

ORDINANCE NO. O-04-1685

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE PROTECTION AND PRESERVATION OF THE CHARACTER OF AND PROPERTIES WITHIN THE HISTORIC DISTRICT

WHEREAS, the City of El Dorado contains unique and valuable historic properties and neighborhoods worthy of preservation and protection; and

WHEREAS, the establishment of historic districts is in furtherance of the public interest and welfare to preserve and protect said historic district and the buildings, structures and surroundings therein; and

WHEREAS, it is hereby found and determined that certain areas and districts within the City have a special character or special historic or aesthetic interest or value and represent architectural products of distinct periods in the history of the City, and that said areas are in danger of having their distinctiveness destroyed without adequate consideration of the irreplaceable loss of the aesthetic, cultural and historic values represented by such areas; therefore the preservation thereof is both feasible and desirable to the people of this City; and

WHEREAS, Ordinance No. 1391 dated September 23, 1984 creates the El Dorado Historic District Commission to oversee the creation and operation of historic districts within the City of El Dorado.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF El Dorado, ARKANSAS:

SECTION 1 – PURPOSE: It is hereby declared as a matter of public policy that the protection, enhancement, perpetuation, and use of such areas, improvements and districts of special character or special historic or aesthetic interest or value are public necessities and are required in the interest of the health, prosperity, safety and welfare of the people of this City.

The purpose of this Ordinance is to:

- (a) effect and accomplish the protection, enhancement, and perpetuation of such areas and improvement of districts which represent or reflect elements of the City's cultural, social, economic, political, and architectural history;

- (b) safeguard the City's historic, aesthetic and cultural heritage, as embodied and reflected in such areas;
- (c) stabilize and improve property values in such districts;
- (d) foster civic pride in the beauty and accomplishments of the past;
- (e) protect and enhance the City's attractions to tourists and visitors;
- (f) strengthen the economy of the City; and
- (g) promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the City.

SECTION 2 – COMMISSION POWERS: Without limiting the generality of the other provisions of this Ordinance by reason of the following enumeration, the Historic District Commission (hereafter referred to as HDC) shall have, in addition to the duties enumerated in Ordinance No. 1391 dated September 23, 1984, the authority but not be limited to:

- (a) adopt design review guidelines to be used when considering Certificate of Appropriateness applications. These guidelines will be based upon the Secretary of Interior's Standards for Rehabilitation and adapted specifically to El Dorado;
- (b) conduct surveys and studies of neighborhoods, areas, places, structures, objects and improvements within the City of El Dorado for the purpose of determining those of distinctive historic, community, architectural, or archeological interest or value;
- (c) nominate buildings, structures, objects and historic districts to the National Register of Historic Places;
- (d) recommend to the City Council the adoption of Ordinances designating areas as having special historic community or architectural value as "historic district" and add these historic districts to the provisions of this Ordinance;
- (e) keep a register of all properties and structures that have been designated as historically significant including all information required for each designation;
- (f) obtain the services of qualified persons to direct, advise and assist the Historic District Commission;

- (g) request and receive any appropriate information, cooperation, assistance or studies from any City departments, boards, agencies or commissions and any joint city-county departments, boards, agencies or commissions;
- (h) advise and assist owners of historic properties within historic districts on physical and financial aspects of preservation, renovation, rehabilitation, and reuse, and on procedures for inclusion on the National Register of Historic Places;
- (i) promote the education and understanding of El Dorado's heritage;
- (j) hold public hearings to review applications for certificates of appropriateness;
- (k) periodically review the El Dorado Zoning Ordinance and recommend to the Planning Commission and the City Council any amendments appropriate for the protection and continued use of property within historic districts;
- (l) review and make recommendations to the Planning Commission on all conditional uses, rezonings, and variances that affect properties within historic districts;
- (m) testify before relevant boards and commissions on any matter affecting architecturally and/or historically significant properties;
- (n) destroy, exchange or otherwise dispose of in accordance with the law, any materials in its possession, except borrowed materials, which it may find to be worthless or surplus to its needs;
- (o) establish and make reasonable charges for furnishing copies of materials in its possession or for sales of historic memorabilia or signs;
- (p) expend any moneys arising from grants, contributions or gratuities, and receive bequests or donations of real or personal property and convert into money any such property which cannot be used in the form received, and expend the same for any of the functions performable by it;
- (q) cooperate with the Arkansas Historic Preservation Program, historical associations and other non-profit organizations devoted to the history of this city and state;
- (r) take such other action, not inconsistent with law, as it shall deem necessary in the performance of any of its functions; and

- (s) adopt (or amend) its own rules and regulations by a vote of not less than two thirds of all members present and voting.

