

**ORDINANCE # 2024-02**

**CITY OF MERCEDES HISTORIC PRESERVATION ORDINANCE**

**AN ORDINANCE REPEALING ORDINANCE #2010-08, OF THE CITY OF MERCEDES, REGARDING PROVIDING FOR HISTORIC PRESERVATION IN THE CITY OF MERCEDES; PROVIDING DEFINITIONS AND TERMS; CREATING A HISTORIC PRESERVATION COMMISSION, SPECIFYING ITS MEMBERSHIP, TENURE; SETTING FORTH DUTIES AND RESPONSIBILITIES OF THE HISTORIC PRESERVATION COMMISSION; DEFINING DUTIES AND RESPONSIBILITIES OF THE HISTORIC PRESERVATION OFFICER; PROVIDING DESIGNATION CRITERIA AND PROCEDURE FOR DESIGNATING HISTORIC LANDMARKS AND DISTRICTS; ESTABLISHING INCENTIVE PROGRAMS FOR HISTORIC PRESERVATION; PROVIDING CRITERIA AND PROCEDURE FOR OBTAINING CERTIFICATES OF APPROPRIATENESS; ESTABLISHING DESIGN STANDARDS AND GUIDELINES; CREATING MINIMUM MAINTENANCE STANDARDS; ADDRESSING DEMOLITION BY NEGLECT; PROVIDING FOR A PENALTY; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR PUBLICATION AND EFFECTIVE DATE.**

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

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

**WHEREAS**, CH. 211 TEXAS LOCAL GOVERNMENT CODE, Section 211.005(b) provides that in the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures,

**WHEREAS**, CH. 214 TEXAS LOCAL GOVERNMENT CODE, Section 214.00111 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 Office as provided by 16 U.S.C.A. Section 470, *et seq.*,

**NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MERCEDES, TEXAS:**

That the following Historic Preservation Ordinance is hereby adopted as part of the comprehensive zoning plan, pursuant to Chapter 211, Texas Local Government Code. All previous historic landmark ordinances are hereby repealed and replaced in their entirety.

## 1. PURPOSE

The City Commission of Mercedes 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. It is recognized that the City of Mercedes represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. Therefore, the City Commission of Mercedes regards the promotion of the city's cultural heritage, enhancement of the public's knowledge of the city's historical past, and the development of civic pride in the beauty and noble accomplishments in the past, as a public necessity which ought to be preserved, in the interest of the culture, prosperity, education, and welfare of the people.

This ordinance intends to:

1. Protect, preserve, enhance, and perpetuate historic resources and districts which represent distinctive elements of Mercedes' historic, architectural, and cultural heritage;
2. Foster civic pride in the accomplishments of the past;
3. Promote the city's heritage by encouraging the use of historic resources;
4. Promote the city's heritage by attracting and educating tourists and visitors while providing support and stimulus to the economy;
5. Ensure the harmonious, orderly, efficient, and appropriate growth and development of the city by promoting the appropriate use of the city's historic resources;
6. Promote economic prosperity and welfare of the community by encouraging the most appropriate use of historic properties within the city;
7. Encourage stabilization, maintenance, and improvements of such properties and their values by offering incentives for rehabilitation; and
8. Provide input and advice to City Commission regarding matters of historic preservation.

## 2. DEFINITIONS

*Accessory building* means a building or use that is clearly subordinate to and functionally related to the primary building or use, which contributes to the comfort, convenience, or necessity of occupants of the primary building or use on the same platted lot. An accessory building does not include a landscape feature.

*Alteration* means any exterior change, demolition, or modification to a historic property.

*Applicant* means a person seeking a designation or authorization under this ordinance 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, or City Commission.

*Archeological resource* means a site with archeological or paleontological value in that it has produced or can be expected to produce historic or prehistoric interest.

*Architectural feature* means the architectural elements embodying style, design, general arrangement, and components of the exterior of any building or structure.

*Building* shall refer to 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, jailhouse, barn, or other structure. The term also includes mobile homes, manufactured homes, industrial housing, and portable structures.

*Certificate of Appropriateness (COA)* means a signed and dated document evidencing the approval of the Historic Preservation Commission and/or Historic Preservation Officer for work on a historic resource proposed by an owner or applicant that is subject to this ordinance.

*Certified Local Government (CLG)* shall mean a local government certified or approved by the State Historic Preservation Office, which has an appointed Historic Preservation Commission to oversee the survey and inventory of historic resources, to review areas for historically significant structures, and to develop and maintain community planning and education programs.

*Citation* means a notice of violation issued by the Historic Preservation Officer (“HPO”) or Mercedes Historical Preservation Commission (“MHPC”) against a person, firm, or corporation found violating this ordinance and subject to penalties in municipal court.

*City* means the City of Mercedes, a duly incorporated municipality in Hidalgo County, Texas.

*City Commission* means the governing body of the City of Mercedes.

*Compatible buildings or structures* means those within a historic district substantially constructed after the district's period of significance, but that fit within the existing character of the district to reflect contributing resources in massing, height, scale, material, roof form, proportions, architectural details, and general appearance, or are built in accordance with an approved Certificate of Appropriateness.

*Contributing* means buildings, structures, objects or sites within a historic district that are at least fifty (50) years old, were substantially constructed within the district’s period of significance, and retain a recognizable degree of integrity.

*Cultural landscape* means a geographic area (including both cultural and natural resources and the wildlife or domestic animals therein) associated with a historic event, activity, or person exhibiting other cultural or aesthetic values.

*Demolition* means an act or process (not withstanding acts of God, criminal activity, etc.) which destroys in whole or in part a building, structure, or improvement.

*Demolition by neglect* means allowing a building or structure, whether intentional or unintentional, to fall into such a state of disrepair that it becomes necessary or desirable to demolish it.

*Demolition delay* means suspension by the City of Mercedes of an application for removal or demolition of a historic resource.

*Design standards* means a set of technical regulations adopted by the Mercedes Historic Preservation Commission that follow the Secretary’s Standards for treating historic properties.

*Design guidelines* means a set of discretionary guidelines adopted by the Mercedes Historic Preservation Commission to provide direction in making determinations that proposed actions are in compliance with this ordinance and consistent in maintaining the historic character of the structure, district, and city.

*Designation* means the process by which landmarks and districts are recognized as “historic” and protected under this ordinance.

*Exterior features* means features including the architectural style, general design, and general arrangement of the exterior of a building or other structure, including but not limited to the kind and texture of the building material and the type and style of the windows, doors, walls, roofs, light fixtures, signs, and other appurtenant features.

*Historic district* means an area which includes a grouping of two (2) or more historic properties, together with their accessory buildings, fences, and other appurtenances that are of historical, cultural, archaeological, or architectural importance, and that has received designation from the City of Mercedes as a unified district. A historic district may have within its boundaries contributing, compatible, and non-contributing structures. A historic district is a local historic district under Texas Local Government Code, Sec. 211.0165, as amended.

*Historic landmark* means a building, structure, object, site, or landmark, together with its accessory buildings, fences, and other appurtenances, of historical, cultural, archaeological, or architectural importance that has received designation from the City of Mercedes on its own and not as part of a historic district. It may or may not also be located within a historic district as part of a separate designation. A historic landmark is a local historic landmark under Texas Local Government Code, Sec. 211.0165, as amended.

*Historic preservation* means the identification, evaluation, recordation, documentation, protection, management, repairs, rehabilitation, restoration, stabilization, maintenance, and reconstruction of historic structures or property, or any one or more of the foregoing activities.

*Historic Preservation Commission* means the Mercedes Historic Preservation Commission (MHPC).

*Historic Preservation Officer (HPO)* means a designated city official, preferably meeting the Secretary of the Interior’s Professional Qualification Standards, entrusted to administer this ordinance and oversee the City of Mercedes’ preservation efforts.

*Historic resource* means a building, structure, object, or site that is 50 years or with historical, cultural, archaeological, or architectural significance, either as an individual property or as part of a larger district.

*Historic Resource Inventory* means a comprehensive list of historic properties, maintained by the Historic Preservation Commission, that have been identified by a Historic Resource Survey and evaluated as meeting specified criteria of significance.

*Historic Resource Survey* means a comprehensive survey involving the identification, research, and documentation of buildings, sites, and structures of any historic, cultural, archaeological, or architectural importance.

