The Preservation Ordinance

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What is a Preservation Ordinance?

**Historic Preservation Ordinance**

A local **statute** enacted to protect buildings and districts from destructive or insensitive alterations. The ordinance also outlines the city’s preservation program.
Enabling Legislation

*Chapter 211 in the Texas Local Government Code*

- Authorizes municipalities to *protect and preserve places and areas of historical, cultural, or architectural importance and significance.*
- Authorizes the municipalities to regulate activities on *designated* places of significance.
- These powers come from *municipal zoning authority.*
Penn Central Transportation Co. v. New York City

- Penn Central planned to build on top of Grand Central Terminal in New York City
- Design included a 55 story office building
- New York City Landmarks Preservation Commission denied the Certificate of Appropriateness, twice
- Penn Central argued that this was a “taking”
- Supreme Court ruled in 1978 that it was not a “taking” and that Penn Central could still receive a reasonable return on the property

Image courtesy of The Atlantic
Benefits of the Preservation Ordinance

- Is the best tool to actually protect a historic property or district
- Protects investments
- Encourages quality design
- Promotes rehabilitations and reinvestment
- Discourages demolition
- Gives the community a voice

The first local historic district was established in 1931 in Charleston, South Carolina. New Orleans followed protecting the French Quarter in 1937.
The HPO’s job is to administer the preservation ordinance.

- You are the City’s expert on this part of the code
- Know the ordinance (in detail)
- Know where there might be room for improvement in the ordinance
- Help others understand the ordinance (other city staff, city leaders, applicants, the public, and the commission)
- Present information on applications using the ordinance
- Know the history of the ordinance
- Know how the preservation ordinance intersects with other parts of the city’s code
1. Statement of Purpose
   • Clear summary of what the preservation ordinance seeks to accomplish

2. Definition of Terms
   • Important for clarity
   • Terms should be carefully considered “Certificate of Appropriateness” vs. “Letter of Approval”
3. Preservation Commission

- Explain the make-up of the commission
- Explain the role and responsibilities of the commission

4. Historic Preservation Officer (HPO)

- Explain who will appoint the HPO
- Explain the HPO’s duties
5. Criteria and Process for Local Designation

Criteria for Designation

• Landmark vs. District
• Typically based on the criteria used by the National Register of Historic Places

Process for Designation

• Explains how the zoning changes during the process
• Clear chain of reviews, hearings, notices

- Clearly states which properties require approval (Contributing vs. Noncontributing)
- What types of activities require approval (alterations, relocation, new construction, demolition, routine maintenance)
- Who approves the application (Commission or Administrative Review)
- Criteria by which the COA application will be reviewed (Secretary of the Interior Standards and/or any locally adopted design standards or guidelines)
Parts of the Preservation Ordinance

7. Enforcement
8. Appeals
9. Demolition by Neglect
10. Economic Hardship
Why Some Ordinances Don’t Work Well

- Internal politics
- Lack of knowledge and understanding (staff, commission, public)
- Weak or ineffective commission
- Out of date ordinance

- Improper or inconsistent implementation
- Lack of sound inventory and designation procedures
- Weak language
- Overlapping, duplicative or contradicting codes
Big Picture in City Planning

- What’s an “overlay” district?
- Where would a Preservation Plan fit in?
- What about locally adopted design guidelines and standards?
1. Name one responsibility of the HPO outlined in the ordinance.

2. Who is eligible to serve on the preservation commission according to the ordinance?

3. What's the first step when a Certificate of Appropriateness application decision is appealed?

4. Name one criteria used to judge whether an individual property is eligible to be designated as a local landmark.