



**Farmersville**  
DISCOVER A TEXAS TREASURE

**CITY OF FARMERSVILLE  
PLANNING AND ZONING COMMISSION AGENDA  
REGULAR CALLED MEETING  
April 16, 2018, 6:30 P.M.  
COUNCIL CHAMBERS, CITY HALL  
205 S. Main Street**

**I. PRELIMINARY MATTERS**

- Call to Order, Roll Call, Prayer and Pledge of Allegiance

**II. PUBLIC HEARING**

- A. Public hearing to consider, discuss and act upon a recommendation to City Council for an application requesting a change in zoning on approximately 0.3444 acres of land, more or less, from SF-1 - Single-Family 1 District Uses to PD - Planned Development District Uses for an Office Center with a Base Zoning District of O - Office District Uses Allowing One One-Story Building for Professional or General Administrative Office Uses. The property is generally situated at 311 Sycamore Street and is known as Lot OL 1 of the Gaddy Addition, and located in the W.B. Williams Survey, Abstract A952, of Farmersville, Collin County, Texas.

**III. ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

- A. Consider, discuss and act upon minutes from March 19, 2018.

**IV. WORKSHOP**

- A. Review, discuss and comment on a proposed Historic Preservation Ordinance draft.

**V. ADJOURNMENT**

*The Planning and Zoning Commission reserves the right to adjourn into Executive Session at any time during the course of this meeting to discuss any matters listed on the agenda, as authorized by the Texas Government Code, including, but not limited to, Sections 551.071 (Consultation with Attorney).*

*Persons with disabilities who plan to attend this meeting and who may need assistance should contact the City Secretary at 972-782-6151 or Fax 972-782-6604 at least two (2) working days prior to the meeting so that appropriate arrangements can be made. Handicap Parking is available in the front and rear parking lot of the building.*

I, the undersigned authority, do hereby certify that this Notice of Meeting was posted in the regular posting place of the City Hall building for Farmersville, Texas, in a place and manner convenient and readily accessible to the general public at all times, and said Notice was posted on April 13, 2018, by 6:00 P.M. and remained so posted continuously at least 72 hours proceeding the scheduled time of said meeting.

**Dated this the 13<sup>th</sup> day of April, 2018.**



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Sandra Green, City Secretary



## I. Preliminary Matters

## **II. Public Hearing**



## Application for Zoning Change

Applicant: <b>George Crump</b>		
Mailing Address: <b>401 N. Main</b>	City/State/Zip: <b>Farmersville TX 75442</b>	Daytime Telephone: <b>214-808-7487</b>
Property Address: <b>311 Sycamore Street</b>	City/State/Zip: <b>Farmersville, TX 75442</b>	
Legal Description: <b>Gaddy Addition (CFC) Lot 01</b>		
Lot(s): <b>01</b>	Block(s):	Subdivision: <b>Gaddy Addition</b>
Acreage: ((If acreage, provide separate metes and bounds description))		
Existing Use and Current Zoning of Property: <b>Single family / Residential</b>		
Give explanation of proposed rezone and use of property. Attach maps, drawings and other supporting information. <b>Building originally built and designed for a day care center. Proposed rezone to "office" to be used as a small professional office building.</b>		

  
\_\_\_\_\_  
Property Owner Signature

**3/21/18**  
\_\_\_\_\_  
Date



Collin Central Appraisal District  
 PROPERTY 1232936 R  
 Legal Description  
 GADDY ADDITION (CFC), LOT OL 1

Ref ID1: 1476  
 R-1054-000-0001-1

OWNER ID 1046396  
 CRUMP GEORGE  
 401 N MAIN ST  
 FARMERSVILLE, TX 75442-1607 US  
 OWNERSHIP 100.00%

Entites  
 CAD 100%  
 CFC 100%  
 GCN 100%  
 JCN 100%  
 SFC 100%

Ref ID2: R1232936  
 ACRES:  
 EFF. ACRES:

APPR VAL METHOD: Cost



Values  
 IMPROVEMENTS 0  
 LAND MARKET + 0  
 MARKET VALUE = 0  
 PRODUCTIVITY LOSS - 0  
 APPRAISED VALUE = 0  
 HS CAP LOSS - 0  
 ASSESSED VALUE = 0

SITUS 311 SYCAMORE ST FARMERSVILLE, TX 75442

SKETCH for Improvement #1 (Residential)