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

*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.

*Landscape feature* means an outdoor enhancement for recreational or aesthetic use, including but not limited to gardens, orchards, and parks.

*Minor in-kind repairs or replacements* means small-scale repairs or replacements to correct minor problems or damage to the exterior of a structure or building, not including a change in design, material, or outward appearance. Examples that satisfy this definition include, but are not limited to touch up painting, spot replacement of shingles, replacement of a windowpane, caulking, and securing loose boards.

*Mothballing* means the process of closing up a building temporarily to protect it from the weather and the elements, as well as to secure it from vandalism, in order to prevent long-term deterioration while the building is unoccupied.

*National Register of Historic Places* or *National Register* means 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.

*Natural history resource* means a locally designated natural resource of rare, significant, and/or outstanding geological or biological value.

*Non-contributing* means a building, site, structure, or object within a historic district that was substantially constructed after the district's period of significance and is not an integral part of the historic, archaeological and architectural fabric of the district or the city, or was substantially constructed within the district's period of significance and does not retain a significant portion of its architectural or design integrity.

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

*Ordinary maintenance* means activities relating to a property that would be considered ordinary or common for maintaining the property and which does not exceed the definition of minor in-kind repairs or replacements.

*Potential historic resource* means a property that is at least 50 years old and which may have historical, cultural, archaeological or architectural significance, either as an individual property or as part of a larger district, but has not yet been designated.

*Preservation* shall mean the stabilization of a historic structure, 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.

*Preservation plan* means a document adopted by the Historic Preservation Commission to provide a current inventory of historic resources, a list of potential historic resources, and to make policy recommendations to guide preservation activities for the City of Mercedes.

*Reconstruction* means the act or process of reproducing by new construction the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

*Recorded Texas Historic Landmark (RTHL)* means a state designation for buildings important for their architectural and historical associations, which have retained a high degree of their original historic fabric, are at least fifty (50) years of age, and retain their original exterior appearance.

*Rehabilitation* means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

*Relocation* means any change of the location of a structure, object, or material thing in its present setting to another setting.

*Repair* means any work to correct deterioration or decay of, or damage to, a structure or property with the least degree of intervention using the same materials or those materials available which are as close as practicable to the original, but which goes beyond the definition of minor in-kind repairs and replacement.

*Restoration* means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

*Secretary of the Interior's Standards for the Treatment of Historic Properties* or *Secretary's Standards* means the standards established by the Secretary of the Interior for advising federal agencies on the preservation and rehabilitation of historic properties listed or eligible for listing on the National Register of Historic Places.

*Significance* means the historic, architectural, archeological, or cultural value of a site.

*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 maintains historical or archeological value regardless of the value of any existing buildings, structures, or objects.

*State Historic Preservation Office (SHPO)* refers to the government agency responsible for administering each state's preservation laws as outlined in the National Historic Preservation Act. The SHPO for the state of Texas is the Texas Historical Commission.

*State Antiquities Landmark (SAL)* means a site of archeological or cultural value designated by the Texas Historical Commission which receives legal protection under the Antiquities Code of Texas. For a building to be designated as a state archeological landmark, it must first be listed on the National Register of Historic Places.

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

### **3. HISTORIC PRESERVATION COMMISSION**

There is hereby created a Historic Preservation Commission to be known as the Mercedes Historic Preservation Commission, hereinafter referred to as the MHPC, or Commission.

(a) *Members, appointments, and qualifications.* The Commission shall be composed of seven (7) members appointed, to the extent available among the residents of the community, by the City Commission as follows:

- a. At least one member shall be:

- i. An architect, planner, or representative of a design profession;
    - ii. A degreed historian or educator from a related discipline;
    - iii. A licensed real-estate broker;
    - iv. An attorney;
    - v. An owner of a designated historic property;
    - vi. An archeologist or from a related discipline.
  - b. All Commission members, regardless of background, shall have a known and demonstrated interest, competence, or knowledge in historic preservation.
  - c. The Commission as a whole shall represent the ethnic makeup of the city.
- (b) *Officers.* The Commission shall elect a Chairman and Vice-Chairman from the appointed members of the Commission annually at the first meeting of each calendar year. No member shall hold the same office for more than two consecutive terms.
- (c) *Terms.* Commission members shall serve for a term of two (2) years ending on December 31, with an exception for the inaugural MHPC members, of whom four (4) members shall serve for a term of three (3) years, and three (3) members shall serve for a term of two (2) years to provide for staggered term expirations. A member whose term has expired may serve until his or her successor is appointed. Members may be reappointed to unlimited consecutive terms.
- (d) *Vacancies* shall be filled by the City Commission for the unexpired term of any member whose term becomes vacant.
- (e) *Resignation.* Any member may resign by submitting a letter of intent to the City Commission and the Historic Preservation Officer. Any member who misses three (3) consecutive regular meetings shall be considered to have resigned, and a replacement shall be appointed following the procedure for filling vacancies.
- (f) *Compensation.* Commission members shall serve without compensation for their service.
- (g) *Quorum.* A quorum shall be a simple majority of the Commission's appointed members, not including non-voting or *ex-officio* members. No transaction of business shall be conducted without a quorum present and no decision shall be rendered without the concurring vote of a majority of members when a quorum is present.
- (h) *Regular Meetings.* The MHPC shall meet regularly at least bi-monthly, six (6) times annually, in accordance with the Texas Historical Commission's regulations for Certified Local Government commissions. A public notice shall be issued at least 72-hours prior to meetings, in accordance with the Texas Open Meetings Act.
- (i) *Special Meetings.* Special meetings may be called at any time by the Historic Preservation Officer, or at the request of at least two (2) members of the MHPC. A public notice shall be given at least a 72-hour prior notice for special meetings.
- (j) *Emergency Meetings.* The Commission may call an emergency meeting to discuss a matter of urgent public necessity, as defined by the Texas Open Meetings Act, for which the 72-hour prior notice may be waived. At least one (1) hour public notice is required.

- (k) *Training.* Regardless of profession, background, or experience, members must attend one preservation-related training per year. Initial orientation for new members shall be provided by the HPO and should be completed within two (2) months of appointment, including Texas Open Meetings Act training. The HPO shall keep a record of members' training compliance.
- (l) *Conflict of interest.* No member shall participate in a discussion, deliberation, or vote on any matter coming before the Commission, or take any action where the member has independent approval authority, where the member or his or her family member has a financial, business, or property interest that may be affected by action on the matter. The member is deemed to have a designated interest where the effect on the member's interest is distinguishable from its effect on the general public. In such cases, the member shall recuse himself or herself as a voting member of the Commission for that issue.
- (m) *Compliance with Texas Open Meetings Act.* All meetings shall be held in compliance with the Texas Open Meetings Act, Chapter 552 of the Texas Government Code, as amended.
- (n) *Minutes.* The Historic Preservation Officer shall ensure that minutes of each meeting are recorded, which shall be approved by the Commission and subsequently filed with the City Secretary and with the Texas Historical Commission.
- (o) *Rules of Order.* The Commission shall follow *Robert's Rules of Order, Newly Revised*.

#### **4. POWERS AND DUTIES OF THE COMMISSION**

The Historic Preservation Commission shall be empowered to:

1. Adopt or amend parliamentary rules and procedures necessary to carry out the business of the Commission, as needed;
2. Make recommendations to the city for the employment of professional consultants as necessary to carry out the duties of the Commission;
3. Create committees and sub-committees from among its membership and delegate to these committees such responsibilities as necessary to carry out the purposes of this ordinance;
4. Adopt and periodically review criteria used to evaluate the designation of historic resources;
5. Review and take action on the designation of historic landmarks and the delineation of boundaries for historic districts, including the designation of new districts, subject to ratification by the City Commission;
6. Recommend and confer recognition upon the owners of historic landmarks or properties within historic districts by means of certificates, plaques, or markers;
7. Review and recommend to the City Commission and other applicable city boards and commissions all proposed changes to the zoning ordinance, building code, general plan or other adopted policies of the city that may affect the purpose of this ordinance;
8. Develop, prepare, and adopt specific standards and guidelines for use in the review of all Certificate of Appropriateness applications;
9. Review and take action on Certificate of Appropriateness applications for compliance with adopted design standards and guidelines, including appeals on actions taken by the Historic Preservation Officer via administrative review;



