

EXHIBIT B
HISTORIC PRESERVATION DISTRICTS ORDINANCE

PART 1. ENACTMENT AND FINDINGS

Section 1. Title.

This ordinance shall be known and may be cited as "Historic Preservation Districts Ordinance, City of La Grange, Fayette County, Texas."

Section 2. Findings.

This historic preservation districts ordinance is intended to achieve the following policy goals:

- A. Protect, enhance, and perpetuate downtown Historic Landmarks which represent or reflect distinctive and important elements of the City's and State's architectural, landscape architectural, archeological, cultural, social, economic, ethnic and political history, and to develop an appropriate setting for such places.
- B. Safeguard the downtown's historic and cultural heritage, as embodied and reflected in such historic landmarks by appropriate regulations.
- C. Stabilize and improve property values in the downtown area.
- D. Foster civic and cultural pride in the beauty and accomplishments of the past.
- E. Protect and enhance downtown attractions to tourists and visitors and provide incidental support and stimulus to business and industry.
- F. Strengthen the economy of the City.
- G. Promote the use of Historic Landmarks and Historic Places for the culture, prosperity, education, and general welfare of the people of the City and visitors to the City. and
- H. Provide a review process for the continued preservation and appropriate development of the City's historic resources.

Section 3. Definitions.

- A. Appurtenance. A feature related to a parcel of land or to a building, structure, object, site, or a related group thereof. The term includes, but is not limited to, buildings, structures, objects, sites, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, and signs.
- B. Certificate of Appropriateness. A document evidencing the approval of the Main Street Design Committee and Main Street Advisory Board, signed and dated by the Chairman of the Main Street Advisory Board, for the demolition, installation, construction, alteration, change, restoration, removal, or demolition of any Exterior

Architectural Feature Resource or other significant appurtenance of any facade on an Historic Landmark or of any building or structure located within the Downtown District to be issued in cases further defined in this ordinance, where approval for the same is required.

C. Certificate of Review. A document signed and dated by the Chairman of the Main Street Advisory Board evidencing that the proposed changes, improvements or construction to property located in the Downtown District or at or on a Historic Landmark have been reviewed by the Board, which are in addition to the requested actions in a Certificate of Appropriateness. The Certificate of Review is to be issued in cases further defined in this ordinance, where review is required.

D. Demolition. An act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

E. Exterior Architectural Feature. The architectural style, design, general arrangement and components of all of the outer surfaces of a building or structure, as distinguished from the interior surfaces enclosed by such outer surfaces. Exterior Architectural Features shall include, by way of example but not by limitation, the kind, color, texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building or structure.

F. La Grange Historic Resource Survey. A comprehensive architectural survey of all properties within the City's Downtown District and adjoining areas, as created in 1997; future amendments to the same shall be automatically included herein.

G. Downtown Historic District. An area of the City designated by the City Council as the Fayette County Courthouse Historic District, as having definable geographic boundaries, a significant concentration, linkage, or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation "Downtown Historic District" recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism.

H. Historic Landmark. An individual property designated by the City Council as having outstanding historical and cultural significance in the nation, region, or community. The designation "Historic Landmark" recognizes that the historic place, or the building(s), structure(s), accessory building(s), fences, or other appurtenances at the place are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism.

I. Historic Preservation District. Any area of the City designated by the City Council as an Historic Preservation District, having definable boundaries, a significant concentration, linkage, or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development such as the Downtown Historic District as defined herein. The designation "Historic Preservation District"

recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism.

J. Ordinary Repairs or Maintenance. Work done to prevent deterioration of a resource or any part thereof by returning the resource as nearly as practical to its condition prior to such deterioration, decay, or damage and by using where possible, original material.

Section 4. Review Board

A. Creation of Board. There is hereby added to the duties of the Main Street Advisory Board of the City of La Grange, Texas, hereinafter called the "Board," consisting of seven (7) members appointed by the City Council. The Main Street Advisory Board will herein be referred to as the "Board," in accordance with the further provisions hereof.

B. By-laws. The By-laws of the Main Street Advisory Board shall govern terms, qualifications, composition and meeting procedures. The Building Official shall attend all Board meetings in which certificates are considered.

