

ARTICLE 4.05 VACANT BUILDINGS AND PROPERTY (DOWNTOWN HISTORIC DISTRICT)

Sec. 4.05.001 Purpose

The city and the city Main Street organization focuses on the revitalization of the downtown commercial district through marketing, promotions, events and historic preservation. As such, the city council finds that:

- (1) Buildings that are vacant and unsecured and/or not properly maintained are a blight and cause deterioration and preservation and financial instability in the downtown historic district.
- (2) Buildings that are vacant and unsecured and/or not properly maintained are declared to be public nuisances and pose serious threats to the public's health and safety.
- (3) Buildings that are vacant and unsecured and/or not properly maintained are vulnerable to being set on fire.
- (4) Buildings that are vacant and unsecured and/or not properly maintained attract vagrants, gang members and criminals as prime locations to conduct illegal criminal activities.
- (5) Abatement and rehabilitation of buildings that are vacant and unsecured and/or not properly maintained is necessary.

(Ordinance 2017-05 adopted 6/9/17)

Sec. 4.05.002 Definitions

Unless otherwise expressly stated, the following words, terms, and phrases, when used in this article, have the meanings ascribed to them in this section, unless the context of their usage clearly indicates a different meaning: The word "shall" is mandatory; the word "may" is permissive. All public officials, bodies, and agencies to which reference is made are those of the city, unless otherwise indicated.

Administrator. The city's chief building official.

Board. When used as a verb means to cover an opening with lumber, wood panels or other material.

Boarded building. A building on which any opening to the outside is covered with lumber, wood panels or other materials.

Building. Any structure used or intended for supporting or sheltering any use or occupancy to which this article applies, and includes an enclosed building, open building, and partially open building.

Owner. The owner of record in the county where the real property is situated; anyone identified as the owner on a registration form; the holder of an unrecorded contract for deed; a mortgagee or vendee in possession; a mortgagor or vendor in possession; and an assignee of rents, receiver, executor, trustee, lessee, or other person in possession or with the right to control of the premises or a portion of the premises. Any person who is included in this definition as an owner has joint and several obligations for compliance with the provisions of this article. A tenant who does not have the right of possession or control of a portion of the building that is unoccupied is not an owner for the purposes of this article.

Properly maintained. Taking measures to:

- (1) Prevent the physical deterioration of the building;
- (2) Prevent a decline in the appearance of the building, including keeping painted surfaces with a secure and intact coating and preserving signage without physical deterioration;
- (3) Keep a building in a clean, safe, secure, and sanitary condition, compliant with all applicable codes; and
- (4) Prevent the building from becoming an attractive nuisance.

Property maintenance ordinances include, but are not limited to, the following code of ordinances' provisions:

- (1) International Building Code: [Section 4.02.031](#).
- (2) Unsafe Building and Abatement Code: [Section 4.02.301](#).
- (3) International Plumbing Code: [Section 4.02.091](#).
- (4) International Mechanical Code: [Section 4.02.121](#).
- (5) International Property Maintenance Code: [Section 4.02.241](#).
- (6) International Existing Building Code: [Section 4.02.271](#).
- (7) International Residential Code: [Section 4.02.061](#).
- (8) International Fire Code: [Section 4.02.151](#).
- (9) International Fuel Fire Code: [Section 4.02.181](#).
- (10) International Energy Conservation Code: [Section 4.02.211](#).
- (11) Electrical Code: [Section 4.03.001](#).

Residential use. The primary use of property is limited to one of the following:

- (1) Apartment means a room or a group of related rooms, among similar sets in one building, designed for use as a dwelling; or a multifamily building type that is comprise of three or more dwelling units, each having an entrance to a hallway, stairway, or balcony in common with at least one other dwelling unit. Apartments may be leased, rented, or owned in a condominium style of ownership;
- (2) Attached single-family dwelling;
- (3) Detached single-family dwelling; or
- (4) Duplex means a single-family attached building which contains two dwelling units, each of which is totally separated from the other by:
 - (A) An unpierced wall extending from foundation to roof ("side-by-side" duplex); or

(B) A ceiling/floor that extends from exterior wall to exterior wall, pierced only by a stairway that is not inside of either dwelling unit (“over-under” duplex).

