision under the COA appeal process.

Sec. 4.2.17. Demolition or Relocation

- (a) A person must obtain a COA before demolishing or relocating a historic landmark or a property in a historic district.

- (b) This requirement includes secondary buildings, outbuildings, objects, and landscape features.
- (c) The application must include the information required for a COA and any additional information needed to evaluate the proposed demolition or relocation.
- (d) Additional information may include photographs, condition reports, structural reports, reuse options, relocation options, alternatives to demolition, and economic information if hardship is claimed.
- (e) The Commission shall consider the following when reviewing demolition or relocation:
 - (1) The historic, architectural, archeological, cultural, and community significance of the resource;
 - (2) The resource's preservation priority rating;
 - (3) The resource's contribution to the historic district or surrounding properties;
 - (4) Whether the resource is structurally unsafe;
 - (5) Whether reasonable alternatives to demolition or relocation exist;
 - (6) Whether the applicant made good-faith efforts to preserve, rehabilitate, stabilize, sell, lease, relocate, or otherwise avoid demolition;
 - (7) The effect of demolition or relocation on the district or property; and
 - (8) Any proposed mitigation, documentation, salvage, interpretation, redevelopment, or replacement plan.
- (f) The Commission may place conditions on approval of demolition or relocation.
- (g) Conditions may include documentation, salvage, relocation efforts, site stabilization, tree protection, redevelopment plan approval, or other measures related to historic preservation.
- (h) The City may take emergency action needed to protect public health and safety.

- (i) In an emergency, the City should consider reasonable preservation alternatives when practicable.
- (j) If an applicant requests approval to demolish a historic landmark, historic resource, or contributing structure and proposes replacement construction, the Commission may condition approval on safeguards that ensure the replacement project is approved, permitted, and diligently pursued.
- (k) The City may withhold release of a demolition permit until the applicant has obtained approval of the replacement building, obtained all required permits for the replacement building, executed any demolition and replacement agreement required by the City, recorded any required covenant or notice in the county real property records, and posted any required financial security.
- (l) A demolition and replacement agreement may require the owner to begin and complete replacement construction by stated deadlines, maintain the site in a safe and clean condition after demolition, comply with approved plans, and ensure that any later owner assumes the obligations before transfer of the property.
- (m) The City may require a demolition and replacement agreement or covenant to run with the land and bind the owner's successors and assigns to the extent allowed by law.
- (n) The City may require financial security, in a form approved by the City Attorney, to secure site stabilization, public-safety measures, required screening, erosion control, and other obligations related to demolition and replacement construction.
- (o) If the owner fails to meet the approved schedule or violates the demolition and replacement agreement, the City may use any remedy available under this division, the agreement, the financial security, the City Code, or law.

Sec. 4.2.18. Economic Hardship

- (a) An applicant may request an economic hardship determination after receiving written notice that a COA or related approval has been denied.
- (b) A permit or COA based on economic hardship may not be issued unless the City finds that economic hardship exists.
- (c) The applicant must prove the following:

- (1) The property cannot earn a reasonable return, even if the return is not the highest possible return;
 - (2) The property cannot reasonably be adapted to another use that would earn a reasonable return; and
 - (3) The applicant has tried and failed to find a buyer interested in acquiring and preserving the property.
- (d) The applicant must work in good faith with the Commission, local preservation groups, and interested persons to look for a preservation alternative.
 - (e) The applicant must document those efforts.
 - (f) The Commission shall hold a public hearing within sixty (60) days after the Officer receives the hardship request.
 - (g) The Commission shall issue a written decision or recommendation within thirty (30) days after the hearing.
 - (h) If the Commission does not act within ninety (90) days after receiving the hardship request, the Officer may issue an economic hardship letter.
 - (i) The written decision must state the reasons for granting or denying hardship.
 - (j) The City shall deliver the decision to the applicant and file a copy with the City Secretary.
 - (k) The applicant may appeal the Commission's hardship decision to the Planning and Zoning Commission within thirty (30) days after receiving notice of the decision.
 - (l) The Planning and Zoning Commission shall hold a hearing within thirty (30) days after receiving the appeal and shall decide the appeal within thirty (30) days after the hearing.
 - (m) If two-thirds of the Commission members present and voting denied the hardship request, Planning and Zoning Commission approval requires a two-thirds vote of the members present and voting.