10. Periodically review and update guidelines or standards to be used in determination of whether to grant or deny Certificates of Appropriateness for proposed alterations to the exterior of a historic resource;
11. Review and take action on all city preservation-related incentive program applications involving work on historic resources for compliance with adopted design standards and guidelines pursuant to this ordinance.
12. Implement and maintain a system of survey and inventory of the city's significant historical, architectural, and cultural resources. Such information shall be maintained securely and made accessible to the public and should be updated at least every ten (10) years;
13. Prepare and maintain a citywide preservation plan, which should be updated at least every ten (10) years, following completion of the decennial Historic Resource Survey;
14. Monitor and report to the Texas Historical Commission all actions affecting any Recorded Texas Historical Landmark, State Antiquities Landmark, National Register property, and any other designated property, as deemed necessary;
15. Review and make comments to the Texas Historical Commission concerning the nomination of properties within its jurisdiction to the National Register of Historic Places;
16. Provide comment to the Texas Historical Commission, the Hidalgo County Historical Commission, and/or any other preservation-related entity 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.
17. Accept on behalf of the city any grants, funds, or donation of preservation easements and/or development rights, as well as any other gift of value for the purpose of historic preservation, subject to the approval of the City Commission;
18. Make recommendations to the City Commission concerning the acquisition of historic properties endangered by demolition and where private preservation is not feasible;
19. Recommend approval of the designation of properties as historic landmarks and the inclusion of properties in a historic district without property owner consent pursuant to Texas Local Government Code, Section 211.0165(a-1);
20. Make recommendations to the City Commission concerning the utilization of state, federal, or private funds to promote the preservation of historic resources within the city;
21. Propose incentive programs for preservation, such as grants and tax exemptions, to the City Commission and administer such programs at the will of the City Commission;
22. Prepare and submit annually to the City Commission a report summarizing expenditures, goals, and objectives, as well as an account of all work completed during the previous year, as well as anticipated budgetary requests;
23. Increase public awareness of the value of historic, architectural, and cultural preservation by developing and participating in public education programs;
24. Perform any task otherwise authorized by this ordinance.

## **5. HISTORIC PRESERVATION OFFICER**

(a) *Creation.* There is hereby created a staff position known as the Historic Preservation Officer who shall be responsible for coordinating the city's preservation activities and administering the city's Certified Local Government program, as well as acting as the city's representative to the public, and to local, state, and federal agencies and non-profit preservation organizations.

(b) *Appointment.* The City Manager, or his or her designee, shall appoint a qualified staff person, preferably as outlined in the Secretary of the Interior's professional qualification standards, to serve as the Historic Preservation Officer.

## **6. POWERS AND DUTIES OF THE HISTORIC PRESERVATION OFFICER**

The Historic Preservation Officer shall be empowered to:

- (a) Administer this ordinance and advise the MHPC on matters submitted to it;
- (b) Maintain and hold open for public inspection all documents and records pertaining to the provisions of this ordinance;
- (c) Set deadlines for submittals to the MHPC in order to assure adequate staff review time and proper notification of the Commission and the general public;
- (d) Receive and review all applications pursuant to this ordinance to ensure their completeness;
- (e) Review and forward with any recommendations all applications for Certificates of Appropriateness subject to review by the MHPC pursuant to this ordinance;
- (f) Administratively review and take action on Certificate of Appropriateness applications subject to administrative review pursuant to this ordinance, and grant or deny the same in accordance with the provisions of this ordinance and for any other action which the Commission has oversight under the delegation of duties or otherwise;
- (g) Ensure proper posting and noticing of all MHPC meetings, schedule applications for MHPC review, create meeting agendas, provide packets to its members prior to meetings, record minute meetings, and facilitate all MHPC meetings.
- (h) Review and help coordinate the city's historic preservation activities with those of local, state, and federal agencies as well as other municipal departments and the general public;
- (i) Manage reporting requirements to monitor and maintain Certified Local Government status;
- (j) Submit to the Texas Historical Commission, county authorities, and any other appropriate local, state, or federal agency a list or inventory of designated historic resources;
- (k) Monitor and report to the Commission all actions affecting any locally designated landmark, Recorded Texas Historic Landmark, State Antiquities Landmark, and National Register property, as deemed necessary;
- (l) Assist in developing community outreach programs to support preservation goals;
- (m) Help maintain and update historic resource inventories, as needed;
- (n) Prepare, amend, and update the city's preservation plan;
- (o) Perform any task otherwise authorized by this ordinance.

## 7. PRESERVATION PLAN

- (a) *Purpose.* The preservation plan is the guiding policy document for the city's historic preservation efforts and related activities. The plan elaborates upon and works toward the goals and objectives identified in this ordinance. The plan:
  - (1) Maintains an inventory of historic resources.
  - (2) Develops a list of potential historic resources that have the potential to become designated with further historic research, restoration, or property owner interest.
  - (3) Develops a strategic framework which includes goals and objectives of the historic preservation program.
  - (4) Seeks and integrates community feedback.
- (b) *Authorship.* The Historic Preservation Officer, his or her designee, and/or a contracted professional, shall author the preservation plan with input from the Commission.
- (c) *Review and recommendation.* The Historic Preservation Commission shall review the preservation plan and make a recommendation to City Commission for approval.
- (d) *Adoption.* The City Commission shall adopt by resolution the preservation plan.
- (e) *Amendment.* The preservation plan may be amended periodically, as needed, and shall undergo a formal review every ten (10) years.

## 8. HISTORIC RESOURCE SURVEY

- (a) *Purpose.* The purpose of completing a historic resource survey is to identify and gather historic information on buildings, structures, and sites in the city that are at least fifty (50) years or old that may qualify for designation as a historic resource. The Historic Preservation Commission, Historic Preservation Officer, or his or her designees, may conduct surveys for existing and potential historic resources, as needed.
- (b) *Survey data.* Surveys may vary in scope and detail; however, all surveys should include, at a minimum, the following information for all properties within the survey:
  - (1) Location of the property.
  - (2) Photographs of the property (historic and current).
  - (3) Date of construction or approximate date of construction.
  - (4) Architectural style of the structure, including the name of architect or firm, if possible.
  - (5) Defining architectural details, including their materials, color, and condition.
  - (6) Accessory structures and landscape features.
- (c) *Resource category and integrity evaluation.* After information for the historic resource survey is compiled, the Commission shall review the properties surveyed to determine:
  - (1) If the resources are “historic” or “non-historic,” based on the age of the structure and its historical, architectural, or cultural significance.

(2) Whether the properties would be classified as contributing, compatible, or non-contributing to the surveyed area or the overall history and character of the city or other jurisdiction should the area be designated as a historic district.

(3) To what extent each structure retains its key, character-defining features.

A historic resource survey map showing the location of all potential contributing, compatible, and non-contributing structures should be included with the survey.

(d) *Approval.* The Commission shall approve the results of a historic resource survey completed by the City. Approval of a survey shall not establish any additional restrictions upon the properties within the survey, nor shall the structure categorization make any property within the survey eligible for any potential historic tax exemptions, unless or until a property or group of properties are designated as historic landmarks or districts.

## **9. CRITERIA FOR DESIGNATION OF HISTORIC LANDMARKS AND DISTRICTS**

(a) *Purpose.* The purpose of designating a historic landmark or district is to bring it to the attention of the general public and protect it from inappropriate changes or demolition.

(b) *Criteria for designating historic landmarks.* The Historic Preservation Commission shall use criteria for evaluation of significance of a historic landmark or district below.

(A) An individual historic resource may be designated as a historic landmark if it is at least fifty (50) years old, retains a recognizable degree of its historic integrity, and substantially complies with two (2) or more of the following:

(1) Possesses significance in history, architecture, archeology, or culture.

(2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.

(3) Is associated with events that have made a significant impact in the city's past.

(4) Represents the work of a master designer, builder, or craftsman.

(5) Embodies the distinctive characteristics of a type, period, or method of construction.

(6) Represents an established and familiar visual feature of the city.

(7) Is identified with a person who significantly contributed to the culture and development of the City of Mercedes, the Rio Grande Valley, or history more broadly.

(8) Has archeological value, in the sense that the property has yielded, or may be likely to yield, information important in prehistory or history to the City of Mercedes.

(9) Is a cultural landscape associated with a historic event, activity, or person exhibiting other cultural or aesthetic values.