C. Functions of the Board. The Board shall review all applications proposing facade alterations, changes and demolition, of buildings within the Downtown Historic District or any other historic preservation district created, established or designated by the City Council in the future.

The Board shall grant or deny Certificates of Appropriateness.

The Board shall make an annual report to the City Council on the state of historic preservation in the City and shall include in the report a summary of its activities for the past year and a proposed program for the next year.

The Board shall have the further responsibility of recommending to the City Council, Planning and Zoning Commission, and City departments the adoption of policies, the source of funds, and designation of Historic Districts and Historic Landmarks that may further the City's preservation effort.

D. The Board shall otherwise determine its own rules of procedure except as may be specifically set forth in this ordinance.

Section 5. Designation of The Downtown Historic District

A. Boundaries: The Downtown Historic District, shall be defined by the boundaries of the previously enacted Fayette County Courthouse Historic District, Fayette County, Texas. The Downtown Historic District shall encompass the area shown on the map attached hereto [attached to Ordinance 09-10] as Exhibit B-1.

B. At the discretion of the city council, the area may be altered or expanded as needed. Additional historic preservation districts may be established by the City Council and thereafter governed by this ordinance.

C. Downtown Historic District Criteria: In making the designation of an area as an Historic Preservation District, the City Council shall affirmatively find that the area has one (1) or more of the following characteristics:

- a. Character, interest, or value as a part of the development, heritage, or cultural characteristics of the City;
- b. Location as the site of a significant historical event;
- c. Embodiment of distinctive characteristics of an architectural type or specimen;
- d. Relationship to other distinctive buildings, sites, districts, or structures which are historically significant;
- e. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;
- f. Value as an aspect of community sentiment or public pride;
- g. Identification with a person or persons who significantly contributed to the development or culture of the City, the state or the nation;
- h. Value as protective of a historical resource.

Section 6. Review Required by the Board - All Applications

No person or entity shall install, construct, reconstruct, alter, change, restore, remove, or demolish any structure or exterior architectural feature or other significant appurtenance of any Historic Landmark or of any building or structure located within the Downtown Historic District unless and until such the Board has completed its review of the person or entity's proposed changes as set forth in the person or entity's application for Certificate of Appropriateness.

Such review shall consist of the granting or denial of a Certificate of Appropriateness with regard to the subjects set forth below, as applicable, and shall also consist of a determination of whether or not the issuance of a Certificate of Review with regard to all other types of alterations as set forth below, which in the determination of the Board are recommended additional actions to be taken by the applicant, is appropriate. For such mandatory matters governed hereby, the applicant shall obtain an approved Certificate of Appropriateness and a determination as to whether or not a Certificate of Review will be issued prior to commencement of any work detailed in the application therefor. Compliance with the requirements set forth in a Certificate of Appropriateness is mandatory. Obtaining a determination of whether or not a Certificate of Review is appropriate is mandatory. Failure to obtain either a Certificate of Appropriateness or a determination as to whether or not a Certificate of Review will be issued will result in enforcement of any penalties set forth herein. If a Certificate of Review is issued, noncompliance with its recommendations will not result in enforcement of any penalties.

Section 7. Certificate of Appropriateness and Review - General

No exterior feature of any resource shall be altered, relocated, or demolished, nor shall any new structure be constructed in the Downtown Historic District until after a review of an application for a Certificate of Appropriateness has been completed and a Certificate of Appropriateness granted by the Board and, if appropriate, a Certificate of Review of such work has been issued by the Board. Additionally, a building permit may not be granted for a property in the Downtown Historic District unless the Board issues the relevant certificates. A Certificate of Occupancy will not be granted until compliance with all Certificate of Appropriateness requirements are verified by the City Building Inspector. Therefore:

- A. The Board shall have the power to approve and deny applications for Certificates of Appropriateness and to issue Certificates of Review.
- B. In reviewing, approving and denying applications for Certificates, the Board shall seek to accomplish the purposes of this ordinance.
- C. No Certificate shall be required for work deemed, under the provisions of this chapter, to be ordinary maintenance or repair of any resource by the Board.
- D. All decisions of the Board shall be in writing and shall state the findings of the Board, its recommendations or requirements. The same may appear in the written minutes of the Board's meetings.
- E. Expiration of a Certificate. Any Certificate shall expire twelve (12) months after its issuance.
- F. Resubmission of Applications. A Certificate of Appropriateness, if denied, shall not be resubmitted for review sooner than twelve (12) months following its initial review unless it is submitted with a material change (as determined by the Chairman of the Board).
- G. Multiple Certificates. Certificates of Appropriateness shall be issued for distinct and separate phases of an ongoing project.