Secure. To take measures to ensure that the building is weatherproof and watertight and that the interior of the building cannot be accessed by:

- (1) Unauthorized persons; or
- (2) Birds, rodents or other animals through broken windows or other openings in the structure.

Secured by normal measures. The use of structural components of a building, including fixtures, such as doors, unbroken windows, locks, latches, electronic security systems, storm shutters, and security shutters which were installed while the building was constructed or added to the building while the building was occupied and being used for lawful purposes.

Secured by other than normal measures. A building secured by means other than those used in the design of a building or that are normally installed and utilized while a building is occupied and being used for lawful purposes. The term includes boarding any window or door opening.

Unoccupied. Not being used for a lawful occupancy.

Vacant building. A building that is any of the following:

- (1) Occupied by an unauthorized person(s) and unsecured;
- (2) Unoccupied and unsecured;
- (3) Unoccupied and/or utilities have not been provided to the building space for a continuous period of time over six (6) months; or
- (4) Unoccupied and has had two or more violations of property maintenance ordinances within the previous twelve (12) month period.

(Ordinance 2017-05 adopted 6/9/17)



Sec. 4.05.003 Procedures

(a) Notice of vacant building.

(1) Upon reasonable observation that a building may be a vacant building as determined by the administrator, or receipt of a complaint about a vacant building, the administrator may, upon their discretion, inspect or cause an inspection of the property, by the administrator or their designee, in order to determine if the building should be classified as a vacant building.

(2) If the administrator determines that a building may be classified as a vacant building under this article, the administrator:

(A) Shall attempt to contact the owner or an agent of the owner, identified by any sign posted on the property, or as identified in the county appraisal district records, by telephone or electronic and written communication, and advise the owner or agent that the building is a vacant building in the downtown historic

district and provide them with written property and building maintenance options and financial grant opportunity information from the city development corporation to bring the property and building into compliance. The property owner will be advised that they have twenty-four (24) days to contact the administrator with a plan to remediate maintenance items and advise on lease or sale proceedings. If the property owner fails to contact the administrator within the twenty-four (24) days, then the administrator will require the following measures to be taken by the owner:

- (i) File a completed vacant building registration within fourteen (14) days from receipt of the notice given, pursuant to [section 4.05.004](#) of this article;
- (ii) Pay the registration fee required by [section 4.05.005](#);
- (iii) Take action to correct any code violations; and
- (iv) Take measures to secure the building temporarily by normal or other than normal measures within fourteen (14) days from receipt of the notice given pursuant to this section and by normal measures within ninety days (90) from receipt of the notice given, in accordance with the design standards set forth in [section 4.05.008](#) (b)(1)–(3);

(B) Shall mail certified notice to the owner, with a copy to any agent identified by any sign posted on the property, or as identified in the county appraisal district records, which advises the owner that the building is a vacant building and that the following measures need to be taken by the owner:

- (i) File a completed vacant building registration as more particularly described in [section 4.05.004](#) within fourteen (14) days from receipt of the notice given pursuant to this subsection;
- (ii) Pay the registration fee required by [section 4.05.005](#);
- (iii) Take action to correct any code violations; and
- (iv) Take measures to secure the building temporarily by normal or other than normal measures within fourteen (14) days from receipt of the notice given pursuant to this section, and by normal measures within ninety days (90) from receipt of the notice given, in accordance with the design standards set forth in [section 4.05.008](#)(b)(1)–(3);

(C) May post notice on the building that it appears that the building is a vacant building and that the following measures need to be taken by the owner:

- (i) File a completed vacant building registration as more particularly described in [section 4.05.004](#) within fourteen (14) days from the receipt of the notice given pursuant to subsection (a)(2)(B) of this section;
- (ii) Pay the registration fee required by [section 4.05.005](#);
- (iii) Take action to correct any code violations; and
- (iv) Take measures to secure the building temporarily by normal or other than normal measures within fourteen (14) days from receipt of the notice given pursuant to this section, and by normal measures within ninety days (90) from receipt of the notice given, in accordance with the design standards set forth in [section 4.05.008](#)(b)(1)–(3); and

(D) May issue a citation or file a complaint in municipal court for any violations of this article or other applicable provisions of this code.