SECTION 3 – EL DORADO COMMERCIAL HISTORIC DISTRICT: The Historic District hereby created shall consist of that area of the City shown on Exhibit 1, which is attached hereto and made a part hereof.

The El Dorado Commercial Historic District in El Dorado, Arkansas, is more particularly described as follows:

Verbal Boundary Description

The boundaries of the El Dorado Commercial Historic District begin at the intersection of N. Cleveland and Oak Streets where it runs east along the center line of Oak Street to the intersection with N. Washington Street. At N. Washington and Oak Streets, the boundary runs south on N. Washington ½ block to the alley north of the 100 block of Elm Street (block 2) and runs east along the alley to its intersection with N. Jefferson Street. At this juncture, the boundary runs north on N. Jefferson Street to its intersection with Elm Street. At N. Jefferson and Elm Streets, the boundary runs east to its intersection with Hill Street where it turns and runs south along Hill to its intersection with E. Main Street. At Hill and E. Main Street, the boundary turns and runs east along E. Main Street to its intersection with N. Jackson Street where it runs north along N. Jackson Street to the intersection with Elm Street. Here the boundary runs east along Elm Street to the rear (east) property lines of buildings in the 100 block of N. Jackson Street. The boundary runs south along these rear property lines, across E. Main Street then continues south to its intersection with Cedar Street. At Cedar Street the boundary turns and runs west along the center line of Cedar Street to its intersection with Hill. At Hill and Cedar Streets, the boundary turns and runs south on Hill Street to the rear property line of the building located at 117 E. Locust. At this point the boundary turns and runs west to its intersection with S. Jefferson Street. At S. Jefferson Street, the boundary turns and runs north along the center line of S. Jefferson Street to its intersection with Locust Street. At Locust and S. Jefferson Streets, the boundary turns and runs west along Locust Street to its intersection with S. Washington Street. At this point the boundary turns and runs north along S. Washington Street to its intersection with Main Street where it turns and runs one block west along W. Main Street to Cleveland Street where it turns and runs due north along the center line of Cleveland Street to the point of beginning at Cleveland and Oak Streets.

Legal Boundary Description

The El Dorado Commercial Historic District encompasses Block 1, the south ½ of Block 2, Block 3, 4, 5, 6, 7, 15, 18, 19, 20, 22, 23, 40 of the Original City of El Dorado.

SECTION 4: DEFINITIONS

Unless specifically defined below, words or phrases shall have the same meaning they have in common usage.

ADAPTIVE USE - Rehabilitation of a historic structure for use other than its original use such as a residence converted into offices.

ADDITION - New construction added to an existing building or structure.

ALTERATION - Any project involving change of or addition to an existing building.

AREA OF INFLUENCE - The affected area to be notified for a public hearing as determined by a specific type of construction, alteration, restoration, moving or demolition as described in the individual categories found in the guidelines for review adopted by the Historic District Commission.

BUILDING - Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels.

CERTIFICATE OF APPROPRIATENESS - A document awarded by the Historic District Commission allowing an applicant to proceed with a proposed rehabilitation, renovation, preservation, alteration, demolition, or new construction in a designated area or site, following a determination of the proposal's suitability according to applicable criteria.

CERTIFICATE OF ECONOMIC HARDSHIP - A certificate issued by the Historic District Commission waiving the requirement for a Certificate of Appropriateness due to significant financial constraints of the property owner.

CHARACTER - The qualities and attributes of any structure, site, street or district.

CONTEMPORARY - Reflecting characteristics of the current period. Contemporary denotes characteristics, which illustrate that a building, structure or detail was constructed in the present or recent past rather than being imitative or reflective of a historic design.

DETAILING - Architectural aspects that, due to particular treatment, draw attention to certain parts or features of a building.

DEMOLITION - Any act, which destroys in whole or in part a building or structure.

DEMOLITION BY NEGLECT - The destruction of a building or structure through abandonment or lack of maintenance.

DESIGN GUIDELINES - Criteria developed by preservation commissions to identify design concerns in an area and to help property owners ensure that rehabilitation and new construction respect the character of designated buildings and districts.

ELEMENT - A material part or detail of a site, structure, street, or district.

