

ORDINANCE NO. 2024-1468

AN ORDINANCE OF THE CITY OF FULSHEAR, TEXAS, AMENDING OR REPEALING CERTAIN PROVISIONS OF THE FULSHEAR CODE TO DISSOLVE THE HISTORIC PRESERVATION AND MUSEUM COMMISSION AND TO MAKE CONFORMING CHANGES; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

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WHEREAS, the City of Fulshear, Texas ("City"), annually solicits volunteer applications for the appointment of members to its various boards, commissions, and committees; and

WHEREAS, for the past two or more years, the City has received fewer volunteer applications for the appointment of members to the Historic Preservation and Museum Commission ("HPMC") than are necessary to constitute a quorum of the HPMC; and

WHEREAS, the City Council of the City of Fulshear, Texas, finds it appropriate and desirable to dissolve the HPMC and to reassign certain powers and duties of the HPMC; and

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

Section 1. Chapter 2, Article III, Division 5 of the Fulshear Code is hereby repealed.

Section 2. Section 28-6-1 of the Fulshear Code is hereby amended to read as follows:

"Sec. 28-6-1. - Purpose.

The purpose of this article is to set out the development review bodies that are responsible for the administration of this CDO. This article describes the roles and responsibilities and general rules of procedure of the city council, planning and zoning commission, zoning board of adjustment, development review committee, and city staff. The city decision-making bodies and officials described in this section, without limitation upon the authority each possesses by law, have responsibility for implementing and administering this CDO in the manner described in this section."

Section 3. Section 28-6-5 of the Fulshear Code is hereby repealed.

Section 4. Table 28-7-3 of the Fulshear Code is hereby amended to read as follows:

Table 28-7-3 Table of Permits and Approvals						
Permit/Plan	Required For	Timing	Exceptions	Review Responsibilities		Cross-Reference ¹
				Recommendation	Final Decision	
Administrative Applications						
General Plan	All Planned Development, Site Plan, or Preliminary Subdivision Plat applications	Prior to submission of application for Planned Development, Site Plan, or Preliminary Subdivision Plat	Applications not subject to a General Plan requirement	Administrator	P&Z	Sec. 28-7-24
Construction and Architectural Plans	All development subject to architectural design standards	Prior to any land development requiring conformance with architectural standards established in CDO	None	Building Official or Administrator	Sec. 28-7-16	
Conditional Use Permits	The operation of any land use that is regulated by Conditional Use Standards per Sec. 28-2-16.	Prior to construction and permitting of any land use that is designated as a conditional use	None	Administrator	Sec. 28-7-17	
Sign Permit	Installation or substantial modification of any permanent or temporary sign	Prior to installing or substantially modifying a sign	See Sec. 28-3-34, Exempt Signs	Administrator	Sec. 28-7-18	

Site Plan	All new development, redevelopment, expansion, or substantial improvement for mixed-use, multi-family residential, and non-residential development types	Prior to issuance of a building permit	None	Administrator		Sec. 28-7-19
Temporary Use Permit	The operation of any land use that is regulated by Temporary Use Standards per Sec. 28-2-19.D	Prior to construction and permitting of any land use that is designated as a temporary use	None	Administrator		Sec. 28-7-20
Legislative Applications						
Antennas and Towers	The installation and maintenance of towers and antennas	Following the approval of a building permit	None	Building Official	City Council	See Ch. 8, Article IV Telecommunications Antennas and Towers of City Code
Certificate of Appropriateness	Changes to the exterior of any building or structure of any contributing building as designated by either a historic district or historic landmark	Prior to any building or structure modifications or redevelopment where changes to the exterior appearance will occur	None	Administrator	P&Z	Sec. 28-7-22
Designation of Historic Property	The designation and inventory of significant	Prior to the application for the designation	None	P&Z	City Council	Sec. 28-7-23

	historic, architectural, and cultural landmarks located within the City	of a historic property				
Major Modifications	Major changes to an approved final plat	Prior to the construction or development that is within the area proposed to be modified	None	P&Z	City Council	Sec. 28-7-25
Major Thoroughfare Plan Amendments	Changes to the City's Major Thoroughfare Plan	Prior to development of a subdivision where a proposed road would not be consistent with the Major Thoroughfare Plan.	None	P&Z	City Council	Sec. 28-7-26
Specific Use Permit	A new SUP or an amendment to an existing SUP	Prior to construction and permitting	None	P&Z	City Council	Sec. 28-7-27
Text Amendments	Text additions and changes to this CDO	Prior to amending the CDO	None	P&Z	City Council	Sec. 28-7-28
Zoning Map Amendments	Changing the zoning of a parcel from one district to another	Prior to a change in land use	None	P&Z	City Council	Sec. 28-7-29
Quasi-Judicial Applications						
Interpretations	Written interpretations by the Administrator	Prior to subsequent review and permitting	None	Administrator		Sec. 28-7-32

