

ARTICLE III. HISTORIC LANDMARK PRESERVATION*

***Editor's note:** Ord. No. 96-9, adopted Feb. 26, 1996, amended art. III to read as herein set out. Formerly, art. III consisted of §§ 66-51--66-61, which pertained to historic landmark preservation and derived from §§ 27-66--27-76 of the 1961 Code.

Cross references: Zoning, app. A.

State law references: Liability for adversely affecting historic structure or property, V.T.C.A., Local Government Code § 315.006; state historical commission, V.T.C.A., Government Code § 442.001 et seq.; state archeological landmarks, V.T.C.A., Natural Resources Code § 191.091 et seq.

Sec. 66-51. Purpose.

The city council hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the historic district represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) Protect and enhance the landmarks and districts which represent distinctive elements of New Braunfels' historic, architectural, and cultural heritage;
- (2) Foster civic pride in the accomplishments of the past;
- (3) Protect and enhance New Braunfels' attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (4) Insure the harmonious, orderly, and efficient growth and development of the city;
- (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;
- (6) Encourage stabilization, restoration, and improvements of such properties and their values.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-52. Historic preservation commission.

There is hereby created a commission to be known as the New Braunfels Historic Landmark Commission.

(a) The commission shall consist of nine members. A minimum of six members shall be residents of the city and/or Comal County, or Guadalupe County in the city extraterritorial jurisdiction. The members are appointed, to the extent available in the community, by the city council as follows:

- (1) One person from the Comal County Historical Commission;
- (2) One property owner from any historic district;
- (3) Three members of the Historic Museums Association;
- (4) Four members-at-large.

In addition to the nine appointed members the following persons, or their designated representatives, shall serve as ex officio members:

- a. The city attorney of the city.
- b. The city planning director of the city.

(b) Voting rights: None of the ex officio members shall have voting power but shall assist the historic landmark commission (hereinafter called "the commission"), in its various functions.

(c) Qualifications: Members shall have a known and demonstrated interest, competence, or knowledge in the architectural, archaeological, cultural, social, economic, ethnic or political history of the city. No business or professional interest shall constitute a majority membership of the commission.

(d) The commission as a whole shall generally represent the ethnic makeup of the city.

(e) Terms of office: The appointed members of the commission shall be identified by place numbers one through nine. Upon the adoption of this article, places one through four shall be appointed to serve two years. Places five through nine shall be appointed to serve four years. After the first term expires, all terms shall be for four years. No appointed member shall serve more than two consecutive terms. Any vacancy occurring shall be filled by appointment only for the unexpired portion of the term. Any member may be removed by a two-thirds majority vote of the city council after a hearing.

(f) The chairman and vice chairman of the commission shall be elected by and from the members of the commission.

(g) The commission shall be empowered to:

(1) Make recommendations for employment of staff and professional consultants as necessary to carry out the duties of the commission.

(2) Prepare rules and procedures as necessary to carry out the business of the commission, which shall be ratified by the city council.

(3) Adopt criteria for the designation of historic, architectural, and cultural landmarks and the delineation of historic districts, which shall be ratified by the city council.

(4) Conduct surveys and maintain an inventory of significant historic, architectural, and cultural landmarks and all properties located in historic districts within the city.

(5) Recommend the designation of resources as landmarks and historic districts.

(6) Create committees from among its membership and delegate to these committees responsibilities to carry out the purposes of this article.

(7) Maintain written minutes which 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 properties 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.

(10) Make recommendations to the city government concerning the utilization of state, federal, or private funds to promote the preservation of landmarks and historic districts within the city.

(11) Approve or disapprove of applications for alteration certificates pursuant to this act.

(12) Prepare and submit annually to the council a report summarizing the work completed during the previous year.

(13) Prepare specific design guidelines for the review of landmarks and districts.

(14) Recommend the acquisition of a landmark structure by the city government where its preservation is essential to the purpose of this act and where private preservation is not feasible.

(15) Propose tax abatement program(s) for landmarks or districts.

(16) Accept on behalf of the city government the donation of preservation easements and development rights as well as any other gifts of value for the purpose of historic preservation, subject to the approval of and final acceptance by the city council.

(h) The commission shall meet at least monthly, if business is at hand. Special meetings may be called at any time by the chairman or on the written request of any two

commission members. All meetings shall be held in conformance with the Texas Open Meetings Act, Section 551, Government Code of the State of Texas.