(10) Is a natural history resource of rare, significant, and/or outstanding geological or biological value to the city or region.

(11) The property has a unique location, physical characteristic, or significant feature that contributes to the character, image, or cultural identity of the city, a neighborhood, or other value to the community at large.

- (B) Properties that are listed as a Recorded Texas Historic Landmark (RTHL) or State Antiquities Landmark (SAL), or that are listed on the National Register of Historic Places shall automatically be eligible for designation as historic landmarks and districts pursuant to this ordinance, but will still be required to undergo the public review process needed to designate historic landmarks.
- (c) *Designating historic districts.* A district may be designated as historic if it:
- (A) Contains two (2) or more properties and an environmental setting that are at least fifty (50) years old and meet two or more of the criteria for designation of a historic landmark, and
  - (B) Constitutes a distinct section of the city; or
  - (C) If a district is already listed on the National Register. The district would still be required to undergo the public review process needed to designate a local historic district.
- (d) *Already designated historic landmarks and districts.* All historic landmarks and historic districts, including contributing properties within historic districts, which have already been designated as historic by the City of Mercedes prior to the adoption of this ordinance shall retain their designated status.
- (e) *Historic property boundaries.* When designating individual historic landmarks, the entire parcel of land on which the historic resource is situated shall be zoned as “historic” and constitute a single boundary for the property unless otherwise defined during the initial designation process. The Commission can review a change to these boundaries following the procedure for amending or removing a historic designation outlined below.

## **10. PROCEDURE FOR DESIGNATING HISTORIC LANDMARKS AND DISTRICTS**

The provisions pertaining to the designation of historic landmarks constitute a part of the comprehensive zoning plan of the City of Mercedes.

- (a) *Property owner-initiated designation.* Any person or legal entity having a proprietary interest in a property may submit an application to designate the property as a historic landmark or district. Applications, made on forms as prescribed by the city, shall be addressed to the Historic Preservation Officer, who shall review the application and submit it to the Mercedes Historic Preservation Commission for further review and approval.
- (1) *Signature requirements: Historic landmarks.* Applications for designation of a historic landmark shall require the signatures of all owners of the property, and/or their authorized agents.
  - (2) *Signature requirements: Historic district.* Applications for designation of historic districts must contain the signatures of property owners, or authorized agents, of at least twenty (20) percent of the residents within the proposed district boundaries, as determined by the most recently approved municipal tax roll in which the district is located.
- (b) *City-initiated designation.* The Historic Preservation Officer, of his or her own volition, or at the request of the MHPC or City Commission may initiate an application to designate any property, structure, site, or district within the City of Mercedes as a historic landmark or historic district.

- (c) *Public contributions.* Members of the general public may initiate an application for the designation of a historic landmark or district either by obtaining the signature of the property owner(s) or by submitting the completed application to the HPO for city-initiated designation.
- (d) *Property owner consent requirements.* The city may designate historic landmarks and districts without the property owner's approval. Pursuant to Texas Local Government Code, Section 211.0165, a supermajority (3/4) vote of both City Commission and either the MHPC or Planning & Zoning Commission is needed to designate historic landmarks or districts over a property owner's objections.
- (e) *Application.* The application for designation of a historic landmark or district shall contain:
- (1) For a proposed historic landmark: the name, address, telephone number and email of the applicant(s) and the physical address of the property.
  - (2) For a proposed historic district: the name, address, telephone number and email of the applicant(s) and a signed petition of at least twenty (20) percent of residents in the proposed district.
  - (3) A site plan of the proposed individual landmark property, or map indicating the geographic boundaries of the proposed district, showing all affected buildings and/or structures.
  - (4) A detailed historic description and background on the proposed landmark or district, including current and, if possible, historic photographs of the overall property or area.
  - (5) Any other information which the HPO or Commission may deem necessary.
- (f) *Commission Hearing.* Upon receipt of a completed application, the HPO shall review the application and forward it to the Historic Preservation Commission, and shall schedule a hearing at the next available regularly scheduled MHPC meeting within sixty (60) days from the date the application was received.
- (g) *Protection.* A proposed historic landmark or district for which an application for designation has been received by the HPO shall be protected by, and subject to, all the provisions of this ordinance governing demolition, alterations, minimum maintenance standards, and penalties until a final decision becomes effective, but not to exceed one hundred eighty (180) days.
- (h) *Notification.* Owners of proposed historic properties shall be notified in writing at least fifteen (15) days prior to the MHPC hearing on the recommended designation. The written notice shall include a statement that describes the impact that a historic designation or inclusion in a local historic district of the owner's property may have on the owner and the owner's property, including:
- i. Regulations that may be applied to any structure on the property after the designation;
  - ii. Procedures for the designation;
  - iii. Tax benefits that may be applied to the property after the designation; and
  - iv. Rehabilitation or repair programs that the municipality offers for a property designated as historic.

A notice sign shall also be posted at the property, visible from the public right of way, at least ten (10) days prior to the hearing. At the Commission's public hearing, owners, interested

parties, and technical experts may present testimony or documentary evidence, which shall become part of a record regarding the historic, architectural, or cultural significance of the proposed historic property.

- (i) *Testimony.* 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.
- (j) *Decision by the MHPC.* The Historic Preservation Commission shall vote on whether to deny with explanation, postpone requesting additional information, or approve a recommendation to the City Commission regarding the designation of a historic landmark or district. After approval from the MHPC, the proposed historic landmark or district application shall be submitted to the Planning and Zoning Commission within thirty (30) days. A public hearing shall be scheduled for the next regularly scheduled meeting of the Planning and Zoning Commission. Denials may be appealed directly to the City Commission.
- (k) *Decision by Planning and Zoning.* The Planning and Zoning Commission shall give notice and conduct its hearing upon receipt of the recommendation from the Historic Preservation Commission. Notice for such a 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 Mercedes. The matter shall proceed in the same manner as a petition for the amendment of the zoning ordinance. The Planning and Zoning Commission shall consider the criteria for designation specified in the zoning ordinance and shall forward its recommendation to the City Commission within ten (10) days after taking action on the application.
- (l) *Decision by City Commission.* Upon receipt of the joint recommendations on the application from the Historic Preservation Commission and the Planning and Zoning Commission, the City Commission 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 Mercedes. City Commission shall make the final determination on the application based upon the requisite criteria for designation. Significance shall be considered only on the record made before the Historic Preservation Commission and the Planning and Zoning Commission.
- (m) *Decision recordation.* Upon passage by the City Commission, the HPO and/or City Secretary shall file a copy of the designation, together with a written notice briefly stating the fact of the designation, with the appropriate municipal authorities to be recorded by legal description on the city's official zoning maps, in the records of real property of Hidalgo County, the tax office, and with the appraisal district. All zoning maps should indicate the designated landmarks with the appropriate mark.

A copy of such notice shall similarly be sent by certified mail to the owner of the affected property, or regular mail to all residents within the historic district. Designated properties, districts, or sites shall be governed by the terms of this ordinance.

- (n) *Appeals.* The applicant or any persons adversely affected by any determination of the MHPC may appeal the decision directly to the City Commission. Appeal requests shall be in writing and filed with the HPO within seven (7) days of the MHPC's decision and scheduled for the

next available regularly scheduled City Commission 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 Mercedes. Appeals to the City Commission shall be considered only on the record made before the MHPC and may only allege that the Commission's decision was arbitrary, capricious, or illegal.

- (o) *Amendment.* The MHPC or HPO may initiate amendments to a historic landmark or historic district designation with approval from the City Commission, as needed. The process for an amendment shall follow the same procedure for the creation of a historic landmark or district.
- (p) *Removal.* The removal of historic designation from a local landmark or historic district shall only be initiated if the criteria is met for removing a historic designation and shall follow the procedure outlined for the removal of a historic designation.

## **11. INCENTIVE PROGRAMS FOR HISTORIC PRESERVATION**

- (a) *Purpose.* The City of Mercedes recognizes the importance and value that historic buildings, structures, and objects have for the cultural and economic welfare of the city. In order to lift property values in the city, promote ongoing efforts to designate historic resources, and encourage the proper maintenance, repair, and treatment of historic resources:
- (b) *Authorization.* The City Commission of Mercedes may authorize such incentive programs for historic preservation as it deems necessary to fulfill the goals and objectives of this ordinance, including but not limited to preservation grant programs and tax exemptions or abatements.

