

Chapter 78 - PLANNING AND DEVELOPMENT

Footnotes:

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**Charter reference**— *Planning commission, art. XIV.*

**State Law reference**— *Regulation of land use, V.T.C.A., Local Government Code § 211.001 et seq.*

ARTICLE I. - IN GENERAL

Secs. 78-1—78-18. - Reserved.

ARTICLE II. - OFF-STREET PARKING

Sec. 78-19. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Parking space*, as used in this article, means a parcel of land or a stall in a garage to be used for the parking or storage of motor vehicles and not less than 180 square feet in area, exclusive of lanes or aisles in parking lots provided with an unobstructed access thereto from a public street, alley or other open space approved by the building inspector.

(Code 1985, § 23-16; Code 2000, § 78-31)

Sec. 78-20. - Required.

- (a) In all residential areas, commercial areas and industrial use districts, parking space as defined in this article shall be provided and maintained as accessory to every principal use, building, structure or mobile home enumerated in this article which principal use, building, structure or mobile home is erected or enlarged or moved into or within the city limits after June 28, 1984.
- (b) Such parking space shall be provided for any principal use of a building or structure or mobile home in compliance with the following table. The city council may revise the schedule from time to time, but such revision shall not be retroactive. For buildings or structures containing more than one occupancy use, the total number of parking spaces required shall be the sum of the number of parking spaces for each individual occupancy or use.

Minimum Schedule for Off-street Parking	
One-family dwelling purposes (including mobile homes)	Two parking spaces for each dwelling unit.
Multifamily dwelling purposes	Two parking spaces for each dwelling unit.
Public housing projects for low income families	One parking space for every dwelling unit.

Roominghouses or boardinghouses, except those operated by and as a function of philanthropic and eleemosynary institutions, fraternity or sorority houses, interneer's or hospital staff's sleeping quarters, clubhouses, dormitories, except those operated in connection with children's homes or orphanages, and for any other building or structure having rooms for sleeping purposes, except transient hotels	One parking space for every 200 square feet of gross floor area or major fraction thereof, of rooms used or designated to be used for sleeping purposes.
Roominghouses or boardinghouses operated by and as a function of philanthropic and eleemosynary institutions, orphanages, homes for the aged, asylums for the mentally deranged, nursing homes	One parking space for every seven beds for patients, inmates or guests, but not less than eight parking spaces plus 1½ parking spaces for every two employees.
Hospitals or sanitariums	One parking space for every two beds for patients or guests, but not less than eight parking spaces plus 1½ parking spaces for every two employees.
Assembly halls, convention halls, exhibition halls, auditoriums, coliseums, field houses, lecture halls, theaters, stadiums and any other places of indoor or outdoor assembly, not elsewhere regulated in this article, having fixed seats	As determined by the building official after due hearing, but, in any event, not less than one parking space for each five seats.
Assembly halls, convention halls, exhibition halls, dance halls, ballrooms, coliseums, lecture halls, and any other places of indoor or outdoor assembly, not elsewhere regulated in this article, not having fixed seats	As determined by the building official after due hearing, but not less than one parking space for each 60 square feet of assembly floor area. In any event a minimum of eight parking spaces shall be provided.
Churches or places of worship	One parking space for every five seats in excess of 50 seats in the principal room used for worship. Where individual seats are not provided, each 20 inches of bench or similar seating shall be considered as one seat for the purpose of determining requirements in this article. If no permanent seats, pews or benches are provided, a floor area of 36 square feet shall be considered as the equivalent of five seats. In any event, a minimum of eight parking spaces shall be provided on the premises in connection with any church or place of worship.
Public or private grade or elementary schools, kindergartens, or nursery schools	1½ parking spaces for each classroom.
Vocational schools, high schools, colleges or universities, professional or technical schools	Four parking spaces for each classroom, cafeteria and library. Where assembly halls, auditoriums, gymnasiums or other places of assembly are part of school facilities, additional parking shall be provided for at the rate of one parking space for each seven seats where fixed seats are provided, or each 45 square feet of floor area if no fixed seats are provided.
Indoor skating rinks	One parking space for each 180 square feet of gross floor area. Where an indoor skating rink is used also for dancing, banquets or other assembly purposes, one parking space shall be provided for each 30 square feet of gross floor area.