Section 8. Certificate Application and Procedure

A. Application. The applicant shall submit to the Building Official an application for a Certificate of Appropriateness which includes data and information in writing which thoroughly describes the project as determined by the Building Official, including but not limited to the following:

- 1. Name of applicant and property owner.
- 2. Mailing address of applicant and permanent address of property owner.
- 3. Location of property to be altered, or demolished.
- 4. A detailed description of the nature of the proposed external alteration or repair to be completed.

5. Any drawings or photographs which would explain the proposed alteration.

B. Completeness. The applicant shall submit all required data and information to the Building Official, not less than fourteen (14) days prior to the next scheduled public meeting of the Board. The application shall not be accepted and processed until it is deemed complete by the Building Official, including sufficient description to adequately and completely convey the full effect of the work to be done.

C. Fee. No fee shall be required for any part of the review process.

D. Insignificant Alteration. If the Building Official determines that the application involves ordinary repair or maintenance, alteration, change, restoration, or removal of any exterior architectural feature of a building or structure which does not involve significant changes in the architectural or historic value, style, general design or appearance, he/she may, within seven (7) days, approve the application and forward a copy of the approved application to the Chairman of the Board, or to the Vice Chairman of the Board if the Chairman is not available. The Chairman or Vice Chairman of the Board shall, within three (3) business days, either approve the Building Official's decision or call for a meeting of the Board to consider the application. If the Chairman or Vice Chairman of the Board does not take any action within three (3) business days, it shall be deemed that such person has approved the Building Official's decision to grant the Certificate of Appropriateness or issue the Certificate of Review, as applicable.

E. Significant Alteration. If the Building Official determines that the application involves an alteration, change, restoration, removal or demolition of an external architectural feature of a building or structure which involves a significant change in the architectural or historic value, style, general design, or appearance or for any other reason does not desire to act under Section D above; he/she shall refer the application to the Board and call for a meeting of the Board to consider the Certificate.

F. Time for Approval. The Board shall hold a meeting to consider the application within forty (40) days after the receipt of a completed application. The applicant shall be given written notice of the time and place of the meeting by regular mail to the address on the application and/or to property owners as the same appear on the records of the Fayette County Appraisal District. Notice of the meeting and subject matter shall be posted in accordance with the Texas Open Meetings Act. The Board may hold any additional meetings within sixty (60) days following submission of a completed application as may be necessary to carry out its responsibilities under this article. The applicant or his/her agent, or representative, shall attend at least one (1) meeting of the Board during which his/her application is considered, otherwise the Board shall not take action, and the application will be deemed to be incomplete. The Board shall make its determination and report the same to the Building Official within sixty (60) days after receipt of a completed application unless the Board and the applicant mutually agree to extend the period of review. If action is not taken within sixty (60) days after receipt of a completed application, (except as to Demolition cases as set out below) it shall be deemed that the Board recommends approval of the application and it shall issue the requisite Certificate.

The Board shall forward its report and recommendation to the Building Official. Upon receipt of the report of the Board, the Building Official shall within three (3) days issue the Certificate to the applicant.

G. Special Time Period for Demolition. Anything in this article to the contrary notwithstanding, the Board shall make its determination within sixty (60) days after receipt of a completed application for a permit to demolish a Historic Landmark or building within the Downtown Historic District, or to move a Historic Landmark, or to move a building into or out of a Downtown Historic District.

