

11/30/2004 ORDINANCE NO. 0-21-04

(REPLACES 0-9-90 WITH  
FINAL REVISIONS SEPTEMBER 2004)

ADOPTED September 27, 2004

This ordinance is intended to enhance and promote the built environment, conservation of heritage resources and maintenance of historic infrastructure. The purpose is to promote community and regional tourism and economic development that will improve the quality of life of the citizens of Palestine. It is also intended to assist property owners with educational information and access to helpful resources including providing access to financial assistance in the form of tax incentives and information regarding federal grant assistance to eligible property owners.

The revised Ordinance 0-21-04 will replace all former versions of Ordinance 0-9-90.

ORDINANCE NO. 0-9-90

AN ORDINANCE ADOPTING THE HISTORICAL PRESERVATION ZONING ORDINANCE FOR THE CITY OF PALESTINE, TEXAS, OF 1989; PROVIDING FOR GOALS AND OBJECTIVES; PROVIDING FOR DEFINITIONS OF WORDS; PROVIDING FOR THE CREATION OF AN HISTORIC LANDMARKS COMMISSION; PROVIDING FOR THE DESIGNATION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS; PROVIDING REGULATIONS FOR THE CERTIFICATE OF APPROPRIATENESS FOR THE ALTERATION, CONSTRUCTION, DEMOLITION, OR REMOVAL OF DESIGNATED IMPROVEMENTS; PROVIDING FOR GENERAL PROVISIONS FOR MAINTENANCE AND REPAIR OF IMPROVEMENTS, REMEDY OF DANGEROUS CONDITIONS, DEMOLITION BY NEGLECT, AND THE GENERAL PROTECTION OF PROPERTY; PROVIDING FOR AN APPEAL FOR THE DENIAL OF A CERTIFICATE OF APPROPRIATENESS; PROVIDING FOR A PENALTY NOT TO EXCEED TWO THOUSAND DOLLARS PER DAY FOR A VIOLATION OF THIS ORDINANCE; PROVIDING FOR AD VALOREM TAX INCENTIVES FOR APPROPRIATE IMPROVEMENTS; PROVIDING FOR HISTORICAL MARKERS; PROVIDING FOR AMENDMENTS TO THE ORDINANCE; PROVIDING FOR THE REPEAL OF CONFLICTING ORDINANCES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR THE PUBLICATION OF THE DESCRIPTIVE CAPTION OF THIS ORDINANCE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 211 of the Local Government Code, Vernon's Texas Codes Annotated authorizes the City Council of the City of Palestine, Texas, to exercise the power of zoning for the purpose of protecting and preserving places and areas of historical, cultural, and architectural importance and significance; and

WHEREAS, the City Council realizes that the City of Palestine, Texas, is one of the oldest towns in Texas and has a history and a heritage unique and different from that of any other city in the state and that the City is particularly fortunate, not only in the natural

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geography of its site, but also in the number of existing homes, buildings, improvements, districts, and sites which reflect the varied historical, architectural, and cultural past of this City; and

WHEREAS, the change in population demographics, economic base of the City, and land use activities in the City has increasingly threatened the loss or destruction of many significant improvements, buildings, areas or districts having important historical, architectural, cultural, and archeological interest and values which reflect the history and heritage of the City, which if disrupted or destroyed, is lost to posterity forever; and

WHEREAS, the entire City will benefit both culturally and economically through the preservation of the City's rich historical past through the increased commercial activity and economic prosperity of tourism; and

WHEREAS, the City staff and interested citizens and groups and organizations and the Planning and Zoning Commission of the City of Palestine, Texas, have undertaken a lengthy study of the need for a historical preservation and zoning ordinance and the requirements therein; and

WHEREAS, a public hearing before the Planning and Zoning Commission of the City of Palestine, Texas, was held at city hall at 2:00 o'clock p.m. on the 7th day of February, A.D., 1990 to consider the historical preservation zoning ordinance, at which time all interested persons were given an opportunity to be heard having been given notice of the public hearing in the Jan. 19, 1990 edition of the Palestine Herald Press, the same being more than fifteen (15) days prior to the public hearing; and

WHEREAS, a second public hearing was held before the City Council of the City of Palestine, Texas, at 5:30 o'clock p.m., on the 26th day of February, A.D., 1990 at which time all interested persons were given an opportunity to be heard on the historical preservation zoning ordinance with notice of the public hearing being published in the 2-10-90 edition of the Palestine Herald Press, the same being more than fifteen (15) days prior to the date of the public hearing; and

WHEREAS, the Planning and Zoning Commission has filed its written recommendation of the adoption of the Historical Preservation Zoning Ordinance to the City Council;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PALESTINE, TEXAS:

I.

That the "Historical Preservation Zoning Ordinance of the City of Palestine, Texas, of 1989", [REVISED 2004](#), be adopted as follows:

HISTORICAL PRESERVATION ZONING ORDINANCE  
FOR THE CITY OF PALESTINE, TEXAS

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## HISTORICAL PRESERVATION ZONING ORDINANCE

### ARTICLE 1. GOALS AND OBJECTIVES

#### § Sec. 1.1 PURPOSE

- A. Basic Goal. It is the intent of this Article that improvements, special character and/or special historical interest or value to the City may be protected, enhanced; perpetuated and used in the interest of the health, prosperity, safety and welfare of the general public.
- B. Objectives. The provisions of this Article are intended to:
  - 1. Effect and accomplish the protection, enhancement, and perpetuation of such improvements and of districts which represent or reflect elements of the City's cultural, social, economic, political, and architectural history;
  - 2. Safeguard the City's historic, cultural, and architectural, heritage as embodied and reflected in such improvements and districts;
  - 3. Stabilize and improve property values in such districts;
  - 4. Foster civic pride and accomplishments of the past;
  - 5. Strengthen the economy of the City;
  - 6. Promote the use of historic districts and landmarks for the education, pleasure, and welfare of the people of the City;
  - 7. Protect and enhance the attractiveness of the City to home buyers, tourists, visitors, and shoppers, and thereby support and promote business, commerce, industry, and provide economic benefit to the City; and
  - 8. Foster and encourage preservation, restoration, and rehabilitation of structures, areas, and neighborhoods and thereby prevent future urban blight.

### ARTICLE 2. DEFINITION OF WORDS

#### § Sec. 2.1 DEFINITIONS

- A. For the purpose of this Article, the following definitions shall apply. (The definitions in this section are principally derived from the National Register Bulletin # 16A, Section IV which should provide guidance in revisions of or additions to this section.)
  - 1. ALTERATION: Any act or process which changes one (1) or more of the exterior architectural features of a structure designated for preservation or of any structure in a district designated for preservation.
  - 2. BUILDING: a resource created principally to shelter any form of human activity, such as large and small houses, barns, garages, sheds, commercial buildings, factories, warehouses, schools, hospitals, churches and public buildings.
  - 3. CERTIFICATE OF APPROPRIATENESS: A certificate from the Historic Landmarks Commission authorizing plans for alteration, construction, removal, or demolition of a

landmark or an improvement within a historic district. The term "Certificate of Appropriateness" shall be synonymous with "Notice to Proceed."

4. Certified Local Government (CLG): a local government officially certified to carry out some of the purposes of the National Historic Preservation Act, as amended.
5. CONSTRUCTION: The creation of an addition to an existing structure or the erection of a new principal or accessory structure on a lot or property or the result of this process.
6. CONTRIBUTING PROPERTY/RESOURCE: a building, site, structure, or object adding to the historic significance of a property. For example, a building, structure, site or object within a "Historic District" that adds to the values or qualities of that District, was present during the period of significance and possesses historic integrity or is listed as one of the following: a. is independently listed as a Palestine Historic Landmark; b. is independently listed on the National Register of Historic Places; c. is listed as a Recorded Texas Historic Landmark (RTHL); d. is listed as a Historic Texas Cemetery; e. is designated with a Texas Subject Marker; f. is listed as a State Archeological Landmark (SAL).
7. CONSENSUS: This is defined as 20% or more of responding property owners.
8. DEMOLITION: Any act or process that destroys in part or in whole a landmark or a structure within a historic district.
9. EXTERIOR ARCHITECTURAL FEATURE: The architectural style, design, general arrangement and components of all of the outer surfaces of an "improvement," as distinguished from the interior surfaces enclosed by said exterior surfaces, including, but not limited to, the kind, color, and texture of the building material and the type and style of all windows, doors, lights, signs, and other fixtures appurtenant to such "improvement."
10. HISTORIC DISTRICT:
  - a. Any area designated as a "Palestine Historic District" by ordinance of the City Council and which may contain within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or features which have a special character or special historical interest or value, representing one (1) or more periods or styles of architecture typical of one (1) or more eras in the history of the City, and causes such area, by reason of such factors, to constitute a distinct section of the City. Such historic districts may also be comprised of archeological properties.
  - b. Any area listed on the National Register of Historic Places as a historic district and which may contain within definable geographic boundaries one or more landmarks and which may have within its boundaries other properties or features which have a special character or special historical interest or value, representing one (1) or more periods or styles of architecture typical of one (1) or more eras in the history of the City, and causes such area, by reason of such factors, to constitute a distinct section of the City.
11. HISTORIC PROPERTY/RESOURCE: A building, structure, object or site that is at least 50 years old (for National Register listing, and 40 years old for Palestine

Landmark, Palestine Historic District and State of Texas Landmark designations) and that 1) is associated with events of significance, or is 2) strongly associated with persons of significance, or 3) embodies the characteristics of an important architectural style, method of construction or plan type, or 4) may yield cultural and/or archaeological information. A historic property may be within a historic district or individually designated.

12. HISTORIC ZONING OVERLAY: A set of zoning requirements described in the City adopted or approved Palestine Residential Design Guidelines, the Palestine Commercial Design Guidelines and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Properties, as applicable to officially designated Palestine Landmarks or Palestine Historic Districts, and as recorded by reference on the City zoning map and in the Palestine Register of Historic Places, and imposed in addition to those of the underlying zoning district. Development within a Historic Zoning Overlay must conform to the requirements of both the appropriate design guidelines and City zoning standards, and where conflict between the two arise the more restrictive standards apply.
13. IMPROVEMENT: Any building, structure, place, parking facility, fence, gate, wall, work of art or other object constituting a physical betterment of real property, and any part of such betterment.
14. INTEGRITY: A condition or description of a property occurring when such a property is physically unaltered or retains a sufficient amount of its historic character defining elements, appearance or ambiance to be recognizable to the period when the property achieved significance.
15. LANDMARK: Any "improvement", including an archeological property, which has a special character and/or special historical interest or value a part of the development of the heritage or cultural characteristics of the city, county, state or nation and which has been designated as a:
  - a. "Palestine Landmark" pursuant to the provisions of this ordinance.
  - b. Any property listed by the State of Texas as a "Recorded Texas Historic Landmark" (RTHL).
  - c. Any property listed by the State of Texas as a "Historic Texas Cemetery".
  - d. Any property with above ground improvements designated with a "Texas Subject Marker".
  - e. Any property listed by the State of Texas as a "State Archeological Landmark" (SAL).
16. NONCONTRIBUTING PROPERTY: A building, structure, site or object within a "Historic District" that does not add to the values or qualities of that District, was not present during the period of significance, no longer possesses historic integrity due to alterations or is not independently listed as one of the following: a. not a Palestine Historic Landmark; b. not independently listed on the National Register of Historic Places; c. not listed as a Recorded Texas Historic Landmark (RTHL); d. not listed as a Historic Texas Cemetery; e. not designated with a Texas Subject Marker; f. not listed as a State Archeological Landmark (SAL).