Art galleries, public libraries, or museums	One parking space for each 600 square feet of gross floor area up to 16,000 square feet, plus one additional parking space for each additional 1,000 square feet or major fraction thereof, but not less than four parking spaces.
Private clubs, clubhouses, lodges or lodge halls, and similar uses	One parking space for each 30 square feet of gross floor area. If sleeping accommodations are provided, one additional parking space shall be provided for each 200 square feet of floor area in rooms used for sleeping purposes.
Transient hotels	One parking space for each 500 square feet of gross floor area.
Motels, tourist homes, motor courts, or tourist cabins	1½ parking space for each sleeping room or unit.
Bowling alleys	Four parking spaces for each bowling alley.
Restaurants, diners, coffee shops, tea rooms, night clubs	Under 2,000 square feet of gross floor area; six parking spaces. 2,000 square feet or more; one parking space for each 200 square feet gross floor area over 2,000 square feet.
Mortuaries or funeral parlors	One parking space for each 100 square feet of floor area in rooms used for a chapel, slumber room or parlor, but not less than eight parking spaces.
Office buildings, banks or professional buildings (excluding medical, dental or chiropractic offices or clinics)	One parking space for each 200 square feet of gross floor area up to 2,400 square feet, plus one additional parking space for each 400 square feet of gross floor area over 2,400 square feet, but not less than ten parking spaces.
Medical, dental or chiropractic offices or clinics	One parking space for each 150 square feet of gross floor area, but not less than four parking spaces.
Public buildings not elsewhere regulated in this article	As determined by the building inspector after due hearing in light of the needs of the particular use dealt with.
Airports, heliports, railroad passenger or freight stations, bus depots	As determined by the building inspector after due hearing to be adequate for employees, for the loading of passengers, for spectators and for visitors.
Retail stores or service establishments, having a gross floor area of less than 2,000 square feet	Six parking spaces.
Retail stores or service establishments, except as specified in this article, having a gross floor area of 2,000 square feet or more	Six parking spaces, plus one parking space for each 300 square feet of gross floor area in excess of 2,000 square feet on the first floor, and one parking space for each 500 square feet of gross floor area above or below the first floor.
Retail stores used exclusively for sale or display of furniture, farm machinery or equipment, automobiles, or hardware, having a gross floor area of 2,000 square feet or more	Four parking spaces, plus one parking space for each 1,000 square feet of gross floor area.
Manufacturing or storage firms	Two parking spaces per four employees, computed on the basis of the greatest number of persons to be employed at any one period during the day or night.

All other business or commercial uses, not elsewhere regulated in this article, having a gross floor area of less than 2,000 square feet	Four parking spaces.
Trailer courts	One parking space for each trailer space.

(Code 1985, § 23-17; Code 2000, § 78-32)

Sec. 78-21. - Permit.

- (a) The building department shall maintain a schedule of minimum parking spaces per building, mobile home and/or structure, depending on its use. Before any building, structure or mobile home is hereafter erected, enlarged, moved or its basic occupancy use changed, an off-street parking permit must be applied for on an application form at the city building department and granted. Granting of an off-street parking permit shall be by the city's building inspector, who may suggest minor variations to the minimum schedule for council approval prior to a permit being issued.
- (b) If the permit is denied, the applicant may appeal to the city council by a written request to be placed upon the agenda of a regular council meeting. A representative of the building department shall attend the council meeting and explain the reason for denial of the permit. The city council may, in its sole discretion, then grant or deny the off-street parking permit with or without certain preconditions being required of the applicant.

(Code 1985, § 23-18; Code 2000, § 78-33)

Sec. 78-22. - Development and use of parking spaces.

The development and maintenance of the premises for the parking of motor vehicles shall be in compliance with the following:

- (1) Parking spaces as regulated in this article shall not be reduced in number or in size, except upon approval of the city council.
- (2) Parking spaces shall not be located within the required courts, side yards or setback of the principal single-family residential building, but such space may be utilized for a commercial building or commercial residential building, but such courts, yards or setbacks may be used as access lanes to the parking space.
- (3) All open-air, off-street parking spaces shall be graded, and drainage shall be provided in a manner approved by the building official to prevent surface water flowing from the premises onto streets, walks or adjoining premises.
- (4) Parking spaces shall be surfaced with material approved by the building inspector to prevent the raising of dust.
- (5) All lights used to illuminate such parking spaces shall be installed to prevent glare into abutting property.
- (6) Parking spaces required pursuant to this section and the minimum schedule shall be located on the same lot as the principal building or on an adjoining lot, except that if insufficient space exists on the same or adjoining lot, all or any part of the required parking spaces may be located in any area permitting parking within 600 feet of the principal building, provided that the location and plan of operation of the parking area shall be approved by the building inspector after due hearing.
- (7) Parking required by this section and the minimum schedule may be provided by written contract for the permanent allocation of the requisite number of spaces per use in a cooperative or common parking facility; however, upon expiration or cancellation of such contract, the occupancy permit for the principal

building is voided until parking is provided in accord with this section and the minimum schedule.

