

ORDINANCE NO. 97-7

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF RIO GRANDE CITY, TEXAS BY THE ADDITION OF CHAPTER 18, HISTORICAL LANDMARK DISTRICT ZONING; PROVIDING FOR HISTORIC PRESERVATION IN THE CITY OF RIO GRANDE CITY; PROVIDING FOR DEFINITIONS; PROVIDING FOR THE CREATION OF A HISTORIC PRESERVATION COMMISSION, SPECIFYING ITS MEMBERSHIP, TENURE, POWERS AND RESPONSIBILITIES; PROVIDING FOR THE DESIGNATION OF HISTORIC DISTRICTS AND HISTORIC LANDMARKS; PROVIDING FOR THE ISSUANCE OF A PERMIT FOR ANY EXTERNAL ALTERATIONS, RECONSTRUCTION, RESTORATION, REHABILITATION OR RELOCATION OF LANDMARKS OR PROPERTIES WITHIN A HISTORIC DISTRICT, PERMANENT SIGNS ERECTED ON LANDMARKS OR PROPERTIES WITHIN A HISTORIC DISTRICT; NEW CONSTRUCTION WITHIN A HISTORIC DISTRICT OR DEMOLITION OF A LANDMARK OR PROPERTY WITHIN A HISTORIC DISTRICT; PROVIDING CRITERIA TO BE USED IN REVIEWING PERMIT APPLICATIONS; RIGHT OF APPEAL; ECONOMIC HARDSHIP APPLICATION PROCEDURE; A PENALTY CLAUSE OF NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) UPON CONVICTION OF ANY VIOLATION HEREOF; SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; PROVIDING A GRANDFATHER CLAUSE AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Chapter 211, Texas Local Government Code, the Municipal Zoning Authority, specifically authorizes zoning functions and procedures for municipalities; and

WHEREAS, Chapter 211, Texas Local Government Code, Section 211.003, provides that in the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures; and

WHEREAS, Chapter 211, Texas Local Government Code, Section 211.005 authorizes the governing body of a municipality to divide the municipality into districts, within which the governing body may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land and within which zoning regulations must be uniform for each class or kind of building in a district; however, zoning regulations may vary from district to district.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF RIO GRANDE CITY, TEXAS;

SECTION I: The Code of Ordinances of the City of Rio Grande City is hereby amended by the addition of Chapter 18, Historical Landmark District Zoning which such Chapter reads in its entirety as follows:

ARTICLE I PURPOSE AND DEFINITION

Section 18-101 Purpose

The Board of Aldermen hereby declares that as a matter of public policy the protection, enhancement, preservation, and perpetuation of landmarks or districts of historical, architectural, archeological, or cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that Rio Grande City represents the unique confluence of time and place that shaped the generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This Chapter is intended to:

- a. preserve, protect and enhance the landmarks and districts which represent distinctive elements of Rio Grande City's historic, architectural, archeological, and cultural heritage;
- b. promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city;
- c. encourage stabilization, restoration, and improvements of such properties and their values;
- d. foster civic pride in the accomplishments of the past;
- e. protect and enhance Rio Grande City's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- f. insure the harmonious, orderly, and efficient growth and development of the city;
- g. provide a review process to protect the rights of citizens and property owners for the appropriate preservation and development of important cultural, architectural, historic, and archeological resources;
- h. maintain a generally harmonious appearance of both historic and modern structures through the use of complimentary scale, form, color, proportion, texture and material; and

- i. encourage stabilization, restoration and improvements of such properties and their values.

Section 18-102 Definitions

- a. **Historic District.** An "Historic District", as designated by the Board of Aldermen, possesses a significant concentration, linkage, or continuity of buildings, structures, objects or sites united historically or aesthetically by plan or physical development. An "Historic District" has outstanding historical, cultural, architectural, or archeological significance in the community, region, state, or nation.
- b. **Historic Landmark.** A "Historic Landmark" as designated by the Board of Aldermen is a building, structure, object or site which has outstanding historic, cultural, architectural, or archeological significance in the community, region, state or nation. The designation "Historic Landmark" recognizes that the accessory building(s), fences or other appurtenances at the site are equally and vitally important to the preservation of the property.
- c. **Alteration.** Any change to the exterior of a Historic Landmark, building, object, structure or site within a designated district. For buildings, objects, sites or structures, alteration shall include, but not be limited to, the changing of roofing or siding materials; changing, eliminating, or adding doors, door frames, windows, window frames, shutters, fences, railings, porches, balconies, signs, or other ornamentation, painting previously unpainted surfaces, removing paint, or the changing of paint color.
- d. **Rehabilitation.** The act or process of returning a building, object, or structure to a state of utility through repair or alteration which makes possible an efficient contemporary use while preserving those portions or features of the property which are significant to its historic, cultural, archeological or architectural values.
- e. **Restoration.** The act or process of accurately recovering the form and details of a building, object or structure and its setting as it appeared at a particular period of time by the removal of later work or by the replacement of missing earlier work.