17. **NON-HISTORIC PROPERTY:** A building, structure, site or object that is less than 50 years old (for National Register listing, and 40 years old for Palestine Landmark and State of Texas Landmark designations) and that is not associated with events, individuals, construction types or styles of historic significance or is not apt to yield cultural and/or archaeological information. A non-historic property may be within a historic district or be associated with an individually designated historic property.
18. **PALESTINE REGISTER OF HISTORIC PLACES:** A comprehensive list, updated annually, of all the historic properties and historic districts within the city limits of the City of Palestine, Texas. The Register contains identifying information on historic properties designated under local, state and national programs, including the historic name of the property (original name of the owners or original business, or another long-time historic period owner or business), street address, type of property (house, commercial building, cemetery etc.), and date of listing.
19. **PERIOD OF SIGNIFICANCE:** The period of time in which a historic district or individually listed property attained historic significance. If the property is important for its architectural merits, the period of significance is the date of construction or span of time during which the district developed. If the property is important for association with an individual, the period of significance typically includes the time span during which that individual was associated with the property. If the property is significant for association with an important period in history, the period of significance is the years during which the historical events occurred.
20. **PRINCIPAL IMPROVEMENT OR BUILDING:** The primary built improvement, which is the largest and most architecturally significant building to the site or on an individual parcel within the historic district, or other major structure individually designated as a historic landmark. This may also be a primary building or improvement within a historic district on a single piece of property.
21. **PROPERTY OWNER:** An individual(s) or other entity listed in the title or with the appraisal district or the representative appointed by the owning entity to represent the owner's financial interest in the historic real property.
22. **OBJECT:** a construction primarily artistic in nature or relatively small in scale and simply constructed, such as a statue or milestone.
23. **REHABILITATION:** The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient, contemporary use while preserving those portions or features of the property significant to its historical, architectural or cultural values.
24. **RESTORATION:** The act or process of accurately recovering the form and details of a property and its setting as it appeared at a particular time by means of the removal of later work or by the replacement of missing earlier work.
25. **REMOVAL:** Any relocation of a structure on its site or to another site.
26. **SECONDARY HISTORIC RESOURCES:** Buildings and structures associated with Principle Improvements and/or buildings and structures within historic districts and individually designated properties that include, but are not limited to, garages, sheds, wells, barns, carriage houses, foot bridges and other similar auxiliary constructions.

27. SIGNIFICANT RESOURCE: Any designated property, district or landmark as defined in this section. This term may be used interchangeably with "landmark" or "significant property" to define an individually designated historic property or a Contributing property in a historic district.
28. SITE: Any parcel of land located within the city limits of the City of Palestine, Texas, which is considered to be historically significant by the members of the Palestine Historic Landmarks Commission, including landscape features, cemeteries and archeological sites.
29. STRUCTURE: Any man-made object designed to enhance human life, but not designed for occupancy, such as fences, walls, bridges, grain elevators, electrical generating plants, sewage treatment plants.

### ARTICLE 3. STRUCTURE OF HISTORIC LANDMARKS COMMISSION

#### § Sec. 3.1 ORGANIZATION OF COMMISSION

##### A. Creation of a Palestine Historic Landmarks Commission:

1. The Palestine Historical Preservation Commission for the City of Palestine, Texas, created by ordinance 0-9-90 in 1990, is hereby officially renamed the Palestine Historic Landmarks Commission. This name change clarifies the Commission's role and authority. The number of appointed members is now designated nine (9) with one (1) ex-officio member.
2. All appointed members shall have knowledge and experience in the fields of history, art, architecture, architectural history, urban planning, historic preservation planning, real estate, historic building rehabilitation or restoration or land development, or must demonstrate evidence of interest in historic preservation, and shall be selected by the Mayor, with advice of the Historic Landmarks Commission and the City Council, from any of the following groups:
  - a. Appointed Members
    - 1) A member of the Palestine Board of REALTORS, licensed real estate broker, a local building contractor (preferably with historic building experience), an urban planner or historic preservation planner;
    - 2) A member of the Anderson County Historical Commission;
    - 3) Not more than four members and who reside in the city of Palestine and who are property owners in designated historic districts, own a Palestine Historic Landmark (PHL) property or represent a corporation that owns a PHL;
    - 4) A registered architect (preferably with historic preservation experience) or a Historic Preservation consultant.
    - 5) Not more than two property owners at large who reside in the city of Palestine.

##### b. Ex-officio Member:

The Director of Development Services for the City Palestine, who also serves as the Historic Preservation Officer until such time as the City of Palestine establishes a

separate position for a Historic Preservation Officer. Such officer shall become staff to the Historic Landmarks Commission, working closely with the Director of Development Services and the Commission to assist the Commission in its duties.

3. Members are to be appointed for terms of two (2) years. Members may serve more than one (1) term, provided that no member shall serve more than ten (10) years in succession. Each member shall serve according to the terms stipulated in Article 3.9.A.
4. In the event of a vacancy occurring during the term of a member, the Mayor with advice of the City Council shall make an interim appointment to fill out the unexpired term of such member, and where such member is required to have specified qualifications, such vacancy shall be filled by interim appointment, in the manner herein prescribed, with a person having such qualifications. In the event that the qualifications of 2.a.1-5 cannot be met, the Mayor with the advice of the City Council shall appoint a member with as similar qualifications as possible.
5. All nominations and appointments for membership on the Historic Landmarks Commission must be made in compliance with the Palestine City Charter.

#### § Sec. 3.2 OFFICERS

The Historic Landmarks Commission shall elect from its membership, on an annual basis, a Chair and a Vice-Chair. The Chair shall preside over the meetings and shall have the same right to vote and speak on all matters as other Commission members. The Vice-Chair shall, in the absence or disability of the Chair, perform the duties of the Chair, shall become the Chair for the unexpired portion of the term of the Chair. In the absence or disability of both the Chair and the Vice-Chair, the Commission shall, by a majority vote of those present, choose one of their number to perform the duties of the Chair.

#### § Sec. 3.3 SECRETARY TO THE HISTORIC LANDMARKS COMMISSION

The City of Palestine hereby authorizes the creation of a Historic Preservation Officer position, which it may elect to fund and fill at any time with a full-time or part-time employee, or a full-time or part-time consultant. Such individual will act as staff to the Historic Landmarks Commission and will assume the duties now undertaken by the Secretary to the Commission, among other preservation-related duties. Such individual will meet the following minimum professional standards: a bachelor's degree from an accredited college or university in historic preservation, urban planning, architectural history, history, geography, or other closely related field, and at least two-years professional experience in the identification and documentation of historic properties or two-years professional experience managing historic properties and districts as part of a municipal or county planning or preservation planning department. A master's degree and three years of such experience is preferred. A job description will be developed by the City in cooperation with the Historic Landmarks Commission and the Director of Development Services prior to advertising such a position. Until such time as a Historic Preservation Officer assumes the duties of the job, the Director of Development Services shall act as Secretary to the Commission. Each meeting of the Commission shall be taped and the tapes archived for future reference, as needed, in accord with state and municipal laws. The Secretary shall maintain a record of all resolutions, proceedings, and actions of the commission. The records of the Commission shall set forth every determination made by the Commission and the vote of every member participating therein, and the absence of or failure to vote of every member.

§ Sec. 3.4 LEGAL ADVISOR TO THE HISTORIC LANDMARKS COMMISSION

The City Attorney or other qualified outside legal council designated by the City of Palestine shall serve as legal advisor to the Historic Landmarks Commission.

§ Sec. 3.5 QUORUM

At least five (5) members of the Historic Landmarks Commission shall constitute a quorum.

§ Sec. 3.6 RECORD KEEPING

All correspondence, appeals, complaints, surveys, inventories, lists, and all other materials pertaining to the business of the Historic Landmarks Commission shall be kept in the office of the Director of Development Services for the City of Palestine. A duplicate set of all records indicated above shall be kept at another location which shall be designated by the Commission.

§ Sec. 3.7 MONTHLY MEETINGS

The Historic Landmarks Commission shall meet at least monthly if business is at hand. Special meetings may be called at any time by the Chair or on the written request of any two (2) Commission members. All meetings shall be held in conformance with the Texas Open Meetings Act.

§ Sec. 3.8 POWERS OF THE COMMISSION

A. The powers of the Commission shall include the following:

1. Recommendation for employment of staff and professional consultants as necessary to carry out the duties of the Commission.
2. Preparation of rules and procedures as necessary to carry out the business of the Commission.
3. Expansion or revision of criteria for the designation of historic, architectural, and cultural landmarks and the delineation of historic districts.
4. Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks and historic districts within the City of Palestine. Such surveys and inventories should be updated every 10 years to reflect changing conditions within the City and to include undocumented properties and neighborhoods.
5. Recommend the designation of resources as landmarks and historic districts.
6. Create committees from among the Commission's membership including committees to develop education, heritage tourism, community event, and advertising of preservation events, programs and workshops.
7. Maintain written minutes that record all actions taken by the Commission and the reasons for taking such, actions.
8. Recommend conferral of recognition upon the owners of landmarks or within districts by means of certificates, plaques or markers.
9. Increase public awareness of the value of historic cultural and architectural preservation by developing and participating in public education programs. The Commission may sponsor, with the City of Palestine, Preservation Week activities associated with the National Trust for Historic Preservation's annual weekly events, establish a program for

Preservation Month in Palestine, plan anniversary programs honoring milestones in Palestine history, create annual preservation awards to recognize citizens and property owners who have successfully rehabilitated historic buildings or contributed in other important ways to preservation in Palestine. The Commission also may work with other community groups such as the Anderson County Historical Society, the Chamber of Commerce, the Old Town Preservation and Revitalization Association, the Museum for East Texas Culture and local school public and private schools and school districts to develop educational programs for adults and children.

10. Make recommendations to the City of Palestine City Council concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the City of Palestine.
11. Approval or disapproval of applications for certificates of appropriateness pursuant to this act.
12. Recommend the acquisition of a landmark structure by the City of Palestine or applicable entity where its preservation is essential to the purpose of this act and where private preservation is not feasible.
13. Recommend to the City Council the donation of facade easements and development rights.
14. Prepare and submit annually to the City Council a report summarizing the work completed during the previous year.
15. Propose tax incentive program(s) for landmarks, neighborhoods or districts to encourage enhancements and property improvements.
16. Prepare specific design guidelines for the review of landmarks and districts.
17. Designate National Register listed properties and districts, and historic properties listed by the State of Texas as Palestine Landmarks or Palestine Historic Districts, as appropriate, subject to the provisions of Article 4 below. Prepare, or hire a consultant to prepare, amendments to National Register district nominations to reclassify Noncontributing properties as Contributing when the integrity of such properties is successfully rehabilitated or restored.
18. Work with City officials, including financial and legal experts, community non-profit groups and financial institutions to seek grants for a City administered, or non-profit administered, revolving fund that will assist rehabilitation or restoration of officially designated historic properties (national, state or local) when owners meet Federal guidelines for low or moderate income levels.
19. Work with a local financial institution to develop low interest loans for qualifying low and moderate-income property owners for use in the rehabilitation and restoration of Palestine Landmarks and buildings, structures, sites and objects within Palestine Historic Districts.
20. Work with City officials, including financial and legal experts, community non-profit groups and financial institutions to seek grants for a City administered, or non-profit administered, revolving fund that will provide 50 percent of the costs to produce

mitigation documents for properties under the Commission's review that will be irrevocably altered, demolished or removed.