ENTRANCE AREA - The area of access to the interior of the building including the design, location, and materials of all porches, stairs, doors, transoms, and sidelights.

EXTERIOR ARCHITECTURAL FEATURES - The architectural style, design and general arrangement of the exterior of a structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures.

FACADE - A face of a building.

HEIGHT - The vertical distance as measured through the central axis of the building from the elevation of the lowest finished floor level to the highest point of the building.

HISTORIC DISTRICT - A geographically definable area with a significant concentration of buildings, structures, sites, spaces, or objects unified by past events, physical development, design, setting, materials, workmanship, sense of cohesiveness or related historical and aesthetic associations. The significance of a district may be recognized through listing in a local, state, or national register and may be protected legally through enactment of a local historic district ordinance administered by a historic district commission.

LANDMARK - A building, structure, object or site, which is identified as a historic resource of particular significance.

MASSING - Volume, magnitude or overall size of a building.

ORDINARY MAINTENANCE - Those improvements, which do not change but simply upgrade a structure.

OWNER OF RECORD - The person, corporation, or other legal entity listed as owner on the records of Faulkner County.

PRESERVATION – The maintenance of a property without significant alteration to its current condition.

PROPORTION - Relationship of height to width of the building outline as well as individual components.

PUBLIC NOTICE - The classified advertisement of an event, such as a preservation commission meeting, that is published in the local newspaper and posted in the city government building in order to notify the general public of the upcoming event.

REHABILITATION – The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

RESTORATION – The process of returning a building to its condition at a specific time period, often to its original condition.

RHYTHM - A harmonious or orderly recurrence of compositional elements at regular intervals, including the location of doors and the placement of windows, symmetrically or asymmetrically and their relative proportion.

ROOF AREA - The outside covering of a building or structure extending above the vertical walls including the form, material, and texture of the roof, including the slope, pitch, and spacing of roof covering. Roof area also includes but is not limited to size, design, number, and location of dormers; the design and placement of cornices; and the size, design, material, and location of chimneys.

SCALE - The relative dimension, size, degree or proportion of parts of a building to one another or group of buildings.

SITING - Location of a building in relationship to the legal boundaries and setbacks, adjacent properties, and the natural conditions of the site.

STRUCTURE - Any improvement on the land that extends above ground level.

TEXTURE - The visual or tactile surface characteristics created by shape, arrangement and distribution of the component materials.

WALL AREAS - The vertical architectural member used to define and divide space. This includes but is not limited to kind, texture, and exposure of wall sidings and trims and the location, number, and design of all window and door openings.

SECTION 5- CERTIFICATE OF APPROPRIATENESS REQUIRED: No building or structure, including but not limited to masonry walls, fences, light fixtures, steps and paving, other appurtenant fixtures, or other elements set forth in design guidelines shall be erected, altered, restored, moved, or demolished within said Historic District until after an application for a Certificate of Appropriateness as to the exterior architectural features has been submitted to and approved by the HDC.

- (a) No building permit or other permit shall be granted for purpose of constructing or altering structures until an application for a Certificate of Appropriateness as to the exterior architectural features has been submitted to and approved by the HDC.
- (b) A Certificate of Appropriateness shall be required whether or not a building permit is required.
- (c) In its deliberations under this Ordinance, said HDC shall not consider interior arrangement or use.

SECTION 6 – DETERMINATION ON AN APPLICATION: Within a reasonable amount of time, not to exceed thirty (30) days after the filing of an application for a Certificate of Appropriateness, the HDC shall make a preliminary determination as to the properties, if any, that will be materially affected by any of the changes proposed in said application. The HDC shall promptly send by mail, postage prepaid, to the applicant and to the owners of all such affected properties, a notice of hearing to be held by the HDC on said application. A notice of the public hearing shall be published at least one (1) time in a newspaper having circulation throughout the City of El Dorado a minimum of fifteen (15) days prior to the hearing.

