



City of San Marcos

Special Meeting Historic Preservation Commission August 28, 2019, 5:45 PM City Council Chambers, City Hall 630 East Hopkins Street San Marcos, Texas

The Historic Preservation Commission may adjourn into executive session to consider any item on the agenda if a matter is raised that is appropriate for Executive Session discussion. An announcement will be made on the basis for the Executive Session discussion. The Historic Preservation Commission may also publicly discuss any item listed on this agenda for Executive Session.

I. Call To Order

II. Roll Call

- III. **30 Minute Citizen Comment Period:** *Each speaker signed up prior to the meeting being called to order will be called in order of sign-up, and will allowed three minutes to speak about items posted or not on the agenda.*

DISCUSSION ITEMS

1. Review and possible consideration of a recommendation to City Council on a draft ordinance to amend the San Marcos Development Code to include a demolition review process for historic-age resources.

FUTURE AGENDA ITEMS

Board Members may provide requests for discussion items for a future agenda in accordance with the board's approved bylaws. *(No further discussion will be held related to topics proposed until they are posted on a future agenda in accordance with the Texas Open Meetings Act.)*

IV. Question and Answer Session with Press and Public.

This is an opportunity for the Press and Public to ask questions related to items on this agenda.

V. Adjournment

Notice of Assistance at the Public Meetings

The City of San Marcos is committed to compliance with the American with Disabilities Act. Reasonable modifications and equal access to communications will be provided upon request. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 days (48 hours) before the meeting date. Individuals who require auxiliary aids and services for this meeting should contact the City of San Marcos ADA Coordinator at 512-393-8000 (voice) or call Texas Relay Service (TRS) by

dialing 7-1-1. Requests can also be faxed to 855-461-6674 or sent by e-mail to ADArequest@sanmarcostx.gov.

For more information on the Historic Preservation Commission, please contact Alison Brake, Historic Preservation Officer and Planner at 512.393.8232 or abrake@sanmarcostx.gov.

ORDINANCE NO. 2019-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 2 OF THE SAN MARCOS DEVELOPMENT CODE BY REQUIRING A 90-DAY REVIEW PERIOD FOR APPLICATIONS TO DEMOLISH CERTAIN QUALIFYING HISTORIC AGED BUILDINGS; REQUIRING ADVANCE PUBLIC NOTICE OF THE PROPOSED DEMOLITION OR REMOVAL OF ANY SUCH BUILDING; ESTABLISHING PROCEDURES BY WHICH ANY SUCH QUALIFYING BUILDING SUBJECT TO A REQUEST FOR DEMOLITION MAY BE CONSIDERED FOR DESIGNATION AS A LOCAL HISTORIC LANDMARK; PROVIDING FOR PENALTIES; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Section 2.7.3.1(B) of the San Marcos Development Code, Subchapter B of the San Marcos City Code, is amended by adding a new subsection 3, as set forth below. Added text is indicated by underlining.

DIVISION 3: CONSTRUCTION PERMITS

Section 2.7.3.1 Purpose, Applicability, Exceptions and Effect

- A. Purpose.** Approval of a construction permit confirms that the application conforms to all requirements of this Development Code pertaining to the construction of the proposed structure.
- B. General Applicability.** A construction permit is required prior to the construction, demolition, alteration or placement of a structure on a lot, tract or parcel.
- 1. Applicability related to Building Permits.** An application for a building permit is required within the city limits, or in the city's extraterritorial jurisdiction when provided for in a development agreement or when tying into the City's water, wastewater or electric utility.
 - 2. Applicability related to Certificates of Occupancy.** A certificate of occupancy must be obtained prior to habitation, occupation, or use of any structure, within the city limits, or in the city's extraterritorial jurisdiction when provided for in a development agreement.

3. Applicability to Demolition Permits for Historic Age Resources. All applications for demolition of a building shall be subject to review in accordance with Division 4 of this Article for a determination whether historic age resources are affected before the application may be approved and a permit issued.

SECTION 2. Chapter 2, Article 7 of the San Marcos Development Code, Subchapter B of the San Marcos City Code, is amended by adding a new Division 4, as set forth below. Added text is indicated by underlining.

DIVISION 4: DEMOLITION REVIEW FOR HISTORIC AGE RESOURCES

Section 2.7.4.1 Purpose, Applicability, Exceptions, and Effect

A. Purpose. The purpose of this process is to provide criteria to prevent or minimize unnecessary damage to the quality and character of the city's historic resources by requiring the review of any request for demolition of a building meeting the criteria in this Division to enable a determination of its historic significance, and to provide the public, other interested preservation-based organizations, and city staff an opportunity to work with the property owner on alternative solutions to demolition where possible.