21. Develop and make available to Palestine citizens a list of construction and design professionals who possess a Historic Contractors License and who can assist with repair, rehabilitation and alteration to historic properties and the design and construction of compatible new buildings. Develop and make available to Palestine citizens a list of financial institutions offering low interest loans to qualified borrowers undertaking repair, rehabilitation or restoration projects on Palestine Landmarks or buildings, structures, sites or objects within Palestine Historic Districts. Individuals are under no obligation to use this list.
22. Initiate preparation of National Register, state landmark and local landmark listing documents. The commission may form a committee to research and prepare listing documents, work with community volunteers or hire a professional for such tasks.
23. Conduct or hire a consultant to conduct an annual workshop for real estate professionals and contractors on historic properties, architectural styles, compatible rehabilitation and the economic value of historic properties.
24. Conduct or hire a consultant to conduct annual or biennial workshops on Federal, state and local tax incentives for historic preservation, grant and loan opportunities and technical assistance. Offer the workshops in English and Spanish.
25. Create an oral history program.
26. Develop brochures, pamphlets, walking and driving tours and other materials showcasing Palestine's history. Work with other community, regional and state organizations to help develop heritage tourism programs for Palestine including dinner theater, concerts, story telling and other events that can revolve around a historical theme specific to Palestine. Utilize recommendations for these activities included in the 2000 survey review report and the Palestine Preservation Plan.
27. Develop programs that bring Palestine residents into the downtown business district for evening films (in English and Spanish) and for fairs, exhibits and other community events.
28. Create a technical assistance library of non-circulating reference materials for owners conducting rehabilitation and restoration projects. House these materials at the City Planning Department and the Palestine Public Library. Whenever possible include Spanish language versions of technical documents.
29. Utilize local cable access channel and other public announcement options to advertise and promote the City's preservation programs, availability of grants and low interest loans.
30. Undertake a monthly review of National Register listings and state landmark listings to update Palestine Register of Historic Places and utilize the provisions of Article 4, Section 4.1-I below.

#### §Sec. 3.9 DUTIES OF THE HISTORIC LANDMARKS COMMISSION

- A. Members of the Historic Landmarks Commission shall make every effort to attend and participate in the meetings of the Commission with the goal of attending at least 75 percent

(75%) of the meetings in any given year. In case of conflicting schedules, illness or other matters that prevent attendance, Commissioners are urged to notify the Building Official's office of their absence at least 24 hours in advance of a meeting. Any Commissioner who fails to attend at least 75 percent (75%) of all regular meetings of the Commission within any twelve (12) month period shall be removed from the Commission, unless such failure to attend was the result of illness or other acceptable excuse as determined by the City Council.

- B. Members of the Historic Landmarks Commission shall make every effort to educate themselves about historic preservation and related issues and topics by reading preservation materials and attending Commission training and education workshops, seminars and sessions. The City of Palestine provides funding for Commissioners to attend a preservation seminar once every two years. Each commissioner shall attend one such educational event during each two-year term. Such workshops can be local seminars conducted by consultants or Commission members, or attendance at conferences, seminars or workshops sponsored by the Texas Historical Commission, the National Trust for Historic Preservation, Preservation Texas, or the Association for Preservation Technology (APT), among others. Commissioners who fail to attend at least one educational event during each two-year term as described in this paragraph shall be removed from the Commission unless such failure to attend was the result of illness or other acceptable excuse as determined by the City Council.
- C. Upon the appointment of a new Commissioner (s), the Chair and Officers of the Historic Landmarks Commission shall provide orientation and training for new Commission members during a short pre-meeting workshop.

#### § Sec. 3.10 SCOPE OF AUTHORITY OF THE HISTORICAL PRESERVATION COMMISSION

- A. Nothing contained in this Article shall be construed as authorizing the Commission to act contrary to the regulations prescribed in any historic district in Palestine.
- B. Nothing herein shall prohibit the Commission from cooperating with a property owner for the installation of a marker designating a property as a historically significant site.

#### ARTICLE 4. DESIGNATION OF HISTORIC LANDMARKS AND HISTORIC DISTRICTS

##### § Sec. 4.1. PROCEDURES FOR DESIGNATION OF PALESTINE LANDMARKS AND PALESTINE HISTORIC DISTRICTS

- A. Any person, group of persons, association or the City may recommend an individual property or group of properties, be they residential, commercial, industrial or recreation, whether public or private, for the designation of a Palestine Landmark or Palestine Historic District by submitting to the Secretary of the Historic Landmarks Commission an application for such designation on a form furnished by the Historic Landmarks Commission. Such recommended properties shall meet the designation provisions of Section 4.2 of the Palestine Historic Preservation Ordinance. Included as part of the application provided by the Commission shall be a set of materials describing the benefits and restrictions associated with designation as a Palestine Landmark or a Palestine Historic District. The materials shall include a statement that owner notification and approval is required for designation of individual Palestine Landmarks and that notification and consent of property owners within a Palestine Historic District also is required for such designation, pursuant to the provisions set forth in sections 4.1A.1 and 4.1A.2 of the

Palestine Historic Preservation Ordinance. Owner approved designation of individual Palestine Landmarks and Palestine Historic Districts shall be conducted pursuant to provisions of Article 4 of the Palestine Historic Preservation Ordinance.

1. Individual Properties listed in the National Register of Historic Places or as State Landmarks
  - a. When a Palestine Landmarks application is filed with the Secretary of the Historic Landmarks Commission for individual historic properties in the City of Palestine that are officially listed in the National Register of Historic Places (maintained by the Keeper of the National Register, National Park Service, Department of Interior, Washington, D.C. in accordance with Federal law), or for individual historic properties officially designated by the State of Texas as a Recorded Texas Historic Landmark (RTHL), Historic Texas Cemetery, Texas Subject Marker or a State Archeological Landmark (SAL), the Palestine Historic Landmarks Commission shall contact individual property owners by certified mail to advise them that an application for Palestine Landmark designation has been received and inform them of the associated benefits and restrictions associated with such designation. The letter shall advise the property owner of the eligibility of the property for Palestine Landmark status based on its listing in the National Register of Historic Places or its designation as a state landmark, as applicable, and its historic significance to the City of Palestine pursuant to Section 4.2, Criteria for Designation of Historic Landmarks and Districts, of the Palestine Historic Preservation Ordinance.
  - b. Such letter of notice shall be accompanied by a description of the boundaries of the proposed Landmark and by a set of materials describing the benefits and restrictions associated with designation as a Palestine Landmark. The materials shall include a statement that owner notification and approval is required for designation of individual Palestine Landmarks and that the Palestine Residential Design Guidelines or the Palestine Commercial Design Guidelines, or the Secretary of the Interiors Standards and Guidelines for Rehabilitation, as applicable to the proposed property, shall apply to exterior changes and new construction. Such letter of notice shall request a signed response within 30 days, indicating approval or rejection of Palestine Landmark status.
  - c. Such letter of notice shall include the name of the person to whom a letter of objection should be sent, and an owner response form including approval or rejection categories, acknowledgement of restrictions associated with landmark status, and a place for owner signature. The letter will also include the full mailing address and a telephone number for those with questions.
  - d. If no response is received within 30 days, the property shall be placed on a pending list for future annual contact. If an owner objects to local landmark designation, the property will not be listed.
  - e. An owner may reverse an objection at any time by providing written notice to the Historic Landmarks Commission indicating his approval in a signed letter. Upon receipt of such a letter the Palestine Landmarks Commission shall follow the procedures in Sections 4.1B-L of the Palestine Historic Preservation Ordinance in officially designating the property a Palestine Landmark.

- f. When objecting owners of a property sell a property eligible for Palestine Landmark designation to a new owner, the Historic Landmarks Commission may approach, by written notice, as detailed herein, the new owners with the opportunity to designate it a Palestine Landmark. Such owners may object, as described herein and such property will not be designated a Palestine Landmark. If such owners approve designation for Palestine Landmark as described herein, such properties shall be officially designated following the procedures in Sections 4.1B-L of the Palestine Historic Preservation Ordinance.
2. Properties in Historic Districts listed in the National Register of Historic Places
    - a. When a Palestine Historic District application is filed with the Secretary of the Historic Landmarks Commission for properties within the official boundaries of a historic district in the City of Palestine that is officially listed in the National Register of Historic Places (maintained by the Keeper of the National Register, National Park Service, Department of Interior, Washington, D.C. in accordance with Federal law), the Palestine Historic Landmarks Commission shall contact each owner within the historic district by certified mail to advise them that an application for Palestine Historic District designation has been received and inform them of the associated benefits and restrictions associated with such designation. The letter shall advise the property owners of the eligibility of the district for Palestine Landmark status based on its listing in the National Register of Historic Places and its historic significance to the City of Palestine pursuant to Section 4.2, Criteria for Designation of Historic Landmarks and Districts, of the Palestine Historic Preservation Ordinance.
    - b. Such letter of notice shall be accompanied by a set of materials describing the benefits and restrictions associated with designation as a Palestine Historic District. The materials shall include a statement that owner notification and district property owner approval consensus is required for designation of a Palestine Historic District and that the Palestine Residential Design Guidelines or the Palestine Commercial Design Guidelines, or the Secretary of the Interiors Standards and Guidelines for Rehabilitation, as applicable to the proposed district, shall apply to exterior changes and new construction in a designated Palestine Historic district. The approval consensus process shall follow the established City procedure as outlined in the City of Palestine's Zoning Ordinance, Section 20.2(5) and (6) except only the property owners within the proposed district will be notified. Such letter of notice shall be mailed no less than thirty days prior to the public hearing and shall request a signed response indicating the property owner's vote for approval or rejection of Palestine Historic District status. Signed responses must be returned to the City of Palestine within 10 days prior to the hearing.
    - c. Such letter of notice shall include the boundaries of the proposed Palestine Historic District, an owner response form including approval or rejection categories, acknowledgement of the restrictions associated with landmark status and a place for owner signature, and the name of the person to whom a

- letter of objection should be sent. The letter will also include the full mailing address and a telephone number for those with questions.
- d. If owners in the proposed Palestine Historic District do not respond in sufficient numbers for a consensus, the district will not be listed as a Palestine Historic District. Instead the proposed district shall be placed on a pending list for future annual contact. If the consensus vote is against designation of a Palestine Historic District, the district will not be so designated.
  - e. Owners within a proposed Palestine Historic District may reverse an objection at any time by providing a petition of owner signatures to the Historic Landmarks Commission in numbers sufficient for consensus pursuant to the process described in Section 4.1A2b above. However, prior to designation, notice letters shall be sent by certified mail to all property owners within the district advising them of the proposed designation and requesting a completed owner response form be mailed to the Historic Landmarks Commission within 30 days. Such letter shall include full name and mailing address for return of the owner response form. If objecting responses are fewer than the signatures on the petition, the district shall be designated following the procedures set forth in this Article.
  - f. Upon receipt of a consensus vote approving a Palestine Historic District, the Palestine Landmarks Commission shall follow the procedures in Sections 4.1B-L of the Palestine Historic Preservation Ordinance in officially designating the district a Palestine Historic District.
3. Palestine Landmark Designations for Individual Properties with No Other Historic Designations.
- a. When a Palestine Landmarks application is filed with the Secretary of the Historic Landmarks Commission for individual designation of a property 40 years old or older that meets the Criteria specified in Section 4.2 of the Palestine Historic Preservation Ordinance, the Palestine Historic Landmarks Commission shall contact the property owner by certified mail to advise them that an application for Palestine Landmark designation has been received and inform them of the associated benefits and restrictions associated with such designation. The letter shall advise the property owner of the eligibility of the property for Palestine Landmark status based on its historic significance to the City of Palestine pursuant to Section 4.2, Criteria for Designation of Historic Landmarks and Districts, of the Palestine Historic Preservation Ordinance.
  - b. Such letter of notice shall be accompanied by a description of the boundaries of the proposed Landmark and by a set of materials describing the benefits and restrictions associated with designation as a Palestine Landmark. The materials shall include a statement that owner notification and approval is required for designation of individual Palestine Landmarks and that the Palestine Residential Design Guidelines or the Palestine Commercial Design Guidelines, as applicable to the proposed property, shall apply to exterior changes and new construction. Such letter of notice shall request a response

indicating approval or rejection of Palestine Landmark status. Signed responses must be returned to the City of Palestine within 10 days prior to the hearing.

