

## ORDINANCE NO. 2019-

**An Ordinance Amending the City of Boerne Zoning Ordinance No. 2007-64, dated December 18, 2007, revising Article 1, In General, Section 06. Definitions, Article 8, Historic Landmark/Historic District Preservation, adding Section13, Demolition of Historic Structures, and amending the subsequent section numbers.**

WHEREAS, the City Council has received recommendations of the Planning and Zoning Commission concerning matters herein, which recommendations were made after holding a public hearing before said Commission and;

Whereas the City Council of Boerne has determined that it is in the best interest of the Boerne community to take into consideration the public health, safety and welfare to adopt the amendments included herein;

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

### ARTICLE 1. IN GENERAL

#### SECTION 06. DEFINITIONS

**Contributing Structure:** A structure that is any building or structure within the boundaries of the city that contributes to Boerne's historic built environment and consistent with the basic structural and architectural elements as demonstrated in the City of Boerne's Historic Design Guidelines, Architectural Styles.

**Historic Structure:** any structure (commercial or residential) that is 50 years or older.

### ARTICLE 8. HISTORIC LANDMARK/HISTORIC DISTRICT PRESERVATION

#### Section 04. PROCEDURE FOR HISTORIC LANDMARK DESIGNATION

##### 8.04.001. Application.

~~City Council may designate,~~ or any person or entity may request an historic landmark designation for property owned by such person or entity by submitting an application to the City Manager. The application shall state the following:

#### **Section13. DEMOLITION OF HISTORIC STRUCTURES**

To safeguard the city's historic and cultural heritage, demolition of a historic structure

shall be preserved for a 90-day review period for certain qualifying historic aged buildings (50 years and older); requiring advance public notice of the proposed demolition or removal of any such building or part of a building; establishing procedures by which any such qualifying building subject to a request for demolition may be considered for designation as a historic landmark; giving City Council the authority to designate a structure as a historic landmark for the purpose of preserving the structure, providing for penalties; providing a savings clause; providing for the repeal of any conflicting provisions; and providing an effective date.

#### **8.13.001 Building Permits for Demolition**

**A. Purpose.** Approval of a building permit confirms that the application conforms to all requirements of the Building Code pertaining to the construction of the proposed structure.

**B. General Applicability.** A building 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.

**2. Applicability related to Certificates of Occupancy.** A certificate of occupancy must be obtained prior to habitation, occupation, or use of any commercial structure, within the city limits.

**3. Applicability to Building Permits for Demolition (aka demolition permit) for Historic Age Structures.** All applications for demolition of a building shall be subject to review in accordance with Building Code and Article 8, Section 13 ("this section") of the Zoning Ordinance before the application may be approved and a permit issued.

#### **8.13.002. Demolition Review for Historic Structures**

##### **A. Purpose, Applicability and Exceptions**

**1. 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 section 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.

**2. 90-Day Review Period for Certain Buildings.** A demolition permit shall not be issued until 90 days after the date of a complete application for the demolition of any historic structure or until the Historic Landmark Commission makes a determination that the structure is not a Contributing Structure, whichever is sooner. No building or any part of the building subject to this section may be demolished or removed unless a permit

authorizing such demolition or removal has been issued by the City. An initial staff review shall include review of the following: .

- i. The application for demolition is complete.
- ii. Historic structure is located inside the city limits.
- iii. The structure is listed on the National Register of Historic Places (NRHP), or a Recorded Texas Historic Landmark (RTHL).

**3. Exceptions.** This section does not apply to 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.

## **B. Application Requirements**

An application to demolish a building, part thereof or addition thereto, subject to this section shall conform to the requirements for a building permit and shall be submitted in accordance with the procedures in this section. A complete application shall include the following:

1. A Building Permit for demolition (commercial or residential) and all requirement of the permit submittal; and
2. Site plan; and
3. Photos of existing structure; and
4. Full description of demolition work to be done; and
5. If applicable, a full description of any addition to be constructed; and
6. Proof of age of structure (may be appraisal district, Sanborn map, deed records, etc.); and
7. The application shall be accompanied by such additional information as the responsible official may reasonably require in order to evaluate the proposal and formulate a recommendation to the Historic Landmark Commission.

## **C. Procedures**

### **1. Responsible Official Action**

- a. The responsible official, as determined by the City Manager, shall complete the review of the application, and determine if the application concerns a building subject to this Section.

- b. If the responsible official determines that the application concerns a building subject to this Section, the responsible official shall schedule a public hearing before the Historic Landmark Commission for an initial determination of eligibility for consideration.
- i. Prior to consideration of the Historic Landmark Commission, the responsible official shall send notices of a public hearing with a description of the request for demolition within 10 days of the complete application to property owners within 200 feet of the subject property.
- ii. If the responsible official determines that the application does not concern a building subject to this Section, the responsible official shall issue the building permit for demolition, subject to and in accordance with applicable ordinances.

#### **8.13.003      Notice and Public Hearing Required.**

Following the determination of the responsible official that the structure is a historic structure the Historic Landmark Commission shall hold a public hearing on the matter at which interested parties and citizens shall have an opportunity to be heard. The public hearing shall be scheduled for the first regular Historic Landmark Commission meeting which allows sufficient time to comply with notice requirements. The time and place of the hearing shall be published in an official newspaper or a newspaper of general circulation in the city at least 15 days in advance.

#### **8.13.004      Action by Historic Landmark Commission.**

The Historic Landmark Commission shall hold a public hearing on the application to determine if the historic structure is determined to be a Contributing structure.

1. If the building is determined to be a Contributing Structure, the Historic Landmark Commission shall make a report to City Council containing the Commission's recommendation. The Commission may upon a  $\frac{3}{4}$  vote recommend denial of the demolition permit or approval with conditions. Historic Landmark Commission may recommend such conditions, limitation or safeguards as are necessary in the Commission's judgment to preserve or demolish part of the historic structure or specific features.
2. If the building is determined not to be a Contributing Structure, approval for the demolition permit shall be issued, subject to the requirements of other applicable ordinances.

#### **8.13.005      Action by City Council.**

After receiving the report and recommendations of the Historic Landmark Commission, City Council shall consider and act on the application. If the City Council determines that the Contributing Structure shall be a Historic Landmark, then they shall, upon a  $\frac{3}{4}$  vote, deny

demolition or allow demolition with conditions, and a demolition permit shall be issued within three business days after City Council's determination. If the City Council does not designate the building as a 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.

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