	r of the provisions of this CDO					
Variances	Deviation from the standards of this Chapter	Prior to or concurrent with submittal of a Site Development Plan, Building Permit, or Sign Permit	Prohibited uses shall not be allowed by variance.	Administrator	ZBA	Sec. 28-7-33
Appeals to Planning and Zoning Commission	Appeals from decisions of City Staff (Administrator, Building Official, etc.)	Within 30 days of a decision	None	Administrator	P&Z	Sec. 28-7-34
Appeals to Zoning Board of Adjustment	Appeals from decisions of the Planning and Zoning Commission	Within 20 days of a decision	None	Administrator	ZBA	Sec. 28-7-34
Subdivision Applications						
Amending and Minor Plats	Subdivision of property; land development	Prior to developing a minor subdivision or making a minor modification to a recorded plat	All other plats	Administrator	P&Z ²	Sec. 28-7-35
Final Plats	Subdivision of land and acceptance of public improvements	Prior to recordation and starting development	Minor Plats	P&Z	City Council	Sec. 28-7-36
Preliminary Plats	Subdivision of land and prior to submission of detailed construction drawings of	Prior to Final Plat submittal	Minor Plats	Administrator	P&Z	Sec. 28-7-37

	all subdivision improvements					
Replats	The addition of lots or public rights-of-way to a recorded plat without prior vacation	N/A	None	P&Z	City Council	Sec. 28-7-38
Simplified Subdivision Plat	Subdivision of property into parts of one acre or greater where each part has public street access and no public improvement is being required	Prior to recordation and starting development	None	Administrator		Sec. 28-7-39
Vacation Plat	Returning a previously subdivided and recorded plat of land to a single unit of property	N/A	None	Administrator	P&Z	Sec. 28-7-40
¹ Cross-references are provided for convenience only and do not exempt the application from complying with all applicable standards of this Code, any other provision within the City's Code of Ordinances, or state law. ² Only when the City Engineer does not approve an amending plat, minor plat, or replat, then the City Engineer shall submit the plat to the Zoning and Planning Commission and the procedures of Sec. 28-7-36, Final Plats or Sec. 28-7-37, Preliminary Plats shall apply.						

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Section 5. Table 28-7-10 of the Fulshear Code is hereby amended to read as follows:

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Table 28-7-10 Required Notice			
Review Body	Type of Public Hearing	Types of Notice Required	
		Publication Notice	Mailed Notice
Planning and Zoning Commission	Designation of Historic Property	Not less than 15 days prior to public hearing	Not less than 15 days prior to public hearing

	Major Modification (TLGC 211.006)	Not less than 15 days prior to public hearing	Not less than 15 days prior to public hearing
	Planned Developments (TLGC 211.006)	Not less than 15 days prior to public hearing	Not less than 15 days prior to public hearing
	Specific Use Permits (TLGC 211.006)	Not less than 15 days prior to public hearing	Not less than 15 days prior to public hearing ¹
	Text Amendments (TLGC 211.006)	Not less than 15 days prior to public hearing	—
	Zoning Map Amendments (TLGC 211.006)	Not less than 15 days prior to public hearing	Not less than 15 days prior to public hearing ¹
Zoning Board of Adjustments	Variances (TLGC 211.009)	Not less than 15 days prior to public hearing	Not less than 10 days prior to public hearing
	Appeals (TLGC 211.010)	Not less than 15 days prior to public hearing	Not less than 10 days prior to public hearing ²
<p>TABLE NOTES:</p> <p>¹ To owners of property within 200 feet.</p> <p>² TLGC § 211.010(d) requires "due notice to the parties in interest". At a minimum, this shall include the original applicant and the persons who are the party to the appeal.</p>			

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Section 6. Section 28-7-22 of the Fulshear Code is hereby amended to read as follows:

“Sec. 28-7-22. - Certificate of appropriateness.

(a) *Generally.* In addition to the applicable required procedures in division VII-2, review and referral, the following shall apply to certificates of appropriateness as it pertains to properties that have a historic designation per section 28-7-23, designation of historic property.

(b) *Purpose.* The purpose of the certificate of appropriateness review is to ensure that no person carries out demolition, alteration, or reconstruction of any contributing structure on a historic property or district designated by the planning and zoning commission. Certificate of appropriateness approval is required in addition to, and not in lieu of, any required building permit.