EXEMPTIONS

UTILITIES GENERAL  
 TOPOGRAPHY LAST APPR. NEK  
 ROAD ACCESS LAST APPR. YR 2017  
 ZONING PD LAST INSP. DATE 01/18/2016  
 NEXT REASON NEXT INSP. DATE

REMARKS CONVERTED DAYCARE;



SKETCH COMMANDS  
 MA R82,U32,L82,D17,L4,D5,R4,D10  
 CPT MFR26,R30,D24,L30,U24

SALE DT 05/09/2017 PRICE \*\*\*\*\* GRANTOR GOOCH NONA RAE WD 20170510000599860 DEED INFO OT / /

ISSUE DT PERMIT TYPE BUILDING PERMITS PERMIT AREA ST PERMIT VAL

SUBD: S1054 100.00% NBHD:CFCRV3-6 139.00%  
 # TYPE DESCRIPTION METH CLASS/SUBCL AREA UNIT PRICE UNITS BUILT EFF YR COND VALUE DEPR PHYS ECON FUNC COMP ADJ ADJ VALUE Ceiling  
 1. RESIDENTIAL R RV5/ 2,644.0 1 1875 1885 80% 100% 100% 80% 100% 0.48  
 CPT Attached Car 720.0 1 1975 1985 80% 100% 100% 80% 100% 0.48  
 FORMERLY A DAY NURSERY 3,364.0 Homestle: Y (100%)  
 2. BARN Barn R BN1/4 120.0 1 1975 1975 20% 100% 100% 100% 100% 0.20  
 BARN 10X12: STCD: A1 120.0 Homestle: Y (100%)

IMPROVEMENT INFORMATION

IMPROVEMENT FEATURES



SUBD: S1054 100.00% NBHD:CFCRV3-6 100.00%  
 # DESCRIPTION CLS TABLE SC HS METH DIMENSIONS UNIT PRICE GROSS VALUE IRR Wells: 0 Capacity: 0  
 1. Residential Single F A1 Y (100%) LOT 0.3444 AC 1.25 1.00 A IRR Acres: 0  
 OIL Wells: 0

LAND INFORMATION  
 ADJ MASS ADJ VAL SRC MKT VAL AG APPLY AG CLASS AG TABLE AG UNIT PRG AG VALUE

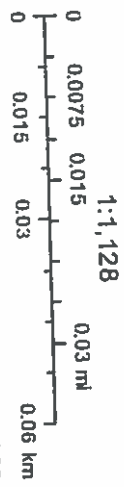
AG VALUE

Title



311 SYCAMORE ST, FARMERSVILLE, TX, 75442

July 13, 2017



Sources: Esri, HERE, DeLorme, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, Geobase, IGN, Kadaster NL, Ordnance Survey,

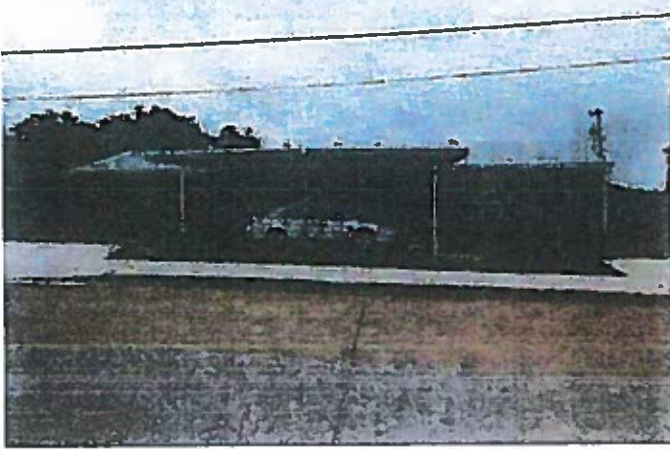
RECORDED  
MAR 21 2018  
*[Signature]*

# Subject Photo Page

Borrower	George Crump						
Property Address	311 Sycamore St						
City	Farmersville	County	Collin	State	TX	Zip Code	75442
Lender/Client	The First Bank of Celeste						

## Subject Front

311 Sycamore St  
Sales Price 26.50/sf  
Gross Living Area  
Total Rooms  
Total Bedrooms  
Total Bathrooms  
Location Farmersville  
View  
Site 2,640 SF  
Quality  
Age 42 years



