



Legislation Details (With Text)

File #: Ord. 2019-41 **Version:** 1 **Name:**
Type: Ordinance **Status:** Individual Consideration
File created: 9/9/2019 **In control:** City Council
On agenda: 11/6/2019 **Final action:**
Title: Receive a Staff presentation and hold a public hearing to receive comments for or against Ordinance 2019-41 amending Chapter 2 of the San Marcos Development Code to establish a demolition review process, including a minimum waiting period, for the issuance of permits to demolish certain historic-age buildings, and declare an effective date; and consider approval Ordinance 2019-41, on the first of two readings, and provide direction to Staff.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Demolition Review Ordinances from Other Texas Cities, 2. Ord. 2019-19 Initial City Council Interim Ordinance, 3. Ord. 2019-32 City Council Amended Interim Ordinance, 4. HPC Recommended Ordinance, 5. P&Z Recommended Ordinance, 6. LDC-19-03 Comparison Chart, 7. LDC-19-03 Presentation

Date	Ver.	Action By	Action	Result
11/6/2019	1	City Council		
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AGENDA CAPTION:

Receive a Staff presentation and hold a public hearing to receive comments for or against Ordinance 2019-41 amending Chapter 2 of the San Marcos Development Code to establish a demolition review process, including a minimum waiting period, for the issuance of permits to demolish certain historic-age buildings, and declare an effective date; and consider approval Ordinance 2019-41, on the first of two readings, and provide direction to Staff.

Meeting date: November 6, 2019

Department: Planning & Development Services

Amount & Source of Funding

Funds Required: N/A

Account Number: N/A

Funds Available: N/A

Account Name: N/A

Fiscal Note:

Prior Council Action: N/A

City Council Strategic Initiative:

N/A

Comprehensive Plan Element (s):

- ☐ Economic Development
- ☐ Environment & Resource Protection
- ☐ Land Use
- ☐ Neighborhoods & Housing - Protected Neighborhoods in order to maintain high quality of life and stable property values
- ☐ Parks, Public Spaces & Facilities
- ☐ Transportation
- ☐ Not Applicable

Master Plan: N/A

Background Information:

While demolition requests are subject to review by City staff, the San Marcos Development Code (SMDC) does not consider historic significance as a criteria. If a structure is a locally designated landmark or within a local historic district, a Certificate of Appropriateness is required to be reviewed by City staff and the Historic Preservation Commission (HPC) following the process outlined in Section 2.5.5.1(B) of the SMDC. There is currently no language in the SMDC to allow for the review of demolition applications for non-designated historic-age resources (i.e. those that are not existing Local landmarks or within existing Local historic districts). Many cities in Texas have codified a demolition review process that reviews demolition requests concerning historic-age resources. Generally, a historic-age resource is defined by the National Parks System and the Texas Historical Commission as one that is 50 years old or older.

One of the recommendations from the Historic Resources Survey Report of *My Historic SMTX*, the City's recent historic resources survey, speaks to the need for including a demolition review process for historic-age resources. The following actions are recommended in *My Historic SMTX*:

- All submitted demolition applications are reviewed for historic significance based on criteria by the Historic Preservation Officer/Planning and Development Services Department as part of the application process (regardless of age or significance of building);
- A 30-90-day review period is required for demolition applications of designated historic resources and

non-designated historic-age resources that are determined by the HPO/Planning & Development Services Department using criteria for determining the building as potentially significant or meriting further investigation to allow for research, consultation with the property owner, and evaluation for potential local landmark/district eligibility, if applicable;

- As an alternative to the review of all submitted demolition applications, the City could create “Demolition Review Period Overlay Districts” for those areas identified as containing a large number of high and medium preservation priority resources or that have been recommended as potential local historic districts or expansion of existing historic districts;
- As an alternative to the proposed 30-90-day review period, a “high priority” review period could be implemented for demolition permits submitted for designated historic resources, resources within a “Demolition Review Period Overlay District,” and/or those that have been identified in the current survey as high or medium preservation priority.