Section 9. Criteria for Approval of a Certificate of Appropriateness - Function of the Board

In determining the recommendation and action on an application for a Certificate of Appropriateness, the Building Official and Board shall review and decide the appropriateness of the proposed alterations of the following with regard to:

- A. Removal, Addition or Modification of Architectural Detail. The distinguishing historic qualities or character of a building, structure, or site and its environment shall not be destroyed. Removal or modification of any historic material or distinctive architectural features may be accomplished upon issue of Certificate of Appropriateness; however, this should be avoided when possible. Architectural features include but are not limited to exterior wall materials, windows, railings, decorative woodwork, masonry, or stone elements.
- B. Paint Color and Application. Traditionally, the base colors of buildings have been soft muted shades of greens, blues, whites, and tans or original brick colors. In order to continue the historic integrity of the buildings in the district, these colors continue to be acceptable today, and do not require review or issuance of a certificate. The Building Official shall determine whether or not the proposed color is within the approved list of colors. Base colors such as vibrant or "hot" shades, dark deep shades, and black shades are not acceptable. If one wishes to use these colors, a Certificate of Appropriateness must be granted in advance of paint application. The painting of existing historic buildings composed of materials such as unpainted stone or unpainted masonry is prohibited.
- C. Scale of New Construction in Downtown Historic District or other Historic Preservation Districts. The Board will review all new construction plans within the District in order to ensure visual compatibility with the surrounding buildings and environment in relation to height, gross volume, proportion, and setback.

The decision of the Building Official and Chairman in the case of insignificant alterations, or the decision of the Board in the case of significant alterations, with regard to the items described in this section are mandatory and must be met in order to receive a Certificate of Occupancy upon completion of

construction (in the case of commercial properties). In the event the requirements of the Board are not met, the building permit shall be revoked. Notice of Revocation shall be delivered or mailed to the applicant by the Building Official or his or her designee to the address provided on the application.

Section 10. Criteria for Approval of a Certificate of Appropriateness - Demolition/Removal Criteria

The Board shall use the following additional criteria when reviewing and determining the recommendation and action on an application for a Certificate of Appropriateness with regard to demolition or removal of a Historic Landmark or a resource within the Downtown Historic District or any other Historic Preservation District established by the City Council:

In the case of a demolition application, the Board shall affirmatively find that:

- A. Reasonable measures could not be, taken to adaptively reuse, rehabilitate, or restore the building or structure at its existing site; and
- B. Reasonable measures have been taken to relocate the resource to a new site first within the same property, secondly within the District (if applicable), or thirdly to an area that will be enhanced by the resource or where the goals of this ordinance will be furthered and that the same cannot reasonably be done; and
- C. The condition of the building or structure is such that it has been so altered or deteriorated that it has lost its value for promoting the goals of this ordinance, and is no longer significant, and in such event that the condition is not due to demolition by neglect or action of the owner or another related person or entity; or
- D. The estimated cost of restoration or repair is so excessive as to create an Unreasonable Economic Hardship for the owner, and in such event that the condition is not due to demolition by neglect;
- E. Plans for proposed new construction or other reuse of the property, and their effects on the historical, cultural, social, or architectural identity of the surrounding area will be positive and promote the goals of this ordinance.
- F. In the case of a removal application, the Board shall affirmatively find that:
 - 1. Reasonable measures could not be, taken to adaptively reuse, rehabilitate, or restore the building or structure at its existing site; and
 - 2. The resource is no longer significant to the area in which it is situated; and
 - 3. Reasonable measures have been taken to relocate the resource within the same property, and that the same cannot reasonably be done; and

4. Reasonable measures have been taken to relocate the resource within the District (if applicable), or that it will be relocated to an area that will be enhanced by the resource and where the goals of this ordinance will be furthered; and
 5. Leaving the resource at its current location creates an Unreasonable Economic Hardship for the owner, and in such event that the condition is not due to demolition by neglect;
- G. In making the determination to permit demolition or removal of an historic resource, the Board may place reasonable conditions on the same even if such conditions are not related to the mandatory requirements of this ordinance, and to assure compliance with the plans approved by the Board. The same may include, but is not limited to, the requirement that all conditions be fulfilled prior to issuance of a building permit for the original resource's location.

