

ORDINANCE NO. 20060622-128

AN ORDINANCE AMENDING CHAPTERS 25-1, 25-2 AND 25-11 OF THE CITY CODE RELATING TO THE LAND USE COMMISSION AND HISTORIC DISTRICTS AND STRUCTURES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Section 25-1-46 (*Land Use Commission*) of the City Code is amended to read:

§ 25-1-46 LAND USE COMMISSION.

- (A) The Planning Commission or the Zoning and Platting Commission may act as the Land Use Commission, as prescribed by this section.
- (B) Except for an application to designate or modify a historic area (HD) combining district, a [A] determination of which commission shall act as the land use commission to consider a particular application is made on the date that the application is filed. After the determination is made, the designated commission continues to act as the land use commission until the application is approved or denied.
- (C) [~~Except as otherwise provided in this section, the~~] The Zoning and Platting Commission shall act as the Land Use Commission for:
 - (1) an application to designate or modify a historic area (HD) district; and
 - (2) except as provided in Subsections (B), (D), and (E), all other applications.
- (D) Except as provided in Subsections [~~Subsection~~] (B) and (C), the Planning Commission shall act as the land use commission for property that is wholly or partly within:
 - (1) the boundaries of a neighborhood plan that the council has adopted as a component of the comprehensive plan;
 - (2) the former Robert Mueller Municipal Airport site; or
 - (3) a transit oriented development (TOD) district.
- (E) Except as provided in Subsections [~~Subsection~~] (B) and (C), the Planning Commission shall act as the land use commission for property that is wholly or partly within the boundaries of a proposed neighborhood plan that the Planning Commission is considering as an amendment to the comprehensive

plan. In this subsection, Planning Commission consideration of a proposed neighborhood plan:

- (1) begins on the effective date of a council resolution or ordinance directing the Planning Commission to consider a neighborhood plan for an identified area; and
 - (2) ends on the date that the council adopts or rejects the proposed neighborhood plan or withdraws its directive to the Planning Commission to consider a neighborhood plan for the area.
- (F) A liaison committee of the Planning Commission and the Zoning and Platting Commission is established. The chair of each commission shall appoint two commission members to serve on the committee. The committee shall meet regularly to exchange information relating to the commissions and make recommendations to the commissions on common policies, objectives, issues, and activities.

PART 2. Section 25-2-242 (*Initiation Of Zoning Or Rezoning*) of the City Code is amended to read:

§ 25-2-242 INITIATION OF ZONING OR REZONING.

Zoning or rezoning of property may be initiated by the:

- (1) Council;
- (2) Land Use Commission;
- (3) record owner;
- (4) Historic Landmark Commission, if the property is, or is proposed to be, designated as a historic landmark (H) combining district or a historic area (HD) combining district; or
- (5) for a proposed historic area (HD) combining district, petition of the owners of at least 60 [50] percent of the land in the proposed district.

PART 3. Section 25-2-352 (*Historic Designation Criteria*) of the City Code is amended to amend Subsections (B) and (D) and add Subsection (E) to read:

- (B) The council may designate an area as a historic area (HD) combining district if at least 51 percent of the principal structures within the proposed district are contributing structures when the historic preservation officer certifies that the zoning or rezoning application is complete.

(D) Except as limited by Subsection (E), the [The] council may reduce the boundary of an existing historic area (HD) combining district if:

- (1) the structure to be excluded does not contribute to the historic character of the district;
- (2) excluding the structure or area will not cause physical, historical, architectural, archeological, or cultural degradation of the district; or
- (3) a reasonable use of the structure that allows the exterior to remain in its original style does not exist.

(E) The minimum size for a historic area (HD) combining district is one block face.

PART 4. Section 25-2-353 (*Application Requirements*) of the City Code is amended to read:

§ 25-2-353 APPLICATION REQUIREMENTS.

- (A) An application to designate a structure or site as a historic landmark (H) combining district or an area as a historic area (HD) combining district must demonstrate that the structure, site, or area satisfies the criteria for designation and include the information required by administrative rule.
- (B) An application for a historic area (HD) combining district must include:
 - (1) an inventory of the principal structures included in the proposed district and an evaluation of whether each structure qualifies as a contributing structure; and
 - (2) occupancy and ownership histories of 25 percent or more of the contributing structures at intervals of not less than five years.
- (C) An evaluation under Subsection (B)(1) ~~[this subsection]~~ must be made by a person who meets the Secretary of the Interior's professional standards for expertise in "history" or "architectural history" as described in Code of Federal Regulations Title 36, Chapter I, Part 61 (*Procedures For State, Tribal, And Local Government Historic Preservation Programs*).

PART 5. Section 25-2-355 (*Historic Landmark Commission Review*) of the City Code is amended add Subsection (C) to read:

- (C) The affirmative vote of three-fourths of the members of the Historic Landmark Commission is required to recommend zoning or rezoning property as a

historic landmark (H) combining district if a notice owner of the property files a written statement protesting the zoning or rezoning.

PART 6. Section 25-11-247 (*Appeal*) of the City Code is amended to read:

§ 25-11-247 APPEAL.

- (A) An interested party may appeal an action of the commission under Section 25-11-243 (*Action On A Certificate Of Appropriateness*) or Section 25-11-244 (*Action On A Certificate Of Demolition Or Removal*), or an action of the building official under Section 25-11-245 (*Issuance Of Certificate By Building Official*) to the land use commission [~~council~~].
- (B) A decision by the land use commission on an appeal may be appealed to the council.
- (C) Except as provided by Subsection (D) [~~(B)~~], an appeal must be made in accordance with the appeal procedures in Chapter 25-1, Article 7, Division 1 (*Appeals*).
- (D) [~~(B)~~] This subsection applies only to an appeal of the issuance of a certificate of demolition or a certificate of removal.
- (1) An interested party may file an appeal not later than the 60th day after the date of the decision.
- (2) While an appeal is pending under this subsection, the building official may not issue a permit for the demolition or removal of the landmark.

PART 7. This ordinance takes effect on July 3, 2006.

PASSED AND APPROVED

_____, June 22, 2006 §
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 § Will Wynn
 Will Wynn
 Mayor

APPROVED: David Allan Smith
 David Allan Smith
 City Attorney

ATTEST: Shirley A. Gentry
 Shirley A. Gentry
 City Clerk