(i) Voting and quorum: The presence of five appointed members constitutes a quorum. No action may be taken on any application without a quorum present. The concurring vote of a majority of members present is necessary to make a motion or decision valid. (Ord. No. 96-9, § I, 2-26-96; Ord. No. 2005-53, § 1, 6-27-05; Ord. No. 2007-24, § 1, 3-26-07)

Cross references: Administration, ch. 2.

Sec. 66-53. Appointment of historic preservation officer.

The city manager shall designate a qualified city staff person to serve as historic preservation officer. This officer shall administer this article and advise the commission on matters submitted to it. The officer is also responsible for coordinating the city's preservation activities with those of state and federal agencies and with local, state, and national nonprofit preservation organizations.

(Ord. No. 96-9, § I, 2-26-96; Ord. No. 2007-74, § 2, 9-18-07)

Sec. 66-54. Designation of historic landmarks.

(a) These provisions pertaining to the designation of historic landmarks constitute a part of the comprehensive zoning plan of the city. Each historic landmark shall bear the words "Historic Landmark" (HL) in its zoning designation. Such designation shall indicate that such property is subject to the terms of this article; however, with regard to site plans, uses, setbacks, and other development land use regulations, such property shall be governed by its zoning district.

(b) A historic landmark shall be considered by the commission only with the written application of the property owner expressly requesting that the property be so designated. Property owners of proposed historic landmarks shall be notified prior to the commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.

(c) Upon recommendation of the commission, the proposed historic landmark shall be submitted to the planning and zoning commission within 30 days from the date of submittal of designation request. The planning and zoning commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The planning and zoning commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.

(d) The city council shall schedule a hearing on the commission's recommendation to be held within 45 days of receipt of the recommendation of the planning and zoning commission. The city council shall give notice, follow the publication procedure, hold hearing, and make its determination in the same manner as provided in the general zoning ordinance of the city.

(e) Upon designation of a building, object, site, or structure as a historic landmark or district, the city council shall cause the designation to be recorded in the Official Public Records of Real Property of Comal County, the tax records of the city and the Comal Appraisal District as well as the official zoning maps of the city.

(Ord. No. 96-9, § I, 2-26-96; Ord. No. 2005-53, § 2, 6-27-05)

Sec. 66-55. Designation of historic districts.

(a) These provisions pertaining to the designation of historic districts constitute a part of the comprehensive zoning plan of the city. Such districts shall bear the words "Historic Overlay" (HO) in their zoning designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in the city zoning ordinance and in this article. All zoning maps shall reflect the historic district by the letters "HO" as a suffix to the zoning district(s) shown on the map.

(b) Any person, the planning and zoning commission, the planning director, the historic preservation officer, the historic landmark commission, or the city council may initiate an historic district designation by filing an application with the historic preservation officer. A district shall consist of a minimum of two contiguous properties. To be considered by the commission, application for historic district designation must have the concurrence of the property owners representing 51 percent of the property or 51 percent of the property owners within the proposed district expressly requesting that the district be so designated. Property owners within a proposed historic district shall be notified prior to the commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence, which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic district.

(c) The commission may recommend the designation of a district if it:

(1) Contains properties and an environmental setting which meet one or more of the criteria for designation of a landmark; and

(2) Constitutes a distinct section of the city.

(d) Upon recommendation of the commission, the proposed historic district shall be submitted to the planning and zoning commission within 30 days from the date of submittal of designation request. The planning and zoning commission shall give notice and conduct its hearing on the proposed designation within 45 days of receipt of such recommendation from the commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the city. The planning and zoning commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.

(e) The city council shall schedule a hearing on the commission's recommendation to be held within 45 days of receipt of the recommendation of the planning and zoning commission. The city council shall give notice, follow the publication procedure, hold hearings, and make its determination in the same manner as provided in the general zoning ordinance of the city.

(f) Upon designation of a historic district the city council shall cause the designated boundaries to be recorded in the Official Public Records of Real Property of Comal County, the tax records of the city and the Comal Appraisal District as well as the official zoning maps of the city.

(g) Downtown historic district. Within the downtown historic district, for projects requiring a certificate of alteration in accordance with this chapter whose total construction cost is less than \$50,000.00, the certificate may be approved by a majority vote of the historic landmark commission chairman, vice chairman and the historic preservation officer. A special called meeting of these officials at which the application will be considered shall be posted at least 72 hours before the meeting. These officials may approve the certificate, approve it with conditions, deny it, or for any reason refer it to the full commission. These officials shall meet and consider the application within ten

working days of the application. Failure to meet during this time shall not mean the corticated of alteration is approved. Denial of the certificate of alteration may be appealed to the full commission.

