

### Chapter 3 – APPLICATIONS AND PERMITS

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#### SECTION 3.03. - PUBLIC HEARING AND NOTICE

##### Sec. 3.03.010. - Provision of Public Notice.

###### A. Summary of Notice Required.

Notice shall be required for application review as shown in the following Table.

**Table 3.03.010: Summary of Notice Requirements**

Procedure	Published	Mailed	Posted
***			
Certificate of Appropriateness			‡
Certificate of Appropriateness for relocation, removal or demolition, or <a href="#">building height</a> , setback <a href="#">or floor-to-area ratio</a> modification		‡	‡
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X = Notice Required

\* = Notice to be determined by Development Agreement Committee per Section 3.20

‡ = Only applicable to Certificate of Appropriateness applications that require consideration by the Historic and Architectural Review Commission

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#### SECTION 3.12. - MASTER SIGN PLAN

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##### Sec. 3.12.030. - Criteria for Approval.

In addition to the general review criteria in Section 3.03.050.D or 3.13 for property in a historic overlay district, the Building Official or Historic ~~and Architectural Review Commission~~ [Preservation Officer](#), as applicable, ~~must~~ [shall](#) determine the following in order to approve the Master Sign Plan:

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##### Sec. 3.12.040. - Responsibility for Final Action.

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- B. The Historic ~~and Architectural Review Commission~~ Preservation Officer is responsible for final action on Master Sign Plans for property located in a historic overlay district.

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**SECTION 3.13. - CERTIFICATE OF APPROPRIATENESS**

**Sec. 3.13.010. - Applicability.**

- A. Pursuant to the authority granted to the City by Texas Local Government Code ch. 211 and the City Charter, a Certificate of Appropriateness is required in accordance with Table 3.13.010 below. Activities that include more than one project (scope of work) shall be subject to the review process and criteria for approval for each specific project as identified in Table 3.13.010.

**Table 3.13.010: Certificate of Appropriateness Required**

Project (Scope of Work)	Historic Significance	<del>Review Authority</del> <u>Decision Making</u>
HARC = Historic and Architectural Review Commission * HPO = Historic Preservation Officer * NR = Not Required		
<b>New Construction (Infill Development)</b>		
New building construction	All Historic Overlay Districts	HARC
<b>Additions</b>		
<del>To</del> <u>Addition that</u> creates <u>a new,</u> or adds to an existing street facing facade	Historic Landmark	HARC
	<u>Contributing Historic Structure (High and Medium Priority resources as identified on the most recently adopted historic resource survey)</u>	<u>HARC</u>
	<u>Contributing Historic Structure (Low Priority resources as identified on the most recently adopted historic resource survey)</u>	<u>HPO</u>
	Non-Contributing Historic Structure	HPO
<u>Addition of a Non-street facing facades</u>	Historic Landmark	HARC

	Contributing Historic Structure	HPO
	Non-Contributing Historic Structure	NR
New addition does not comply with the zoning standards of the historic overlay district	Historic Landmark	HARC
	Contributing Historic Structure	
	Non-Contributing Historic Structure	
Awning or canopy	Historic Landmark	HARC
	Contributing Historic Structure <u>(High and Medium Priority resources as identified on the most recently adopted historic resource survey)</u> *	HARC
	Contributing Historic Structure <u>(Low Priority resources as identified on the most recently adopted historic resource survey)</u> *	HPO
	Non-Contributing Historic Structure *	
Porch, patio or deck	Historic Landmark	HARC
	Contributing Historic Structure <u>(High and Medium Priority resources as identified on the most recently adopted historic resource survey)</u> *	
	Contributing Historic Structure <u>(Low Priority resources as identified on the most recently adopted historic resource survey)</u> *	HPO
	Non-Contributing Historic Structure *	
<b>Reconstruction, Alterations, Changes</b>		
Restoring historic architectural features	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Replacing a historic architectural feature with a non-historic architectural feature <del>±</del>	Historic Landmark	HARC
	Contributing Historic Structure <u>(High and Medium Priority</u>	

	<u>resources as identified on the most recently adopted historic resource survey) *</u>	
	<u>Contributing Historic Structure (Low Priority resources as identified on the most recently adopted historic resource survey) *</u>	<u>HPO</u>
	Non-Contributing Historic Structure	NR
Replacing roof materials with different roof materials <del>±</del>	Historic Landmark	HARC
	Contributing Historic Structure	HPO
	Non-Contributing Historic Structure	NR
Modifications to exterior steps, stairways and ramps using in-kind material	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Modifications to exterior steps, stairways and ramps	Historic Landmark	HARC
	Contributing Historic Structure <u>(High and Medium Priority resources as identified on the most recently adopted historic resource survey) *</u>	HARC
	<u>Contributing Historic Structure (Low Priority resources as identified on the most recently adopted historic resource survey) *</u>	HPO
	Non-Contributing Historic Structure *	
Paint removal from historic and significant architectural features (back to original condition; does not include repainting)	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Changes to paint color on previously painted surfaces (includes repainting or new paint on previously painted surface)	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure *	
New paint on unpainted historic and other significant architectural features	Historic Landmark	HPO
	Contributing Historic Structure *	

