Chapter 17

HISTORIC PRESERVATION

Sec. 17-1. Declaration of policy.

The city council hereby finds as a matter of public policy that the protection, enhancement, preservation and use of historic areas, places and landmarks is a public necessity and is required in the interest of the culture, prosperity, education and welfare of the people. The purposes of this chapter are:

(1) To protect, enhance and perpetuate historic areas, places and landmarks which represent or reflect distinctive and important elements of the city's cultural, social, economic, political, archaeological and architectural history;

(2) To safeguard the city's historic and cultural heritage, as embodied and reflected in such historic areas, places and landmarks;

(3) To stabilize and improve property values in such locations;

(4) To foster civic pride in the beauty and noble accomplishments of the past;

(5) To protect and enhance the city's attractions to tourists and visitors and provide incidental support and stimulus to business and industry;

(6) To strengthen the economy of the city; and

(7) To promote the use of historic areas, places and landmarks for the culture, prosperity, education and welfare of the people of the city and visitors to the city.

Sec. 17-2. Definitions.

[As used herein, the following terms shall have the meanings ascribed to them, unless the context indicates otherwise:]

Administrator. That city staff member appointed by the city manager to serve as provided for herein.

Applicant/certificate of appropriateness. The owner of the property under consideration or that owner's legally designated, in writing, representative.

Applicant/historic structure, area or site designation. Any person, persons, group or organization, residing or based in the city, which has authority under this chapter, to petition for such designation as provided for herein.

Block. All lots fronting one street between two (2) intersecting streets.

City Council. The city council of the City of Temple.

Designated landmark or area. Means a landmark or area that has received official designation and approval as provided for in section 17-4.

Exterior architectural change. See section 17-6(b)(4).

Historic area. Also known as historic multiresource area or historic district.

Historic landmark. Any building, structure, site, district, area or land designated as provided for herein.

Historic structure. Any officially designated structure or building, or accessory structure of an officially designated building.

Ordinance. The Historic Preservation Ordinance [Chapter 17].

Redeveloped. A term to include those activities associated with the substantial rebuilding or renovation of a deteriorating or blighted area.

Shall, may. "Shall" implies mandatory compliance; "may" implies permissive.

Significant. Having such importance, expressiveness and meaning as to be essential to interpretation, determination and/or appreciation of a larger whole.

Sec. 17-3. Designating of historic areas, sites and structures.

(a) *Historic procedure:*

(1) Initiating designation procedures:

a. In the case of the designating of a historic site, building or structure, either in or outside historic areas or districts, the property may be considered for designation as a historic structure or landmark only upon the written request or upon the written permission of the property owner.
b. In the case of the designating of historic areas or districts, the historic preservation board, city council or property owners may initiate the consideration for designation of such historic areas or districts.
c. Such designation, affirmed by the city council, shall occur only when it is deemed necessary or desirable to bring such areas, sites or structures under the purview of this chapter.

(2) a. The review and comment on the designation of any historic area, site or structure shall begin with or be referred to the historic preservation board for initial review and comment on the merits of such

designation.

b. When such consideration is placed on the agenda of the historic preservation board, the administrator shall notify the owners of record of such properties being proposed for designation in the manner as provided for in handling a zoning matter.

c. In the case of historic areas or districts, property owners of record within two hundred (200) feet of the proposed boundaries of such area or district shall also be notified of the proposal of establishing a historic area or district.

(3) The historic preservation board shall complete its review and comment within thirty (30) days of the date of official filing of the designation request with the office of the administrator.

(4) The historic preservation board's recommendations and findings related to the designation request shall be forwarded, in writing, to the city council for consideration at the next regular meeting of the council.

(5) The city council shall act upon such designation request after having complied with such requirements of the Open Meetings Act (V.A.C.S. Art. 6252-17).

(b) *Criteria to be used in considering designation:* In making such designation as set forth in this section, the historic preservation board and the city council shall consider one or more of the following criteria:

(1) Character, interest or value as part of the development, heritage or cultural characteristics of the City of Temple, the State of Texas or the United States.