- c. Such letter of notice shall include the name of the person to whom a letter of objection should be sent, and an owner response form including approval or objection categories, acknowledgement of the restrictions associated with landmark status and a place for owner signature. The letter will also include the full mailing address and a telephone number for those with questions.
  - d. If no response is received within 30 days, the property shall be placed on a pending list for future annual contact. If an owner objects to local landmark designation, the property will not be listed.
  - e. An owner may reverse an objection at any time by providing written notice to the Historic Landmarks Commission indicating his approval in a signed letter. Upon receipt of such a letter the Palestine Landmarks Commission shall follow the procedures in Sections 4.1B-L of the Palestine Historic Preservation Ordinance in officially designating the property a Palestine Landmark.
  - f. When objecting owners of a property sell a property eligible for Palestine Landmark designation to a new owner, the Historic Landmarks Commission may approach, by written notice, as detailed herein, the new owners with the opportunity to designate it a Palestine Landmark. Such owners may object, as described herein, and such property will not be designated a Palestine Landmark. If such owners approve designation for Palestine Landmark as described herein, such properties shall be officially designated following the procedures in Sections 4.1B-L of the Palestine Historic Preservation Ordinance.
4. Palestine Historic District Designations for Properties with No Other Historic District Designations.
- a. When a Palestine Historic District application is filed with the Secretary of the Historic Landmarks Commission for district designation of properties 40 years old or older that meet the Criteria specified in Section 4.2 of the Palestine Historic Preservation Ordinance, the Palestine Historic Landmarks Commission shall contact each owner within the proposed historic district by certified mail to advise them that an application for Palestine Historic District designation has been received and inform them of the associated benefits and restrictions associated with such designation. The letter shall advise the property owners of the eligibility of the district for Palestine Historic District status based on the Criteria in Section 4.2, Criteria for Designation of Historic Landmarks and Districts, of the Palestine Historic Preservation Ordinance.
  - b. Such letter of notice shall be accompanied by a set of materials describing the benefits and restrictions associated with designation as a Palestine Historic District. The materials shall include a statement that owner notification and district property owner approval consensus is required for designation of a Palestine Historic District and that the Palestine Residential Design Guidelines or the Palestine Commercial Design Guidelines, or the Secretary of the Interiors Standards and Guidelines for Rehabilitation, as

- applicable to the proposed district, shall apply to exterior changes and new construction in a Palestine Historic District. The approval consensus process shall follow the established City procedure as outlined in the City of Palestine's Zoning Ordinance, Section 20.2(5) and (6) except only the property owners within the proposed district will be notified. Such letter of notice shall be mailed no less than thirty days prior to the public hearing and shall request a signed response within 30 days, indicating the property owner's vote for approval or rejection of Palestine Historic District status.
- c. Such letter of notice also shall include the boundaries of the proposed Palestine Historic District, an owner response form including approval or objection categories, acknowledgement of the restrictions associated with landmark status and a place for owner signature, the name of the person to whom a letter of objection should be sent. The letter will also include the full mailing address and a telephone number for those with questions.
  - d. If owners in the proposed Palestine Historic District do not respond within 30 days in sufficient numbers for a consensus, the district will not be listed as a Palestine Historic District. Instead the proposed district shall be placed on a pending list for future annual contact. If the consensus vote is against designation of a Palestine Historic District, the district will not be so designated.
  - e. Owners within a proposed Palestine Historic District may reverse an objection at any time by providing a petition of owner signatures to the Historic Landmarks Commission in numbers sufficient for consensus pursuant to the process described in Section 4.1A2b above. However, prior to designation, notice letters shall be sent by certified mail to all property owners within the proposed district advising them of the proposed designation and requesting a completed owner response form be mailed to the Historic Landmarks Commission within 30 days. Such letter shall include full name and mailing address for return of the owner response form. If objecting responses are fewer than the signatures on the petition, the district shall be designated following the procedures set forth in this Article.
  - f. Upon receipt of a consensus vote approving a Palestine Historic District, the Palestine Landmarks Commission shall follow the procedures in Sections 4.1B-L of the Palestine Historic Preservation Ordinance in officially designating the district a Palestine Historic District.
5. Palestine Historic Districts that combine properties within a National Register Listed District and Those in Areas with No Other Historic Designations.
- a. The procedures outlined for owner notification, owner approval or objection, reversal of a previously objected to Palestine Historic District application, eligibility and City designation as outlined in Section 4.1A2 and 4.1A4 above and Sections 4.1B-L below shall apply in processing, reviewing, approving and designating Palestine Historic Districts containing a combination of National Register listed districts and locally eligible districts that at the time of application hold no other designations.
  - b. Letters of notification to owners, as well as public notices posted for public hearings shall clearly show the boundaries of the entire proposed Palestine Historic District

and differentiate between the National Register listed portion and the area with no other historic designation.

- B. Upon receipt of a completed, signed application for Palestine Landmark or Palestine Historic District, the Secretary of the Palestine Historic Landmarks Commission shall make available to the property owner (owners) the applicable set of design guidelines that will govern review of exterior changes to the property or district proposed for designation. The Commission shall then initiate proceedings for designating a Palestine Landmark or Palestine Historic District as follows.
- C. Notice that an application for historic designation is being considered shall be posted and/or published as required by state and municipal laws. Such notice shall be issued by the Historic Landmarks Commission.
- D. After such investigation by the Commission as it deems necessary, the Historic Landmarks Commission shall schedule a public hearing in compliance of state laws and city ordinances governing public hearings. At the hearing the Commission shall determine if the proposed application meets the designation requirements set forth in Section 4.2 below, receive testimony from property owners and any other interested parties and make a written recommendation concerning the approval or rejection of the application based on its findings and the testimony given at the public hearing. The recommendation may be limited to the proposed Landmark or District as described in the application, or may include modification thereof. All recommendations shall be signed by the Chair of the Historic Landmarks Commission, and a duplicate copy shall be filed in the office of the Secretary of the Commission.
- E. After the public hearing, the Historic Landmarks Commission shall forward the application and its recommendation for Landmark or District to the Planning and Zoning Commission. Written notice sent by certified mail, advising that an application for historic designation is being considered by the Planning and Zoning Commission to the owner of the property or the owners of properties within the proposed district, as applicable, for which the designation is being considered and shall be posted and/or published as required by state and municipal laws. Such notice shall be issued by the Planning and Zoning Commission.
- F. The Planning and Zoning Commission shall schedule a public hearing in compliance of state laws and city ordinances governing public hearings. At the hearing, the Planning and Zoning Commission shall receive testimony from property owners and any other interested parties and make a written recommendation concerning the approval or rejection of the application based on its findings and the testimony given at the public hearing. The Planning and Zoning Commission may adopt the Historic Landmarks Commission recommendation as its own and attach it to the application when forwarded to the City Council, or the Planning and Zoning Commission itself may limit or modify the recommendation for the proposed Landmark or District based on testimony and its perception of the merits of the application. All recommendations shall be signed by the Chair of the Planning and Zoning Commission and a duplicate copy shall be filed in the office of the Secretary of the Commission.
- G. After the public hearing, the Planning and Zoning Commission shall forward the application for the proposed designation, along with its recommendation and that of the Historic Landmarks Commission to City Council for review.

- H. The City Council shall schedule a public hearing in compliance of state laws and city ordinances governing public hearings. At the hearing, the Council shall receive testimony from property owners and any other interested parties and vote to approve, deny or approve with modifications the application based on Council findings, the recommendations received from the Historic Landmarks Commission and Planning and Zoning Commission and the testimony given at the public hearing. All decisions shall be signed by the Mayor, and a duplicate copy shall be filed in the office of the Secretary of the Commission.
- I. The boundaries of each Palestine Landmark (property lines) and each Palestine Historic District shall be specified in detail and shall accompany the application throughout the entire process of designation.
- J. After approval or denial by the City Council, the application with attached recommendations shall be filed in the office of the Secretary of the Historic Landmarks Commission.
- K. Any denial or modification of a proposed Palestine Landmark or Palestine Historic District shall be in writing and shall state the reasons for denial or modification.
- L. Pursuant to Section 4.3 of the Palestine Historic Preservation Ordinance, all properties designated a Palestine Landmark or a Palestine Historic District shall be recorded on a map of the City indicating either PL or PHD status. Such recordation shall show the boundaries of the designated property or district and the property shall be added to the index known as the Palestine Register of Historic Places.

§ Sec. 4.2. CRITERIA FOR DESIGNATION OF HISTORIC LANDMARKS AND DISTRICTS

- A. Building, structure, site, or object may be designated as a Palestine Historic Landmark if it:
  - 1. Is 40 years old or older and
  - 2. Meets one of more of the following criteria:
    - a. Possesses character, interest or value as part of the development, heritage, or cultural characteristics of the City of Palestine.
    - b. Is located on a site of a significant historic event.
    - c. Possesses character, interest or value as part of the development, heritage, or cultural characteristics of the City of Palestine. Is located on a site of a significant historic event. Is identified with a person or persons who significantly contributed to the culture and development of the City of Palestine.
    - d. Exemplifies the cultural, economic, social or historic heritage of the city of Palestine.
    - e. Presents the environment of a group of people in an era of history characterized by a distinctive architectural style.
    - f. Embodies distinguishing characteristics of an architectural type or specimen.
    - g. Is identified as the work of an architect or master builder whose individual work has influenced the development of the City of Palestine.

- h. Embodies elements of architectural design, detail, materials, or craftsmanship that represent a significant architectural innovation.
  - i. Possesses a singular physical characteristic representing an established and familiar visual feature of a neighborhood, community, or the City of Palestine.
- B. A Palestine Historic District may be designated as historic if it:
- 1. Is 40 years old or older and
  - 2. Contains properties that meet one of more of the criteria for designation as a landmark.
  - 3. Constitutes a distinct section of the City of Palestine.
- C. Properties within listed National Register districts that are classified as Noncontributing may be reclassified as Contributing when the integrity of such properties has been successfully rehabilitated or restored. Reclassification is achieved by formal amendment to the National Register documents using the process outlined in Bulletin 16A and in consultation with National Register staff of the Texas Historical Commission. The Palestine Historic Landmarks Commission may achieve this goal by hiring a consultant to undertake such work or form a Commission-member committee for this purpose. Such reclassification will enable property owners to access Federal and local tax incentives and other benefits.

**Sec. 4.3 RECORDING OF HISTORIC DESIGNATION ON CITY ZONING MAPS AND INDEX**

- A. Upon official designation of a Palestine Landmark or a Palestine Historic District, the Director of Development Services shall record the boundaries of the Palestine Landmark (PL) or Palestine Historic District (PHD) on the appropriate City zoning map.
- B. The Director of Development Services also shall record the street address and legal description of all properties bearing PL or PHD zoning designation in an index of designated properties, known as the Palestine Register of Historic Places. The PL and PHD designations shall be considered a historic zoning overlay and the appropriate set of design review standards (Palestine Residential Design Guidelines, Palestine Commercial Design Guidelines or the Secretary of the Interior Standards for Rehabilitation) shall also be recorded as applying to the specified Landmark or District. This index shall be updated as needed and shall be consulted by the Director of Development Services prior to issuing a building permit for exterior work on properties with the PL or PHD designation.
- C. To comply with provisions of Section 106 of the National Historic Preservation Act of 1966 (as amended) the Director of Development Services also shall keep an updated list of properties organized by street address and legal description which are listed in the National Register of Historic Places, within National Register Historic Districts, and those designated as Recorded Texas Historic Landmarks (RTHL), as Historic Texas Cemeteries, as Texas Subject Markers, or as State Archeological Landmarks (SAL) and consult that list prior to issuing a building permit for such properties. Section 106 requires review of proposed alterations to all properties 50 years old or older and those with National Register designations when alterations are to be conducted with Federal funds. Review of such properties shall be conducted by the Historic Landmarks Commission following the procedures in Article 6, Section 6.8.

§ Sec. 4.4 RESCINDING OF HISTORIC DESIGNATION

A Palestine Landmark or Palestine Historic District designation may be amended or rescinded in the same manner as the original designation was made as per Section 4.1.