(Ord. No. 96-9, § I, 2-26-96; Ord. No. 2005-53, §§ 3, 4, 6-27-05; Ord. No. 2007-24, § 1, 3-26-07)

Sec. 66-56. Criteria for the designation of historic landmarks and districts.

A historic landmark or district may be designated if it meets at least one of the following criteria:

- (1) Possesses significance in history, architecture, archeology, or culture.
- (2) Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
- (3) Is associated with the lives of persons significant in our past.
- (4) Embodies the distinctive characteristics of a type, period, or method of construction.
- (5) Represents the work of a master designer, builder, or craftsman.
- (6) Represents an established and familiar visual feature of the neighborhood or city.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-57. Alteration certificates for alteration or new construction affecting landmarks or historic districts.

No person shall carry out any exterior alteration, restoration, reconstruction, new construction, removal or relocation of any city designated historic landmark or on any property within a city designated historic district which may affect the appearance and cohesiveness of any historic landmark or any property within a historic district without first obtaining an alteration certification authorizing the change.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-57.1. Incentives.

(a) *Purpose.* To promote and protect the rich heritage of the city, and to encourage the designation of structures as historic landmarks, and the designation of historic districts this section of the city's historic preservation ordinance provides a tax relief for the stabilization, rehabilitation, and renovation of property(s) that are designated by the city as historic landmarks or located within a local historic district.

(b) *Rehabilitation Tax relief.* From the date of passage of this section, the owner of property (structure and land) having historic, architectural, and cultural significance, and so designated by the City's Historic Landmark Commission, Planning Commission, and City Council, as a historical landmark or located within a local historic district shall be eligible to apply for relief in property taxes for a period of five years. Said property, whether owned by the same individual or not, shall be eligible for such relief an additional five years. The total period of time that any one property shall be eligible to receive such tax relief shall be ten years, whether such relief is granted for two consecutive five-year periods or separate terms. For a property to be considered for a consecutive five-year period, an application shall be made during the fourth year of the original request. Whether the application is for consecutive or future periods each request shall be considered separately and must qualify as outlined below. Upon the expiration of a relief period, the property shall be placed on the tax rolls at the new appraised value and taxed accordingly. Provided, however, that should an application be received and approved during the fourth year of the first request no new appraised value will be assessed or taxed.

An application for tax relief pursuant to this section shall be made prior to the first of July of the tax year in which the relief would be granted. Application shall be made to the City's Historic Landmark Commission with a recommendation to the New Braunfels City Council for final action. If requested, the historic preservation officer may assist the owner in filing for such relief. A structure must be designated as a historic landmark as provided for in section 66-54 or located within a local historic district as provided for in section 66-55 in the New Braunfels Code of Ordinances.

1. *Qualification for tax relief.* The owner of a property, applying for tax relief, shall be entitled to such, provided that the improvement(s), renovation(s), or restoration(s) to the structure is at least ten percent of the value of the property value reflected on the tax rolls of the Comal or Guadalupe Appraisal District office. The tax relief shall commence after the first of January in the tax year immediately following the year in which the work is completed.

The tax relief shall be determined in the following manner. The Comal or Guadalupe Appraisal District shall cause said improvement(s), renovation(s), or restoration(s) to the structure to be appraised on or before December 31 the year the work was completed. This new appraised value less the present property value shall be shown on the tax rolls of the Comal or Guadalupe Appraisal District as the new property value. However, said improvement(s), renovation(s), or restoration(s) shall not cause the value of the property to be less than the present value prior to completion of the work.

2. *Eligible costs.* Eligible costs shall include exterior and interior improvements to the frame, walls, floor, ceiling, plumbing, electrical wiring and mechanical items, such as heating and air conditioning systems. Fixtures, decorative items, and/or fencing shall not be eligible for consideration unless such items were original fixtures and/or decorative items of the structure. Materials and labor for repairing, replacing or adding any of the following shall be eligible:

- (1) Structural walls;
- (2) Structural subfloors;
- (3) Structural ceilings;
- (4) Exterior doors;
- (5) Exterior paint (consistent with those colors available during the time period the structure was built);
- (6) Mechanical equipment;
- (7) Windows;
- (8) Exterior brick veneers or treatments;
- (9) Plumbing;
- (10) Electrical wiring;
- (11) Roof and gutter where necessary for structural integrity;
- (12) Facade items;
- (13) Elevators;
- (14) Foundations;
- (15) Termite damage and treatment;
- (16) Security and/or fire protection systems;
- (17) Architectural and engineering services if directly related to the eligible costs described above;
- (18) Plumbing and electrical fixtures documented as historic fixtures; and
- (19) Limited demolition, not more than 15 percent of the original structure, and cleanup related to the eligible costs described above.