(2) Location, as the site of a significant historic event;

(3) Identification with a person or persons who significantly contributed to the culture and development of the city;

(4) Exemplification of the cultural, economic, social or historical heritage of the city;

(5) Portrayal of the environment of a group of people in an era of history characterized by a distinctive architectural style;

(6) Embodiment of distinguishing characteristics of an architectural type or specimen;

(7) Identification and in recognition of the work of an architect or master builder whose individual work has influenced the development of the city;

(8) Embodiment of elements of architectural design, detail, materials or craftsmanship which represent a significant architectural innovation;

(9) Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historic, cultural or architectural motif;

(10) Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or of the city;

(11) Archaeological value in that it has produced or can be expected to produce data-affecting theories of historic or prehistoric interest;

(12) Value as an aspect of community sentiment or public pride.

(c) *Filing of request for designation; contents of request:*

(1) The applicant shall file a request for historic designation with the office of the administrator.

(2) If the applicant is other than the city, the applicant shall pay a filing fee as provided for herein. (See section 17-7. Such fee shall be considered a part of the filing of request.)

(3) The filing of a request shall not be considered complete and a request ready for processing until:

a. The application form is complete,
b. Filing fee is paid, and
c. The applicant has provided the administrator with such information in such form and detail so he can reasonably determine the nature and extent of the relationship of the applicant's request to the spirit, intent, declaration of policy and regulations of this chapter. (See section 17-1 and paragraph (b), above.)

Sec. 17-4. Designated historic areas, districts, sites and structures.

The North Central Temple Historic District, as hereafter described in Attachment A of this ordinance [not set out herein, is designated as a historic district.]

Sec. 17-5. Certificate of appropriateness/creation and review process.

(a) *Establishment of certificate of appropriateness:*

(1) There is hereby established a certificate of appropriateness. A certificate is the written confirmation issued by the city that an applicant's action comes under the purview of this chapter and the action has been reviewed and found to comply with the purpose, spirit and requirements of this chapter.

(2) The administrator shall issue certificates of appropriateness in compliance with subsection (d) below.

(3) The administrator shall issue such a certificate only after this chapter and related statutes have been complied with as called for in subsection (b) below.

(b) *Certificate of appropriateness required:* A certificate is required before any of the following actions can be taken:

(1) Prior to the granting of preliminary approval by the city council of any subdivision or resubdivision of land within or adjoining a designated historic area, site or structure.

(2) Prior to granting of a final approval by the city council of any zoning of land within or adjoining a designated historic area, site or structure.

(3) Prior to the issuance of the permits including or related to:

a. Building construction, either new or repair, dealing with that part(s) of the exterior of the structure or a building open to view from a public way;
b. Demolition activities, either a portion or the whole of a structure or site configuration. (See also subsection (d)(3) following.)

This subsection (b)(3) shall apply both to buildings or structures within a designated historic district or area and those designated historic structures outside of designated historic areas or districts.

(4) Exterior alterations and changes; certificate of appropriateness, etc.: No person or entity shall construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of a designated historic structure unless a certificate of appropriateness has been granted. As used in this article, the term "exterior architectural feature" shall include, but not be limited to, architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to view from a public way.

(c) *Ordinary repair and maintenance:* That repair and maintenance activity which does not involve significant changes in architectural and historic value, style or general design and is considered ordinary by the administrator shall be exempt from the provisions of subsection (b) above.

(d) *Review process:*

(1) The administrator shall be that person designated by the city manager to function as such. That person shall be responsible for the provision and coordination of staff functions necessary to administer this chapter.

(2) Regular review process:

a. the administrator, upon knowledge of any request covered in subsection (b) above shall inform applicants what they must do to comply with this chapter and related ordinances.

Thereupon, the applicant shall file a concurrent request for a certificate of appropriateness with the administrator.