B. 90-Day Review Period for Certain Buildings. A demolition permit shall not be issued until at least 90 days after the date of a complete application for the demolition of any building, part of thereof, or addition thereto:

- 1.** located inside the *My Historic SMTX* historic resources survey boundaries, as amended or supplemented, and evaluated therein as a high or medium preservation priority; or
- 2.** located outside the *My Historic SMTX* historic resources survey boundaries, as amended or supplemented, that are at least 50 years of age, listed on the National Register of Historic Places (NRHP), or a Recorded Texas Historic Landmark (RTHL);
- 3.** No building nor any part of or addition to a building subject to this section may be demolished or removed unless a permit authorizing such demolition or removal has been issued by the city.

C. Exceptions. This Section does not apply to:

- 1.** the demolition of a building, part thereof or addition thereto, within a local historic district or that is a local historic landmark and for which an application for a certificate of appropriateness for demolition has been duly filed for consideration by the Historic Preservation Commission; or

2. the demolition of a building, part thereof or addition thereto, the condition of which is determined by the Chief Building Official or the Fire Marshal to be an imminent threat to public safety.

Section 2.7.4.2 Application Requirements

- A. An application to demolish a building, part thereof or addition thereto, subject to this Division shall conform to the requirements for a construction permit and shall be submitted in accordance with the universal application procedures in Section 2.3.1.1, subject to the requirements of this Division.

Section 2.7.4.3 Process

A. Responsible Official Action

1. The responsible official shall complete the review of the application, and determine if the application concerns a building subject to Section 2.7.4.1(B).
2. If the responsible official determines that the application concerns a building subject to Section 2.7.4.1(B), the responsible official shall schedule a public hearing before the Historic Preservation Commission for an initial determination of eligibility for consideration as a local historic landmark.
3. If the application is determined by the responsible official to concern a building subject to Section 2.7.4.1(B), the responsible official shall send notices of the request for demolition within 20 days of the complete application being submitted to the following:
 - a. San Marcos Daily Record (published notice) in accordance with Section 2.3.2.1(A);
 - b. The owners of real property Owners within 400 feet of the lot or tract of land subject to the request (mailed notice) in accordance with Section 2.3.2.1(B);
 - c. Historic Preservation Commission (E- Notice);
 - d. President of the Heritage Association (E- Notice);
 - e. Hays County Historical Commission (E- Notice);
 - f. Neighborhood Commission (E- Notice);
 - g. President of CONA (E- Notice);
 - h. Certified Local Government Coordinator with the Texas Historical Commission (E-Notice);
 - i. Executive Director of Preservation Texas (E-Notice); and
 - j. Any interested persons signed up to receive Notice of Application under Sec. 2.3.2.1. (E-Notice).

4. If the responsible official determines that the application does not concern a building subject to Section 2.7.4.1(B), the responsible official shall issue the construction permit for demolition subject to and in accordance with applicable ordinances.

B. Applicant Action

1. If the responsible official determines that the application concerns a building subject to Section 2.7.4.1(B), the applicant shall facilitate a Neighborhood Presentation Meeting in accordance with Section 2.3.3.1(E)-(G).

C. Historic Preservation Commission Action

1. If the responsible official schedules a public hearing under Section A.2, the Historic Preservation Commission shall conduct a public hearing concerning the application for demolition in accordance with Section 2.3.3.1 for an initial determination whether the building is eligible for consideration as a local historic landmark.
2. The Historic Preservation Commission shall consider the criteria for eligibility in accordance with Section 2.5.4.5 when making the initial determination.
 - a. If the building is not initially determined eligible, the demolition permit shall be issued after the termination of the 90-day review period, subject to the requirements of other applicable ordinances.
 - b. If the building is determined eligible, then the Commission may initiate a request for designation of the property as a local historic landmark in accordance with Section 2.5.4.1, in which event the 90-day review period under Section 2.4.7.1(B) shall be extended until such time as the city council renders a final decision on the commission's recommendation to designate the building a local historic landmark.
 - c. If the city council designates the building as a local historic landmark, the request to demolish the building shall be subject to the requirements for a certificate of appropriateness under Section 2.5.5.1. If the city council does not designate the building as a local historic landmark, the demolition permit may be issued within three business days after the city council's determination, subject to the requirements of other applicable ordinances.

SECTION 2.7.4.4 Violation and Penalties

- A. It is a violation of this Division to demolish or remove a building subject to this

Division, or part of or addition to such building, without having been issued a permit from the city specifically authorizing the demolition or removal. A person who violates this ordinance shall be subject to a fine not to exceed \$2,000.00. A culpable mental state is not required to establish a violation of this ordinance.

B. In addition to the assessment of any criminal penalties, the city may pursue any remedies available at law or in equity, including injunctive relief, to enforce the provisions of this ordinance.

SECTION 3. In codifying the changes authorized by this ordinance, paragraphs, sections and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of Subchapter B of the San Marcos City Code.

SECTION 4. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 5. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 6. This ordinance will take effect after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on _____, 2019.

PASSED, APPROVED AND ADOPTED on second reading on _____, 2019.

Jane Hughson
Mayor

Attest:

Approved:

Jamie Lee Case
City Clerk

Michael J. Cosentino
City Attorney