3. *Ineligible costs.* Ineligible costs include the following:

- (1) Overhead;
- (2) Taxes;

- (3) Supervisor payroll;
- (4) Repairs of construction equipment;
- (5) Tools; and
- (6) Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure.

(c) *Tax exemption for historic districts.* For properties located within a city designated historic district, property owners in the historic district will qualify for an ad valorem tax exemption of 20 percent of the assessed city ad valorem property tax. This tax exemption shall begin on the first day of the first tax year after designation of the historic district.

(d) *Building Permit Fees waived.* Upon approval of a Certificate of Alteration, the property owner will present said certificate to the Building Department and all building permit fees will be waived.

(Ord. No. 98-25, § I, 9-14-98; Ord. No. 2007-24, § 1, 3-26-07, Ord. No. 2010-64)

Sec. 66-58. Criteria for approval of an alteration certificate.

In considering an application for an alteration certificate, the commission shall be guided by any adopted design guidelines, and where applicable, the following from the secretary of the interior's standards for the rehabilitation of historic buildings. Any adopted design guidelines and secretary of the interior's standards shall be made available to the property owners of historic landmarks or within historic districts.

- (1) Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure, object, or site and its environment.
- (2) The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed when possible. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- (3) All buildings, structures, objects, 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 which may have taken place in the course of time are evidence of the history and development of a building, structure, object, 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 which characterize a building, structure, object, or site shall be kept where possible.
- (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material shall reflect 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 historical, 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 buildings, structures, objects, or sites 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 building, structure, object, or site would be unimpaired.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-59. Alteration certificate application procedure.

(a) Prior to the commencement of any work requiring an alteration certificate, the owner shall file an application for such a certificate with the historic preservation office. The application shall contain:

(1) Name, address, telephone number of applicant, detailed description of proposed work.

(2) Location and photograph of the property and adjacent properties.

(3) Elevation drawings of the proposed changes, if available.

(4) Samples of materials to be used.

(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 of materials to be used, method of illumination (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.

(b) No building permit shall be issued for such proposed work until an alteration certificate has first been issued by the commission. The alteration certificate required by this act shall be in addition to and not in lieu of any building permit that may be required by any other ordinance of the city.

(c) The commission shall review the application at a regularly scheduled meeting within 30 days from the date the application is received, at which time an opportunity will be provided for the applicant to be heard. The commission shall approve, deny, or approve with modifications the application within 30 days after the review meeting. In the event the commission does not move to consider the application within 60 days of its receipt, the application shall be granted.

(d) All decisions of the commission shall be in writing. The commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on that property and dispersed to appropriate city departments, e.g., building inspection.

(e) An applicant for an alteration certificate dissatisfied with the action of the commission relating to the issuance or denial of an alteration certificate shall have the right to appeal to the city council within 30 days after receipt of notification of such action. The city council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

(Ord. No. 96-9, § I, 2-26-96; Ord. No. 2007-24, § 1, 3-26-07)

Sec. 66-60. Alteration certificate required for demolition.

A permit for the demolition of a historic landmark or property within a historic district, including secondary buildings and landscape features, shall not be granted by the (building inspector or other city official) without the review of a completed application

for an alteration certificate by the commission, as provided for in sections 66-57, 66-58 and 66-59.

(1) Significant sites and structures. All applications for permits to demolish or move buildings, objects, sites, or structures not included under section above shall be referred to the city historic preservation officer for the purpose of determining whether or not the building, object, site, or structure may have historical, cultural, architectural, or archaeological significance.

(2) The city historic preservation officer shall make such determination within 30 days after receipt of the completed demolition permit application and shall notify the building official in writing. If the building, object, site, or structure is determined to have no cultural, historical, architectural, or archaeological significance, a demolition permit may be issued immediately, provided such application otherwise complies with all City Code requirements.

(3) If said building, object, site, or structure is determined by the city historic preservation officer to have historical significance, the demolition permit shall not be issued and the historic preservation officer shall make such information available to the historic landmark commission for review and recommendations as to whether it should be designated a historic landmark. If the commission concurs on the significance, the commission shall recommend to the city council that the building, object, site, or structure be designated, as appropriate, an exceptional or significant historic landmark.

(4) The procedures and criteria for designation in sections 66-54, 66-55, and 66-56 shall be followed for this type of designation.

(5) If the property owner objects to the designations, a three-fourths vote of the entire city council shall be required for historic designation of property in question.