The applicant shall provide information in such detail and form as reasonably required by the administrator to determine the nature and extent of the relationship of the applicant's proposed action to the spirit, intent, declaration of policy and regulations of this chapter before a request can be officially considered filed and ready for processing.

b. The request for approval of a certificate shall be acted upon by the administrator, who shall either grant, deny or approve with conditions, a request for a certificate of appropriateness. The applicant has the right to appeal the decision of the administrator and such appeal shall be placed on the agenda of the next called meeting of the historic preservation board so long as the request is officially filed at least ten (10) full working days before the board's called meeting.

The historic preservation board shall make its findings and recommendation within thirty (30) days of the appeal first being filed with the administrator.

c. Requests for a certificate may be simultaneously processed with other requests (e.g. zoning, etc.) as long as this section is complied with.

d. The action taken by the historic preservation board may be appealed to the city council for consideration by said council at the next appropriate regular meeting following the date of findings made by the historic preservation board.

e. Within forty-five (45) days of initial consideration, the board shall either approve, disapprove or approve with conditions a request for certificates of appropriateness.

(3) Special review processes:

a. Demolition or removal of historic landmarks:

1. A designated structure shall not be demolished or removed to another site without approval being received in the form of a certificate of appropriateness by the administrator.
2. The administrator shall consider the state of repair of the building; the reasonableness of the cost of restoration or repair;

the existing and/or potential usefulness, including economic usefulness of the building; the purposes behind preserving the structure as an historic structure; the character of the neighborhood; and all other factors he finds appropriate.

3. If the administrator finds that, to serve the interest of preserving historic values of the structure and to comply with the declaration of policy of this chapter, the structure should not be demolished or removed, the administrator shall notify the historic preservation board and the property owner within fifteen (15) days of the filing of the request as to his findings, both general and specific.

4. The historic preservation board shall meet within fifteen (15) days of the date the administrator's findings to either approve, disapprove or approve with conditions the applicant's request.

The owner/applicant shall be given ten (10) days written notice of such meeting considering his/her request.

4. The owner/applicant may appeal the historic preservation board's decision to the city council. Such decision shall be considered at the next appropriate regular meeting of the city council. Within thirty (30) days of initial consideration by the city council, said council shall either grant or deny such appeal.

5. After a decision is reached by the historic preservation board that is not appealed, or after an appeal is denied by the city council on a matter related to granting a certificate of appropriateness under this subsection, a resubmittal of the application for a certificate will not be accepted for additional hearing within a six-month period from the date of the final decision, except when the board is petitioned by the city's director of inspections because the structure constitutes an immediate or latent danger to the life or safety of a person or persons.

6. The provisions of this part shall be coordinated with those activities covered by the city's code related to the regulation of unsafe, dilapidated and/or substandard structures.

b. Coordination with minimum housing code: This chapter shall be coordinated with the application and enforcement of the city's minimum housing code.

(4) General:

a. The historic preservation board has the authority to initiate review of any existing certificate of appropriateness and make such

recommendations and findings as may be called for in light of new or added information, circumstances or conditions affecting the application of the spirit or purpose of this chapter. This initiative shall be processed in the same manner as provided for above.

b. Upon denial of a request for a certificate of appropriateness by the administrator, no appeal being timely filed with the administrator, a resubmitted application shall not be accepted for review or consideration for a period of six (6) months from the date of the administrator's decision.

c. After an appeal is reached denying an application for a certificate of appropriateness, and further appeal not being timely filed with the city, a resubmittal application will not be accepted for additional hearing within a six (6) month period from the date of final decision except:

1. Upon written request by the applicant indicating that there has been a substantial change in conditions, or
2. In the instances where all changes in the application as recommended by the historic preservation board or by the city council have been or will be complied with.

d. Designations to coexist with other use classifications: Use of classifications for all properties, which may also fall under the purview and application of this chapter shall continue to be governed by the city's zoning ordinance and the procedures therein established.

Sec. 17-6. Filing fees.

From time to time, the administrator shall submit proposals through the city manager to the city council for their approval to establish a schedule of filing fees related to historic designation requests and certificates of appropriateness requests.

Sec. 17-7. Preservation criteria to be used in issuing certificate appropriateness for properties in designated historic areas or districts.