## **12. CRITERIA FOR CERTIFICATES OF APPROPRIATENESS**

- (a) *Purpose.* The purpose of a Certificate of Appropriateness (COA) is to ensure that the integrity and character of Mercedes' historic resources are maintained, and to help enhance or return lost or diminished examples of architectural significance to their appropriate historical form.
- (b) *Applicability.* A Certificate of Appropriateness shall be required for any project affecting the exterior or structural stability of a building, structure, or object that is a designated historic landmark or is contributing to a historic district, or for new construction within a historic district.
- (c) *Review criteria.* In considering an application for a Certificate of Appropriateness, the HPO and the MHPC shall review it for compliance with the Secretary of the Interior's Standards and any applicable design guidelines adopted by the City of Mercedes.
- (d) *Review required.* No person or entity shall carry out any activity which affects the exterior appearance or structural stability of any designated building, structure, or object without obtaining a Certificate of Appropriateness issued by the Historic Preservation Officer for the following types of work:
  - (1) Repair (other than ordinary maintenance), reconstruction, alteration, addition, stabilization, restoration, or rehabilitation;
  - (2) New construction on real property excluding public rights-of-way;
  - (3) Material changes in any doors, roofs, windows, masonry work, woodwork, light fixtures, signs, sidewalks, fences, steps, paving, and/or other exterior elements visible



from a public right-of-way which affect the appearance and compatibility of the structure or property; or

- (4) Demolition, removal, or relocation of a historic resource, including any accessory buildings or landscape features.
- (e) *Compatibility exception.* The HPO/MHPC may approve a Certificate of Appropriateness for work that does not strictly comply with the preservation criteria upon a finding that the proposed work is historically compatible and is consistent with the spirit and intent of the preservation criteria, and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic district.
- (f) *Ordinary maintenance and minor in-kind repair and replacements.* Nothing in this ordinance should be construed to prevent ordinary maintenance or minor in-kind repair of any exterior architectural feature of a historic landmark or historic resource located in a historic district. Repairs shall be made in accordance with the design standards established by the city.
- (g) *Emergency repair.* If a historic resource is unexpectedly damaged and the HPO determines that additional deterioration is likely to occur without immediate repair, the HPO may authorize the property owner to take temporary measures to stabilize and protect the structure. In such cases, the property owner shall apply for a Certificate of Appropriateness within seven (7) days of completion of the emergency corrective measures. The corrective measures authorized under this subsection shall not permanently alter the architectural features of the historic resource.
- (h) *Building permit and site plan approval.* Unless where otherwise excepted by this section, a Certificate of Appropriateness must be approved prior to issuance of any building permit or site plan approval. The Certificate of Appropriateness application shall be in addition to, and not in lieu of, any required building permit. Issuance of any necessary permits and approval of any plans from the building inspections, planning, public works, or health departments are required with an approved Certificate of Appropriateness before work can commence.
- (i) *Delay period for potential landmarks.* The HPO, in consultation with the building inspector, may issue a ten (10) day suspension of any work on a potential historic landmark while a review is conducted to determine the resource's designation eligibility. If the resource is determined to be eligible for designation, and the HPO pursues city-initiated designation, a Certificate of Appropriateness shall be required before work can resume.
- a. *Façade grants and other city-funded programs.* All projects funded by the City of Mercedes that would affect the historical integrity of designated historic landmarks, contributing resources in a historic district, or potential historic landmarks shall require a review from the HPO/MHPC before any work commences to determine if a Certificate of Appropriateness is needed. The City of Mercedes shall seek to treat all city-owned buildings of historic age with the appropriate historic treatment.
- b. *Section 106 review.* All projects funded through federal programs subject to the National Historic Preservation Act shall submit the proper materials for Section 106 review to the appropriate state and local preservation authorities.

### 13. CERTIFICATE OF APPROPRIATENESS PROCEDURE

- (a) *Application.* The owner of a historic property wishing to make changes not covered under ordinary maintenance shall apply for a review of the proposed changes and request a Certificate of Appropriateness. Applications, made on forms as prescribed by the city, shall be addressed to the Historic Preservation Officer.

The application for a Certificate of Appropriateness shall contain:

- a. The name, address, telephone number and email of the applicant(s) and the physical address of the property.
  - b. A photograph of the property and adjacent properties, and copies of any historical photographs available as well.
  - c. Elevation drawings or architectural plans of the proposed changes, if available.
  - d. A list and samples of materials to be used.
  - e. Any other information which the HPO or MHPC may deem necessary.
- (b) *Historic Preservation Officer review.* The applicant is encouraged to schedule a meeting with the HPO prior to the submittal of an application to discuss the proposed work and get initial design direction. The HPO may meet with the applicant as needed and review the proposed work against the standards and guidelines set out in this ordinance. The HPO shall have the authority to administratively review all applications where the criteria for Commission review are not met and approve, approve with conditions, or deny with explanation any projects, as appropriate, or refer any application for further review before the Historic Preservation Commission. The HPO shall provide written notice of his or her decision to the applicant within fourteen (14) days from the date the application was received. The HPO shall also notify the members of the MHPC of any decision to approve a COA via administrative review at least one day before issuing the Certificate of Appropriateness to the applicant.
- (c) *Historic Preservation Commission review.* The Historic Preservation Officer shall refer a Certificate of Appropriateness application to the Historic Preservation Commission for review if any of the following criteria are met:
- a. The applicant is requesting demolition of a historic resource.
  - b. The applicant wishes to relocate a historic resource from its original site.
  - c. The applicant is requesting approval to make significant changes to a historic property that would permanently affect its historic or architectural integrity.
  - d. The applicant wishes to erect a new construction of a major sort within a historic district or within the APE of an existing historical landmark. The HPO shall determine what is considered “major” under this definition.
  - e. The HPO reserves the right to forward any Certificate of Appropriateness application to the Commission for review and approval when direction on design policy is needed or if the HPO is unable to determine compliance with the Secretary’s Standards or the Design Guidelines.
  - f. Any request that the HPO deems necessary to bring to the Commission.

- g. At the request of the Chairman or at least two members of the Commission.
- (d) *Commission hearing.* If the above criteria for Commission review are met, the HPO shall schedule a hearing at the next scheduled MHPC meeting within sixty (60) days from the date the application was received and inform the applicant via mail.
- (e) *Notification.* Notice of the pending administrative action shall be mailed to the applicant.
  - i. The owner, and/or his or her agent, shall have the opportunity to address the Commission and submit any relevant materials for public record on why a COA should be granted. He or she shall have the right to be accompanied or represented by counsel and construction or design professionals at the meeting.
- (f) *Commission decision.* If a hearing is conducted, the MHPC shall vote to determine whether to deny, delay for further review, approve, or approve with conditions, the applicant's request for a COA. The Commission shall issue a ruling within forty-five (45) days of the hearing.
  - i. If the HPO/MHPC finds the proposed work is inconsistent with the Secretary's Standards or the city's adopted design guidelines and issues a denial, they shall state, in writing, the reasons for denying the COA and include recommendations for the applicant to take action upon to secure approval in the future.
  - ii. If the HPO/MHPC has taken no action within ninety (90) days of original receipt by the HPO, the appropriate permit shall be issued.
- (g) *Changes in building or site plans following a decision.* The applicant shall be allowed to work with the HPO to resolve any issues that may arise during the permit review process. No change shall be made in the application for any building permit after issuance of a Certificate of Appropriateness without approval from the HPO, who shall have the authority to amend the COA for all instances covered under administrative review. Any additional projects or major changes in the proposed work shall require the submittal of a new COA application.
- (h) *Appeal.* The applicant may appeal the decision of the HPO and/or the Commission as follows:
  - (1) *Appeal of HPO decision.* The applicant may appeal the decision of the Historic Preservation Officer to the Historic Preservation Commission by filing a written request with the HPO within thirty (30) days of the receipt of a written notice of the action taken by the HPO. The HPO shall schedule the appeal hearing for the next scheduled MHPC meeting, which shall follow procedures outlined for the Commission review process.
  - (2) *Appeal of MHPC decision.* If the Commission has denied the Certificate of Appropriateness, the applicant may file in writing a notice of appeal to the City Commission within thirty (30) days after the date upon which the Commission notified the applicant of its decision.
  - (3) *Notice.* Written notice of any appeal hearing shall be sent to the property owner and shall set forth in clear and concise fashion the basis for the appeal. The City Secretary shall place the appeal on the next practicable City Commission agenda, and the applicant shall be notified of the date of the hearing. The City Commission, utilizing the criteria set forth under this ordinance's design standards and guidelines, shall deny, approve, with or without conditions, or remand the item to the Commission for further proceedings consistent with the City Commission's decision.