- (a) The HDC, at the public hearing, shall hear all persons desiring to present information regarding the application. The HDC shall act on such application for Certificate of Appropriateness within a reasonable period of time. The HDC shall determine whether the restoration, rehabilitation, renovation, preservation, alteration, construction, moving or demolition of buildings, structures, or appurtenant fixtures involved will be appropriate to the preservation of the Historic District. If the HDC determines that a certificate of appropriateness should not be issued, it shall place upon its records the reasons for such determination. The HDC shall immediately notify the applicant of its determination.
- (b) Proposed repairs, alterations, new construction, moving or demolition in the Historic District shall respect and relate to the special character of the District. In making its determination, the HDC shall consider without being limited to the following criteria:

1. The purpose of this Ordinance;
 2. The architectural or historic value or significance of a building and its relationship to the surrounding area;
 3. The general compatibility of proposed changes; and
 4. Any other factor, including visual and aesthetic, considered pertinent.
- (c) The HDC shall encourage proposed changes which reflect the original design of the structure, based on photographs, written description or other historical documentation, and shall be guided by the following preferences:
1. It is preferable to preserve by maintenance rather than to repair original features of the building.
 2. It is preferable to repair rather than to reconstruct if possible.
 3. It is preferable to restore by reconstruction of original features rather than to remove or remodel.
 4. Contemporary design shall not be excluded from consideration.
- (d) When evaluating the general compatibility of alterations to the exterior of any building in the Historic District, the HDC shall consider, but not be limited to, the following factors within the building's area of influence:
1. Siting
 2. Height
 3. Proportion
 4. Rhythm
 5. Roof area
 6. Entrance area
 7. Wall areas
 8. Detailing
 9. Facade
 10. Scale
 11. Massing.
- (e) New construction shall be judged on its compatibility with the existing neighborhood and area of influence.
- (f) Additions to existing buildings shall be judged in the same manner as new construction and shall complement the design of the original building.
- (g) No change shall be made in the scope of work for any building permit after issuance of a Certificate of Appropriateness without resubmitting to the HDC and receiving approval in the same manner as provided above.

SECTION 7 – DEMOLITION: If the application for a Certificate of Appropriateness involves the demolition of a building which the HDC initially determines to be an inappropriate demolition, then the HDC may defer the matter until such time as it has had an opportunity to consider the following alternatives to the demolition of subject property:

1. Sources of funding for preservation and restoration activities if lack of such funds is the reason for the request to demolish.
 2. Adaptive use changes.
 3. An attempt to find a purchaser for the property who would maintain the building in a suitable and acceptable manner.
 4. The feasibility of moving the building to another appropriate location.
 5. Any such other solution as may be deemed advisable and in keeping with the spirit and intent of this Ordinance.
- (a) The owner or other person having legal custody of any building or structure within a historic district shall keep the structure properly maintained and repaired in order to prevent demolition by neglect. However, during the time the HDC is considering any one of the alternatives above, the HDC and/or its staff at its regularly scheduled meeting shall make progress reports. If, at the expiration of six (6) calendar months from the date of the first public hearing of an application for demolition, the HDC has not found a viable alternative to the demolition of the property, the HDC shall reschedule the matter for public hearing requiring notices as aforesaid, and upon said public hearing, make its final determination as to the application. In such cases, the public hearing for final determination shall be held within one (1) calendar month after the expiration of the six (6) months from the date of the first public hearing; and at the second public hearing, the HDC may hear such matters as are considered necessary or desirable to be fully advised of all facts and circumstances pertaining to the proposed demolition. At the second public hearing, the HDC may immediately announce its decision or take the matter under advisement to its next regularly scheduled meeting but in no event longer than two (2) calendar months after the expiration of the six-month period after the first public hearing. If the HDC has rendered no decision on the application for demolition within two (2) calendar months after the expiration of the six (6) months following the first public hearing, the HDC shall consider the application as having been approved and shall issue a Certificate of Appropriateness.

SECTION 8 – ECONOMIC HARDSHIP: In addition to considering the matters brought to the attention of the HDC and the criteria set out above, the HDC may determine that failure to issue a Certificate of Appropriateness will involve a substantial economic hardship to the applicant.

(a) It shall be the incumbent on the applicant to demonstrate economic hardship to the HDC.

(b) If the property is a significant historic and community resource, the HDC may invoke up to a ninety (90) day delay of proposed work.

During this period of delay, the HDC shall propose suitable alternatives to the proposed work for the applicant to investigate. The applicant, with the assistance of the HDC and/or City staff, shall investigate the feasibility of the proposed alternatives, and report their findings to the HDC. If the applicant fails such, the HDC may consider this failure in their deliberations.

(c) If, after the end of the ninety (90) day delay period, no reasonable use can be found or economic return can be obtained and there has been no substantial detriment to the Historic District, the HDC may issue a Certificate of Economic Hardship approving the proposed work. If the HDC finds otherwise, it shall deny the application for Certificate of Economic Hardship, and record in its records the reasons therefore.