- (8) Land designated as the required parking area shall be considered as a part of the site of the principal building and the certificate of occupancy for any such principal building shall be valid only during such time as the required number of parking spaces are provided in accordance with this section, and where the parking spaces are on adjoining lots the certificate of occupancy shall so state.
- (9) Joint use of required parking space by nonconflicting uses is to be encouraged and shall be permitted provided that the maximum parking demands of joint uses occur at nonoverlapping times.

(Code 1985, § 23-19; Code 2000, § 78-34)

Secs. 78-23—78-47. - Reserved.

### ARTICLE III. - HISTORIC PRESERVATION

#### DIVISION 1. - GENERALLY

Sec. 78-48. - Purpose.

The city council does hereby declare that, as a matter of public policy, the protection, enhancement, and perpetuation of districts and landmarks of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the historical resources of the city represent the unique confluence of time and place that have shaped the identity of generations of citizens, collectively and individually, and these resources constitute the heritage of the citizens of the city. This article is intended to:

- (1) Perpetuate, protect, enhance, and preserve the historic districts and landmarks which represent distinctive elements of the city's historic, architectural, social economic, ethnic and political heritage and to develop appropriate settings for such places;
- (2) Safeguard the city's historic and cultural heritage, as embodied and reflected in such historic landmarks, by application of appropriate procedures;
- (3) Stabilize and improve property values in such locations; and
- (4) Ensure that new construction is appropriate to and contributes to historic integrity.

(Code 2000, § 78-101; Ord. No. 1332, § 1, 3-23-2006;)

Sec. 78-49. - Penalties.

Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished as provided in [section 1-16](#).

(Code 2000, § 78-112(a); Ord. No. 1332, § 12, 3-23-2006)

Secs. 78-50—78-67. - Reserved.

#### DIVISION 2. - HISTORICAL DISTRICT

Sec. 78-68. - Created; described.

- (a) There is hereby created the City of Bay City Downtown Historical District and Southside Historic District.
- (b) The Bay City Downtown Historical and Southside Districts shall consist of 23 ½ blocks, including the east one-half of Block 77, and all of Blocks 62, 78, 79, 80, 89, 90, 91, 92, 103, 104, 105, 106, 107, 108, 117, 118, 119, 120, 121, 122, 133, 134 and 135, Old Townsite, City of Bay City, Matagorda County, Texas, as shown by the plat thereof, recorded in volume 5, page 36, Deed Records, Matagorda County, Texas.

(Code 1985, § 23-31; Code 2000, § 78-66)

Secs. 78-69—78-95. - Reserved.

### DIVISION 3. - HISTORIC COMMISSION

Sec. 78-96. - Composition; membership terms.

- (a) The historic commission of the city is hereby established. It shall be under the supervision of the mayor and city council. It shall consist of seven members appointed by the mayor and approved by the city council. Of this number:
  - (1) Two shall be owners of a landmark structure within the city limits;
  - (2) One shall be a person having at least ten years previous experience in the business of buying, selling or dealing in real estate;
  - (3) One shall be an individual having at least ten years experience as a general contractor in construction, architect, planner or designer;
  - (4) Three shall be persons who, by training, experience or activity have demonstrated an interest in preserving the landmarks of the city as the same are herein defined.
- (b) The term of appointment shall be for three years. However, of the initial appointments, three shall be for a one-year term, two shall be for a two-year term, and two shall be for three-year terms. Nonvoting ex officio members shall be the main street director, the building inspector and one city council member.
- (c) A quorum for the transaction of business shall consist of four members of the historic commission.
- (d) All meetings shall be held in conformance with the Texas Open Meetings Act.

(Code 2000, § 78-102; Ord. No. 1332, § 2, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

**State Law reference—** Open meetings act, V.T.C.A., Government Code § 551.001 et seq.

Sec. 78-97. - Duties and powers of the historic commission, support staff and historic preservation officer.

- (a) The historic commission is hereby authorized and directed to make a continuous study of all buildings, structures, parks, areas, sites, districts, and items of natural or artificial phenomena located within the city and which are known to, or brought to the attention of, the commission for designation as possible landmarks under the provisions of this division.
- (b) The historic commission, under the auspices of the city council, shall administer this division and the permitting thereof contained in this and other applicable ordinances.
- (c) The historic commission chairperson or designee shall serve as historic preservation officer, coordinating the commission's and city's preservation activities with the county, the state and federal agencies as appropriate

and advising the commission on relevant issues.