## Subject Rear



## Subject Street Looking West





**Photograph Addendum**

Borrower	George Crump						
Property Address	311 Sycamore St						
City	Farmersville	County	Collin	State	TX	Zip Code	75442
Lender/Client	The First Bank of Celeste						



**Street Scene Looking East**



**Right Side**



**Left Side**



**Entry**



**Office**



**Open Area**

**RECEIVED**  
MAR 21 2018  
BY *[Signature]*

### Photograph Addendum

Borrower	George Crump						
Property Address	311 Sycamore St						
City	Farmersville	County	Collin	State	TX	Zip Code	75442
Lender/Client	The First Bank of Celeste						



**Storage Closet**



**Kitchen**



**Hallway**



**Laundry Room**



**Storage Area**

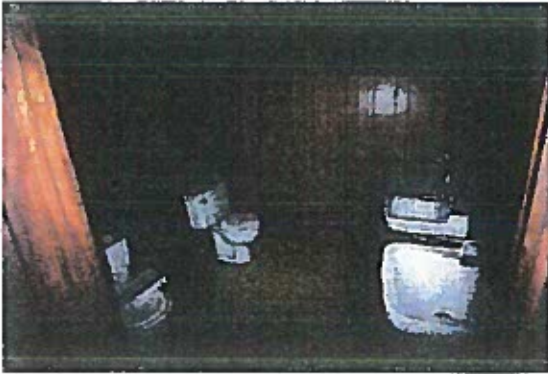


**Full Bath**

**RECEIVED**  
MAR 21 2018  
BY: *[Signature]*

**Photograph Addendum**

Borrower	George Crump						
Property Address	311 Sycamore St						
City	Farmersville	County	Collin	State	TX	Zip Code	75442
Lender/Client	The First Bank of Celeste						



**Restroom**



**Additional Open Area**



**Additional View**

**RECEIVED**  
MAR 21 2018  
BY: *[Signature]*

**Sandra Green**

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**From:** Rachel Crist <[rcrist@saraiyapllc.com](mailto:rcrist@saraiyapllc.com)>  
**Sent:** Wednesday, March 28, 2018 4:42 PM  
**To:** Sandra Green; [alathrom@bhlaw.net](mailto:alathrom@bhlaw.net); Diane Piwko; Ben White; Bimal Saraiya  
**Subject:** Application for Zoning Change

Per the conference call held earlier today, this correspondence is submitted to change the last section of the Application for Zoning Change which reads **"Give explanation of proposed rezone and use of property. Attach maps, drawings and other supporting information."** to contain the following explanation/request:

The Applicant requests that the Property be rezoned from SF-1, Single-Family 1 District Uses to PD, Planned Development District Uses for an Office Center with a Base Zoning District of O, Office District Uses Allowing One One-Story Building for Professional or General Administrative Office Uses.

Please confirm receipt and acceptance.

Please confirm the deadline has been met for this to be sent to the Dallas Morning News by their deadline tomorrow.

Please confirm that our client will pay the normal cost as charged by the Farmersville Times.

Please confirm this will be on the P&Z Agenda on April 16, 2018.

Please confirm the date and time that notification to residents within 200' will be sent.

Thank you all for your time concerning this matter.



**Rachel Crist** Senior Paralegal to Bimal N. Saraiya  
7160 Preston Road, Suite 100  
Plano, TX 75024  
p [469-277-3402](tel:469-277-3402)  
f [469-948-4476](tel:469-948-4476)  
w [www.saraiyapllc.com](http://www.saraiyapllc.com)

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### **III. Items for Discussion and Possible Action**



**CITY OF FARMERSVILLE  
PLANNING AND ZONING COMMISSION MINUTES  
REGULAR CALLED MEETING  
March 19, 2018, 6:30 P.M.  
COUNCIL CHAMBERS, CITY HALL  
205 S. Main Street**

**I. PRELIMINARY MATTERS**

- Chairman Bobby Bishop presided over the meeting which was called to order at 6:30 p.m. Commissioners, Kevin Adamson, Lance Hudson, and Paul Kelly were in attendance. Luke Ingram, Sara Jackson-Butler and Russell Chandler were not present. Also, in attendance were City Manager, Ben White; staff liaison, Sandra Green; City Attorney, Alan Lathrom; and Council liaison, Craig Overstreet.
- Paul Kelly led the prayer and the pledges to the United States and Texas flags.