SECTION 9 – DEMOLITION BY NEGLIGENCE: The owner or other person having legal custody of any building or structure within a historic district shall keep the structure properly maintained and repaired. It will be the responsibility of such owners to repair a structure if it is found to have deterioration, including but not limited to:

- (a) The deterioration of exterior walls or other vertical supports;
- (b) The deterioration of external chimneys;
- (c) The deterioration of roofs or other horizontal members;
- (d) The deterioration or crumbling of exterior plasters or mortar;
- (e) The ineffective waterproofing of exterior walls, roofs, foundations, including broken windows or doors;
- (f) The peeling of paint, rotting, holes and other forms of decay;
- (g) The lack of maintenance of surrounding environment, e.g., fences, gates, sidewalks, steps, signs, ancillary structures, and landscaping; and
- (h) The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

The HDC shall notify the property owner of any violations of these maintenance requirements by mail, giving details of the violation along with a time period for remedy of the violation and consequences of failure to remedy the violation.

SECTION 10 – WORK NOT REQUIRING A CERTIFICATE OF APPROPRIATENESS:

(a) Nothing in this Ordinance shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in the Historic District which does not involve a change in design, materials, or outer appearance. Such ordinary maintenance will not require a Certificate of Appropriateness.

1. For the purposes of this Ordinance, proposed work consisting only of a change in exterior paint color shall be considered ordinary maintenance.

(b) This Ordinance shall not prevent the restoration, rehabilitation, renovation, preservation, alteration, construction, or demolition of any such feature that the building inspector or similar agent of the City shall certify is required for the public safety. In emergency situations, threatening life, limb or significant property damage, work may be authorized by the City of El Dorado without a Certificate of Appropriateness. Such work shall be done in accordance with the principles and specific criteria adopted under this Ordinance. When work is performed by city staff or utility companies under this emergency clause, the HDC shall be so notified by the next business day.

(c) This Ordinance shall not prevent the restoration, rehabilitation, renovation, preservation, alteration, construction or demolition of any such feature under a permit issued by a building inspector or similar agent of the City prior to the effective date of the establishment of said Historic District.

SECTION 11 – APPLICABILITY TO CITY AND UTILITIES: Work done by the City of El Dorado and by public utility companies within historic districts shall be subject to the provisions of this Ordinance. The HDC shall consider these certificates in accordance with the procedures and standards applicable to individual certificates.

SECTION 12 - APPEALS: The HDC may adopt, within its own rules, procedures for addressing aggrieved applicants or reconsidering prior decisions. Any applicant still aggrieved by the determination of the HDC may, within thirty (30) days after the making of such decision, appeal the determination of the HDC to the Circuit Court of Union County, Arkansas.

SECTION 13 - ENFORCEMENT: In the event that work being performed is found not to be in accordance with the Certificate of Appropriateness or upon notification of such fact by the Historic District Commission and/or City staff, the building inspector shall issue a

stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. Stop work orders and penalties for non-compliance with such will be enforced according to other applicable laws. A decision shall be made by the HDC concerning the stop work order within five (5) business days.

Any person who violates any of the provisions of this Ordinance shall be guilty of a misdemeanor, and upon conviction thereof shall be fined ten dollars (\$10.00) to five hundred dollars (\$500) per day, in accordance with state statute. Each day that a violation continues to exist shall constitute a separate offense.

SECTION 14 – OTHER ORDINANCES : All Ordinances and parts of Ordinances in conflict herewith are hereby repealed. This Ordinance is amendatory to the El Dorado Municipal Code.

SECTION 15 – STATE LAW: It is the legislative intent of the El Dorado City Council to grant to the El Dorado Historic District Commission authority to the extent allowed under the Arkansas Historic Districts Act, Act 484 of 1963 as amended and codified at Arkansas Code Annotated §14-172-101 et seq. Should Arkansas law hereafter be amended, this Ordinance shall conform to state law.

SECTION 16 - EMERGENCY: The City Council has found and determined that the creation and establishment of a Historic District Commission for the City of El Dorado is essential in order to assure the preservation of historic districts and buildings related to the history of the City. In consideration of the public interest to be preserved, an emergency is hereby declared to exist and this Ordinance being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect immediately from and after the date of its passage.

PASSED:

APPROVED:

SPONSOR:

ATTEST:

, City Clerk