

Ordinance adopting text amendments to the Unified Development Code (UDC) to remove the Planning Commission from historic designation review process and to identify grounds for undue hardship the Board of Adjustment may consider for a variance

WHEREAS, the Planning Commission has forwarded to the City Council its final report and recommendation regarding this amendment of the City's Unified Development Code ("UDC");

WHEREAS, a public hearing was held during a meeting of the Planning Commission when said Commission recommended approval of the proposed UDC amendments, and with proper notice to the public, an additional public hearing was conducted during a meeting of the City Council, during which all interested persons were allowed to appear and be heard;

WHEREAS, S.B. 1585 amends Section 211.0165 of the Local Government Code, providing that a municipality with more than one zoning, planning, or historical commission must designate one of those commissions as the entity with exclusive authority to approve the designations of properties as local historic landmarks and the inclusion of properties in a local historic district.

WHEREAS, H.B. 1475 adds Section 211.009 (b-1) to Local Government Code to provide grounds a board of adjustment may consider determining whether compliance with the zoning ordinance as applied to a structure would result in an unnecessary hardship;

WHEREAS, amendments are to promote public safety, enhance quality of life through visual relief and facilitate development and redevelopment; and

WHEREAS, the City Council has determined that this amendment to the UDC would best serve the public's health, necessity, convenience and the general welfare of the City and its citizens.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CORPUS CHRISTI, TEXAS:

SECTION 1. The recitals contained in the preamble of this Ordinance are determined to true and correct and are hereby adopted as a part of this Ordinance.

SECTION 2. UDC Article 3 "Development Review Procedures", Section 3.4 "Historic Overlay District or Landmark Designation", is amended by adding the following language that is underlined (added) and deleting the language that is stricken (~~deleted~~) as delineated below:

3.1.6.A Application Initiation

1. Development applications may be initiated according to the following table.

Procedure	Property Owner or Designee	Floodplain Administrator	Assistant City Manager of Dev. Services	Landmark Commission	Building Code Board of Appeals	Board of Adjustment	Planning Commission	City Council
UDC Text Amendment	✓	✓	✓		✓	✓	✓	✓
Zoning Map Amendment (Rezoning)	✓		✓				✓	✓

Historic Overlay district or Landmark Designation	✓		✓	✓			✗	✓
All other review procedures described in this Article	✓							

✓ = Entity may initiate application

3.1.8 Public Hearing Requirements

A. Summary of Hearings

A public hearing shall be required for development review procedures as shown in the table below:

Procedure	Landmark Commission	Building Code Board of Appeals	Board of Adjustment	Planning Commission	City Council
UDC Text Amendment				✓	✓
Zoning Map Amendment (Rezoning)				✓	✓
Area-wide Zoning Map Amendment (Rezoning)				✓*	✓*
Historic Overlay District Designation	✓			✗	✓
Planned Unit Development				✓	✓
Special Permit				✓	✓
Special Use Exception			✓		
Dune Protection Permit (Kleberg County)				✓	
Beachfront Construction Certificate				✓	
Certificate of Appropriateness for Demolition	✓				
Variance			✓		
Floodplain Variance		✓			
Appeal of Administrative Decision			✓		

✓ = Hearing required

* Requires joint hearing

SECTION 3. UDC Article 3 “Development Review Procedures”, Section 3.4 “Historic Overlay District or Landmark Designation”, is amended by adding the following language that is underlined (added) and deleting the language that is stricken (~~deleted~~) as delineated below:

3.4.2.A Staff Review

1. The Assistant City Manager of Development Services shall notify the owner of such property of the proposed designation and shall secure an affidavit from the owner, stating their consent to the proposed designation. If the property is owned by an organization that qualifies as a religious organization, the City may only designate the property as a historic landmark or apply the Historic Overlay District if the religious organization consents. The property owner may withdraw consent at any time during the designation process.
2. If the property owner does not consent to the proposed designation or inclusion of the owner's property into a historic district, a three-fourths vote of approval is required by the Landmark Commission, ~~Planning Commission~~ and the City Council.
3. The Assistant City Manager of Development Services shall review the application and, considering the review criteria in Subsection 3.4.3, make a recommendation to the Landmark Commission and City Council.
4. The City must provide the property owner a statement that describes the impact that a historic designation of the owner's property may have on the owner and the owner's property. The City must provide the statement to the owner not later than 15th day before the date of the initial hearing on the proposed designation of the property by the City Council.
5. The historic designation impact statement must include lists of the:
 - a. regulations that may be applied to any structure on the property after the designation;
 - b. procedures for the designation;
 - c. tax benefits that may be applied to the property after the designation; and
 - d. rehabilitation or repair programs that the municipality offers for a property designated as historic.