(c) *Exemptions.* The following activities are exempt from the requirements of this section:

- (1) *Unfit for occupancy.* Demolition of a contributing structure that the building official deems 'unfit for human occupancy';
- (2) *Ordinary maintenance.* Ordinary maintenance on any structure that does not involve demolition, alteration, or reconstruction; and

- (3) *Non-contributing structure.* Demolition, alteration, or reconstruction of a building that the administrator deems as non-contributing.

(d) *Application.* The administrator shall provide application forms for a certificate of appropriateness. The applicant shall submit a complete application including all applicable documents and fees to the administrator.

(e) *Review of application.* The administrator shall review the submitted application and all documents and determine if additional information is required. Upon receiving all information necessary to constitute a completed application in accordance with section 28-7-6, application completeness, the administrator shall handle the application administratively.

(f) *Specific decision criteria.* In determining whether to approve, approve with conditions, or deny a certificate of appropriateness, the administrator shall consider the applicable common decision criteria in section 28-7-8 and the following:

- (1) *Historic use or minimal change.* The property is used as it was historically or will be given a new use that requires minimal change to its distinctive materials, features, spaces, and spatial relationships.
- (2) *Historic character of property.* The historic character of a property is retained and preserved. The applicant has avoided proposing the removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize the property.
- (3) *Distinctive features.* The applicant has proposed to preserve distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize the property.
- (4) *Repair and replacement.* The applicant has proposed to repair rather than replace deteriorated historic features. Where the severity of deterioration requires replacement of a distinctive feature, the new feature matches the old in design, color, texture, and, where possible, materials. The applicant has substantially documented the replacement of missing features.
- (5) *Gentlest means.* The applicant has undertaken chemical or physical treatments, if appropriate, using the gentlest means possible, without using treatments that cause damage to historic materials."

Section 7. Section 28-7-23 of the Fulshear Code is hereby amended to read as follows:

"Sec. 28-7-23. - Designation of historic property.

(a) *Purpose.* The purpose of this section is to:

- (1) Promote the economic, cultural, educational, and general welfare of the city by protecting, enhancing, and ensuring the continuation of properties of historic and cultural significance;
- (2) Preserve, protect, and enhance historically, culturally, architecturally, and archeologically significant sites and structures which represent a distinct aspect of the city and serve as reminders of the city's culture and heritage;
- (3) Promote the economic prosperity and welfare of the community by conserving the value of historic properties and encouraging the most appropriate use of such property within the city;
- (4) Strengthen civic pride through historic preservation;
- (5) Provide a review process for the appropriate preservation and development of important cultural, architectural, archeological, and historical resources;
- (6) Maintain a generally harmonious outward appearance of both historic and non-historic structures; and
- (7) Establish criteria and procedures for data collection and identification of resources as set forth in special studies.

(b) *Properties with state or federal designation.* Properties that are listed as a Texas Historic Landmark (THL), State Archeological Landmark (SAL), or listed on the National Register of Historic Places (NRHP) shall automatically be recognized as a local historic property.

(c) *Properties without state or federal designation.* Properties without a state or federal designation may be recommended to the city council for designation by the administrator by his or her own initiative or upon a petition from any person, group, or association, or upon the request of the city council to conduct studies for the identification of individual historic properties and/or districts.

(d) *Decision criteria.*

- (1) *Individual properties.* An individual historic property may be designated if it is at least 50 years old and if it substantially complies with two or more of the following:
 - a. Possesses significance in history, architecture, archeology, and culture;

- b. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
- c. Is associated with events that have made a significant impact in the city's past;
- d. Represents the work of a master designer, builder, or craftsman;
- e. Embodies the distinctive characteristics of a type, period, or method of construction; or
- f. Represents an established and familiar visual feature of the city.

(2) *Historic districts.* A historic district may be designated if it substantially complies with both of the following:

- a. The district contains properties and an environmental setting which meet two or more of the criteria for designation of a landmark, as set out in subsection (d)(1) above; and
- b. The district constitutes a distinct section of the city.