Section 11. Criteria for Certificate of Review - Advisory Function of the Board

In addition to granting Certificates of Appropriateness, the Board shall review all applications and provide recommendations on additional issues. In determining the advice to be given for a Certificate of Review, the Building Official and the Board shall review and consider the following matters:

- A. The effect of the proposed change on the general historic, cultural, and architectural nature of the District or Landmark.
- B. The appropriateness of exterior architectural features which can be seen from a public street, alley, or walkway.
- C. The general design, arrangement, texture, color, and material of the building, or structure, and the relation of such factors to similar features of buildings, or structures, in the district. This consideration shall not be the aesthetic appeal of the structure to the Board nor the proposed remodeling, but rather its conformity to the general character of the particular historic area involved.
- D. The effects of the proposed change to the value of the District or Landmark as an area of unique interest and character.
- E. The general and specific Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, as issued by the Secretary of the Interior.
- F. The importance of finding a way to meet the current needs of the property owner and the importance of approving plans that will be economically reasonable for the property owner to carry out.

The Board shall conduct this review within the same time periods as for a Certificate of Appropriateness. Recommendations of the Board with regard to

any issues not set forth in previous sections are not binding upon the applicant.

Section 12. Penalties

A person, firm, corporation or other entity commits an offense if he/she/it violates this ordinance. Each day the offense continues constitutes a separate offense. The following penalties, which are nonexclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this ordinance:

- A. The same penalties as set forth in the Zoning Ordinance of the City for all violations of requirements set forth in the said Zoning Ordinance; or
- B. The penalties set forth in the Code of Ordinances of the City for non-zoning violations.
- C. Restrictions on future development. If a historic resource, either a landmark or one located within the boundaries of the Downtown Historic District or any other Historic Preservation District is demolished or relocated without a Certificate of Appropriateness and the determination of whether or not a Certificate of Review will be issued, or in the event the plans are changed for the property from which the resource was removed without approval of the changed plans by the Board, then the following restrictions, in addition to any other penalties or remedies set forth in this ordinance, shall be applicable to the site where the structure or property was formerly located:
 1. No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a Certificate of Appropriateness, for a period of five (5) years after the date of such demolition or removal.
 2. No permits shall be issued by the City for any curb cuts on the site for a period of five (5) years from and after the date of such demolition or removal.
 3. No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of five (5) years from and after the date of such demolition and removal.
 4. The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the building official shall cause to be filed a verified notice thereof in the Real Property Records of Fayette County and such restrictions shall then be binding on future owners of the property.
- D. Cumulative remedies. The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting

historic structures or property under Section 315.006 of the Texas Local Government Code and Section 442.016 of the Texas Government Code as the same may be amended from time to time, injunctive remedies and the like.

- E. Civil Action. As an additional remedy in addition to the penalties stated above, the City Attorney for the City of La Grange or his or her designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal or equitable remedies or relief.

Section 13. Appeals

A. An applicant may appeal a decision of the Board to the City Council under the following conditions:

1. That the decision of the Board, to be appealed, was made under its mandatory functions.
2. That a written notice of appeal by the applicant be received by the City Secretary within ten (10) days following the decision to be appealed.
3. That the grounds for appeal are based upon unreasonable economic hardship as defined herein or upon other legal precedent or established law or is challenging or requesting a change to a rating or landmark designation

B. Only one appeal shall be allowed.

C. Appeal to Judicial Authorities. Prior to an appeal to judicial authorities or institution of suit, and as a mandatory prerequisite thereof, the applicant must file a written notice of appeal with the City Secretary within ten (10) days following the adverse City Council decision or Board decision, as applicable, stating specifically grounds for such appeal.

(Ordinance 09-10 adopted 10/12/09)

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²¹ **Editor's note—Printed herein is the charter of the City of La Grange, Texas, which was adopted at an election held on January 15, 1983. Apart from minor nonsubstantive changes in style and formatting, the charter is reproduced as it appeared in the 1987 Code of Ordinances. Capitalization, punctuation and grammar have been retained. Obviously misspelled words have been corrected without notation. Material enclosed in brackets has been added for clarification. Amendments to the charter are indicated by a history note following the amended provision. The absence of a history note indicates the material is unchanged from the original charter.**

^{3*} State law reference—Authority of municipality to codify ordinances, V.T.C.A., Local Government Code, ch. 53.

^{4*} **Charter reference—Administrative services, art. IV.**

^{5†} **Charter references—Elections, art. VI; recall of officers, art. VII; legislation by the people, initiative and referendum, art. VIII.**