(a) *General:*

(1) No development, redevelopment or construction, involving either old or new structures, shall be permitted in designated historic areas which will have a significant, adverse affect on any major identified or designated historical, architectural or cultural feature in such areas.

(2) a. The administrator shall utilize the criteria in this subsection as guidelines to determine if structures or development or redevelopment projects within designated historic areas or districts are consistent with the intent and purpose of this chapter as applied to such historic area or district.

c. The action proposed by an applicant related to a structure(s) or a development or redevelopment project shall be considered to meet the criteria if it is determined by the administrator that the structure(s), after all changes, will still be substantially consistent with structures of the same general use (residential, commercial, etc.) within the same block.

c. On the basis of such determination of consistency or lack of consistency, the administrator shall issue or deny a certificate of appropriateness for development or redevelopment, or for construction, involving the exterior of either old or new structures.

(3) In the event of appeal from the administrator's decision, appeals may be filed as provided for in section 17-6.

(b) *Criteria to be used for residential-type properties:*

(1) Qualities of the block (residential): all new or redeveloped structures shall substantially conform with both of the following:

a. Within the same block, the rhythm of spaces between buildings shall be the generalized rhythm established by a reoccurrence of the ratio between building widths and the spaces between them.

b. General landscaping and building siting shall be substantially consistent with the open expanse of front lawns in the same block and the quantities of planting within them.

(2) Qualities of the building form (residential): All new, remodeled or redeveloped structures shall substantially conform with at least two (2) of the following:

a. Height-width ratio: There shall a general consistency in the relationship between the height and width of the front facade, including wings, porches and colonades, with other structures on the same block.

b. Shape of facade: There shall be a general consistency in the building's silhouette, which results from the structure's geometric configuration in comparison with other structures on the same block.

c. Multiplicity of roof forms: There shall be a general consistency in the number of roofs being used, as well as their direction, pitch and arrangement in comparison with other structures on the same block.

(3) Qualities of building treatment (residential):

a. All new, remodeled or redeveloped structures shall substantially

conform with at least one of the following elements:

1. Color: There shall be a general consistency in the use of color of a natural material or an applied color, such as paint, as compared to other structures on the same block.

2. Material: there shall be a general consistency in the choice of exterior building material (whether it be primarily brick, stucco, wood, stone or some other predominate material) as compared to other structures on the same block.

b. All new, remodeled or redeveloped structures shall substantially conform with at least one of the following:

1. Horizontal projections: There shall be a general consistency with other adjoining structures in the same block in the ratios between the facade area of the main building and the horizontal additions such as wings, colonades, carports, greenhouses, etc.

2. Distribution and proportion of facade openings: There shall be a general consistency with generalized patterns related to the size and position of windows, doors, archways, etc. as well as any ratio or rhythmic relations between these openings and solid portions of the building facade, as established by other structures on the same block.

(4) Qualities of facade accentuation (residential): All new, remodeled or redeveloped structures shall comply with at least (2) of the following:

a. Porch or entrance projections: There shall be a general consistency in the size, shape and prominence of the structure's entry with other structures in the same block.

b. Detailing: Proposed actions shall generally be consistent in the manner in which materials are used, the way in which materials or structural elements are joined and the fashion in which elements such as columns, eaves or arches are used and combined to create a particular architectural style.

c. Embellishment: Proposed actions shall generally recognize and be consistent with the architectural, historical and cultural use of applied decoration such as leaf patterns, scrolls, stained glass, etc. (Generally these decorations are found along roof lines and above facade openings.)

(c) *Criteria to be used for nonresidential-type properties:*

(1) Qualities of the building form (nonresidential): All new, remodeled,

redeveloped structures shall substantially conform with at least one of the following:

a. Height-width ratio: There shall be a general consistency in the relationship between the height and width of the front facade, including wings, porches and colonades with the nonresidential structures on the same block.

b. Shape of facade: There shall be general consistency in the building which results from the structure's geometric configuration in comparison with other nonresidential structures in the same block.