**II. PUBLIC HEARING**

- A. Public hearing to consider, discuss and act upon a recommendation to the City Council regarding an application requesting a change in zoning on approximately 0.3444 acres of land, more or less, from Single-Family 1 (SF-1) District Uses to C-Commercial District uses. The property is generally situated at 311 Sycamore Street and is known as Lot OL 1 of the Gaddy Addition, and located in the W.B. Williams Survey, Abstract A952, of Farmersville, Collin County, Texas.
- Bobby Bishop opened the public hearing at 6:32 p.m.
  - Alan Lathrom stated the Commission wanted to know if there was any other alternative for the property to be zoned to allow for commercial uses without opening the door to allow every type of commercial use that is listed in the City's Zoning Ordinance. He explained the applicant could apply for a PD – Planned Development District for an Office Center. It would have the base zoning district of Office uses and limit those uses solely to professional and general administrative offices, sales offices without display areas or products, or offices for services provided off premises. So there is a mechanism where he would be able to use that structure and location as an office building

without opening it up for every other commercial use allowed under the Zoning Ordinance.

- Bobby Bishop asked if the applicant would have to withdraw the current application and apply for a Planned Development.
- Alan Lathrom explained the Commission could not approve a PD – Planned Development under the current application.
- George Crump who resides at 401 N. Main Street introduced his attorney and his assistant.
- The attorney's assistant, Rachel Crist, addressed the Commission and stated that Mr. Crump was wanting to use the space as a small professional office building. She stated a small professional office use would have minimal impact on the surrounding community. She requested that Mr. Crump be able to amend the application to Office use instead of Commercial use.
- Alan Lathrom stated the current Zoning Ordinance does not recognize the Office District as being a lesser use district from the Commercial District. He indicated the Commission could make a recommendation to zone the property as an Office District rather than a Commercial District. There would be a need to re-advertise and notice in order to comply with state law first.
- Bobby Bishop clarified that Mr. Crump would have to apply again for either Office or Planned Development. He also asked if the rezoning to Office or Planned Development would fit the requirements set out in the Comprehensive Plan.
- Alan Lathrom indicated it would be up to the Commission and the City Council to determine whether the use of Office at the location, under the terms of the Comprehensive Plan would meet those requirements.
- Bobby Bishop closed the public hearing at 6:38 p.m.
  - Motion to deny the request to give applicant time to re-apply and for notices to be sent out made by Paul Kelly
  - 2<sup>nd</sup> to approve made by Kevin Adamson
  - All members voted in favor

B. Public hearing to consider, discuss and act upon a recommendation to the City Council regarding the proposed complete rewrite and revision of the City of Farmersville's Zoning Ordinance; receive input from citizens regarding the proposed Ordinances; and, discuss the proposed Ordinances and the changes, formatting, and modifications to the Ordinances.

- Bobby Bishop opened the public hearing at 6:39 p.m.
- Randy Smith who resides at 508 CR 610 addressed the Commission regarding the Parks and Open Space. He read the definitions of open space and park or playground. He wanted to clarify that the parks and open spaces are two different things. He believes it could be a problem in the future as the City expands. There will be property that will have some areas that are floodplain that would not be able to be used. He is not in favor of building houses on the floodplain, but it could be used for other items. If it is left in its

natural state wild animals would become an issue. He feels the items need to be differentiated.

- Jim Foy who resides at 211 College Street stated that at the last meeting the Commission asked that a metal roof not be allowed in the new Ordinance. He agreed that corrugated metal should not be used, but questioned if the Commission was stating no metal at all.
- Bobby Bishop explained the Commission was just discussing corrugated metal/tin not excluding metal roofs.
- Mr. Bimal Saraiya, Attorney for George Crump, addressed the Commission and he stated it appeared the Office use had been removed from the proposed Ordinance. He wanted the Commission to consider adding the use back in.
- Bobby Bishop closed the public hearing at 6:45 p.m.
- Drew Brawner from Kimley-Horn stated they looked at the Office use and thought it would be better served if it was absorbed in Neighborhood Services and General Retail. The Neighborhood Services, General Retail, and Commercial are the three levels of intensity. The lighter uses would go in Neighborhood Services and the other uses would fall under General Retail and Commercial. He indicated a standalone office use would be allowed in the Neighborhood Services District.
- Ben White indicated there were some options of them rezoning under the old Ordinance or the new Ordinance once it is adopted.
  - Motion to approve and forward recommendation to City Council made by Kevin Adamson
  - 2<sup>nd</sup> to approve made by Lance Hudson
  - All members voted in favor