3.4.2.B Landmark Commission Review

1. Following notice in accordance with Subsection 3.1.7, the Landmark Commission shall hold a public hearing and make a recommendation to the City Council.
2. The Landmark Commission shall hold a public hearing on a historic overlay zoning district or landmark designation within 45 days from the date the application is deemed complete.
3. ~~The Landmark Commission shall make a recommendation on all historic overlay zoning district or landmark designation applications within six months from the date of the initial Planning Commission public hearing.~~
4. ~~3.~~ In the event an agreement on a recommendation cannot be reached by a majority or the Landmark Commission fails to take action on an application within the time limits prescribed in subparagraphs 3.4.2.B.2 and 3.4.2.B.3 above, the proposed amendment shall be forwarded to the City Council with a recommendation of denial.

3.4.2.C Planning Commission Review

- ~~1. Following notice in accordance with Subsection 3.1.7, the Planning Commission shall hold a public hearing and make a recommendation to the City Council~~

2. ~~The Planning Commission shall hold a public hearing on the historic overlay zoning district or landmark designation within 45 days from the date the application is deemed complete.~~
3. ~~The Planning Commission shall make a recommendation on all historic overlay zoning district or landmark designation applications within six months from the date of the initial Planning Commission public hearing.~~
4. ~~In the event an agreement on a recommendation cannot be reached by a majority of the Planning Commission present and voting or if the Planning Commission fails to take action on an application within the time limits prescribed in paragraphs 3.4.2.C.2 and 3.4.2.C.3 above, the application shall be forwarded to the City Council with a recommendation of denial.~~

3.4.2.D City Council Final Action

1. Following notice in accordance with Subsection 3.1.7, the City Council shall hold a public hearing and approve, approve with conditions, or deny the historic overlay zoning district or landmark designation. If a proposed district or landmark has been recommended for disapproval by the ~~Planning Landmark~~ Commission, the designation shall not become effective except by a three-fourths vote of all members of the City Council.
2. The City Council shall take final action on the historic overlay zoning district or landmark designation within six months from the date the recommendation of the Landmark Commission is made. In the event the City Council shall fail to act within six months, designation shall be denied.
3. Classifications as a Landmark shall be in accordance with the permissible restrictions contained in Section 6.3.

SECTION 4. UDC Article 3 “Development Review Procedures”, Section 3.25 “Variance” is amended by adding the following language that is underlined (added) and deleting the language that is stricken (~~deleted~~) as delineated below:

3.25.3.B Insufficient Findings

The following types of findings do not constitute sufficient grounds for granting a variance.

1. The property cannot be used for its highest and best use.
2. ~~There is a financial or economic hardship.~~
3. 2. There is a self-created hardship by the property owner or its agent.
4. 3. The development objectives of the property owner are or will be frustrated.

3.25.3.E Considerations on Variances for Structures

In exercising its authority, the Board may consider the following as grounds to determine whether compliance with the UDC as applied to a structure that is the subject of the appeal would result in unnecessary hardship:

1. The financial cost of compliance is greater than 50 percent of the appraised value of the structure as shown on the most recent appraisal roll certified to the Nueces County Appraisal District;
2. Compliance would result in a loss to the lot on which the structure is located of at least 25 percent of the area on which development may physically occur;

3. Compliance would result in the structure not being in compliance with a requirement of a UDC, Municipal Code, building code, or other requirement;
4. Compliance would result in the unreasonable encroachment on an adjacent property or easement; or
5. The City considers the structure to be a nonconforming structure.

SECTION 5. If for any reason, any section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance is held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it may not affect any other section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word, or provision of this Ordinance be given full force and effect for its purpose.

SECTION 6. Publication shall be made in the official publication of the City of Corpus Christi as required by the City Charter of the City of Corpus Christi.

SECTION 7. This Ordinance shall become effective upon publication.

That the foregoing Ordinance was read for the first time and passed to its second reading on this day, the _____ day of _____, 2021, by the following vote:

Paulette Guajardo	_____	John Martinez	_____
Roland Barrera	_____	Ben Molina	_____
Gil Hernandez	_____	Mike Pusley	_____
Michael Hunter	_____	Greg Smith	_____
Billy Lerma	_____		

That the foregoing Ordinance was read for the second time and passed finally on this day, the _____ day of _____, 2022, by the following vote:

Paulette Guajardo	_____	John Martinez	_____
Roland Barrera	_____	Ben Molina	_____
Gil Hernandez	_____	Mike Pusley	_____
Michael Hunter	_____	Greg Smith	_____
Billy Lerma	_____		

PASSED AND APPROVED on this day, the _____ day of _____, 2022.

ATTEST:

Rebecca Huerta
City Secretary

Paulette Guajardo
Mayor