§ Sec. 4.5 COMPREHENSIVE ZONING ORDINANCE

All zoning provided for herein through the applicable set of historic design standards shall be in addition to all zoning classifications provided for in the Zoning Ordinance of the City of Palestine. Where provisions of the two ordinances conflict, the more restrictive provisions will control.

ARTICLE 5. DESIGN GUIDELINES

§ Sec. 5.1 DESIGN GUIDELINES FOR PALESTINE LANDMARKS AND PALESTINE HISTORIC DISTRICTS

- A. Upon adoption of the revised Palestine Historic Preservation Ordinance, the Historic Landmarks Commission shall schedule a public meeting to review the Palestine Residential Design Guidelines and the Palestine Commercial Design Guidelines. Noticing and procedures for the public meeting shall be in conformance with state law and City ordinances. At the meeting the provisions of the Guidelines shall be presented to the public and testimony received. The Commission shall record public response and move to recommend approval, rejection or modification of the Guidelines as proposed. If the Commission recommends approval with modifications, the topics or areas recommended for modification shall be identified and included in the recommendation. Based on Commission vote, the Commission shall make a recommendation to the Planning and Zoning Commission for their review and consideration.
- B. After receiving the recommendation of the Historic Landmarks Commission, the Palestine Planning and Zoning Commission shall schedule a public meeting to review the Palestine Residential Design Guidelines and the Palestine Commercial Design Guidelines. Public noticing and procedures for the meeting shall be in conformance with state law and City ordinances. At the meeting the provisions of the Guidelines shall be presented to the public and testimony received. The Planning and Zoning Commission shall record public response, consider the recommendation of the Historic Landmarks Commission and their own views. The Planning and Zoning Commission may adopt the recommendation of the Historic Landmarks Commission or move to recommend approval or denial, or modification of the Guidelines as proposed. If the Planning and Zoning Commission recommends approval with modifications, the topics or areas recommended for modification shall be identified and included in the recommendation. Based on Planning and Zoning Commission vote, the Planning and Zoning Commission shall transmit its recommendation to the City Council for review and decision. Attached to the Planning and Zoning recommendation shall be the recommendation of the Historic Landmarks Commission.
- C. After receiving the recommendation of the Planning and Zoning Commission, the Palestine City Council shall schedule a public meeting to review the Palestine Residential Design Guidelines and the Palestine Commercial Design Guidelines. Public noticing and procedures for the meeting shall be in conformance with state law and City ordinances. At

the Council meeting the provisions of the Guidelines shall be presented to the public and testimony received. The City Council shall record public response and consider the recommendations of the Historic Landmarks Commission, the Planning and Zoning Commission and public input. The Council may adopt (or approve), reject or recommend modification of the Guidelines as proposed. If the Council recommends modifications, the Council shall identify areas it wishes modified.

1. If modification of the Guidelines is recommended, the Historic Landmarks Commission shall work with members of the Planning and Zoning Commission and public representatives to modify the Guidelines.
2. After modification the Guidelines shall be re-considered for adoption at a public meeting pursuant to all City procedures and applicable state laws and City ordinances.

D. If one or both sets of Guidelines are rejected for approval by City Council, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall substitute as historic zoning for the rejected design guidelines, as appropriate, in Certificate of Appropriateness actions concerning Palestine Landmarks and properties in a Palestine Historic District.

E. After one year, any member of the community or a City Commission or City Council may file a request with the City Council for public hearing review and approval of a previously rejected set of local design guidelines. This process may be repeated annually.

F. Design Guidelines Applicable to Palestine Landmarks Designated Prior to Adoption of Palestine Design Guidelines

Upon approval or adoption of the Residential Design Guidelines and the Commercial Design Guidelines by the Palestine City Council, owners of all properties designated Palestine Landmarks and Palestine Historic Districts prior to the approval of the design guidelines shall have the opportunity to adopt the design guidelines in lieu of the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Properties.

G. Design Guidelines Applicable to Palestine Landmarks Designated After Adoption of Palestine Design Guidelines

Upon approval or adoption of the Residential Design Guidelines and the Commercial Design Guidelines by the Palestine City Council, owners of all properties designated Palestine Landmarks or properties in Palestine Historic Districts after the approval of the design guidelines automatically shall be governed by the appropriate set of design standards for Commission review of owner-initiated exterior changes.

H. If questions or confusion arise about the meaning, interpretation or applicability of a design standard included in the local design guidelines or the Secretary of the Interior's Standards, the Commission shall request a written opinion from the Department of Architecture at the Texas Historical Commission and/or the State Architect's Office in Austin.

## § Sec. 5.2 DESIGN GUIDELINES FOR OTHER DESIGNATED HISTORIC PROPERTIES

A. Properties Subject to Section 106 Review:

Owners of National Register listed properties (both individual and in National Register districts), owners of RTHLs, Subject Markers, SALs and Historic Texas Cemeteries who elect not to become a Palestine Landmark or are not within a Palestine Historic District shall be governed by the Secretary of the Interior's Standards for Rehabilitation currently used by the Historic Landmark's Commission when reviewing owner-initiated exterior alterations or additions, or demolition or removal, of said properties that are subject to Section 106 review (the project is funded with Federal monies). Other properties 50 years old and older that are subject to Section 106 review also shall be governed by the Secretary of the Interior's Standards. Such reviews shall be conducted in conformance with the provisions of Article 6, Section 6.8. Findings of the Historic Landmarks Commission in such proceedings are advisory only.

§ Sec. 5.3 SATELLITE DISHES AND RADIO AND TELEVISION TOWERS

A. Placement of Satellite Dishes is regulated by City Ordinance (Building Section, section 22-53, and by this Article.

1. Satellite Dishes Affecting Palestine Landmarks and Palestine Historic Districts

- a. Satellite dishes are not permitted in the front or side yards of buildings designated as Palestine Landmarks or on the front or side of the building itself if mounted so as to be visible from the public right-of-way.
- b. Satellite dishes are not permitted in the front or side yards of buildings in Palestine Historic Districts, or on the front or sides of the building itself, if mounted so as to be visible from the public right-of-way.

B. Placement of Radio and Television Towers are regulated by City Ordinance (Building Section, section 22-53), and by this Article.

1. Radio and Television Towers Affecting Palestine Landmarks and Palestine Historic Districts

- a. Radio and Television towers are not permitted at sites designated Palestine Landmarks nor are they permitted in Palestine Historic Districts.

ARTICLE 6. REGULATIONS FOR CERTIFICATE OF APPROPRIATENESS

§ Sec. 6.1 GENERAL PROVISIONS

- A. Findings and purpose. Historic resources (designated building, structure, site, object or such within a designated historic district) are irreplaceable features that contribute to the quality and character of the city. Additionally, new construction and existing noncontributing resources within designated historic districts or within individually designated sites containing designated historic resources have a visual effect on the quality and character of historic resources and historic districts. Therefore, alteration or modification of designated historic resources should be permitted for purposes of preservation according to guidelines and standards that promote the protection and enhancement of historic design, materials and character. Further the alteration or modification of noncontributing buildings and structures

within historic districts and the construction of new buildings and structures affect the visual character of historic properties. Therefore alteration or modification of such buildings and new construction should be permitted in ways that protect the quality and character of designated historic districts and individually designated historic properties. Demolition or removal of a historic resource (designated building, structure, site, object or such within a designated historic district) constitutes an irreplaceable loss to the quality and character of the city. Therefore, demolition or removal of designated buildings or structures or those within designated historic districts should be permitted only for the reasons described below in Section 6.5.

- B. It shall be unlawful, except as otherwise provided in Article 8 for any person in charge of a Palestine Landmark or a building, structure, site or object within the boundaries of a Palestine Historic District to construct, alter, remove or demolish any improvement, unless the property owner or designated representative has previously obtained a Building Permit or a Demolition/Removal Permit and the Historic Landmarks Commission, pursuant to the provisions of this Article, has previously issued a Certificate of Appropriateness or a Notice to Proceed authorizing such work.
- C. Any person in charge of any Palestine Landmark or building, structure, site or object within a Palestine Historic District who is found in violation of provisions of Article 6 or other provisions of this ordinance shall immediately stop work pursuant to section 6.12 below. Such non-compliance shall be corrected to the satisfaction of the Historic Landmarks Commission or the Commission's designee and may include the restoration or replacement of a removed feature or material to its nearest original architectural or natural state. When stop work orders are ignored, fines shall be imposed.
- D. No permit or amended permit for the exterior repair (excluding in kind replacement of materials), rehabilitation, restoration alteration, removal or demolition of any Palestine Landmark or building, structure, site or object within a Palestine Historic District shall be issued by the Director of Development Services until the Historic Landmarks Commission has issued a Certificate of Appropriateness, pursuant to the provisions of this Ordinance as an authorization for such work or an appeal to City Council has been granted and a notice to proceed issued. The Certificate of Appropriateness required by this act shall be in addition to and not in lieu of any building or demolition or removal permit.
- E. Review of applications for a Certificate of Appropriateness for Palestine Landmarks and properties within Palestine Historic Districts shall be conducted using the City of Palestine's *Residential Design Guidelines*, the City of Palestine's *Commercial Design Guidelines*, or *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* as appropriate for the type of historic property under review. Until Palestine's local guidelines are approved by the City Council, owners of properties in existing Palestine Historic Districts and owners of existing Palestine Landmarks select either the local guidelines or *The Secretary of the Interior's Standards, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* shall continue to be used. All Palestine Landmarks and

properties within a Palestine Historic District which are designated after the adoption of local guidelines shall be subject to Palestine's *Residential Design Guidelines* or Palestine's *Commercial Design Guidelines*, as applicable for the building and district type. A partial tax exemption pursuant to City of Palestine Ordinance 0-8-97 for a rehabilitation or restoration project is available for is available for properties individually listed in the National Register of Historic Places and properties listed as Contributing within National Register listed historic districts and such projects shall be governed by the Secretary of the Interior's Guidelines.

- F. All new construction, placement of modular or manufactured homes, or placement of buildings, structures or objects moved onto the parcel of land containing a Palestine Landmark or a parcel within a Palestine Historic District shall be in compliance with the Palestine Residential Design Guidelines, the Palestine Commercial Design Guidelines or the Secretary of the Interior's Standards, as applicable, and subject to approval of an application for a Certificate of Appropriateness, or a Notice to Proceed, issued by the Historic Landmarks Commission, or by the City Council upon successful appeal to the Council, and the issuance of a building permit by the Director of Development Services pursuant to the provisions of this ordinance.
- G. To comply with provisions of Section 106 of the National Historic Preservation Act of 1966 the Historic Landmarks Commission shall review proposed alterations to properties listed in the National Register of Historic Places, those located within National Register Historic Districts, and those designated as Recorded Texas Historic Landmarks (RTHL), as Historic Texas Cemeteries, as Texas Subject Markers, as State Archeological Landmarks (SAL) and others 50 years old or older using the Secretary of the Interior's Standards for Rehabilitating Historic Buildings, when alterations are to be made using Federal funding. Section 106 review of such properties by the Historic Landmarks Commission shall be conducted pursuant to Article 6, Section 6.8 and the Commission's findings shall be advisory only, pursuant to Federal law governing Section 106 reviews. Proposed alterations to be made with Federal funds affecting Palestine Landmarks or properties located within Palestine Historic Districts shall be reviewed using the appropriate Residential Design Guidelines or Commercial Design Guidelines or the Secretary of the Interior's Standards, as applicable. Section 106 review of Palestine Landmarks and Palestine Historic Districts by the Historic Landmarks Commission shall be conducted pursuant to Article 6, Sections 6.2-6.4, but the Commission's COA action shall be advisory only, pursuant to Federal law governing Section 106 reviews.
- H. If no appeal is made of a decision by the Historic Landmarks Commission to approve a Certificate of Appropriateness within a thirty (30) day period following such decision, the Building Official shall issue a building permit or a demolition or removal permit, as appropriate.
- I. This section was formerly numbered D. No changes except numbering. The Commission shall approve, deny or approve with modifications within thirty (30) days from receipt of the completed application for a Certificate of Appropriateness. The Commission may hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

- J. This section was formerly numbered E. No changes except numbering. All decisions of the Commission shall be in writing. A Certificate shall be sent to the applicant by certified mail and a copy filed with the Director of Development Services for public inspection. The Commission's decision shall state the reason for denying or modifying any application for a Certificate of Appropriateness.