(2) Qualities of building treatment (nonresidential):

a. All new, remodeled, redeveloped structures shall substantially conform with at least one of the following:

1. Color: there shall be a general consistency in the use of color of a natural material or an applied color, such as paint as compared to other nonresidential structures in the same block.

2. Material: There shall be a general consistency in the choice of exterior materials and the use of a primary exterior building material (whether it be primarily brick, stucco, wood, stone or other predominate material) as compared to other nonresidential structures in the same block.

b. All new, remodeled, ore redeveloped structures shall substantially conform with the following:

Distribution and proportion of facade openings: The size and position of windows, doors, archways, etc., as well as any ratio or rhythmic relations between these openings and solid portions of the building facade shall be generally consistent with the pattern associated with other nonresidential structures in the same block.

(3) Qualities of facade accentuation (nonresidential): all new, remodeled or redeveloped structures shall substantially conform with at least two (2) or more of the following:

a. Porches or entrance projections: There shall be a general consistency in the architectural handling and statement of the size, shape and prominence of the structure's entry when compared to other nonresidential structures in the same block.

b. Detailing: There shall be a general consistency in the manner in which materials or structural elements are joined, and the fashion in which elements such as columns, eaves, or arches are used and combined to

create a particular architectural style.

c. Embellishment: Proposed actions shall generally recognize and be consistent with the architectural, historical and cultural use of applied decoration such as leaf patterns, scrolls, stained glass, etc. (Generally these decorations are found along roof lines and above facade openings.)

Sec. 17-8. Requirements associated with designated historic areas.

Reserved.

Sec. 17-9. Amending this chapter.

This chapter shall be amended according to procedures provided for in the city's zoning ordinance, except that amendments shall be processed through the historic preservation board to the city council.

Consideration of amendments shall be governed by prescribed procedures applicable to the city council.

Sec. 17-10. Penalty.

(a) It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, restore, demolish, raze, remove or maintain any building, structure, or land, as covered herein by this chapter in violation of the provisions of this chapter.

(b) The city, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful action, as noted hereabove, to prevent any illegal act, business or maintenance in and about such premises.

(c) *[Reserved.]*

Sec. 17-11. Notice.

Any notice required to be given under this chapter shall be by certified mail, return receipt requested, to the addressee at his/her last known mailing address.

Sec. 17-12. Main Street historic landmark tax freeze.

(a) *Tax freeze.* The owner of a commercial or residential building in the approximate fifty-five-block area officially designated as a Main Street Area, and further described in the attached Exhibit "A", [not set out herein, but on file in the office of the city clerk] may apply for a tax freeze on city property taxes for both the land and the structure on the building site any time within twelve (12) months of the effective date of this section. Provided, however, that the city council may extend the time for making such applications an additional twelve (12) months if such an extension is deemed to be in the public interest.

Both the land and the structure will have an annual assessed value equal to the assessed value of the tax year immediately before the restoration was completed, for five (5) years following the completion of the restoration. The tax freeze will begin the first day of the first tax year after the director of public works of the City of Temple has verified that the restoration is substantially complete. For the purpose of this section, "restoration" means work performed in accordance with the applicable building codes and regulations of the city.

(b) *Eligibility for a tax freeze.* To be eligible for a city property tax freeze, the property must be located within the official Main Street designated area described in Exhibit "A" and must be designated as a historic landmark. To be so designated the property must meet all of the following conditions:

(1) The building must be at least thirty (30) years old;

(2) The property must not have been granted a previous property tax freeze under this section; and

(3) The property must generally meet the criteria established in section 17-3(b) of the Temple City Code as determined by the Main Street Director and the Main Street tax freeze committee or the Main Street redevelopment board. Such committee to consist of five (5) members appointed by the Main Street redevelopment board and shall function in an advisory capacity giving advice to the Main Street director. A quorum of such committee shall be necessary to make recommendations to the Main Street director.

(c) At the time of application for the tax freeze, the exterior and the interior of the historic landmark must be in need of restoration that exceeds twenty-five (25) percent of the assessed value of the structure but is not less than five thousand dollars ($5,000.00), the year the restoration is to begin. Only that restoration for which a building permit, electrical permit, plumbing permit, or any other project permit has been issued may be counted in determining whether the work exceeds twenty-five (25) percent of the assessed value of five thousand dollars ($5,000.00), whichever is the greater amount.