(E) The notice under this section must comply with the applicable requirements of the V.T.C.A., Local Government Code section 54.005.

(F) If the owner disputes the administrator's determination that the building should be classified as a vacant building under this article, the owner shall file a written notice of appeal with the administrator within fourteen (14) days from receipt of the notice provided in this section. The administrator shall schedule a hearing before the board of adjustments and appeals to determine whether the building should be classified as a vacant building in accordance with the provisions set forth in the city's unified development code, part 5 administration, [article 14](#) permits and procedures, [division 14.400](#) public hearing procedures, [section 14.401](#) appeals of administrative decisions, within forty-five (45) days.

(G) The owner may appeal the decision rendered by the board of adjustments and Appeals in accordance with the provisions set forth in the city's unified development code, part 5 administration, [article 14](#) permits and procedures, [division 14.400](#) public hearing procedures, [section 14.401](#) appeals of administrative decisions, subsection G. appeals of zoning board of adjustment decisions. Recourse from written decisions of the zoning board of adjustment shall be filed within 10 days to the courts as set out in section 211.011, judicial review of board decision, of the Texas Local Government Code.

(b) Exceptions. Upon an owner's written request to the administrator for an exception to the registration fee requirement, and a finding by the administrator that a vacant structure qualifies as described below, the following shall be exceptions from the registration fee requirements of this chapter:

(1) A vacant structure that has a city building permit issued for remodel/repair, which complies with the city's unified development code [division 14.100](#) required permits and approvals, [section 14.304](#) miscellaneous permits, subsection E. building permits, (5)(a)–(b) as follows:

(A) If the work described in any building permit has not begun within 90 days from the date of issuance, the building permit shall expire and be canceled by the building official. Written notice shall be given to the persons affected.

(B) If the work described in any building permit has not been substantially completed within one year of the date of issuance, the building permit shall expire and be canceled by the building official. Written notice shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a special building permit has been obtained.

(2) A vacant structure that is being actively marketed for sale or lease for less than twelve (12) months by a licensed real estate broker or an owner who is regularly advertising the property; or

(3) A vacant structure that is under a contract for sale or lease for less than twelve (12) months.

(Ordinance 2017-05 adopted 6/9/17)

 **Sec. 4.05.004 Registration**

(a) The owner of a vacant building shall register with the administrator, in accordance with this section, no later than fourteen (14) days after the owner receives written notice under [section 4.05.003](#). The registration must be verified under a notary public, shall be on a form prescribed by the administrator, and shall at a minimum contain the following information:

- (1) A description of the premises, including its address and legal description;
- (2) The names, addresses, and telephone numbers of all owners with a right of control over the property;
- (3) If owner designates an agent with the authority to independently act on the owner's behalf to repair or maintain the property, the contract, notarized affidavit or power of attorney reflecting such authority and the ability for the agent to receive and accept notices from the city on behalf of the owner shall be submitted;
- (4) The name, address, and telephone number of the owner's property manager or agent, and whether the property manager or agent has the authority to independently act on the owner's behalf to repair or maintain the property;
- (5) The name, address, and telephone number of the owner's property manager or agent, authorized to respond to any emergency or alleged violation relating to the vacant building;
- (6) Identify a time frame the building will remain vacant and a plan for maintenance of the building during the period of vacancy with certification from the administrator that the building is compliant with all applicable codes;
- (7) Measures the owner will employ to secure the building, which may include one or more of the methods as required pursuant to the design guidelines, under [section 4.05.008\(b\)\(1\)-\(3\)](#);
- (8) Administrator's action on registration. The registration submitted by the owner must be approved by the administrator as being complete and sufficient to secure the vacant building;
- (9) Term. A registration is valid for one year from January 1st to December 31st of the given year, which will also apply if the ownership of the vacant building changes; new registration required;
- (10) Annual registrations. The owner of a vacant building shall be required to annually register until such time as the building is returned to an authorized occupancy. The annual registration must be verified under a notary public, shall be on a form prescribed by the administrator and contain a certification from the owner that the information on file with the administrator is true and correct;
- (11) Change in ownership. The owner of a registered vacant building shall be required to disclose to any buyer that the property is under registration with the city as a vacant building. The owner shall also disclose the requirement for the buyer to advise the administrator of a proposed development plan within ninety (90) days of closing;
- (12) Updates. If a change other than described in subsection (5) of this section occurs during the period that a registration is otherwise valid, the owner shall be required to update the information with the city within fourteen (14) days of the change.