Staff has outlined the demolition review processes from other cities. Each city’s ordinance has also been included as backup material:

1. **Austin** - The Historic Preservation Office reviews demolition applications for all buildings over 45 years old. Staff may administratively approve a project if it does not meet eligibility criteria. The review period may take up to 5 business days. If the property is determined as potentially significant, the project is referred to the Historic Landmark Commission (HLC) for public hearing and review. The HLC may initiate a historic designation case. Full demolition or relocation of a contributing building in a National Register historic district is always referred to the HLC. Review may take up to 180 days from the receipt of a complete application.
2. **San Antonio** - The Office of Historic Preservation reviews all demolition applications. For non-designated historic-age properties, there is a 30-day review period to determine potential landmark eligibility. If the building is determined to have significance, property is referred to the Historic and Design Review Commission (HDRC) for public hearing. If the HDRC concurs that the property is significant and the applicant is unwilling to designate, the HDRC requests a resolution from City Council to initiate designation.
3. **Waco** - An automatic 90-day delay is initiated for properties that are considered to be eligible for designation as a historic landmark but not so designated. During the delay, the historic preservation officer works with the Historic Preservation Landmark Commission (HLPC) to notify all potentially interested parties of the pending demolition to allow such parties to take whatever steps deemed appropriate to preserve the property. The delay period may be extended by the HLPC for an additional 90 days; the delay period cannot exceed 180 days. No initiation of landmark designation appears to be included in the process.

4. **Dallas** - Four demolition delay overlay districts have been identified and are subject to a 45-day delay before a demolition permit can be granted. Buildings in these districts must be reviewed by the HPO prior to the issuance of a demolition permit to determine if the structure qualifies for the demolition delay. If the building qualifies, within 45 days of the determination, a public meeting is held with the owner, city officials, and stakeholders to discuss alternatives to demolition. If at the end of the 45-day period, the owner may enter into an agreement with the city to delay the demolition for an additional time period to explore alternatives. If the owner declines to enter into an agreement not to demolish, the building official may grant the demolition permit. No initiation of landmark designation appears to be included in the process.

On Thursday, June 27, 2019, the City Council adopted Ordinance 2019-19 establishing a waiting period for issuance of demolition permits for historic structures identified as medium or high preservation priority buildings, if inside the survey boundary, or at least 80 years old if outside the survey boundary. The ordinance requires advance public notice of the proposed demolition or removal. Due to the postponement of the Planning and Zoning Commission's recommendation on the draft ordinance, the ordinance was extended through Ordinance 2019-32 at the City Council meeting on September 30, 2019. Both Ordinance 2019-19 and Ordinance 2019-32 are attached.

Council Committee, Board/Commission Action:

At their August 28, 2019 special meeting, the Historic Preservation Commission (HPC) recommended to the City Council a draft ordinance to amend the SMDC to include a demolition review process for historic age resources. The process outlined in the proposed ordinance would require any eligible properties to be scheduled for a public hearing before the HPC for initial determination for consideration as a local landmark. The proposed demolition review would apply to properties located within the *My Historic SMTX* historic resources boundaries that were evaluated with a high or medium preservation priority, or if outside of the boundaries, properties at least 50 years of age, listed on the National Register of Historic Places, or designated as a Recorded Texas Historic Landmark. The draft proposed ordinance recommended by the HPC is attached with the backup material.

On September 10, 2019, the Planning and Zoning Commission postponed action on their recommendation to their October 8, 2019 regular meeting. The Planning and Zoning Commission requested that an alternative ordinance, one without a designation process, be drafted.

On October 8, 2019, Staff presented the alternate ordinance requested by the Planning and Zoning Commission at their regular meeting. The Commission recommended approval of the alternate ordinance 8-1

with Commissioner Moore dissenting. The draft proposed ordinance recommended by the Planning and Zoning Commission is also attached with the backup material.

Alternatives:

Recommendation:

Based on a review of the current preservation needs of the City, Staff recommends a demolition review period with a proactive approach to designate local historic landmarks. Staff recommends using information within *My Historic SMTX* to work with property owners to identify possible buildings and properties eligible for local landmark designation. Staff's recommendation does not include the designation process, and mirrors the Dallas and Waco ordinances, along with the emergency ordinance passed by the San Marcos City Council. Staff would also recommend that language be included in the ordinance that would allow the demolition permit to be issued prior to the end of 90 days if the area of demolition is found to be not historically significant.

The proposed landmarking initiative is included as one of the top three priority recommendations from the recently completed survey, *My Historic SMTX*. Approval of a demolition review period is the top recommendation. As an alternative, *My Historic SMTX* also speaks to a recommendation that would implement a review of high priority properties.