C. Public hearing to consider, discuss and act upon a recommendation to the City Council regarding the proposed complete rewrite and revision of the City of Farmersville's Subdivision Ordinance; receive input from citizens regarding the proposed Ordinances; and, discuss the proposed Ordinances and the changes, formatting, and modifications to the Ordinances.

- Bobby Bishop opened the public hearing at 6:48 p.m.
- No one came forward so Bobby Bishop closed the public hearing at 6:49 p.m.
- Ben White mentioned the footer on the bottom of all pages need to be changed to reflect the correct document title.
  - Motion to approve with changes as requested and forward recommendation to the City Council made by Lance Hudson
  - 2<sup>nd</sup> to approve made by Paul Kelly
  - All members voted in favor



D. Public hearing to consider, discuss and act upon a recommendation to the City Council regarding a request for certain variances and waivers from some of the requirements of the City of Farmersville's Subdivision Regulations, Chapter 65 of the Farmersville Code, for Lots 1 through 10, Block 1, of the Deer Crossing Subdivision to be developed on approximately 11.80 acres of land in E.B. Reed Survey, Abstract No. 739 in the City of Farmersville's ETJ along the north side of County Road 553 in an area west of State Highway 78.

- Bobby Bishop opened the public hearing at 6:50 p.m. and asked if anyone was present to speak for or against the item.
- Matt Atkins, Engineer from Engineering Concepts, was in attendance representing Mr. Cryer who is wanting to develop the property. He stated the right-of-way width for Collin County is 50 feet and since the subdivision was in the ETJ they wanted to ask for a variance. All of the utilities would fit within the 50 feet, plus they are adding more easements outside of the 50 feet. He explained they are requesting the roadway width to be 24 feet to go along with the county standard including ditches on each side. He knows the City has had issues with people parking on streets, but since this was a country setting with one acre lots they did not feel that would be an issue. Regarding parkland and open space, he explained it was his understanding that since that item was a zoning requirement it would not be applicable to a plat in the ETJ where there is no zoning. He explained the property drains in three directions. Some lots drain to the west and a portion to the south toward County Road 553. They feel like the runoff is adequate and there would be minimal grading. He indicated they are requesting one point of entry because they would not be able to provide more than one point of entry. He explained a cul-de-sac would be allowed in larger subdivisions and they did not see the entry proposed would be any different from that. They do not feel they need to make improvements to County Road 553 because it is a sufficient width and in pretty good shape. Since it is a County Road, they did not feel the City could require improvements. He explained that Mr. Cryer does intend to build some kind of entry features at a minimal, but they do not want an HOA to maintain those.
- Bobby Bishop asked Alan Lathrom which requirements the City could enforce.
- Ben White said the park dedication on the property would not be required.
- Bobby Bishop asked about the improvements to County Road 553.
- Alan Lathrom indicated the City could not require them to make improvements to the roadway since it is a County Road.
- Bobby Bishop asked about the landscape Plan.
- Alan Lathrom explained the subdivision regulations cross reference the Zoning Ordinance and the City cannot regulate the Zoning Ordinance in the ETJ. So, they would not be required to provide landscaping.
- Bobby Bishop asked about the roadway width.
- Ben White stated the cul-de-sac would have to have an adequate turning radius to comply with the fire code and explained he would recommend approval contingent upon the roadway meeting fire code guidelines. He

would like the roadway width maintained because it is hard when people park on the streets to get emergency vehicles down the street. The width should be 32 feet per the City's specifications. He felt the easements would be sufficient. He explained the storm water detention plan just needed to include data that indicated there would have no adverse effects.