- (i) *Expiration.* Every Certificate of Appropriateness issued pursuant to this section shall expire and be void if the authorized work has not commenced within one (1) year from the date of approval or is suspended or abandoned at any time after the work commenced for a period of one hundred eighty (180) days. Failure to complete the work within the required time, including any extension(s), may result in the revocation of the Certificate of Appropriateness. Following expiration or revocation, approval of a new Certificate of Appropriateness application is required to commence construction.
- (j) *Extensions.* If work has not commenced, or has commenced but a delay greater than one hundred eighty (180) days is anticipated, extensions may be granted by the MHPC for any period up to one (1) year. No combination of extensions shall exceed one (1) year from the original expiration date. Requests for extensions shall be submitted in writing to the HPO prior to the date of expiration and should include the following:
  - (1) The reason for requesting the extension; and
  - (2) A timetable for starting/restarting and completing work.
- (k) *The Certificate.* It shall be the responsibility of the HPO to issue the actual Certificate of Appropriateness following approval of the application, with or without any designated conditions, and maintain a copy of the COA, together with the proposed plans. These shall be public documents for all purposes.
- (l) *Compliance.* Work performed pursuant to the issuance of a COA shall conform to the requirements of such certificate. It shall be the duty of the building inspector to inspect, from time to time, any work performed pursuant to a COA to assure compliance. In the event that such work is not in compliance, the building inspector, in consultation with the HPO, shall issue a stop work order and/or citation as prescribed by this ordinance. The HPO/Commission may request that the building inspector inspect the work and take appropriate action.

#### **14. CRITERIA FOR CERTIFICATES OF APPROPRIATENESS FOR DEMOLITION**

- (a) *Purpose.* It is the intent of this and succeeding sections to preserve historic and architectural resources of the city through limitations on demolition and removal of historic resources. The demolition or removal of historic landmarks and contributing structures within a historic district diminishes the city's historic character, significance, and authenticity and is discouraged.
- (b) *Review required.* No building or demolition permit shall be issued for the following activities without review by the Historic Preservation Officer and Historic Preservation Commission:
  - (1) *Historic landmarks.* The Commission shall render a decision to delay, deny, or grant a Certificate of Appropriateness for demolition, removal, or relocation.
  - (2) *Contributing structure located within a historic district.* The Commission shall render a decision to delay, deny, or grant a Certificate of Appropriateness for demolition, removal, or relocation.
  - (3) *Non-contributing structure located within a historic district.* The HPO shall render a decision to grant a Certificate of Appropriateness for demolition, removal, or relocation, and shall not render a decision to deny, unless the non-contributing structure is a potential historic resource.

- (c) *Criteria for demolition or removal.* The Commission shall consider valid reasons for demolition or removal of a historic resource based on the following criteria:
- (1) The resource is a non-contributing or compatible structure within a historic district;
  - (2) The historic resource has lost its architectural significance and/or historic integrity; or
  - (3) The structure poses an imminent threat to public health or safety upon determination by the building inspector and agreement by the HPO and Planning Director.
  - (4) The structure poses a threat to public health or safety.
- (d) *Criteria for relocation.* The Commission shall consider valid reasons for relocation of a historic resource based on the following criteria:
- (1) The historic resource is geographically isolated from any remaining structure or feature of historic, architectural, archeological, or cultural significance and where removing the resource shall not diminish the significance of the resource itself.
  - (2) All other preservation options have been exhausted.
- (e) *Criteria for decision.* A decision by the MHPC to approve or deny a Certificate of Appropriateness for demolition, removal, or relocation for one of the above criteria shall be guided by:
- (1) The historic, cultural, or architectural significance of the building, structure, site, or object;
  - (2) The historic, cultural, or architectural significance of the building, structure, site, or object to the character of a district;
  - (3) The difficulty or impossibility of reproducing such a building, structure, site, or object because of its unique design, features, material, detail, or unique location;
  - (4) Whether the building, structure, site, or object is one of the last remaining examples of its kind in the neighborhood, district, or the city;
  - (5) Whether there are definite plans for development of the property if the proposed demolition is carried out, and the potential effect of those plans on the character of the district or surrounding area;
  - (6) Whether the demolition would result in a vacant lot or void in the continuous, historic building facade along the street;
  - (7) Whether reasonable measures can be taken to save the building, structure, site, or object;
  - (8) For relocation, whether the property owner has, in good faith, made efforts to relocate the structure in its entirety with a sense of place and time in the following order:
    - a. On the same site;
    - b. Within a historic district, if applicable;
    - c. Within the City of Mercedes' municipal boundaries;
    - d. Within the boundaries of Hidalgo County;
    - e. Within adjoining county boundaries; or
    - f. Within the State of Texas.

- (f) *Required documentation.* An applicant seeking to demolish, remove, or relocate a structure described above must provide necessary documentation as proof to establish the necessity of a Certificate of Appropriateness. If the applicant is seeking approval for more than one reason, he or she shall provide all documentation required for each case.

The applicant, private persons, organizations, and city departments may submit relevant evidence in addition to the required documentation. The Commission may also request additional information beyond the required documentation. Documentation requirements are as follows:

- (1) *For a compatible or non-contributing structure in a historic district.* Applicants seeking to demolish, remove, or relocate any non-contributing structure in a historic district shall provide the following with their application:
  - a. Available records depicting the original construction of the existing structure, including drawings, pictures, or written descriptions.
  - b. Photographic documentation demonstrating the existing condition of the structure.
- (2) *For a historic landmark or contributing structure in a historic district.* Applicants for demolition, removal, or relocation of historic landmarks or contributing structures in a historic district shall state one or more of the following reasons for removal, demolition, or relocation, and shall provide the corresponding documentation to substantiate the request.
  - a. *The historic resource has lost its architectural significance and/or historic integrity.* An application for demolition, removal, or relocation of a historic resource that has lost its architectural significance and/or historic integrity shall include the documentation listed below:
    1. Available records depicting the original construction of the existing structure, including drawings, historic photographs, or written descriptions.
    2. Documentation of the current condition of the exterior of the existing structure, including drawings, photographs, or written descriptions. Documentation of the current condition of the interior is not required but may be provided to support the request.
    3. A study regarding both the cost of restoration of the structure and the feasibility (including architectural and engineering analyses) of restoration of the structure, as performed by a licensed architect or engineer.
    4. Definitive plans for the future development of the property. A Certificate of Appropriateness application for the future development of the property is strongly encouraged in concurrence with the demolition request if located within a historic district.
  - b. *The structure poses an immediate threat to public health or safety.* If a historic resource exhibits unsafe and dangerous conditions, poses a fire hazard or other public health or safety risk, and such danger or hazard is so great and so immediate that time normally taken for evaluation of the structure or consideration by the MHPC should be circumvented to prevent immediate and substantial harm to persons or property, the HPO is authorized to approve emergency demolition, or

removal of specific structural features that are the source of danger or hazard, upon finding both of the following by the building inspector in consultation with the Planning Director:

1. The structure to be demolished, or the structural features to be removed, endanger public health or safety due to the risk of immediate:
    - A) Physical damage to adjacent properties or structures from potential structural collapse or from pieces of the structure becoming detached and falling or blowing from the structure due to advanced deterioration or a serious state of disrepair;
    - B) Encroachment into or physical damage within abutting public rights-of-way due to the conditions described in item A. above; or
    - C) Physical damage to public infrastructure, utilities, or other public facilities.
  2. There is no reasonable way, other than demolition or removal of specific structural features, to eliminate the immediate threat.
- c. *The structure poses a threat to public health or safety.* An application for demolition or removal that poses a threat to public health or safety that is not an immediate threat as described immediately above shall include the documentation listed below. The owner must establish the necessary facts to prove demolition is necessary to alleviate a threat to public health and safety. The application must include:
1. Documentation depicting the current condition of the structure, including drawings, photographs, or written descriptions;
  2. A study regarding the nature, imminence, and severity of the threat, as performed by a licensed engineer or architect; and
  3. A study regarding both the cost of restoration of the structure and the feasibility (including architectural and engineering analyses) of restoration of the structure, as performed by a licensed architect or engineer.