(e) *Procedure.*

- (1) *Generally.* The procedure for designating an individual historic property or to establish or amend the boundaries of a historic district may be initiated by the city, by the individual property owner(s), or by at least 20 percent of the residents of the potential district.
- (2) *Criteria.* Buildings, structures, sites, or areas located within the city which substantially comply with the criteria set out in subsection (d) above may be recommended to the city council as landmarks or districts by the planning and zoning commission.
- (3) *Application.* An application for determination of significance shall be made on a form approved by the administrator and shall be filed with the designated staff serving as the recognized historic preservation officer (HPO) along with fees in accordance with the city fee schedule, as may be amended from time to time. The application shall contain:
 - a. Name, address, telephone number of the applicant, and physical address of the individual property (if applicable);
 - b. Name, address, telephone number of the applicant, and signed petition of at least 20 percent of the residents of the proposed district (if applicable);
 - c. Site plan of the individual property or map indicating the geographic boundaries of the proposed district showing all affected buildings and/or structures;
 - d. Detailed description and background on the property or district;
 - e. Current photographs of the overall property or district along with any available historical photographs; and

- f. Any other information which the HPO or the administrator may deem necessary.

(4) *Notice.*

- a. Upon receipt of a completed application for determination of significance, the HPO shall schedule a hearing at the next available regularly scheduled planning and zoning commission meeting.
- b. Notice of the application shall be mailed to the property owner(s) and posted on the property by the HPO for a minimum period of 14 days prior to the scheduled hearing.
- c. A published notice of the scheduled hearing shall also be made in accordance with section 28-7-10, public notice and public meetings.
- d. Notice of applications for proposed districts shall be mailed to each affected owner and posted in at least four separate locations that are visible from the public rights-of-way at its external boundaries for a minimum period of 14 days prior to the scheduled hearing.

(5) *Review.* An individual property or district that is under review by the planning and zoning commission for a formal determination of significance shall be protected by and subject to all of the provisions of regulations governing demolition, minimum standards, and penalties until a final decision by the city council becomes effective.

(6) *Hearing.* At the hearing, the applicant shall have an opportunity to present testimony and evidence to demonstrate the historical significance or insignificance of the subject property or district. Other interested parties and technical experts may also present testimony or documentary evidence which will become part of the record. The burden of proof shall be upon the applicant.

(7) *Recommendation from HPO.* The HPO may recommend action to approve, approve with conditions, postpone requesting additional information, or deny the application. The HPO shall forward any final recommendation to the planning and zoning commission within 30 days of the hearing.

(8) *Recommendation from the planning and zoning commission.* The planning and zoning commission shall give notice and conduct its hearing upon receipt of the recommendation from the HPO. Notice for such hearing shall be in the same manner as subsection (e)(4), notice, above. The planning and zoning commission shall review the application and forward its recommendation to the city council within 30 days after taking action on the application. Recommendations of denial by the planning and zoning commission may be appealed directly to the

city council according to the regulations set out in section 28-7-34, appeals.

(9) *City council notice and decision.* Upon receipt of the joint recommendation on the application from the HPO and the planning and zoning commission, the city council shall schedule a hearing on the application within 30 days. Notice from such hearing shall be in the same manner as subsection (e)(4), notice, above. Significance shall be considered only on the record made before the HPO and the planning and zoning commission.

(10) *Landmark or district designation.* Upon designation of a landmark or district by the city council, the designation shall be recorded by a legal description on the city's maps, in the records of real property of Fort Bend County, and with the Fort Bend County Central Appraisal District office.

(f) *Decision.* The planning and zoning commission shall recommend and the city council shall approve, approve with conditions, or deny the designation of a local historic property or district.

(g) *Effect of designation.* In accordance with this subsection, no designation of a historic landmark or district shall become effective unless and until the planning and zoning commission has conducted a public hearing, deliberated the merits of designation, and submitted its report and recommendations to the city council and the city council has held a public hearing resulting in an approval of the designation by the city council.

(h) *Meaning of landmark.* For purposes of this CDO, unless the context requires otherwise, the term 'landmark' and the term 'historic property' shall have the same meaning, and the terms shall be interchangeable."

Section 8. Severability. In the event any clause, phrase, provision, sentence or part of this Ordinance or the application of the same to any person or circumstances shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part or provision hereof other than the part declared to be invalid or unconstitutional; and, the City Council of the City of Fulshear, Texas, declares that it would have passed each and every part of the same notwithstanding the omission of any part thus declared to be invalid or unconstitutional, or whether there be one or more parts.

Section 9. Repeal. All other ordinances or parts of ordinances inconsistent or in conflict herewith are, to the extent of such inconsistency or conflict, hereby repealed.

Section 10. Effective date. This Ordinance shall be effective and in full force when published as required by law.

PASSED, APPROVED, and ADOPTED this, the 15th day of October, 2024.



ATTEST:

A blue ink signature of Mariela Rodriguez, written in a cursive style.

Mariela Rodriguez, City Secretary

A blue ink signature of Don McCoy, written in a cursive style.

Don McCoy, Mayor