(d) *Application for tax freeze.* An application for a tax freeze must be filed with the Main Street director. Each application must be signed and sworn to by the owner of the property and must include the following information:

(1) The legal description of the property;

(2) The detailed plans and documents relating to the proposed work showing how the exterior of the structure is to be restored in accordance with the applicable City of Temple building codes;

(3) A statement and documentation of the costs for the repair and restoration of the exterior and interior of the historic landmark to show that the costs exceed the greater of twenty-five (25) percent of the assessed value of the structure or five thousand dollars ($5,000.00);

(4) The projection of the construction time and completion date of the restoration;

(5) The proposed use of the property;

(6) Any other information which is necessary to the city in determining eligibility.

(e) *Certification of eligibility.* The owner of the structure shall comply with the standards for eligibility set forth herein in order to have the proposed alternations to the exterior of the structure approved and to obtain a certificate of eligibility indicating that the structure is eligible with the advice of the Main Street tax freeze committee.

(f) *Qualification for tax freeze.*

(1) Upon completion of the restoration of the structure in accordance with the certificate of eligibility issued by the Main Street director, the owner shall submit to the director a sworn statement certifying that the restoration is being completed. The Main Street director shall then review the sworn statement of the owner, the structure shall be inspected by the director of public works or his designees to determine whether the restoration is substantially complete and the main street director, if approved, shall issue the owner a certificate of qualification for a tax freeze.

(2) If a certificate of qualification is approved, the Main Street director shall send written notice to the Bell County Appraisal District which shall appraise the property in accordance with applicable divisions of the tax code, in particular section 51-4.501(e)(1). The director shall send a copy of the certificate of qualification to the city controller.

(3) A certification of qualification shall not be approved until the applicant files a commitment to immediately repay to the city all tax revenues not paid because of the tax freeze if the owner is required to repay the taxes under section 51-4.501(e)(6). The commitment must be approved as to form by the city attorney and filed in the county deed records. The commitment shall run with the land and bind the owners and his heirs and assigns. Any unpaid payment required under [section] 51-4.501(e)(6) shall be a lien against the property.

(g) *Historic landmark destruction or alteration.*

(1) If the Main Street director has reason to believe that a historic landmark has been totally or partially destroyed or altered by the willful act or negligence of the owner or his representative in violation of the preservation criteria contained in the ordinance designating the historic landmark, he shall notify the city manager who shall immediately cause the matter to be scheduled for the earliest possible consideration by the city council. If, after giving notice

and hearing to the owner, the city council determines that the historic landmark has been totally or partially destroyed or altered by the willful act or negligence of the owner or his representative, the owner shall immediately repay to the city all of the tax revenues that were not paid because of the tax freeze.

(2) Where a historic landmark is totally or partially destroyed or altered other than by the willful act or negligence of the owner or his representative, the owner shall, within thirty (30) days, request a demolition permit when restoration is not feasible, or request a building permit to reconstruct the historic landmark in accordance with the preservation criteria. The determination as to whether restoration is feasible shall be made by the city council, upon the advice of the Main Street director and the Main Street tax freeze committee, as part of the certificate of qualification review procedure required to be followed in obtaining a building permit. In cases where a demolition permit is issued by the city because restoration is not feasible, repayment of the tax revenues is not required.

Note--It should be noted that section 2 of Ord. No. 1950 provided: Notwithstanding the provisions contained in section 51-4.501(e)(2)(C), if an application for historic landmark freeze is filed within ninety (90) days of the passage of this ordinance [section], restoration of the historic landmark conducted during the calendar year 1988 may be counted in determining whether the costs of the historic landmark restoration exceed fifty (50) percent of the assessed value as determined on January 1, 1988. Only that restoration for which a building permit, electrical permit, or other project permit has been issued may be counted in determining whether the work exceeds fifty (50) percent of the assessed value.