## **15. CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION PROCEDURE**

- (a) *Application required.* An owner or his or her designee seeking demolition, removal, or relocation of a structure described in previous sections shall submit an application, on forms prescribed by the city, for a Certificate of Appropriateness for Demolition to the HPO. The application must be signed and sworn to by all the owners of the property or their duly authorized representatives.
- (b) *Historic Preservation Officer review for non-contributing structures.* If the structure proposed for demolition, removal, or relocation is classified as a compatible or non-contributing structure in a historic district, the HPO shall have ten (10) days to approve the application. If the structure is a potential historic landmark, the HPO may initiate demolition delay procedures while a review is conducted to determine designation status or eligibility.
- (c) *Demolition review hearing.* If the resource proposed for demolition, removal, or relocation is a historic landmark or is classified as a contributing resource within a historic district, the HPO shall schedule a public hearing for the next scheduled MHPC meeting. At least fourteen (14)

days prior to the public hearing, the applicant(s) shall be given written notice of the hearing to the address provided in the application and a written courtesy notice of the public hearing shall be sent to all owners of real property within five hundred (500) feet of the property or properties on which the demolition, removal, or relocation is proposed. A public notice shall also be posted on the property, visible from the public right of way, at least fourteen (14) days prior to the hearing. At the hearing, the Commission shall review and consider all submitted documents and testimony of any interested parties.

- (d) *Demolition review decision.* The Commission shall render a decision to approve, delay, or deny the application within sixty (60) days of the receipt of the Certificate of Appropriateness application. The HPO shall notify the applicant within ten (10) days of the final decision. Failure of the Commission to decide or suspend said application within ninety (90) days shall be deemed to be approval of the application and the necessary permits shall be issued to allow the requested demolition, removal, or relocation.
- (e) *Denial of demolition.* If the Commission determines that the structure does not meet the criteria for approval, it shall present the owner of the property with a list of economically viable alternatives, which shall include the following:
  - (1) The potential of the property for renovation and continued use.
  - (2) The possibility of sale of the property, or any part thereof, to a prospective purchaser capable of preserving such property.
  - (3) Donation of a part or whole of the subject structure or site to a public or private non-profit or government agency or to the City of Mercedes, including the conveyance of development rights and facade easement.
- (f) *Demolition delay.* The Commission shall have the authority to enforce a minimum sixty (60) day stay or suspension of demolition for landmarks, or contributing properties located within a historic district, to allow for exploration of options to preserve the structure. The delay period may be extended by the MHPC for a period not to exceed one hundred eighty (180) days.
  - a. The MHPC shall also have the following authority over potential historic landmarks:
    - (1) In the interest of identifying alternatives to save a historic resource that is of historic age but that has not yet been designated, or a group of potential historic resources that do not fall within the boundaries of an established historic district, the MHPC may delay or suspend an application for removal, relocation, or demolition of a potential historic landmark, a group of potential historic resources, or a non-contributing resource within a historic district. The demolition, removal, or relocation of such may be delayed or suspended for a minimum period of sixty (60) days from the date of the demolition review hearing.
    - (2) If the City Commission, after notice to the applicant and a public hearing, determines that there are likely to be reasonable grounds for preservation, the City Commission may extend the suspension period for an additional period not exceeding one hundred eighty (180) days, for a total of not more than three hundred sixty (360) days from the date of the initial demolition review hearing. During the period of suspension of the application, no permit shall be issued for such demolition, relocation, or removal, nor shall any person demolish, remove, or relocate the resource.



- b. During the suspension time of the delay period, the Commission may pursue efforts to save the resource(s) including initiating the designation process for the resources in question, if not yet designated, and/or submitting to the applicant a salvage plan, which may suggest proposals to preserve the site for purposes consistent with this ordinance. The plan may include recommendations for complete or partial tax exemptions, tax credits, preservation grants, or authority for alteration or construction not inconsistent with the purposes of this ordinance, and other actions allowable by law. The plan may also include an architectural salvage plan if the structure cannot be saved. The owner shall conduct in good faith with the local and state preservation organizations and interested parties a diligent effort to seek an alternative to removal or demolition. If a reasonable agreement for salvage cannot be obtained with the applicant, then the permits shall be issued for demolition, removal, or relocation at the end of the delay period.
- (g) *Appeal.* If the Commission has denied or delayed the Certificate of Appropriateness for demolition, removal, or relocation, the applicant may follow the same procedure for appeal set forth for non-demolition Certificates of Appropriateness.
- (h) *Emergency demolition, removal, or relocation.* If any historic resource, regardless of classification, is deemed by the building inspector to pose an immediate threat to public health or safety, a Certificate of Appropriateness for total or partial demolition, removal, or relocation may be approved by the HPO at any time.
- (i) *Demolition revocation.* Notwithstanding any provision of this ordinance, the City Commission reserves the right to prohibit, suspend, or revoke the demolition of any structure with a supermajority vote.

## **16. CRITERIA AND PROCEDURE FOR REMOVING A HISTORIC DESIGNATION**

- (a) *Criteria.* A historic landmark or historic district may be de-designated if it meets one of the following criteria:
  - (1) A historic landmark located outside of a historic district has been involuntarily destroyed beyond repair by fire, explosion, natural disaster, or an otherwise act of God, and on-site new construction would not be feasible or fit within the historic character of the site or the surrounding area.
  - (2) A historic district has lost those physical characteristics which enabled the establishment of the district due to the loss of significant contributing properties that have been involuntarily destroyed by fire, explosion, natural disaster, or an otherwise act of God, and where reconstruction is not tenable as a treatment.
  - (3) A historic landmark or district was established erroneously or was not historically, architecturally, archeologically, or culturally significant as previously claimed.
- (b) *Procedure.* The procedure to remove a historic designation from a historic landmark, historic district, or contributing property within a historic district shall follow the same procedure as used to designate or amend a historic landmark or district, except that it shall require a supermajority (3/4) vote from the MHPC or a unanimous decision from the City Commission.
- (c) *Petition for removal.* A petition to have a historic designation removed must be submitted, in writing, and received by the Historic Preservation Officer, explaining the reason for requesting to remove the designation and what criteria for removal is being invoked. A petition for

removal cannot be submitted if the applicant has received funds by the city or MHPC to rehabilitate or improve the building or property it is seeking to remove from historic designation.

- (d) *Recording.* Upon removal of a historic designation, the HPO shall notify the Planning and Zoning Commission of the change in designation status, as well as notify the Hidalgo County recording office, tax office, and appraisal district.
- (e) *Protection of landmark status.* All designated historic properties shall be fully protected under this ordinance while and until the process for de-designation is approved. Any work undertaken on such properties before the designation is removed shall require a Certificate of Appropriateness from the Historic Preservation Commission. Failure to comply shall be considered a violation of this ordinance and subject to a penalty.

## **17. DESIGN STANDARDS AND GUIDELINES**

- (a) *Design Standards.* In all of its determinations of architectural appropriateness and historical integrity in the design and construction process on all historic properties, the HPO and MHPC shall use the most recent edition of “The Secretary of the Interior’s Standards for the Treatment of Historic Properties,” referred to simply as the Secretary’s Standards.

The Secretary’s Standards are summarized in the ten points below:

- (1) Every reasonable effort shall be made to adapt the property in a manner that requires minimal alteration of the building, structure, object, or site and its environment.
- (2) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural feature should be avoided when possible.
- (3) All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- (4) Changes, which may have taken place in the course of time, are evidence of the history and development of a building, structure, object, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- (5) Distinctive stylistic features or examples of skilled craftsmanship, which characterize a building, structure, object, or site, shall be kept where possible.
- (6) Deteriorated architectural features shall be repaired rather than replaced, wherever practicable. In the event replacement is necessary, the new material should reflect the material being replaced in composition, design, color, texture, and other visual qualities, where practicable. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- (7) The surface cleaning of structures shall be undertaken in the gentlest means possible. Sandblasting and other cleaning methods that will damage historic building materials shall not be undertaken.