§ Sec. 6.2 APPLICATION PROCEDURES FOR CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION AFFECTING PALESTINE LANDMARKS AND PROPERTIES IN A PALESTINE HISTORIC DISTRICT

- A. Prior to the commencement of any exterior repairs (except exact in-kind replacement of materials), modifications, alterations for additions to Palestine Landmarks or improvements within a Palestine Historic District, including partial tax exemptions and properties subject to Section 106 review, the applicant shall file an application for a Certificate of Appropriateness with the Historic Landmarks Commission on a form available from the Director of Development Services. The form shall be completed by the applicant and shall be submitted with the following materials to the Director of Development Services. Within ten (10) days of receipt of the application the Director of Development Services shall notify the applicant in writing of any additional documentation required. The application must be accompanied by the following documentation before it will be considered complete.
1. Name, address, and telephone number of the applicant with detailed description of the proposed work.
  2. Location and photographs of the property and adjacent properties. (Historical photographs may also be helpful.)
  3. Elevation drawings of the proposed changes, if available.
  4. Samples of materials to be used, if such materials are appropriate as a part of the application process.
  5. If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description (if any), and a plan showing the sign's location on the property.
  6. Any other information which the Commission may deem necessary in order to visualize the proposed work as listed in 6.3.A.4.
  7. Type of loan or funding source (loan from bank or other lending institution, personal funds, grant, Federal or State funding program administered by City or County agency).
  8. An affidavit in which the owner swears or affirms that all information submitted in the application is true and correct.

§ Sec. 6.3 CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION AFFECTING PALESTINE LANDMARKS AND PALESTINE HISTORIC DISTRICTS

- A. Procedures for Issuing a Certificate of Appropriateness for Palestine Landmarks and Palestine Historic Districts

1. Following the receipt of an application under Section 6.2 above, the Director of Development Services shall determine its completeness and request additional information if needed.
2. Within thirty (30) days of the receipt of a complete application as determined by the Director of Development Services, the Commission shall schedule and hold a public hearing and shall approve or deny the application, or continue a decision pending receipt of additional requested information. The applicant may withdraw the application at any time after filing it. The public hearing shall be noticed in accord with public meeting procedures specified in state and City laws. The applicant shall receive written notice, by certified mail, of the location, time and date of the hearing, and encouraging his attendance at the meeting.
  - a. If the Commission continues a decision pending the receipt of additional required information, the Commission shall approve or deny the application within thirty (30) days
  - b. If the Commission fails to act on a completed application within thirty (30) days, the Director of Development Services will automatically issue a Certificate of Appropriateness.
3. Before taking action on a Certificate of Appropriateness application for an individual property the Commission shall determine whether in its considered opinion the proposed repair (excluding exact in-kind materials replacement), alteration or new construction will
  - a. Adversely change, destroy or affect any exterior architectural feature of the historic property upon which said work is to be done, and
  - b. Whether the proposed work is compatible and consistent with the Palestine Residential Design Guidelines, the Palestine Commercial Design Guidelines or the Secretary of the Interior's Standards, (as applicable) and
  - c. Is consistent with the purposes of this ordinance.
4. Before the Commission shall make a decision relative to repair (except for exact in-kind materials replacement), alteration or new construction at a Palestine Landmark or at a property within a Palestine Historic District, the applicant shall have furnished the Director of Development Services with appropriate plans for the work to be performed. Such plans shall include, but not be limited to, the exterior elevation, proposed materials including textures and colors, site layout, scale, height, and other features as described in the appropriate set of design guidelines as applicable to the proposed changes, except when no dimensional changes are to be made. Photographs of the property to be modified and contiguous properties shall be included. The Director of Development Services may request more information if it is needed.
5. Before taking action on a Certificate of Appropriateness application for a property within a Palestine Historic District the Commission shall determine whether in its considered opinion the proposed repair (excluding exact in-kind materials replacement), alteration or new construction
  - a. Will adversely change, destroy or affect any exterior architectural feature of the historic property upon which said work is to be done,

- b. Or will adversely affect the historic character of the surrounding historic district, and
  - c. The Commission will consider the relationship between such work and the exterior architectural features of other neighboring improvements in the historic district. In appraising such effects and relationships, the Commission shall consider the compatibility of the proposed modifications with standards for the specific type of work set forth in the appropriate set of design guidelines and in addition to any other pertinent matters, the factors of artistic, aesthetic, historical and architectural values, and significance, architectural style, design, arrangement, texture materials, and may advise on appropriate color scheme.
6. At the public hearing, the Commission shall review the application materials including the plans and photographs for compatibility with the design standards set forth in the appropriate set of design guidelines and the issues detailed in Section 6.3.3 or 6.3.5 above as appropriate. The Commission may request additional information if needed and take testimony from the applicant and the public. The Commission shall then vote to approve or deny the Certificate of Appropriateness, or approve the Certificate with modifications or postpone action until the next regular commission meeting, or to a future date determined by the Commission and the applicant jointly, pending receipt of additional requested information.
- a. If said Certificate is denied, the applicant may
    - 1) Withdraw the application or
    - 2) Appeal the Commission's decision to the City Council following the procedures outlined in Article 8.1 Appeals. If the Council approves the applicant's appeal, such notice shall be made to the Historical Landmarks Commission and a Notice to Proceed and a building permit (as applicable) issued.
  - b. If said Certificate is approved with modifications the applicant may elect to
    - 1) Accept the modifications and receive a Certificate of Appropriateness.
    - 2) Reject the modification and appeal the Commission's decision to City Council pursuant to Section 8.1 Appeals. If an applicant appeal is approved by City Council, such notice shall be made to the Commission and a Notice to Proceed and a building permit (as applicable) issued.
- B. If said Certificate of Appropriateness is approved the applicant shall receive, by certified mail, said Certificate after a 30 day waiting period in which no written appeals are filed. A copy of the Certificate shall be filed with the Secretary of the Commission. No permit or repair (except for exact in-kind materials replacement), alteration or new construction at a Palestine Landmark or within the boundaries of a Palestine Historic District shall be issued by the Director of Development Services until a Certificate of Appropriateness has been granted by the Historic Landmarks Commission, or an appeal to City Council has been granted and a Notice to Proceed and a building permit (as needed) issued.
- C. Nothing in this Article shall be construed to prevent the ordinary maintenance of an exterior element of a Palestine Landmark or a property within a Palestine Historic District, provided such maintenance does not remove, damage or obscure existing materials. Nothing in the Article prevents the maintenance, repair, alteration or modification of the interior of any improvement.

§ 6.4 CRITERIA FOR APPROVAL OF CERTIFICATE OF APPROPRIATENESS FOR ALTERATION OR NEW CONSTRUCTION AFFECTING PALESTINE LANDMARKS AND PALESTINE HISTORIC DISTRICTS

The Commission shall follow Palestine’s Residential Design Guidelines, Palestine’s Commercial Design Guidelines, or the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (as appropriate for the improvement and/or district type) for all Palestine Landmarks and improvements within Palestine Historic Districts and the procedures set forth in Section 6.3 in making COA decisions. Palestine’s Residential Design Guidelines, Palestine’s Commercial Design Guidelines and the Secretary of the Interior’s Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings shall be made available to owners of Palestine Landmarks and properties within Palestine Historic Districts.

§ 6.5 APPLICATION PROCEDURES FOR CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OR REMOVAL OF A PALESTINE LANDMARK OR PROPERTIES WITHIN A PALESTINE HISTORIC DISTRICT

- A. Prior to the commencement of any demolition or removal of Palestine Landmarks or improvements within a Palestine Historic District, the applicant shall file an application for a Certificate of Appropriateness for Demolition or Removal with the Historic Landmarks Commission on a form available from the Director of Development Services. The form shall be completed by the applicant and shall be submitted with the following materials to the Director of Development Services. Within ten (10) days of receipt of the application the Director of Development Services shall notify the applicant in writing of any additional documentation required. The application must be accompanied by the following documentation before it will be considered complete.
  - 1. An affidavit in which the owner swears or affirms that all information submitted in the application is true and correct.
  - 2. An indication that the demolition or removal is sought for one or more of the following reasons:
    - a. To replace the building or structure with a new building or structure that is more appropriate and compatible with the historic district or a site containing individually designated historic resources.
    - b. No economically viable use of the property exists.
    - c. The building or structure poses an imminent threat to the public health or safety.
    - d. The building or structure is noncontributing to the designated historic district or to a site containing individually designated historic resources because it is newer than the period of historic significance or does not add to the values or qualities of the district or property.
  - 3. For an application to replace the building or structure with a new building or structure the following must be submitted to the Historic Landmarks Commission with the following information:
    - a. Records showing the original construction of the building or structure, including drawings, photographs, or written descriptions.

- b. Records showing the current condition of the building or structure including drawings, photographs or written descriptions.
  - c. Any conditions proposed to be placed on the new construction that would mitigate the loss of the building or structure.
  - d. Complete architectural drawings of the proposed new construction
  - e. A guarantee agreement between the owner and the City that demonstrates the owner's intent and financial ability to construct the new building. The guarantee agreement must:
    - 1) Contain a covenant to construct the proposed new building by a specific date in accordance with the architectural plans approved by the Historic Landmarks Commission through the Certificate of Appropriateness process described in Section 6.3 above.
    - 2) Require the owner or construction contractor to post a letter of credit, escrow agreement, cash deposit, or other arrangement acceptable to the Historic Landmarks Commission to ensure construction of the new building and
    - 3) Be approved as to form by the City Attorney.
4. For an application of no economically viable use of the property:
- a. The past and current uses of the building or structure and property
  - b. The name of the owner
  - c. If the owner is a legal entity, the type of entity and states in which it is registered
  - d. The date and assessed or appraised value of purchase or other acquisition of the building or structure and property and the party from whom acquired, and the owner's current basis in the property.
  - e. The relationship, if any, between the owner and party from whom the building or structure and the property were acquired. If one or both parties to the transaction were legal entities, any relationships between the officers and the board of directors of the entities must be specified.
  - f. The assessed value of the building or structure and the property according to the two most recent tax assessments
  - g. The amount of real estate taxes on the building or structure and property for the previous two years.
  - h. The current fair market value of the building or structure and property as determined by an independent licensed appraiser.
  - i. All appraisals obtained by the owner and prospective purchasers within the previous two years in connection with the potential or actual purchase, financing, or ownership of the building or structure and property.
  - j. All listings of the building or structure and property for sale or rent within the previous two years, prices asked and offers received.