(Ordinance 2017-05 adopted 6/9/17)

 **Sec. 4.05.005 Registration fees**

The owner of each vacant building shall pay to the administrator a vacant building registration fee in accordance with the below referenced chart:

- (1) Annual registration fee. \$100.00 to be paid on the date of registration of the vacant building and shall extend for one year from the date of registration. The registration fee shall be paid annually each year thereafter for as long as the registration remains valid.
- (2) Annual inspection fee. The administrator shall assess an inspection fee of \$50.00 for inspections of a vacant building against the owner of the vacant building. This fee will be charged annually for inspections associated with registration and thereafter as inspections are warranted in accordance with this article.
- (3) Late payment charge. Any fee required by subsections (1) or (2) of this section, which is not timely received by the administrator, shall be assessed an additional fee of:
 - (A) Late registration fee if the annual registration fee is not paid on the date of registration of the vacant building or on each anniversary date of each year thereafter during such time as said registration is valid (excluding first time registration): \$50.00.
 - (B) Late inspection fee if annual inspection fee is not paid on the date of registration of the vacant building or on each anniversary date of each year thereafter during such time as said registration is valid (excluding first time registration): \$50.00.

(Ordinance 2017-05 adopted 6/9/17)

 **Sec. 4.05.006 Inspections**

- (a) The administrator shall provide for the building inspection and coordinate a fire marshal's inspection of each registered vacant building at the time of registration and thereafter not less than annually.
- (b) In addition to the inspection referenced in subsection (a) of this section, if there is probable cause to believe that a code violation may be present in the vacant building or on the premises where the vacant building is located, the administrator shall provide for an additional building and/or fire marshal's inspection of the vacant building and/or premises.
- (c) All inspections shall be conducted to determine compliance with this article and all applicable codes.
- (d) The results of the inspection shall be provided to the owner of the vacant building and the person designated by the owner to facilitate a response to any emergency or alleged violation related to the vacant building.

(Ordinance 2017-05 adopted 6/9/17)

 **Sec. 4.05.007 Maintenance of vacant building and premises**

(a) Compliance with applicable laws. Any repairs, improvements, or alterations to the vacant building or on the property must comply with all applicable laws, codes, and regulations, and as further defined under [section 4.05.002](#), property maintenance ordinances.

(b) Duty to clean.

(1) The owner of a vacant building shall remove any garbage and/or rubbish from the interior of the building.

(2) The owner of a vacant building shall remove any garbage, rubbish, high weeds and/or brush from the premises on which the vacant building is located.

(3) The owner shall keep the premises on which the vacant building is located properly maintained until the building is returned to an authorized occupancy or demolished.

(c) Duty to secure.

(1) The owner of a vacant building shall lock or secure all doors, windows, and other openings to the vacant building.

(2) The owner shall keep a vacant building secured, safe, and properly maintained.

(3) If securing a vacant building by normal measures fails to keep the vacant building secure, the owner must use other than normal measures to secure the building, including boarding the vacant building in accordance with the design guidelines, under [section 4.05.008](#)(b)(1)–(3).

(4) Failure of the owner to maintain a vacant building in a secured condition, which failure results in abatement by the city, is subject to lien placement and/or any applicable penalties.