(d) The historic commission shall:

- (1) Increase public awareness of the value of historic, cultural and architectural preservation by encouraging and participating in public education programs.
- (2) Approve or disapprove applications for a certificate of appropriateness.
- (3) Recommend specific design guidelines to ensure compatibility within the historic districts and designated landmark buildings and residences.

(Code 2000, § 78-103; Ord. No. 1332, § 3, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

Sec. 78-98. - Changes or alterations prohibited until reviewed by commission.

- (a) Nothing in this division should be construed to prevent ordinary maintenance or repair of any exterior architectural feature of a property designated as a landmark. The term "ordinary maintenance" shall be defined as any work that does not constitute a change in design, material, color or outward appearance, and include in-kind replacement or repair.
- (b) Building permits for the demolition, material alteration, substantial modification or other change will not be issued by the city for officially designated landmarks until the plans and specifications upon which the application for such permit is based shall have first been submitted to the historic commission for review.

(Code 2000, § 78-109; Ord. No. 1332, § 9, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

Sec. 78-99. - Certificates of appropriateness; rehabilitation.

The historic commission shall follow the United States Secretary of the Interior's standards for rehabilitation and guidelines for rehabilitating historic buildings to assist in its consideration of all certificates of appropriateness (COA). These standards and guidelines shall be made available to owners and tenants of property designated as historic upon request. The building department shall direct all individuals requesting a building permit in the historic districts or for property designated as historic property to the Main Street office for a certificate of appropriateness.

- (1) A person shall not alter a property designated as historic or place, construct, expand or remove any structure on the site without first obtaining a certificate of appropriateness (COA) in accordance with this division. A COA shall be obtained prior to issuance of any building or demolition permit, although the COA review and building permit and other required permit review processes may be conducted simultaneously. A COA may also be required for work not otherwise requiring a building permit. The COA shall be required in addition to, and not in lieu of, any required building permit.
- (2) Prior to commencement of any work, the owner shall file an application for a certificate of appropriateness (COA) with the historical preservation officer or designee. The application shall include information deemed necessary by the historic commission for clarification of the project.
- (3) The commission shall deny, approve or approve with conditions any certificate of appropriateness (COA) within 30 days of receipt of the completed application, determining whether the proposed work is consistent with the regulations contained in this, and in all other applicable ordinances.
- (4) All decisions of the commission shall be in writing, stating its approval or the specific reasons for denying or modifying any application. A copy of the certificate shall be sent to the applicant and a copy filed with the historical preservation officer or designee and shall become a part of the records with the commission.

- (5) All work performed on the historical property as related to this division shall conform to all its requirements; duty of the historical preservation officer or designee to inspect periodically to ensure such compliance.

(Code 2000, § 78-110; Ord. No. 1332, § 10, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

Sec. 78-100. - Application for certificates of appropriateness; demolition permits.

- (a) A demolition permit for a structure designated as an historical landmark or a structure within an historic district shall not be issued by the building inspector's office until review and issuance of a completed certificate of appropriateness application has been filed with the historic preservation officer or designee by the property owner for the historic commission's review and written opinion. The application shall contain:
- (1) Information describing the condition of the structure;
  - (2) Estimated cost of restoration or repair;
  - (3) Demonstration that the adaptive use or restoration of the structure has been seriously considered;
  - (4) Any available historic records of the structure (drawings, photographs);
  - (5) Architectural drawings for any proposed new construction which is intended to replace the historic structure;
  - (6) Other information that may be requested by the commission to render a decision regarding the plan.
- (b) The commission shall hold a public meeting on the application within 30 days of its receipt. A copy of the commission's written decision shall be filed with the historical preservation officer or designee and to the applicant within ten days of the public meeting.
- (c) A property owner whose demolition has been denied may request hardship relief. In order to prove the existence of hardship, the property owner shall have the burden to establish that:
- (1) The property is incapable of earning a reasonable return on the owner's investment;
  - (2) The property cannot be adapted for another use that can result in a reasonable return;
  - (3) No potential purchaser of the property with a reasonable offer who intends to preserve it can be identified.
- (d) The commission shall hold a public meeting on the hardship relief request at least 60 days following the original date of the application for the demolition of the structure, at which time proponents and opponents of the plan may present their views. The commission may seek expert assistance in the fields of real estate development, appraisal, financing and other related disciplines to review the hardship request.
- (e) The property owner shall consult in good faith with the commission, interested local groups and individuals in a diligent effort to investigate alternatives that will result in preservation of the property.
- (f) All decisions of the commission shall be in writing. Copies shall be sent to the property owner and a copy filed with the historical preservation officer or designee.

