

ORDINANCE NO. 2024-25

AN ORDINANCE OF THE CITY OF WIMBERLEY, TEXAS, AMENDING SECTION 9.03.225 – HISTORIC PRESERVATION OVERLAY DISTRICT; HD (HISTORIC DISTRICTS) HL (HISTORIC LANDMARKS) OF THE WIMBERLEY CODE OF ORDINANCES; PROVIDING FOR FINDINGS OF FACT, SAVINGS, SEVERABILITY, REPEALERS, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, Chapter 211 of the Local Government Code empowers the City Council of the City of Wimberley to enact zoning regulations and provides for their administration, enforcement and amendment, and

WHEREAS, the City has previously adopted regulations related to historic districts as authorized by Chapter 211 of the Texas Local Government Code; and

WHEREAS, the City Council of the City of Wimberley desires to make certain non-substantive amendments to the existing historic districts regulations; and

WHEREAS, the proposed amendments do not create any additional regulatory requirements, do not change any property classification and are otherwise not regulatory in nature.

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

ARTICLE I. FINDINGS OF FACT

Article 9.03.225 entitled “Historic Preservation Overlay District; HD (historic districts) HL (historic landmarks)”, of the Codified Ordinance of the City of Wimberley, is hereby amended as set forth in “**EXHIBIT A**”, with a ~~striketrough~~ meaning deleted language and underlining meaning added language.

ARTICLE II. SAVINGS

The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this Ordinance.

ARTICLE III. SEVERABILITY

Should any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjusted

or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance in whole or any part of provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

ARTICLE IV. REPEALER

The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered herein; provided, however, that all prior ordinances or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act that is prohibited by any other ordinance.

ARTICLE V. EFFECTIVE DATE

This ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

ARTICLE VI. PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code, and the Standard Zoning Enabling Act, Chapter 211 of the Texas Local Government Code. Notice was also provided as required by Chapter 52 of the Texas Local Government Code.

PASSED AND APPROVED by the City of Wimberley City Council on the 19th day of December 2024 by a vote of 4 (Ayes) and 0 (Nays) and 0 (Abstain).

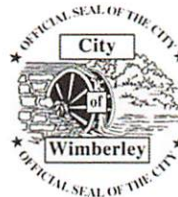
CITY OF WIMBERLEY

By:

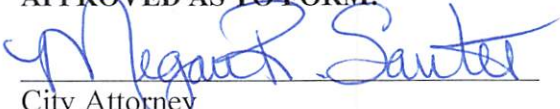
James T. Chiles
James T. Chiles, Mayor

ATTEST:

Tammy Heller
Tammy Heller, City Secretary



APPROVED AS TO FORM:

A handwritten signature in blue ink, appearing to read "Megan R. Santee", written over a horizontal line.

City Attorney

DENTON NAVARRO RODRIGUEZ BERNAL
SANTEE & ZECH, P.C.

EXHIBIT A

Sec. 9.03.225 Historic preservation overlay district; HD (historic districts) HL (historic landmarks)

- (m) *Demolition of landmarks or property within a historic district.* It is the intent of this and succeeding sections to preserve the historic and architectural resources of the city through limitations on demolition and removal of landmarks to the extent it is economically feasible, practical, and necessary. The demolition or removal of historic buildings, structures and sites in the city diminishes the character of the city's historic districts and it is strongly discouraged. Instead, the city recommends and supports preservation, rehabilitation and relocation within a historic district. It is recognized however that structural deterioration, economic hardship and other factors not entirely within the control of the property owner may result in the necessary demolition or removal of a historic building structure or site.
- (1) Removal or repair of hazardous or dangerous landmarks.
- a. If the ~~city's building official~~City Administrator or his/her designee determines a landmark to be structurally unsound and a hazardous or dangerous building pursuant to any appropriate regulation, the ~~building official~~City Administrator or his/her designee shall be required to provide written notice to the HPO and the commission of the ordered removal or repair of the Landmark prior to taking such action.
 - b. Upon notification of the ~~city building official~~City Administrator or his/her designee the owner shall take immediate steps to comply with the building officials directives, including, but not limited to, the placement of a security fence around the subject structure in such a manner as to protect the public from danger.
 - c. The HPO shall convene experts such as architects and structural engineers familiar with historic buildings to assess the situation and suggest alternatives to demolition.
- (n) *Certificates of appropriateness for demolition affecting landmarks or historic districts.* No person shall carry out the demolition of a landmark or property within a district, including secondary buildings and landscape features that are not previously deemed a hazardous or dangerous building by the ~~building official~~City Administrator or his/her designee, or without the review and approval of a certificate of appropriateness for demolition application by the commission. The application shall be required in addition to, and not in lieu of, any required building permit. All demolition permits require a 60-day stay of demolition to allow for exploration of options to preserve the structure.
- (1) In the absence of a determination by the ~~city's building official~~City Administrator or his/her designee of the subject property as a hazardous or dangerous building, the commission may consider an application for a certificate of appropriateness for demolition of a landmark or property located within a district, only if it meets compliance with one of the following:
- a. The subject property of the application is not a recognized landmark.