(d) Duty to remove or repair. The owner of a vacant building shall promptly remove or repair any element of the building or on the premises that is in a condition of decay or partial ruin by reason of neglect, misuse, or deterioration.

(Ordinance 2017-05 adopted 6/9/17)



Sec. 4.05.008 Standards for boarding a vacant building

(a) The owner shall take measures to secure the building temporarily by normal or other than normal measures within fourteen (14) days from receipt of the notice given pursuant to [section 4.05.003](#) of this article, in accordance with the following:

(1) All unsecured doorways, windows, or other exterior openings must be covered by exterior grade wooden structural panels or other means as approved in writing by the administrator in order to ensure that such doorways, windows and other exterior openings are secured and not easily penetrated.

(2) The materials used to secure the building shall be:

(A) Flat, square, and level;

(B) In a manner accepted as good workmanship; and

(C) The administrator has the sole discretion to determine if the work was performed in a manner that meets the requirements and intent of this code.

(3) All exterior materials used to board a vacant building must be painted or coated the same color that is the predominant color of the building.

(4) All broken glass and any other loose material must be removed from the opening before the covering systems are installed.

(5) Exterior access to floor areas above the first floor, such as fire escapes and ladders, must also be secured.

(6) Fascia signs, overhanging signs, roof signs, and all other appurtenances, such as sun visors or awnings must be removed if they are in a dangerous condition or could create such a condition.

(7) All loose or defective materials, trim, or structural elements on the exterior of the building must be removed.

(8) Any condition which may become a hazard or danger to the public must be corrected.

(b) The owner shall secure the building by normal measures within ninety days (90) from receipt of the notice given, in accordance with the design standards set forth in the city historic district design guidelines and described, in part, below:

(1) Doors.

(A) Maintain and/or repair original location, design, surrounds, frames, sill, transoms and sidelights of doors to preserve the building's historic integrity.

(B) Maintain the original amount of glazing in the door appropriate to the period of the buildings construction.

(C) If repair is not possible, replacement doors and surrounds on primary facades should be designed to duplicate the original as closely as possible.

(D) Any inappropriately designed, nonoriginal door or surround should be replaced with a more appropriate door or surround based on documentary or photographic evidence. If evidence of the original is lacking, the design of the replacement door or surround should be compatible with the character of the facade in which it is located.

(2) Windows.

(A) Maintain and/or repair original location, design, sash, light-configuration and other defining characteristics of the buildings original windows.

(B) If repair is not possible due to advanced deterioration, replacement windows should duplicate the original in design, material, sash and light-configuration as closely as possible.

(C) Any inappropriately designed, nonoriginal windows should be replaced with appropriately designed ones based on documentary or photographic evidence. If evidence of the original is lacking, the design of the replacement windows should be compatible with the character of the facade in which it is located.

(D) Uncover any original windows that have been covered or filled in over time.

(E) Upper story windows should never be painted over or filled in with any material. If the original windows no longer exist in the window opening, replacement windows that match the originals should be added.

(F) Stabilize deteriorated or damaged windows as a preliminary measure prior to undertaking appropriate preservation work.

(G) Protect and maintain the wood and architectural metals which comprise the window frame, sash, muntins, and surrounds through appropriate surface treatments such as cleaning, rust removal, limited paint removal, and re-application of protective coating systems.

(H) Make windows weather tight by re-caulking and replacing or installing weather stripping. These actions also improve thermal efficiency.

(3) Awnings and canopies.

(A) Maintain and/or repair any appropriately designed existing canopies or awnings.

(B) When repair or replacement is required, the canopy should align with the architectural features of the building.

(C) Newly constructed canopies should be a structural canopy built of steel or wood rather than of cloth or canvas. Such structural canopies should be suspended, cantilevered, or column-supported.

(D) Maintain canopy depth with adjacent historic canopies.

(Ordinance 2017-05 adopted 6/9/17)



Sec. 4.05.009 Notice and order to abate

(a) Upon finding a violation of this article, the administrator shall serve, in person or by certified mail, return receipt requested, a written notice and order to abate upon the owner.