(Code 2000, § 78-111; Ord. No. 1332, § 11, 3-23-2006)

Sec. 78-101. - Rollback of benefits.

If the owner of an officially designated landmark accepts any financial benefits accruing to the property in the nature of tax abatements, grants, or other subsidies, and, within ten years thereafter, elects to repeal such designation pursuant to section 78-100, the total of such financial benefits, plus interest at the rate of ten percent from the date of such acceptance, shall become immediately due and payable.

(Code 2000, § 78-112(b); Ord. No. 1332, § 12, 3-23-2006)



Sec. 78-102. - Lien on property.

- (a) A lien shall attach to the property immediately upon the repeal of such designation to secure the repayment of any such financial benefits and any interest due.
- (b) The lien shall exist in favor of all taxing units and other parties providing such benefits.

(Code 2000, § 78-113; Ord. No. 1332, § 13, 3-23-2006)

Sec. 78-103. - Appeals.

- (a) Appeals of decisions made under section 78-99 shall be made in writing to the city council by the owner of the property in question, within 30 days of the date notification of the decision by the historic commission.
- (b) The city council shall hear all such appeals at the next regularly scheduled council meeting occurring after receipt by the city secretary of the written notice of appeal.

(Code 2000, § 78-114; Ord. No. 1332, § 14, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

Secs. 78-104—78-134. - Reserved.

DIVISION 4. - HISTORIC LANDMARKS

Sec. 78-135. - Authorized to officially designate and establish criteria for landmarks.

The historic commission shall have the authority to establish criteria for and to designate those buildings, structures, parks, area sites, districts, and items of natural or artificial phenomena which in its judgment are candidates to be officially designated as landmarks under the provisions of this article. In determining what should be designated a landmark under this article, the commission shall take into account the age, design, period of construction, esthetic value, past use, historical significance, unusual nature, point of location, or other recognized or general accepted basis.

(Ord. No. 1332, § 4, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

Sec. 78-136. - Rules and regulations in selection of items considered.

For the purpose of carrying out the provisions of this article, the historic commission shall have the authority to:

- (1) Establish rules and regulations in order to evaluate and select items to be considered;
- (2) To fix criteria to be followed for designated landmark candidates and officially designate landmarks;
- (3) Provide the ways and means for the evaluation, selection and designation of landmarks.

(Ord. No. 1332, § 5, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

Sec. 78-137. - Notice of identification sent to owner of landmark.

When a landmark has been officially identified by the historic commission, as described in this article:

- (1) Notice of its candidacy shall be sent by registered mail to the owner of the landmark, as the name is disclosed by the city or county records, and to any current occupant thereof.
- (2) The owner may then, if the owner so desires, make written application to the commission for official

designation.

- (3) Upon approval by the commission of the submitted application, the landmark will be placed on the official register. The owner will then assume all privileges and responsibilities of owning an officially designated landmark.
- (4) Perforce, if no application is submitted, no official designation shall be rendered.

(Ord. No. 1332, § 6, 3-23-2006; Ord. No. 1400, § 1, 3-24-2011)

Sec. 78-138. - Public declaration of officially designated landmarks.

- (a) When a building, structure, park, area, site, district, or other item natural or artificial phenomena has been officially designated as a landmark within the meaning of this article, such fact shall be publicly declared by the historic commission and shall be transmitted to the historic preservation officer or designee, who is hereby charged with the duty of maintaining an official landmark register in which shall be entered all such designations, adequately described for proper identification.
- (b) A statement of the historical considerations that formed the basis for such designation shall also be filed with the historic preservation officer or designee, who shall maintain such statement for public use and inspection.
- (c) Designation shall be recorded by legal description on the city's official maps, in the records of real property of the county, and with the tax appraisal office.

(Ord. No. 1332, § 7, 3-23-2006)

Sec. 78-139. - Officially designated landmarks declared to be matters of public interest and concern.

- (a) All buildings, structures, parks, areas, sites, districts, and items of natural or artificial phenomena duly designated as landmarks and registered with the historic preservation officer or designee as herein provided are declared to be matters of public interest and concern.
- (b) The preservation of such landmarks is hereby recognized to have economic and aesthetic value, and is held to be in the best interest of and to promote the general welfare of the city and its inhabitants.

(Ord. No. 1332, § 8, 3-23-2006)