	Non-Contributing Historic Structure	NR
Changes in color to awning fabric	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure *	
Exterior lighting that is attached to the building or structure	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure *	
Rooftop HVAC, mechanical or communication equipment that result in no modifications to the building facade	Historic Landmark *	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure *	
Rooftop HVAC, mechanical or communication equipment that result in modifications to the building facade	Historic Landmark	HARC
	Contributing Historic Structure <u>(High and Medium Priority resources as identified on the most recently adopted historic resource survey)</u> *	
	<u>Contributing Historic Structure (Low Priority resources as identified on the most recently adopted historic resource survey)</u> *	HPO
	Non-Contributing Historic Structure *	
<b>Removal, Demolition or Relocation</b>		
Awnings or canopies	Historic Landmark	HARC <del>HARC</del>
	Contributing Historic Structure <u>(High and Medium Priority resources as identified on the most recently adopted historic resource survey)</u> *	
	<u>Contributing Historic Structure (Low Priority resources as identified on the most recently adopted historic resource survey)</u> *	<u>HPO</u>
	Non-Contributing Historic Structure	NR

Exterior non-historic architectural features	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Exterior siding to unencapsulate historic siding materials	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Removal, stripping, concealing, or destruction of any historic and architectural features that is integral to the historic character of the building or structure, or historic overlay district	Historic Landmark	HARC
	Contributing Historic Structure <u>(High and Medium Priority resources as identified on the most recently adopted historic resource survey) *</u>	
	<u>Contributing Historic Structure (Low Priority resources as identified on the most recently adopted historic resource survey) *</u>	<u>HPO</u>
	Non-Contributing Historic Structure *	HPO
Non-historic additions that are made of non-historic materials	Historic Landmark	HPO
	Contributing Historic Structure	
	Non-Contributing Historic Structure	NR
Attached carport, porch, patio or deck	Historic Landmark	HARC‡
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Attached carport, porch, patio or deck made of non-historic materials	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Reopen enclosed porch, patio or deck to original condition	Historic Landmark	HPO
	Contributing Historic Structure *	
	Non-Contributing Historic Structure	NR
Street facing facade	Historic Landmark	HARC‡

	Contributing Historic Structure	
	Non-Contributing Historic Structure	NR
Demolition that results in the reduction or loss in the total square footage of the existing structure	Historic Landmark	HARC
	Contributing Historic Structure	
	<del>Non-Contributing Historic Structure</del> <u>High Priority resources identified in the Historic Resource Survey located outside a Historic Overlay District</u>	<del>NR</del> <u>HARC</u>
	<u>Medium Priority resources identified in the Historic Resource Survey located outside a Historic Overlay District</u>	<u>HPO</u>
Relocation of a building or structure on the same lot	Historic Landmark	HPO
	Contributing Historic Structure	
	Non-Contributing Historic Structure	
Relocation of a building or structure to a historic overlay district (includes relocation of buildings or structures within the same historic overlay districts)	Historic Landmark	HARC
	Contributing Historic Structure	
	Non-Contributing Historic Structure	
Relocation of a building or structure outside of the historic overlay district	Historic Landmark	HARC
	Contributing Historic Structure	
	Non-Contributing Historic Structure	NR
<b>Signage</b>		
Master Sign Plan	All Historic Overlay Districts	<del>HARC</del> <u>HPO</u>
New signage, to include new signage that is consistent with an approved Master Sign Plan		HPO
New signage that is inconsistent with an approved Master Sign Plan or applicable guidelines		HARC
Changes in content or configuration (re-facing) that do not involve changes in sign location, dimensions, lighting or total sign area		HPO
Amending an approved Master Sign Plan		<del>HARC</del> <u>HPO</u>

Fences		
New fence, railing or wall that is inconsistent with the overlay district's characteristics and applicable guidelines	All Historic Overlay Districts†	HARC
Miscellaneous		
<del>HARC exceptions (b</del> Building height, setback and FAR <del>variations-modifications</del> pursuant to Section 4.08) <u>of this Code</u>	All Historic Overlay District	HARC
Renewal of an expired Certificate of Appropriateness	All Historic Overlay Districts	HPO
	Historic Landmark	

\* Only applicable to a street facing facade

† Only applicable to fences along a street lot line or located in a street yard

‡ CLG demo delay period and Demolition Subcommittee review not applicable

+ Material that is intended to replace a historic material or feature that is either the same or a similar material, and the result will match all visual aspects, including form, color, and workmanship in order to retain the original design of the structure, may be permitted by the identified decision maker for medium and low priority resources.