- k. A profit and loss statement for the building or structure and property containing the annual gross income for the previous two years; itemized expenses (including operating and maintenance costs) for the previous two years, including evidence that adequate and competent management procedures were followed, the annual cash flow for the previous two years; and evidence that the owner has made reasonable efforts to obtain a reasonable rate of return on the owners investment and labor.
  - l. A mortgage history of the property during the previous five years, including the principal balances and interest rates on the mortgages and the annual debt services on the structure and property.
  - m. All capital expenditures during the current ownership within the last 5 years.
  - n. Records depicting the current conditions of the building or structure and property, including drawings, photographs, or written descriptions.
  - o. A study of restoration of the building or structure, performed by a licensed architect, engineer or financial analyst, physical and financial feasibility of adaptive use or restoration of the building or structure. Such study shall include architectural or engineering analysis and pro forma profit and loss statements for a 10-year period (Pro forma profit and loss statements shall only be required for commercial structures), taking into consideration redevelopment options and all available incentives.
  - p. Any consideration given by the owner to profitable adaptive reuse, including site plans, floor plans, and elevations.
  - q. Any conditions proposed to be placed voluntarily on new development that would mitigate the loss of the building or structure.
  - r. Any other evidence that shows that the affirmative obligation to maintain the building or structure or property makes it improbable to realize a reasonable rate of return.
5. For an application to demolish or remove a building or structure that poses an imminent threats to public health or safety:
- a. Records depicting the current condition of the building or structure, including drawings, photographs, or written descriptions.
  - b. A study regarding the nature, imminence and severity of the threat, as performed by a licensed architect or engineer.
  - c. A study regarding both the cost of restoration of the building or structure and the feasibility (including architectural and engineering analyses) of restoration of the building or structure, as performed by a licensed architect or engineer.
6. For an application to demolish or remove a building or structure that is noncontributing to a Palestine Historic District, or an individually designated Palestine Landmark property because the building or structure is newer than the period of historic significance or does not add to the values or qualities of the district or property:
- a. Documentation that the building or structure is noncontributing to the Palestine Historic District or the individually designated Palestine Landmark property

- b. Documentation of the age of the structure or building.
- c. A statement of purpose of the demolition
- 7. Any other evidence the property owners wish to submit in support of the application.
- 8. Any other evidence requested by the Historic Landmarks Commission or the Director of Development Services.

§ 6.6 CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OR REMOVAL OF PALESTINE LANDMARKS OR PROPERTIES WITHIN A PALESTINE HISTORIC DISTRICT

A. Procedures for Issuing a Certificate of Appropriateness.

1. All applications for demolition or removal of a Palestine Landmark and properties within a Palestine Historic District are subject to review by the Historic Landmarks Commission and issuance of a Certificate of Appropriateness. Under no circumstances shall demolition or removal occur until a Certificate of Appropriateness has been issued by the Commission and mitigation measures (if any) have been completed to the Commission's satisfaction.
2. A property owner wishing to demolish or remove a Palestine Landmark or an improvement within a Palestine Historic District must file an application for a Certificate of Appropriateness for demolition or removal. Said application must be made on a form provided by the Director of Development Services and must be presented to the Historic Landmarks Commission.
3. Within sixty (60) days of the receipt of a complete application for demolition or removal, the Commission shall hold a public hearing and shall approve or deny the application, or delay demolition or removal for up to 240 days in order to allow time to seek a preservation alternative to demolition or removal. Based on testimony and evidence presented by the applicant during the public hearing, the Commission may impose a delay of demolition or removal in 30-day increments up to 240 days in length. Stays initially imposed for 30, 60, 90, 120, 150, 180 or 210 days may be extended by the Commission for additional 30-day periods, or for any remaining portion of the 240-day period with extensions up to a total of 240 days. Property owners applying for demolition or removal of Palestine Landmarks and buildings, structures, sites and objects within Palestine Historic Districts shall work with the Commission and City officials to identify preservation alternatives to demolition or removal. Progress toward a preservation solution shall be reviewed by the Commission at public hearings at 30, 60, 90, 120, 150, 180 and 210 day intervals, depending upon the length of the imposed stay and the length of any extensions. Testimony and evidence of work toward a preservation solution and any other information may be presented by the applicant during such hearing. A mutually satisfactory solution may be reached at any point in the process and a special meeting of the Commission may be called at any time to approve the mutually agreed upon resolution. The applicant may withdraw the application at any time during the imposed stay of demolition. If no preservation solution is identified during the imposed stay (and any extensions) the Commission shall deny or approve the application to demolish or remove. If the Commission does not make a final decision by the end of the imposed stay, the Director of Development Services shall issue a permit to allow the requested demolition or removal. The applicant has the burden of

proof to establish by clear and convincing evidence the necessary facts to warrant favorable action by the Historic Landmarks Commission.

4. Standard for approval. The Historic Landmarks Commission shall deny the application unless it makes the following findings:
  - a. The Commission must deny an application to replace a building or structure with a new structure unless it finds that:
    - 1) The new building or structure is more appropriate and compatible with the Palestine Historic District than the building or structure to be demolished or removed; and
    - 2) The owner has the financial ability and intent to build the new building or structure. The Historic Landmarks Commission must first approve the Certificate of Appropriateness for the proposed new construction and the guarantee agreement to construct the new building or structure before it may consider the application to demolish or remove.
  - B. The Commission must deny an application of no economically viable use of the property unless it finds that:
    1. The building or structure is incapable or earning a reasonable economic return unless the demolition or removal is allowed (a reasonable economic return does not have to be the most profitable return possible);
    2. The structure cannot be adapted for any other use, whether by the owner or by a purchaser, which would result in a reasonable economic return; and
    3. The owner has failed during the last two years to find a developer, financier, purchaser, or tenant that would enable the owner to realize a reasonable economic return, despite having made substantial ongoing efforts to do so.
  - C. The Commission must deny an application to demolish or remove a building or structure that poses an imminent threat to public health or safety unless it finds that:
    1. The building or structure constitutes a documented major and imminent threat to public health and safety; and
    2. The demolition or removal is required to alleviate the threat to public health and safety; and
    3. There is no reasonable way, other than demolition or removal, to eliminate the threat in a timely manner.
  - D. The Commission must deny an application to demolish or remove a building or structure that is noncontributing to a Palestine Historic District or to an individually designated Palestine Landmark property because it is newer than the period of significance of the landmark district or property, or does not add to the values or qualities of the district or property unless it finds that:
    1. The building or structure is noncontributing to the Palestine Historic District or to an individually designated Palestine Landmark property;

2. The building or structure is newer than the period of significance of the Palestine Historic District or the individually designated Palestine Landmark property or does not add to the values or qualities of the district or property;
3. Demolition of the building or structure will not adversely affect the historic character of the individually designated Palestine Landmark property or the integrity of the Palestine Historic District.

§ 6.7 CRITERIA FOR CERTIFICATE OF APPROPRIATENESS FOR DEMOLITION OR REMOVAL OF PALESTINE LANDMARKS OR PROPERTIES WITHIN A PALESTINE HISTORIC DISTRICT

Procedures for Issuing a Certificate of Appropriateness:

No permit for demolition or removal of a Palestine Landmark or building, structure, site or object within a Palestine Historic District shall be issued by the City Official until the Commission has issued a Certificate of Appropriateness or a Notice to Proceed and all required (if any) mitigation has been completed to the Historic Landmarks Commission's satisfaction.

§ 6.8 REVIEW OF PROPERTIES SUBJECT TO SECTION 106 REVIEW (EXCLUDING PALESTINE LANDMARKS AND PROPERTIES WITHIN A PALESTINE HISTORIC DISTRICT)

- A. Properties 50 years old and older, those individually listed in the National Register, those included in National Register listed districts and those officially eligible for National Register listing that will be the subject of exterior alterations, demolished or removed with Federal funds are subject to Section 106 review, as authorized by the National Historic Preservation Act of 1966 (as amended). Section 106 reviews for properties in Palestine Historic Districts and those designated Palestine Landmarks that meet the 106 review criteria described directly above shall be undertaken as part of the regular Certificate of Appropriateness review processes pursuant to Article 6, Sections 6.1-6.7 of this ordinance. All other properties subject to Section 106 shall be reviewed following the process described below in this section. Section 106 reviews conducted by the Historic Landmarks Commission are purely advisory and are not binding on the agency administering the project funds.
- B. Although the Section 106 Certificate of Appropriateness (COA) review for Palestine Landmarks and properties in Palestine Historic Districts is purely advisory under Section 106, the COA process is appropriate for designated Palestine landmarks because they are eligible for preservation tax incentives and have agreed to abide by specified historic zoning and design standards.
- C. Federal funding used in an undertaking affecting a property that meets Section 106 review criteria may be provided through HUD programs, public works projects or other sources. The City or County agency that will release the funds for any proposed exterior changes is responsible for making the final determination about whether to approve or deny a project subject to Section 106.
- D. The City of Palestine Landmarks Commission should perform section 106 reviews in an advisory capacity to the City or County agency that is processing the project and the funding. The Historic Landmarks Commission should coordinate with the local housing

authority or equivalent and any other agency or department using Federal funds to alter, remove or demolish properties that are 50 years old or older, those located in a Palestine Historic District, designated as a Palestine Landmark, located within a National Register listed district or individually listed or eligible for National Register listing.

- E. The Palestine Landmarks Commission should establish a procedure by which applications for the above-defined properties are routed to the Commission for review and comment prior to the start of any work.
- F. The Commission should receive the following materials in an application for Section 106 review: Name, address and telephone number of the applicant, property address, detailed description of the proposed work, property construction date, labeled photographs of the property and its adjacent properties, plans or sketches of the proposed exterior changes, photographs of the existing property and photographs of surrounding properties, samples of materials to be used (if applicable), a scale drawing of any proposed lettering or signs showing dimensions, colors, description and proposed location on the property, any other information the Commission requests, type of loan or funding source and type of historic designation (if any).
- G. After receiving an application for section 106 review of a property other than a Palestine Landmark or a property within a Palestine Historic District, the Historic Landmarks Commission shall schedule a public meeting, and notice such meeting in conformance with all required state laws and City codes.
  - 1. The Commission will send, by certified mail, a notice to the property owner that an application for exterior work or new construction at their property has been received by the appropriate funding agency and the Historic Landmarks Commission. The letter shall state that because the proposed changes are to be conducted with Federal funds and the property is 50 years old or older, listed in the National Register of Historic Places, is officially eligible for National Register listing, or is a state landmark that is 50 years old or older, Federal law authorizes a review of the work to determine what impact the work will have on the historic and architectural character of the property. The letter will further state the findings of the Historic Landmarks Commission are advisory only to the agency providing the funds, but that such findings must be considered before the funds can be released. The letter shall provide the location, date and time of the public hearing and invite the property owner to attend. Such notice shall be issued by the Historic Landmarks Commission.
  - 2. At the public hearing the Commission should consider the following in making findings and recommendations
    - a. The effect of the proposed work in changing or destroying the exterior architectural features of the improvement upon which the work is to be done, and
    - b. The relationship between such work and the exterior architectural features of other neighboring improvements in a historic district (as applicable).
    - c. In appraising such affects and relationships, the Commission shall consider compatibility of the proposed modifications with standards for the specific type of work set forth in the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.

- d. The Commission may ask the property owner if he is willing to make specified modifications recommended by the commission. If the owner is agreeable, such modifications shall be included in the Commissions recommendations. If the owner is not willing to make changes to the project, the Commission's recommendation shall so note.
- H. After review of the application and supporting materials and receipt of testimony (if any), the Commission shall make a brief written recommendation to the agency or department initiating the project regarding the effect of the work on the property and stating whether the Commission finds the project compatible with the historic character of the property and/or district or finds that the project is incompatible with the historic property or district. If the Commission finds the proposed project to be incompatible, the Commission may include non-binding suggestions about how to make the proposed work more compatible and less damaging to the property. The recommendation shall be transmitted to the agency or department responsible for the project. A copy of the recommendation shall be sent by certified mail to the property owner and filed with the Secretary of the Commission.
- I. The agency or department initiating the project is required to review and consider the recommendations of the Commission, but is not required to abide by them. The Historic Landmarks Commission provides advisory recommendations only.
- J. The City or County agency or City Department responsible for funding the project will then finalize the Section 106 review process by consulting with the Texas Historical Commission, which will review the Historic Landmarks Commission's recommendations. The agency or department funding the project will subsequently determine whether to approve the project and release the funds, ask the applicant to make changes to the proposed work or decide not to approve the project.

#### § 6.9 DEVIATION FROM APPROVED PLANS

A Certificate of Appropriateness issued pursuant to this Article shall relate to the proposed plans accompanying the application or otherwise submitted for official consideration prior to issuance of the Certificate. It shall be unlawful to deviate from the said plans upon which issuance was granted unless an amended Certificate of Appropriateness shall be applied for and issued.