- (n) The applicant may appeal the Planning and Zoning Commission's decision to the City Council within thirty (30) days after receiving notice of that decision.
- (o) The City Council shall hold a hearing within thirty (30) days after receiving the appeal and shall decide the appeal within thirty (30) days after the hearing.
- (p) If two-thirds of the Planning and Zoning Commission members present and voting denied the hardship appeal, City Council approval requires a two-thirds vote of the City Council members present and voting.

Sec. 4.2.19. Inspections and Stop-Work Orders

- (a) Approved work must follow the approved plans and conditions.
- (b) The Building Official, Officer, or their designee may inspect approved work for compliance.
- (c) The City may issue a stop-work order if work does not follow the approval, approved plans, or this division.
- (d) When a stop-work order is issued, all work covered by the order must stop immediately.
- (e) No further work may occur while the stop-work order is in effect, except work authorized by the City to secure, stabilize, or protect the property.

Sec. 4.2.20. Demolition by Neglect

- (a) An owner or other person with an interest in a historic landmark or property in a historic district may not allow the property to deteriorate so severely that it harms the historic character of the property or district.
- (b) Demolition by neglect may include the following conditions:
 - (1) Deteriorated exterior walls or supports;
 - (2) Deteriorated roofs or horizontal members;
 - (3) Deteriorated chimneys;
 - (4) Crumbling stucco, masonry, or mortar;
 - (5) Failed waterproofing of exterior walls, roofs, or foundations;

- (6) Broken windows or doors; and
- (7) Deterioration that creates a hazardous condition and may lead to a claim that demolition is needed for public safety.
- (c) The City may require corrective action or use any available enforcement remedy to address demolition by neglect.

Sec. 4.2.21. Fees

- (a) COA application fees are waived unless a property owner violates this division by performing work without a required COA or permit.
- (b) After a violation, the property owner must pay all applicable application fees, permit fees, inspection fees, consulting fees, and other fees established by the City Council.
- (c) The City may require an applicant to reimburse reasonable consulting fees when authorized by the City Code, fee schedule, or City policy.

Sec. 4.2.22. Enforcement and Penalties

- (a) The City may enforce this division as allowed by law.
- (b) A violation of this division is a nuisance.
- (c) A person commits an offense if the person violates this division.
- (d) A person also commits an offense if the person does any of the following without a required COA, administrative COA, or other required approval:
 - (1) Alters an exterior elevation or exterior feature of a historic landmark or historic resource facing a public right-of-way;
 - (2) Alters, demolishes, or removes an exterior feature of a designated historic landmark;
 - (3) Alters, demolishes, or removes an exterior feature of a surveyed resource in a historic district;
 - (4) Changes approved site plans, building plans, or COA conditions without City approval;

- (5) Demolishes or relocates a historic resource, building, structure, outbuilding, object, or landscape feature in a historic district; or
 - (6) Removes a Heritage tree without a required waiver, COA, or other approval.
- (e) Subsection (d)(6) does not apply to a tree that is dead, dying, or struck by lightning if proof is provided to the City before removal or as soon as practicable in an emergency.
 - (f) A person convicted of violating this division may be fined up to two thousand dollars (\$2,000.00) if the violation governs fire safety, zoning, public health, or sanitation.
 - (g) A person convicted of any other violation may be fined up to five hundred dollars (\$500.00).
 - (h) Each day a violation continues is a separate offense.
 - (i) The City may also bring a civil action to enforce this division.
 - (j) Civil remedies may include the following:
 - (1) An injunction to stop a violation;
 - (2) An injunction to require compliance;
 - (3) A civil penalty of up to five hundred dollars (\$500.00) per day when allowed by law;
 - (4) Loss of historic preservation incentives;
 - (5) Recovery of fees, costs, and expenses when allowed by law; and
 - (6) Any other remedy allowed by law.
 - (k) The City's remedies are cumulative, and the City may use any remedy allowed by this division, the City Code, or law.