(Ord. No. 96-9, § 1, 2-26-96; Ord. No. 2007-24, § 1, 3-26-07)

Sec. 66-61. Economic hardship application procedure.

(a) After receiving written notification from the commission of the denial of an alteration certificate, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the commission makes a finding that hardship exists.

(b) When a claim of economic hardship is made due to the effect of this article, the owner must prove that:

(1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;

(2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and

(3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

(c) The applicant shall consult in good faith with the commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the commission.

(d) The commission shall hold a public hearing on the application within 60 days from the date the application is received by the historic preservation officer. Following the hearing, the commission has 30 days in which to prepare a written recommendation to the historic preservation officer. In the event that the commission does not act within 90 days of the receipt of the application, the application shall be granted.

(e) All decisions of the commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the city clerk's office for public inspection. The commission's decision shall state the reasons for granting or denying the hardship application.

(f) An applicant for an alteration certificate dissatisfied with the action of the commission relating to the issuance or denial of an alteration certificate shall have the right to appeal to the city council within 30 days after receipt of notification of such action. The city council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-62. Enforcement.

All work performed pursuant to an alteration certificate issued under this article shall conform to any requirements included therein. It shall be the duty of the building inspector to inspect periodically any such work to assure compliance. In the event work is not being performed in accordance with the alteration certificate, or upon notification of such fact by the commission and verification by the building inspector, the building inspector shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. This section shall not preclude any other lawful enforcement remedies available to the city.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-63. Ordinary maintenance.

Ordinary repair or maintenance which does not involve changes in exterior architectural features and which does not otherwise affect the historical value or style may still require a building permit, but shall be exempt from the requirements of an alteration certificate. Exterior architectural feature is construed to include, but is not limited to, architectural style and general arrangement of such portion of the exterior of a structure as is desired to be open to view from a public way. In-kind replacement or repair is included in this definition of ordinary maintenance.

Requests for permits for repair or maintenance of a landmark or property which is a city designated historic landmark or within a city designated historic district shall be reviewed and approved by the historic preservation officer prior to issuance of the permit in order to determine whether an alteration certificate is required.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-64. Demolition by neglect.

No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the commission, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

Examples of such deterioration include, but are not limited to:

- (1) Deterioration of exterior walls or other vertical supports.
- (2) Deterioration of roofs or other horizontal members.
- (3) Deterioration of exterior chimneys.
- (4) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors.
- (5) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-65. Procedure for requesting public ownership or control of historic landmarks.

If the commission finds that a designated historic landmark site, land or area (or one which is eligible for designation), cannot be preserved without acquisition, the commission shall recommend to the city council that the fee or lesser interest of the property in question be acquired by gift, devise, purchase, eminent domain or otherwise, pursuant to the city Charter and state and federal law.
(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-66. Right to remove or demolish after denial by city council.

When both the commission and the city council have refused to grant a permit to demolish a historic landmark, the owner or applicant of the landmark may remove or demolish such landmark provided that:

(1) The owner has for a period of 120 days, made a bona fide offer to sell such landmark and the land pertaining thereto to any person, group, corporation, political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the landmark and the land pertaining thereto.

(2) No bona fide contract, binding upon all parties thereto, shall have been executed for the sale of any such landmark or the land pertaining thereto prior to the expiration of the applicable 120-day period. (Any appeal which may be taken to the court from the decision of the city council, whether instituted by the owner or other proper party, shall not affect the right of the owner to make a bona fide offer to sell.)

(3) The offer to sell shall officially begin within 90 days after the final decision of the city council and shall continue for the aforesaid subsequent 120-day period.

(4) The offering price shall be for the fair market value. For the purpose of this article "fair market value" shall be considered as the value as rendered or established for ad valorem tax purposes.

(5) The offer to sell shall officially begin only after a notice and offer to sell has appeared in a newspaper having general circulation in the city and a certified copy of this offer has been filed with the building official of New Braunfels.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-67. Amending/rescinding of historic designation.

A landmark or district designated as historic may be amended or rescinded in the same manner as the original designation was made.

(Ord. No. 96-9, § I, 2-26-96)

Sec. 66-68. Penalties.

(a) Any person, firm or individual who shall violate any of the provisions of this article shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum not exceeding \$500.00, and each and every day's violation shall constitute a separate and distinct offense.

(b) In addition to other remedies, any city official or his duly authorized representative, may institute any appropriate action or proceeding to prevent such unlawful construction, restoration, demolition, razing or maintenance or to prevent any illegal act or business in and about such premises, including, but not limited to, injunctive relief.

(Ord. No. 96-9, § I, 2-26-96)