- Matt Atkins explained he was going to indicate no adverse effects on the drainage plans. He stated that an estate development roadway of 32 feet could be done, but they feel the width required by the City would be excessive for ten lots. They would make sure the cul-de-sac would have the appropriate radius for emergency vehicles.
- Ben White indicated the City specifications for the roadway would be 32 feet from edge of pavement to edge of pavement. A compromise that could be made would be a normal residential width, because it is a little smaller. He wants to make sure emergency vehicles can use the roadway effectively.
- Dakota Cryer, who is the developer, stated they would have side entry garages and they plan on setting the building setbacks to 60 feet. There hope is not to have anyone parking on the street because of the large sized lots. The homes are intended to be a minimum of 2,300 square feet.
- Mr. Jim Foy pointed out they should be able to have a 28 feet space for the roadway.
- Bobby Bishop closed the public hearing at 7:17 p.m.
  - Motion to approve waiver and recommend to City Council regarding right-of-way, park and open space, the improvements to County Road 553, and the landscape plan made by Kevin Adamson
  - 2<sup>nd</sup> to approve made by Lance Hudson
  - All members voted in favor
  
  - Motion to approve and recommend to City Council regarding storm water detention subject to the applicant providing a hydraulic study that shows not adverse conditions are created downstream as a result of the development made by Lance Hudson
  - 2<sup>nd</sup> to approve made by Paul Kelly
  - All members voted in favor
  
  - Motion to approve and recommend to City Council a reduction in roadway width to 26 foot of pavement area with 3 foot of shoulder on each side at the same grade as roadway, with a cul-de-sac that meets the requirements of the fire code made by Paul Kelly
  - 2<sup>nd</sup> to approve made by Lance Hudson
  - All members voted in favor

### **III. Items for Discussion and Possible Action**

A. Consider, discuss and act upon minutes from December 18, 2017.

- Motion to approve made by Paul Kelly
- 2<sup>nd</sup> to approve made by Kevin Adamson
- All members voted in favor

B. Consider, discuss and act upon a recommendation to City Council for the Preliminary Plat for Lots 1 through 10, Block 1, of the Deer Crossing Subdivision to be developed on approximately 11.80 acres of land in E.B. Reed Survey, Abstract No. 739 in the City of Farmersville's ETJ along the north side of County Road 553 in an area west of State Highway 78.

- Alan Lathrom stated the plat could be approved subject to the applicant making the corrections before going to City Council.
  - Motion to approve subject to the applicant making the corrections before going to City Council made by Kevin Adamson
  - 2<sup>nd</sup> to approve made by Lance Hudson
  - All members voted in favor

#### **IV. Adjournment**

Meeting was adjourned at 7:30 p.m.

ATTEST:

APPROVE:

\_\_\_\_\_  
Sandra Green, City Secretary

\_\_\_\_\_  
Bobby Bishop, Chairman

## IV. Workshop

**CITY OF FARMERSVILLE  
ORDINANCE # O-2018-\_\_\_\_-\_\_\_\_**

**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 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.

*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 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 five (5) 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 three (3) 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 5 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 three (3) 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, 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
- (c) Make recommendations to the city for the employment of staff and professional consultants as necessary to carry out the duties of the HPC.
- (d) Adopt parliamentary rules and procedures necessary to carry out the business of the HPC, which shall be ratified by the City Council.
- (e) Review and take action on the designation of Landmarks and the delineation of Districts, which shall be ratified by the City Council.



- (f) Recommend and confer recognition upon the owners of Landmarks or properties within Districts by means of certificates, plaques, or markers.
- (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.
- (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.
- (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.
- (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.
- (k) Create sub-committees from among its membership and delegate to these committees' responsibilities to carry out the purposes of this Article.
- (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.
- (m) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
- (n) 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.

- (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.
- (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.
- (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.
- (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.
  - (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.
  - (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, 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;
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.

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 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;
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.

**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 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 applicant is encouraged to schedule a meeting with the HPO prior to the submittal of an application to discuss the proposed work and receive initial design direction.
  - (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.
  - (c) Within five (5) days of receipt of a completed Certificate of Appropriateness 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.
  - (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.

- (e) The HPC may take action to approve, postpone requesting additional information or deny the application.
- (f) If approved, the HPO shall issue a Certificate of Appropriateness to the applicant 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.
- (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.

- (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.
- (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 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 77.509 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 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 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 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, the owner is given thirty (30) 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 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.

#### **Sec. 77.511. – 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 77-517 herein.

**Sec. 77.512. – STAY 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 77.515.

(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. 77.513. – 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.