- (8) Every reasonable effort shall be made to protect and preserve archeological resources affected by or adjacent to any project.
  - (9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.
  - (10) Whenever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that, if additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object, or site would be unimpaired.
- (b) *Design Guidelines.* The HPO or MHPC may develop such supplemental guidelines as deemed necessary to implement or maintain this ordinance, applicable to designated historic landmarks and historic districts. Such guidelines may include, but are not limited to the following:
- (1) Charts or samples of acceptable materials for siding, foundations, roofs, or other parts of buildings;
  - (2) Illustrations of appropriate architectural details;
  - (3) Specifications of appropriate relationships to streets, sidewalks, other structures, and buildings;
  - (4) Illustrations of appropriate porch treatment entrances; or
  - (5) Illustrations of appropriate signage or street furniture.

## **18. MINIMUM MAINTENANCE STANDARDS**

No owner, defined in this section as a person, entity, association, or corporation with ownership, care, custody, or control over a historic landmark or contributing structure within a historic district, shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any architectural feature which would produce a detrimental effect upon the character of the historic district or the life and character of the property itself.

Owners shall be required to fulfill a minimum level of maintenance on their property in order to keep it from deteriorating. Any of the following are prima facie evidence of a serious state of disrepair:

- (1) Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
- (2) Deterioration of external stairs, porches, handrails, window and door frames, cornices, entablatures, wall claddings, chimneys, plaster finishes, surfaces or mortars, and any other exterior architectural details that cause delamination, instability, loss of shape and form, or crumbling.
- (3) Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
- (4) Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of other protective covering.

- (5) Rotting, holes, and other forms of material decay.
- (6) Deterioration that causes a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the structure.
- (7) Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or property.

## **19. DEMOLITION BY NEGLECT**

Demolition by neglect refers to the gradual deterioration of a property when ordinary or minimum maintenance is not performed. The Historic Preservation Officer and the Planning Department staff shall work together in an effort to reduce demolition by neglect involving properties designated as historic landmarks, potential historic landmarks, or contributing or compatible structures within a historic district.

Failure to provide the minimum maintenance required by this ordinance may result in a citation for demolition by neglect. If conditions of neglect are present or suspected, the HPO/MHPC, in coordination with the building inspector, is authorized to lawfully investigate in an effort to prevent further deterioration.

1. *Authorization.* The city may preserve a substandard building as permitted under Texas Local Government Code, Sec. 214.00111.
2. *Procedure to address demolition by neglect.*
  - (a) *Identification.* Initial identification is made by visual inspection of the area by the HPO or a MHPC member, or by referral from city staff or a member of the general public. All referrals shall be made in writing and shall be submitted to the HPO.
  - (b) *Documentation of neglect.* The HPO and building inspector shall inspect the property in question and document evidence of disrepair or neglect.
  - (c) *Notification of owner.* The owner shall be notified in writing via certified mail, providing specific information about the alleged deterioration, provided with the standards for rehabilitation adopted by this ordinance, and informed of any incentive programs that may be available for rehabilitation.
  - (d) *Stabilization Proposal.* The owner shall be given thirty (30) days in which to respond to the preliminary determination, mothball the property in question to prevent further deterioration if vacant, and submit a stabilization proposal to the HPO, who shall have the authority to approve, approve with conditions, refer to the MHPC, or return the proposal to the owner with further instruction. The HPO/MHPC shall detail the specific work that is necessary to correct the demolition by neglect conditions and issue a COA (if necessary), as well as a time period to begin and complete the work. If the owner is unable to put together a stabilization proposal either because of a lack of appropriate resources or economic hardship, he or she may request assistance from the HPO and MHPC to create a plan for stabilization. The owner may appeal the HPO's decision to the Historic Preservation Commission and request a hearing at the next scheduled meeting.
  - (e) *Hearing.* If the property owner fails to respond to the letter regarding the preliminary determination, or refuses to work with the HPO or MHPC to create a stabilization plan, the Commission shall conduct a citation hearing. The HPO shall send a notice of the citation

via certified mail informing the owner of the hearing, the property shall be posted with a notice of the violation in accordance with the provisions of this ordinance, and a public hearing shall be scheduled before the Commission. The owner may appear before the MHPC in person or by agent.

At the hearing, the owner shall be invited to address the Commission's concerns and show cause why a citation should not be issued. The Commission may take action to defer the matter to give the owner more time to make a stabilization proposal, direct the owner to work with the HPO to create a plan for stabilization, and/or issue a citation to the owner of the property for failure to correct demolition by neglect conditions.

- (f) *Appeal.* The owner of a property cited for demolition by neglect may appeal the Commission's decision to the City Commission.
- (g) *Required action upon finding of demolition by neglect.* If the Commission determines that the deterioration has produced a detrimental effect on the architectural significance and/or historic integrity of the property or district, the owner shall be cited for demolition by neglect and be given thirty (30) days to mothball the property, if vacant, and submit a stabilization proposal to the HPO, sixty (60) days to begin repairs, up to one (1) year to correct the defects in accordance with the Secretary's Standards.

The owner shall provide written progress reports to the HPO every thirty (30) days from the time work commences, documenting the progress on repairs until the rehabilitation is completed.

- (h) If the owner does not respond to the letter regarding the preliminary determination of demolition by neglect, fails to appear at the citation hearing, or fails to comply with any other provision outlined in this section, the HPO and/or building inspector may refer a demolition by neglect case to the city for enforcement in municipal court.
- (i) The city may create programs, or enter into partnerships with local non-profit organizations, to assist low-income and/or elderly homeowners with maintenance.

## **20. 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 Historic Preservation Officer or his or her designee to inspect periodically to assure such compliance. In the event work is not being performed in accordance with a Certificate of Appropriateness, or no Certificate of Appropriateness has been approved, or upon notification of such fact by the Historic Preservation Commission and verification by the HPO, the building inspector shall issue a stop work order and/or citation and all work shall immediately cease. The property owner shall then be required to request a citation hearing before the Commission to explain non-compliance, and/or to apply for a Certificate of Appropriateness and receive approval. No further work shall be undertaken on the project as long as a stop-work order is in effect until a decision is rendered by the HPO or Commission. All applications, decisions, orders, citations, notices, or violations approved or issued by the City of Mercedes before the effective date of this ordinance shall remain in effect.

All required permits must be issued and plans approved by the building inspections, planning, public works, and health departments before work can commence under an approved Certificate of Appropriateness.

**21. PENALTIES**

- (a) *Prohibited Acts.* It shall be unlawful to construct, reconstruct, remove, structurally alter, remodel, renovate, restore, demolish, raze, maintain, or fail to maintain any historic resource in violation of the provisions of this ordinance. In addition to other remedies, the City of Mercedes may institute any appropriate action or proceedings to prevent such unlawful construction, restoration, demolition, razing, maintenance, or failure to maintain, to restrain, correct, or abate such violation.
- (b) *Penalty for violation.* Any person, firm, or corporation found violating any provision of this ordinance shall be guilty of a Class C misdemeanor, punishable by a fine of no less than \$200 or more than \$2000 per violation. Each day the violation continues shall be considered a separate offence. Such remedy under this section is in addition to any abatement restitution.
- (c) *Abatement restitution.* Any person, firm, or corporation found violating any provision of this ordinance shall be directed to abate, insofar as possible, the violation including, but not limited to removing unauthorized architectural features, materials, appurtenances, or elements of new construction; repairing the damage done to historic buildings, structures, or objects; and/or making financial restitution to the city in order to pay the expenses necessary to correct the violation.

**22. SEVERABILITY CLAUSE**

Should any paragraph, phrase, sentence, or clause of this ordinance be determined to be unconstitutional, said determination shall not affect the remaining paragraphs, phrases, sentences, or clauses, which shall remain in full force and effect.


**23. EFFECTIVE DATE**

This ordinance shall become effective after passage and publication as required by law.

**24. PASSED AND APPROVED**

At a regular meeting of the City Commission of the City of Mercedes, Texas, this 6th day of February, 2024, at which meeting a quorum was present, held in accordance with the provisions of the Texas Local Government Code, Section 551, *et. seq.*

ATTEST:

  
  
\_\_\_\_\_  
Joselynn Castillo, City Secretary  
\_\_\_\_\_  
Oscar D. Montoya, Sr., Mayor  
\_\_\_\_\_  
Martie Garcia-Vela, City Attorney