#### § 6.10 MITIGATION MEASURES

- A. Mitigation Measures may be applied to a Palestine Landmark or a property within a Palestine Historic District. All required mitigation measures will be forwarded to Planning and Zoning Commission and City Council with any written recommendations
  - 1. The Historic Landmarks Commission may, at its discretion, impose one or more of the following mitigation measures when Palestine Landmarks or a property within a Palestine Historic District will be demolished or removed and no preservation solution is agreed upon by the property owner and the Commission.
    - a. The owner/applicant shall make a videotape of the exterior of the primary building, any outbuildings, significant landscaping and any historically or architecturally significant interiors.
    - b. The owner/applicant shall be required to document the historic property using the standards of the Historic American Building Survey (HABS) or the Historic

American Engineering Record (HAER) at Level 1 (most extensive), Level 2, Level 3 or Level 4 (least extensive), depending on the historic significance of the property. The Historic Landmarks Commission shall determine the appropriate level of documentation in consultation with the Architecture Department of the Texas Historical Commission. Under supervision by qualified, experienced professionals such as architecture and history students from a qualified College or University can be used for such recordation, or an experienced consultant can be hired.

- c. The owner/applicant shall update an existing National Register nomination for the property with current black and white photographs taken to National Register specifications and additional research (if the nomination did not provide sufficient data). Experienced consultants or local volunteers with photographic and archival research and nomination preparation experience can be enlisted for this work.
- d. Two copies of the mitigation materials shall be submitted to the Historic Landmarks Commission for review and approval. One copy shall be deposited in local or regional libraries, and another with the Texas Historical Commission. When HABS/HAER recordation is conducted, an additional copy that meets Federal archival guidelines must be submitted to the National Park Service for review and approval.

#### B. Archive for Mitigation Documents

1. The Historic Landmarks Commission shall donate copies of the mitigation materials to the Palestine Public Library for use as non-circulating materials.
2. The Historic Landmarks Commission shall identify and enter into an agreement with a regional or state library or museum to be the official archive for deposit of mitigation documents. These documents shall be stored to archival standards and be accessible to the public as non-circulating materials.

#### C. Cost to Produce Mitigation Documents

1. The Historic Landmarks Commission shall work with City Officials to establish and administer a revolving fund to supply 50 percent of the costs exceeding \$1000.00 associated with mitigation compliance on any given project. Once the revolving fund is established, the Commission shall seek donations, grants and public monies for the fund.

### § 6.11 WAIVER OF FEES

Building and demolition permit fees and other permit fees associated with obtaining a Certificate of Appropriateness are hereby waived where such permits are required by this Ordinance or other city ordinances for the repair, rehabilitation, restoration or alteration of a Palestine Landmark or a building, structure, site or object within the boundaries of a Palestine Historic District, when such permits are needed in association with Section 106 reviews.

### § 6.12 PENALTIES FOR NON-COMPLIANCE

- A. The Director of Development Services shall issue a stop work order when inspections of exterior repair (other than exact in-kind materials replacement as specified herein), rehabilitation, restoration or alteration work authorized by a Building Permit or Demolition/Removal Permit and Certificate of Appropriateness on Palestine Landmarks

and on buildings, structures, sites and objects within Palestine Historic Districts are non-compliant with Commission approved plans. Such non-compliance shall be corrected to the satisfaction of the Historic Landmarks Commission or the Commission's designee and may include the restoration or replacement of a removed feature or material to its nearest original architectural or natural state.

- B. In the event that a stop work order is ignored and non-compliant construction continues, the penalty shall be \$2,000 each day the project remains non-compliant. This penalty shall be imposed in addition to any other penalties imposed by other City ordinances.

## ARTICLE 7. MAINTENANCE AND REPAIR OF IMPROVEMENTS

### § 7.1 GENERAL PROVISIONS

- A. Nothing in this Article shall be construed to prevent the ordinary maintenance (as specified herein) of any exterior element of a building, structure, site or object subject to design review as a Palestine Landmark, or due to its location within a Palestine Historic District provided such maintenance and repair does not remove, damage or obscure existing materials. Nothing in this Article prevents the maintenance, repair, alteration or modification of the interior of any improvement.
- B. The City of Palestine shall comply with the provisions of this ordinance in undertaking repairs, maintenance, alterations, additions and demolition or removal of designated historic properties owned by the City.

### § 7.3 DEMOLITION BY NEGLIGENCE

No owner or person with an interest in real property designated a Palestine Landmark or a property which is located within a Palestine Historic District shall permit the property to fall into a state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historic Landmarks Commission, produce a detrimental effect upon the character of the property itself or the historic district in which it is located. When neglect is the result of documented, proven financial hardship, the City may elect, but is not required to, purchase such properties and rehabilitate them using the appropriate set of design guidelines or the Secretary of the Interior's Standards and then offer the repaired historic resources for sale. Funds for purchase can be supplied by a revolving fund established by the City through grants, donations and tax revenue. Proceeds from sales should be deposited in the fund to permit on-going purchase, rehabilitation, and sale of other historic properties.

### § 7.4 GENERAL PROTECTION OF PROPERTY

Before any permit issued by the Director of Development Services for work of any kind, including alteration, construction, plumbing, electrical, etc., for any specific structure, the Director of Development Services must first check the map of designated Palestine Landmarks and Palestine Historic Districts to determine if the property for which the permit is being issued has been designated a Palestine Landmark or is within a Palestine Historic District. A separate list of properties that are listed in the National Register of Historic Places, those in National Register districts, RTHLs, Subject Marker properties, SALs and Historic Texas Cemeteries must also be checked, as these properties will be subject to Section 106 review if Federal monies are used to conduct repairs, alterations, additions or to demolish or remove them.

## ARTICLE 8. APPEALS

### § 8.1 APPEALS BASED ON DENIAL OF CERTIFICATE OF APPROPRIATENESS

- A. The chair of the Historic Landmarks Commission shall give verbal notice of the right to appeal a decision of the Commission at the time a decision on the application is made. Any interested person may appeal the decision of the Commission to the City Council by filing a written notice with the Director of Development Services within thirty (30) days after the date of the Historic Landmarks Commission decision. If no appeal is made of a decision to approve the Certificate of Appropriateness within the thirty (30) day period, the Director of Development Services shall issue a building permit or a demolition or removal permit, as appropriate. If an appeal is filed, the City Council shall hear and decide the appeal within sixty-five (65) days after the date of its filing or the application shall be granted as filed. The Director of Development Services shall forward to the City Council a complete record of the matter being appealed, including the minutes of the hearing before the Historic Landmarks Commission. In considering an appeal, the City Council shall hear and consider testimony and evidence concerning the previous recommendations and actions of City staff and the Historic Landmark Commission. The City Council shall have the same authority as the Historic Landmarks Commission regarding the matter being appealed, and may reverse or affirm, in whole or in part, or modify the decision of the Historic Landmarks Commission. However, the City Council shall give deference to the decision of the Historic Landmarks Commission considering the record made before the Historic Landmarks Commission. The City Council shall have the option to remand any case back to the Historic Landmarks Commission for further proceedings, including the assignment of mitigation measures pursuant to section 6.15 above, in the event the appeal is approved by the City Council. The City Council shall return written notice of its judgment to the Historic Landmarks Commission. In cases where the appeal was approved by the City Council the Commission shall issue a notice to proceed.
- B. Reapplication. If a final decision is reached denying a Certificate of Appropriateness for Alteration, New Construction or Demolition or Removal, no further applications may be considered for the subject matter of the denied certificate for one year from the date of the final decision unless:
1. The certificate has been denied without prejudice; or
  2. The Historic Landmarks Commission waives the time limitation because it finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the Historic Landmarks Commission is required to grant the request for waiver of the time limitation.
- C. Expiration. A Certificate of Appropriateness for Alteration, New Construction or Demolition or Removal expires if the work authorized by the certificate for demolition or removal is not commenced within 180 days from the date of the certificate. The Building Official may extend the time for commencement of work upon written request by the applicant showing circumstances beyond the control of the applicant. If the certificate expires, a new certificate must first be obtained before the work can be commenced.

- D. Any relief granted shall be in conformance with the objectives of this ordinance and shall be limited to the minimum required to effect substantial justice and shall be in harmony with the general purpose and intent of this ordinance.
- E. Any person aggrieved by any action taken pursuant to this Ordinance may, after exhausting all administrative remedies provided for herein, petition any, court of competent jurisdiction in Anderson County for a review of the action taken pursuant to this ordinance which review will be conducted as an appeal under the Substantial Evidence Rule.

## ARTICLE 9. PENALTY

### § 9.1 PENALTY FOR VIOLATION

A person violating any provision of this Ordinance, upon conviction, is punishable by a fine not to exceed Two Thousand Dollars (\$2,000.00) for each and every day that such a violation continues.

## ARTICLE 10. INCENTIVES

### § 10.1 AD VALOREM TAX INCENTIVES

This section is replaced by Ordinance 0-8-97, which amends this Ordinance (0-9-90) and rewrites sections of it.

## ARTICLE 11. HISTORICAL MARKERS

### § 11.1 INDIVIDUAL PALESTINE LANDMARKS

If a structure has been officially designated as a Palestine Landmark, whether or not that landmark lies within the boundaries of a Palestine Historic District, the property owner shall have the option of displaying at his own expense a marker indicating the historic designation. The Commission shall be responsible for determining the material, size, shape, color, and design of the historical marker. For the purposes of uniformity and for sight recognition, the Building Official shall be responsible for making these markers available for purchase at the City's cost.

### § 11.2 PALESTINE HISTORIC DISTRICTS

In the case of specific areas being designated as historic districts, such areas may be identified by historical markers placed in appropriate places. The Commission shall be responsible for determining the material, size, shape, color, and design of the historical marker. The City Council may direct the Building Official to erect such signs with the advice of the Commission.

## ARTICLE 12. AMENDMENTS

### § 12.1 PROCEDURE FOR AMENDMENTS TO THIS ORDINANCE

- A. Any proposed amendments) to this Ordinance shall be submitted in writing to the Historic Landmarks Commission. The Commission shall have thirty (30) days within which to

consider the amendment(s) and make its written recommendation to the Planning and Zoning Commission.

- B. The Planning and Zoning Commission shall consider the amendment(s) as required by the Comprehensive Zoning Ordinance and State law and submit its written recommendation to the City Council for final action.
- C. The proposed amendment(s) may be voted upon at a joint meeting of the Historic Landmarks Commission and the Planning and Zoning Commission.
- D. The City Council shall hold a public hearing on the proposed amendment(s) or the recommendations of the Planning and Zoning Commission as required by law and pass whatever amendments as are appropriate.

## II. REPEAL

That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

## III. SEVERABILITY

That if any sentence, paragraph or portion of this ordinance is declared invalid or unenforceable, the remainder of said ordinance is severable and declared to be in full force and effect. Any provision of any Ordinance of the City of Palestine, Texas, not specifically amended herein, is deemed to be in full force and effect.

## IV. PUBLICATION

That this ordinance will be effective after its passage and publication by publishing the descriptive caption of this ordinance in the Palestine Herald Press as provided by law.

The original ordinance was:

PASSED, APPROVED, AND ADOPTED at a regular meeting of the Palestine City Council with sufficient quorum present and voting hereon, with notice of the hearing given as required by law, this the 27th day of September, 2004.

THE CITY OF PALESTINE, TEXAS

ATTEST:

\_\_\_\_\_  
BY: GEORGE J. FOSS, Mayor

\_\_\_\_\_  
ANN PESCE, City Secretary

APPROVED AS TO FORM:

\_\_\_\_\_  
BRENDA K. HICKS, City Attorney

## APPENDIX I

### The Secretary of the Interior's Standards for Rehabilitation

1. Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
3. All buildings, structures, 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 that may have taken place in the course of time are evidence of the history and development of a building, structure, 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 that characterize a building, structure, or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historic, 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 with the gentlest means possible. Sandblasting and other cleaning methods that will damage the 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. Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.