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.
- 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 77.514 herein. The applicant is encouraged to schedule a meeting with the HPO prior to the submittal of an application to discuss the application and 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 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.
- (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 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. 77.514. – 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. 77.515. – 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. 77.516. – 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 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**

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 \_\_\_\_\_, 2018, and second reading on the \_\_\_\_ day of \_\_\_\_\_, 2018 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 \_\_\_\_\_, 2018.**

**APPROVED:**

BY: \_\_\_\_\_  
Diane C. Piwko  
Mayor

**ATTEST:**

\_\_\_\_\_  
**Sandra Green**  
City Secretary

**APPROVED AS TO FORM AND LEGALITY:**

\_\_\_\_\_  
**Alan D. Lathrom**  
City Attorney

## BRIEF SYNOPSIS OF THE HISTORIC PRESERVATION ORDINANCE

The Historic Preservation Ordinance is a measure to preserve our historic structures by enforcing standards of renovation and repairs. This ordinance does not tell a building owner what to do, rather it tells them what not to do, and helps give guidance to ensure that the historic integrity of the National Register District is kept intact, as well as potential future local historic districts.

### What does the ordinance do?

- A. It creates a five member Historic Preservation Commission
- B. It designates a Historic Preservation Officer that acts as a liaison between the commission and the applicants and provides expertise on the purpose of the Historic Preservation Ordinance. This officer will help guide the building owner through the process as to ensure as little confusion as possible.
- C. It creates a process by which building owners must submit a Certificate of Appropriateness (COA) before completing any work that alters the building exterior. These COA's are reviewed and approved by the Commission. Small in-kind repairs do not require approval by the commission, but only the Historic Preservation Officer, which helps cut down on red tape.
- D. It creates recourse for the city to pressure building owners to not neglect their buildings, which may reduce the value of nearby properties or endanger the downtown area by fire or structural failure.

In short, this ordinance is used to help preserve the historic character of the downtown area and will help to create uniformity among the buildings in the long run.

### Section by Section Description

**77.501:** Outlines the purpose, the "mission and vision" of the ordinance.

**77.502:** Outlines a specific set of definitions meant to help the general public understand more complex terms within the ordinance.

**77.503:** Establishes the Historic Preservation Commission. This Commission of five will have a knowledge of history or preservation, and will make final decisions to many changes requested on historic landmarks by approving Certificates of Appropriateness'. The HPC may also designate buildings or districts as local landmarks in order to seek their preservation.

**77.504:** Gives the city manager power to appoint a Historic Preservation Officer. This individual shall be the in-house "historic preservationist" that can give guidance to those applying for a certificate of appropriateness. Furthermore, the officer can approve certain certificates of appropriateness if they fall under the "delegation of duties". If the certificate requires commission approval, the HPO provides support to the commission and offers advice and acts as a liaison between the applicant and the commission.

**77.505:** This section provides the criteria that allow the designation of "local landmarks" to be protected by this ordinance.

**77.506:** This section outlines the process by which historic buildings are designated as "local landmarks".

**77.507:** This section outlines the broad design and review guidelines that are enforced when building owners seek to alter their building. These guidelines provide the Historic Preservation Commission and Officer assistance in approving or denying Certificates of Appropriateness.

**77.508:** This section outlines the process of accepting, reviewing, and taking action on a Certificate of Appropriateness.

**77.509:** This section seeks to communicate the requirement for minimum maintenance of local landmarks and districts and acts as a preface to the following section.

**77.510:** This section creates a procedure to mitigate demolition due to neglect of the building owner. This section is meant to create pressure for building owners to act on buildings that are a danger to the downtown. An abandoned and derelict building can create serious hazards for surrounding buildings and property owners, and this section seeks to mitigate the risks of such buildings.

**77.511:** Serves a preface for the following two articles by stating the few reasons that allow for the demolition of a local historic landmark.

**77.512:** This section outlines that a sixty day “stay of demolition” is required for landmarks.

**77.513:** Outlines the Certificate of Appropriateness process for approving or denying demolition.

**77.514:** The most common reason for building neglect and demolition is due to economic hardship. This section outlines the steps to determine if the building should be demolished due to economic hardship.

**77.515:** This section provides details on how the city may enforce a stop work order on work being done to a building without approval of the HPO or HPC.

**77.516:** Penalties will be assessed for offenders of the ordinance no more than \$2,500 per offense.

## **V. Adjournment**