(b) The notice must advise the owner of the violation and comply with the requirements of V.T.C.A., Local Government Code section 54.005.

(c) If the owner fails to abate the violation within the period stated in the notice or within any additional time as the administrator may grant, the administrator may, without further notice, enter upon the property and abate the violation. The owner is liable for the costs incurred by the city to secure the premises and to abate the violation, including any administrative expenses, materials, and labor.

(Ordinance 2017-05 adopted 6/9/17)

 **Sec. 4.05.010 Notice of costs incurred by city; lien**

- (a) The administrator shall mail a notice to the owner and lienholder of the property upon which the nuisance has been abated of the costs incurred or expended by the city to abate the nuisance.
- (b) The notice must advise the owner and lienholder that the city proposes to assess its costs against the property and place a lien on the property to collect the costs incurred by the city.
- (c) The administrator shall file a lien against the property for the city's costs.
- (d) Any lien filed pursuant to this section shall be security for the expenditures made.

(Ordinance 2017-05 adopted 6/9/17)

 **Sec. 4.05.011 Enforcement authority**

(a) The administrator is authorized to enforce the provisions of this chapter and to make all necessary inspections, to issue citations, to give notice, to file applicable charges and to otherwise cooperate in the enforcement of this article, pursuant to the city code of ordinances, chapter 1 general provisions, general penalty for violations of code, [section 1.01.009](#).

(A) Any person who violates any provision of this code for which another penalty is not specifically provided shall, upon conviction, be subject to a fine not to exceed:

(1) \$2,000.00 in all cases arising under municipal ordinances that govern fire safety, zoning and public health and sanitation other than vegetation and litter violations.

(2) \$500.00 in all other cases provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.

(B) If the maximum penalty provided by this code for any such offense is greater than the maximum penalty provided for the same or a similar offense under the laws of the state, then the maximum penalty for violation as provided by state statute shall be the maximum penalty under this code. Each day any violation of this code or of any ordinance shall continue shall constitute a separate offense.

Statutory reference—Maximum fine for general violations, see Texas Local Government Code, section 54.001.

State law reference—Penalties for violations, V. T. C. A., Local Government Code, section 54.001; penalty for class C misdemeanor, V. T. C. A., Penal Code, section 12.23; requirement of culpability, V. T. C. A., Penal Code, section 6.02.

(b) General enforcement authority of municipalities; penalty. Texas Local Government Code title 2, organization of municipal government, subtitle D, general powers of municipalities chapter 54, enforcement of municipal ordinance, section 54.001.

(1) The governing body of a municipality may enforce each rule, ordinance, or police regulation of the municipality and may punish a violation of a rule, ordinance, or police regulation.

(2) A fine or penalty for the violation of a rule, ordinance, or police regulation may not exceed \$500.00 except that:

(A) A fine or penalty for the violation of a rule, ordinance, or police regulation that governs fire safety, zoning, or public health and sanitation, other than the dumping of refuse, may not exceed \$2,000.00; and

(B) A fine or penalty for the violation of a rule, ordinance, or police regulation that governs the dumping of refuse may not exceed \$4,000.00.

(3) This section applies to a municipality regardless of any contrary provision in a municipal charter.

(Ordinance 2017-05 adopted 6/9/17)

Sec. 4.05.012 Appeals

Any owner, lien holder or mortgagee of record of property jointly or severally aggrieved by an order of the commission issued under this section, may seek relief pursuant to [article 2.03, division 4](#), building and standards commission, of this code. (Ordinance 2017-05 adopted 6/9/17)

Sec. 4.05.013 Judicial review

(a) Any owner, lienholder or mortgagee of record of property jointly or severally aggrieved by an order of the commission issued under this division may file a verified petition in a county civil district court:

(1) Setting forth that the commission decision is illegal, either in whole or in part; and

(2) Specifying the grounds of the illegality.

