

## **ORDINANCE NO. 2019 –**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS AMENDING ORDINANCE NO. 2019-19 THAT ESTABLISHED A 90-DAY WAITING PERIOD BEFORE A PERMIT MAY BE ISSUED FOR THE DEMOLITION OR REMOVAL OF CERTAIN BUILDINGS THAT ARE IDENTIFIED AS MEDIUM OR HIGH PRESERVATION PRIORITY BUILDINGS OR AT LEAST 80 YEARS OLD; EXEMPTING PARTS OF SUCH BUILDINGS THAT DO NOT CONTRIBUTE TO THEIR HISTORIC SIGNIFICANCE FROM THE 90 DAY WAITING PERIOD; EXTENDING THE DURATION OF THE ORDINANCE; INCLUDING PROCEDURAL PROVISIONS; PROVIDING FOR THE ADOPTION OF THIS ORDINANCE ON ONLY ONE READING AS AN EMERGENCY MEASURE; AND DECLARING AN EFFECTIVE DATE**

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

**SECTION 1.** Ordinance No. 2019-19 is hereby amended as set forth below. Deletions are indicated by strikethroughs and additions are indicated by underlining.

**SECTION 2.** The requirements of this ordinance are in addition to all other requirements pertaining to the demolition or removal of buildings in the city under applicable ordinances, laws and regulations.

**SECTION 3.** No building nor any part of ~~or addition to~~ a building that is identified as a medium or high preservation priority property within the boundaries of the ~~draft~~ My Historic SMTX historic resources survey approved by the city council on September 3, 2019 (the “Historic Resources Survey”) or, if located outside the boundaries of the ~~historic survey~~ Historic Resources Survey, that is at least 80 years of age, may be demolished or removed unless a permit authorizing such demolition or removal has been issued by the city.

**SECTION 4.** The request or application for a permit authorizing the demolition or removal of a building described in Section 3, or part of ~~or addition to~~ such building, shall include the address and a detailed description of the building, or part of ~~or addition to~~ such building, proposed to be demolished or removed, together with color photographs of all exterior elements of the building.

**SECTION 5.** Before the city may issue a permit authorizing the demolition of any building described in Section 3, or any part of ~~or addition to~~ such building, the city will provide notice to the public of the proposed demolition or removal by:

- a.** posting notice in a conspicuous manner on the city’s official website and continuously maintaining such notice on the website until a permit is issued by

the city authorizing the demolition or removal, or the request for demolition or removal is withdrawn;

b. sending written notice by regular mail to the owners of real property located within 400 feet of the tract of land or lot on which the building, or part of ~~or addition to~~ such building, subject to demolition or removal is situated as determined by the most recent published tax roll of the county tax assessor-collector;

c. sending written notice by regular mail, or by email if requested, to the Council of Neighborhood Associations (“CONA”) and any individual neighborhood or property owners’ associations registered with the city to receive such notices;

d. sending written notice by regular mail, or by email if requested, to any other persons registered with the city to receive such notices; and

e. sending written notice by email to the members of the city’s Historic Preservation Commission, the members of the Hays County Historical Commission, and the President of The Heritage Association.

**SECTION 6.** The person or applicant requesting the demolition or removal shall pay in advance all costs associated with providing the notices required under section 5. The costs associated with providing such notices shall be waived for applications to demolish homestead property.

**SECTION 7.** The city shall not issue a permit authorizing the demolition or removal of any building described in Section 3, or part of ~~or addition to~~ such building, until at least 90 days have passed since the date that the last notice required under Section 4 was posted or sent. For purposes of this section, the date notice is placed in the mail or that the sender enters the send command for email shall be considered the date notice is sent.

**SECTION 8.** Subject to compliance with any other applicable ordinances, a permit may be approved and issued authorizing demolition or removal of any part of a building described in Section 3 before the end of the 90-day period under Section 7 as follows:

a. For any part of a building specifically identified or characterized in the Historic Resources Survey as not historic or non-contributing, a demolition permit may immediately be approved and issued without the requirement of notice under Section 4.

b. If the applicant for a demolition permit seeks to demolish or remove any part of a building that is not so identified or characterized in the Historic Resources Survey, the applicant may request a hearing before the Historic Preservation Commission for a determination whether such part of a building is of

historic significance or contributes to the historic significance of the building of which it is a part. In such event, notice of the hearing and of the initial request will be provided in accordance with Section 5. At the hearing, the commission shall evaluate the request by applying the same criteria for consideration of a certificate of appropriateness under Chapter 2, Article 5, Division 5 of Subpart B of the San Marcos City Code. If the commission finds that the part of the building is not of historic significance or does not contribute to the historic significance of the building of which it is a part, a demolition permit may immediately be issued without further notice.

**SECTION 9** The requirements of this ordinance shall not apply to the demolition of a building, or part of ~~or addition to~~ such building, the condition of which is determined by the Chief Building Official or the Fire Marshal to be an imminent threat to public safety.

**SECTION 10.** It is a violation of this ordinance to demolish or remove a building described in Section 3, 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.

**SECTION 11.** 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 12.** 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 12.** All ordinances and resolution or parts of ordinances or resolutions in conflict with this ordinance are repealed.

**SECTION 13.** Ordinance No. 2019-19, as hereby amended, is extended until and expires 90 days from the date of adoption of this ordinance unless sooner repealed and replaced by an amendment to the San Marcos City Code concerning the same subject matter.

**SECTION 14.** The importance of this ordinance creates an emergency and an imperative public necessity, and the provisions of the Charter requiring that ordinances be presented at two separate meetings are waived, and this ordinance will take effect upon adoption with only one reading.

**PASSED, APPROVED AND ADOPTED** as an emergency measure on only one reading on September 30, 2019.

Jane Hughson  
Mayor

Attest:

Approved:

Jamie Lee Case  
City Clerk

Michael J. Cosentino  
City Attorney