- b. The subject building, structure or object is not an accessory building and/or landscape features that is integral to the historic interpretation or integrity of the landmark.
 - c. The applicant is requesting a certificate of appropriateness for demolition of a landmark on the basis of economic hardship pursuant to subsections (o) and (p) of this section.
 - d. The subject building, structure or object has lost its architectural significance and integrity over time for reasons not entirely within the control of the current or previous property owner(s).
- (o) *Procedure for certificates of appropriateness for demolition affecting landmarks or historic districts.* The procedure for obtaining a certificate of appropriateness for demolition may be initiated by the individual property owner(s) of the subject landmark or property within a district. The application must be submitted to the HPO for review and approval by the commission prior to the commencement of any work.
- (1) The application shall contain:
 - a. Name, address, telephone number of applicant, and physical address of the individual property.
 - b. Site plan of the individual property or map indicating the area of the proposed demolition showing all affected buildings and/or structures on the site.
 - c. Photographs of existing conditions as well as any historical photographs, if available.
 - d. All future development plans for the property, if available.
 - e. Any other information which the commission may deem necessary.
 - (2) An individual property that is under review by the city for a certificate of appropriateness for demolition shall be protected by and subject to all of the provisions governing demolition, minimum maintenance standards and penalties until a final decision by the commission becomes effective.
 - (3) The procedure for a certificate of appropriateness for demolition application involving a claim of economic hardship shall be as follows:
 - a. Upon receipt of a completed certificate of appropriateness for demolition application, the HPO shall review the application for a preliminary determination of compliance with the standards for economic hardship and the criteria for review.
 - b. Upon receipt of a completed certificate of appropriateness involving a claim of economic hardship and a preliminary determination of compliance, the HPO shall schedule a public hearing at a regularly scheduled commission meeting. The owner shall be required to stabilize and secure the property subject to the penalties of this article until a final decision by the commission becomes effective.
 - c. The commission shall conduct its initial review of the application at a regularly scheduled meeting. At that time, the applicant shall have an opportunity to be

heard, present testimony and evidence to demonstrate that standards for economic hardship and the criteria for review have been met. Other interested parties and technical experts may also present testimony or documentary evidence which will become part of a record. The burden of proof shall be upon the applicant.

- d. In considering the application, the commission shall take action to postpone the application to establish a stay of demolition period, between 60 and 180 days, during which time the owner shall allow the city to post a sign stating that the property is subject to demolition. Said sign shall be at least three feet by two feet readable from a point of public access and state that more information may be obtained from the HPO for the duration of the stay. The owner shall conduct in good faith with the city local preservation organizations and interested parties a diligent effort to seek an alternative that will result in the rehabilitation of the landmark. Negotiations may include, but are not limited to, such actions to utilize various preservation incentive programs to sell or lease the landmark or facilitate proceedings for the city to acquire the landmark under its power of eminent domain, if appropriate, and financially possible. If negotiations are successful, the certificate for demolition application shall be considered withdrawn, and all associated applications closed.
- e. At the end of the ~~180-day stay period~~, if prior negotiations are unsuccessful and the request for demolition stands, the HPO shall schedule a second public hearing on the application at the next available regularly scheduled commission meeting.
- f. At the end of the second hearing, the commission may take action to approve, postpone requesting additional information or deny the application. If no hearing has been scheduled within 60 ~~working~~ days of the end of the stay period, a certificate of appropriateness shall be deemed issued and the HPO shall advise the applicant in writing.
- g. If approved, the HPO shall issue a certificate of appropriateness to the applicant with the written findings of fact, and any specific conditions of approval (if any) supporting the decision. The approval shall be valid for one year from the hearing date of the commission's final decision. ~~The historic property shall immediately be removed from the city's inventory of historic properties and the official zoning maps of the city.~~
- h. Prior to demolition, the city may as a condition of approval require the owner to provide documentation of the demolished historic property at the owner's expense in accordance with the standards of the Historic American Building Survey (HABS). Such documentation may include photographs, floor plans, measured drawings, an archeological survey, or other information as specified.
- i. Approval for the demolition of a structure may be conditioned upon the construction of an acceptable replacement structure, or landscape or park plan. A bond or other financial guarantee in the amount of the cost of the replacement structure may be required in order to assure the construction of the replacement structure, or park, or landscape plan.

- j. The city may also require the owner to incorporate an appropriate memorialization of the building, structure, or site such as a photographic display or plaque into any proposed future development project on the property.
- k. Denial of a certificate of appropriateness application for demolition involving economic hardship shall prevent the owner from demolishing the property or reapplying for another certificate of appropriateness application for demolition for a period of three years from the hearing date of the commission's final decision unless substantial changes in circumstances have occurred other than resale of the property or those caused by acts beyond the control of the owner. It shall be the responsibility of the owner to stabilize and maintain the minimum maintenance standards for the property so as not to create a hazardous or dangerous building.
- l. The owner may appeal the decision of the commission to the city council. Appeal requests shall be filed in writing to the HPO within ten days of the commission's decision. 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 regulations of the city.