(b) The petition must be presented within 30 calendar days after the date a copy of the final decision of the commission is personally delivered, mailed by first class mail certified receipt requested, or delivered by the United States Postal Service using signature confirmation service to all record owners and each holder of a recorded lien against the affected property, as shown by the records in the county clerk's office, and all mortgagees of record.

(c) Upon the filing of the petition, the court may issue a writ of certiorari directed to the city to review the commission order, and shall prescribe in the writ the time within which the city must make a return on the writ. Such time must not be less than ten days and must be filed with and served on the city secretary.

(d) The city shall not be required to return the originals of papers called for in the writ, and it shall be sufficient for the city to return certified or sworn copies of such papers or parts thereof.

(e) In the return, the city shall set forth other facts that may be pertinent and material to show the grounds of the commission order. The return must be verified.

(f) The issuance of the writ does not stay the order.

(g) The appeal in the district court shall be limited to a hearing under the substantial evidence rule. The court may reverse or affirm, in whole or in part, or may modify the commission order. Costs may not be allowed against the commission.

(h) If the commission order is affirmed or not substantially reversed but only modified, the district court shall allow the city all attorney's fees and other costs and expenses incurred by the city, and shall enter a judgment for those items, which may be entered against the property owners, lienholders or mortgagees, as well as all persons found to be in occupation of the property subject to the proceedings before the commission.

(i) A lienholder does not have standing to bring a proceeding under this section on the grounds that the lienholder was not notified of the proceedings before the commission or was unaware of the condition of the property, unless the lienholder had first appeared before the commission and entered an appearance in opposition to the proceedings.

(j) If no appeals are taken from the decision of the commission within the required period, the decision of the commission is, in all things, final and binding.

(Ordinance 2017-05 adopted 6/9/17)



Sec. 4.05.014 Preservation of historic properties

(a) Prior to the issuance of notice for a hearing under [section 2.03.095](#), the building inspector shall request a hearing before the city council if the building or structure which is the subject of the hearing:

(1) Is designated or pending designation as:

(A) Highly significant endangered property; and

(B) A historic and cultural landmark;

(2) Is located in an area designated or pending designation as a historic and cultural landmarks district; and

(3) Is not a single-family dwelling.

(b) The building inspector may secure the structure from entrance until the requirements in subsection (c) below are completed.

(c) The city council shall review the condition of the building or structure to determine whether it can be reasonably rehabilitated and shall submit a written report of its findings and recommendations to the building inspector within 60 calendar days from the date of the initial city council hearing.

(d) If the city council determines that the building or structure cannot be rehabilitated, the building inspector may proceed as provided in [section 2.03.097](#), and the commission may order its demolition.

(e) If the city council determines that the building or structure can be reasonably rehabilitated, the city may not permit the building or structure to be demolished for at least 90 calendar days after the date the report is submitted to the building inspector. During this 90-calendar-day period, the building inspector shall notify the building or structure's owner to afford the owner an opportunity to attempt to identify a feasible alternative use for the building or structure or to locate an alternative purchaser to rehabilitate and maintain the building or structure.

(f) If the city is not able to locate the owner or if the owner does not respond within the 90- calendar-day period, the building inspector may proceed as provided by [section 2.03.096](#), and the city may file suit pursuant to Texas Local Government Code section 214.003 for the appointment of a receiver. A receiver may not be appointed for a building or structure that is an owner-occupied single-family residence.

(g) The building inspector may proceed as provided in [section 2.03.096](#), and the commission may order the demolition of a building or structure, if after the expiration of the 90-calendar-day period the city is not able to:

- (1) Identify a feasible alternative use for the building or structure;
- (2) Locate an alternative purchaser to rehabilitate and maintain the building or structure; or
- (3) Appoint a receiver for the building or structure as provided by Texas Local Government Code section 214.003.

(h) An owner of a substandard building or structure declared to be in violation of this article is not liable for penalties related to the building or structure that accrue during the 90-calendar-day period provided for disposition of historic property under subsection (e) above.

(Ordinance 2017-05 adopted 6/9/17)