**B. Exemptions.**

A Certificate of Appropriateness shall not be required for the following:

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- ~~New single family and two family residential development in the Old Town Overlay District provided the building is in compliance with the zoning standards of the historic overlay district~~ Reserved.

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**Sec. 3.13.020. - Certificate of Appropriateness – Administrative Approval.**

**A. Review Process.**

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**4. Responsibility for Final Action.**

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- Should the Historic Preservation Officer be unable to approve the request, the Historic Preservation Officer may forward the request to the Historic and

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Architectural Review Commission for review and final action at the next available meeting following public notification in accordance with Section 3.03 of this Code.

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**Sec. 3.13.030. - Certificate of Appropriateness—HARC Approval.**

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**B. Criteria for Approval.**

The Historic and Architectural Review Commission shall determine whether to grant a Certificate of Appropriateness based on the following criteria:

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2. Compliance with ~~any~~ applicable design standards of this Code;

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**C. Additional Criteria for Approval for Building Height ~~Exceptions~~ Modification.**

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**D. Additional Criteria for Approval of a Setback ~~Exception~~ Modification.**

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2. HARC may take in consideration the following in determining whether to approve a Certificate of Appropriateness for a setback exception:

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~~i. Reserved.~~

ji. The size of the proposed structure compared to similar structures within the same block;

kj. Whether the proposed addition or new structure will negatively impact adjoining properties, including limiting their ability to maintain existing buildings;

lk. Whether there is adequate space for maintenance of the proposed addition or new structure and/or any adjacent structures; and/or

- ml. Whether the encroachment would enable existing large trees or significant features of the lot to be preserved.

**E. Additional Requirements for Relocation, Removal or Demolition of a Historic Landmark or Contributing Historic Structure.**

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**3. Responsibility of Final Action.**

- a. In addition to the application and the Historic Preservation Officer's report, the Historic and Architectural Review Commission shall review the recommendation by the Demolition Subcommittee, conduct a hearing in accordance with the HARC's established procedures and state law, and take final action on the application within 35 days of the application hearing unless the applicant agrees to extend the time.

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**Sec. 3.13.080. - Appeals.**

A person aggrieved by a final action of the Historic and Architectural Review Commission on a Certificate of Appropriateness may appeal to the City Council, pursuant to the procedures set forth below. Such appeal shall be submitted to the Historic Preservation Officer within 30 days of the final action.

Appeals from an administratively issued Certificate of Appropriateness will be processed through the Historic and Architectural Review Commission, subject to the procedures established for new applications and set forth below. Such appeal shall be submitted to the Historic Preservation Officer within 30 days of the administrative action.

**A. Appeal Hearing.**

The hearing shall be set for the next available City Council or ~~HARC~~ Historic and Architectural Review Commission meeting, subject to the provision of public notification. Notification shall be provided in the same manner as the initial certificate of appropriateness.

**B. Burden of Proof in Appeals.**

When an appeal is considered by the ~~appellate body~~ City Council or Historic and Architectural Review Commission, the final action by the original reviewing authority is

presumed to be valid. The person filing the appeal shall present sufficient evidence and have the burden to justify a reversal of the action being appealed.

**C. Findings and Conclusions.**

All findings and conclusion necessary to the appeal decision shall be based upon reliable evidence. Competent evidence (evidence admissible in a court of law) will be preferred whenever reasonably available, but in no case may findings be based solely upon incompetent evidence unless competent evidence is not reasonably available, the evidence in question appears to be particularly reliable, and the matter at issue is not seriously disputed. In exercising its authority, ~~as the appellate~~an appellate body, the City Council or Historic and Architectural Review Commission may reverse or affirm, in whole or in part ~~or modify~~ the original order, requirement, decision, or determination from which an appeal is taken and make the correct order, requirement, decision, or determination, ~~and for that purpose the appellate body, has the same authority as the original reviewing authority.~~

**D. Decision on Appeal.**

The ~~appellate body~~City Council or Historic and Architectural Review Commission shall review the application, the staff report and meeting minutes, conduct a hearing in accordance with established procedures and state law, and take final action on the appeal. ~~It shall require a concurring vote of by a majority of the appellate body's members to overturn a decision on a certificate of appropriateness~~vote of City Councilmembers or members of the Historic and Architectural Review Commission. In the event of a tie of the City Councilmembers, the Mayor shall vote as permitted in the City Charter.

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