- f. **Ordinary Repair And Maintenance.** Ordinary repair and maintenance is an in-kind of replacement of materials located on the external portion of a building or structure. Ordinary repair and maintenance does not involve a change in design, material, or outward appearance. The replacement of a sign, building, object, or structure in its entirety does not constitute ordinary repair and maintenance.
- g. **New Construction.** Any building, object, or structure which is relocated, assembled, produced or erected that alters the appearance of a property, including the replacement of a building or structure or a portion thereof that has been removed or destroyed.
- h. **Sign.** Any letters, figures, symbols, trademarks, or devices designed to inform people or attract the attention of persons to an individual, firm, profession, business, commodity, or service, and which is recognizable from any public right-of-way.
- i. **Permanent Sign.** A sign erected for more than 60 days shall be considered a permanent sign.
- j. **Demolition.** The intentional destruction of any building, structure, object or site, designated a Historic Landmark or located within an Historic District.
- k. **Building.** A building, such as a house, barn, church, hotel, or similar construction that is created to shelter any form of human activity. Buildings may also be used to refer to an historically and functionally related unit, such as a courthouse and jail, or a house and barn.
- l. **Structure:** The term "structure" is used to distinguish from buildings those functional constructions made usually for purposes other than creating shelter for human activity.
- m. **Object.** The term "object" is used to distinguish from buildings and structures those constructions that are primarily artistic in nature or are relatively small in scale and simply constructed. Although it may be, by nature or design, movable, an object is associated with a specific setting or environment, such as statuary in a designed landscape.

- n. **Site.** A "site" is the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined or vanished, where the location itself possesses historical, cultural, or archeological value, regardless of the value of any existing structure.
- o. **Property.** "Property" shall include buildings, structures, objects and sites.
- p. **Family.** Includes the immediate family and their lineal descendants.

ARTICLE II HISTORIC PRESERVATION COMMISSION

Section 18-201 Historic Preservation Commission

There is hereby created a commission to be known as the Rio Grande City Historic Preservation Commission, hereinafter referred to as the "Commission."

- a. The Commission shall consist of seven (7) members to be appointed by the Board of Aldermen, and to include, if possible:
 - an architect or planner, if available;
 - an historian or historical society member;
 - a licensed real estate broker;
 - an attorney; and
 - an owner of historic property.
- b. All members shall be city residents and property owners, and have a known interest, competence or knowledge in historic preservation in the City of Rio Grande City, and as a whole shall represent the ethnic makeup of the City.
- c. Commission members shall serve three (3) years, except the initial term of two members shall be one (1) year, two members two (2) years, and three members three (3) years.
- d. The Chairman and Vice-Chairman of the Commission shall be appointed by the Mayor.

Section 18-202 Powers of Commission

The Commission shall be empowered to:

- a. Make recommendations for volunteers, employment and staff and professional consultants as necessary to carry out the duties of the Commission.
- b. Prepare rules and procedures as necessary to carry out the business of the Commission, which shall be ratified by the Board of Aldermen.
- c. Adopt criteria for the designation of historic, architectural, and cultural landmarks and the delineation of Historic Districts, which shall be approved or altered by the Board of Aldermen.
- d. Conduct surveys and maintain an inventory of significant historical, architectural, and cultural landmarks and all properties located in Historic Districts within the City.
- e. Recommend the designation of resources as landmarks and Historic Districts.
- f. Create committees from among its membership and delegate to these committees responsibilities to carry out the purposes of this ordinance.
- g. Maintain written minutes which record all actions taken by the Commission and the reasons for taking such actions.
- h. Recommend conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques, or markers.
- i. Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
- j. Make recommendations to the Board of Aldermen concerning the utilization of state, federal or private funds to promote the preservation of landmarks and Historic Districts within the City.
- k. Approve or disapprove applications for certificate of appropriateness pursuant to this act.

- l. Prepare and submit annually to the Board of Aldermen a report summarizing the work completed the previous year.
- m. Prepare specific design guidelines for the review of landmarks and districts.
- n. Propose tax abatement program for landmarks or districts if feasible.
- o. Accept on behalf of the City government the donation of preservation easements and development rights as well as any other gift of value for the purpose of historic preservation, subject to the approval of the Board of Aldermen.
- p. Recommend fees, after consultation with the City Administration for services provided by the Commission or its staff.

Section 18-203 Meetings of the Commission

- a. The Commission shall meet at least monthly, if business is at hand. Special meetings may be called at any time by the Chairman or on the written request of two (2) Commission members. All meetings shall be held in conformance with the Texas Open Meetings Act, Texas Government Code Chapter 551.
- b. A quorum for the transaction of business shall consist of not less than four of the seven (7) authorized members.

Section 18-204 Appointment of Historic Preservation Officer

The Building Official of Rio Grande City shall serve as Historic Preservation Officer. This officer shall administer this Chapter and advise the Commission on matters submitted to it.

In addition to serving as representative of the Commission, the Officer is responsible for coordinating the City's preservation activities with those of state and federal agencies and with local, state and national nonprofit preservation organizations.

ARTICLE III HISTORICAL LANDMARKS

Section 18-301 Designation of Historic Landmarks

- a. These provisions pertaining to the designation of historic landmarks constitute a part of the comprehensive zoning plan of the City of Rio Grande City.
- b. Property owners of proposed Historic Landmarks shall be notified ten (10) days prior to the Commission public hearing on the recommended designation by mailing notice to the property owners at the address as reflected in the appraisal records of the Starr County Appraisal District. At the Commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed Historic Landmark.
- c. Upon recommendation of the Commission, the proposed historic landmark shall be submitted to the Board of Aldermen within thirty (30) days from the date of submittal of designation request. The Board of Aldermen shall give notice and conduct its hearing on the proposed designation within sixty (60) days of receipt of such recommendation from the Commission. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning statutes.
- d. Upon designation of a building, object, structure or site as a Historic Landmark or District, the Board of Aldermen shall cause the designation to be recorded in the Official Public Records of Real Property of Starr County, and the Starr County Appraisal District as well as the official zoning maps of the City of Rio Grande City. All zoning maps should indicate the designated landmarks with an appropriate mark.

Section 18-302 Designation of Historic Districts

- a. These provisions pertaining to the designation of Historic District constitute a part of the comprehensive zoning plan of the City of Rio Grande City.
- b. Property owners within a proposed Historic District shall be notified prior to the Commission hearing on the recommended designation. At the Commissioner's public hearing, owners,

interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed Historic District.

- c. The Commission may recommend the designation of a district if it:
 - 1. Contains properties and an environmental setting which meet one or more of the criteria for a landmark; and
 - 2. Constitutes a distinct section of the city.
- d. The Commission shall give notice and conduct its hearing on the proposed designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in the general zoning ordinance of the City of Rio Grande City. The Commission shall make its recommendation to the Board of Aldermen within forty-five (45) days subsequent to the hearing of the proposed designation.
- e. The Board of Aldermen shall schedule a hearing on the proposed designation to be held within forty-five (45) days of receipt of the recommendation. The Board of Aldermen shall give notice, follow the publication procedure, hold hearings, and make its determination in the same manner as provided in the general zoning ordinance of the City of Rio Grande City.
- f. Upon designation of a Historic District the Board of Aldermen shall cause the designated boundaries to be recorded in the Official Public Records of Real Property of Starr County, and the Appraisal District as well as the official zoning maps of the City of Rio Grande City. All zoning maps should indicate the designated Historic District by an appropriate mark.

Section 18-303 Criteria for the Designation of Historic Landmarks and Districts

A Historic Landmark or District may be designated if it:

- 1. Possesses significance in history, architecture, archeology, and culture.

2. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history.
3. Is associated with the lives of persons significant in our past.
4. Embodies the distinctive characteristics of a type, period, or method of construction.
5. Represents the work of a master designer, builder, or craftsman.
6. Represents an established and familiar feature of the City.

ARTICLE IV CERTIFICATE OF APPROPRIATENESS

Section 18-401 Certificate of Appropriateness for Alteration or New Construction Affecting Landmarks or Historic Districts

No person shall carry out any construction, reconstruction, alteration, restoration, rehabilitation, or relocation of any historic landmark or any property within an Historic District, nor shall any person make any material change in the light fixtures, signs, sidewalks, fences, steps, paving, or other exterior elements visible from a public right-of-way which affect the appearance and cohesiveness of any historic landmark or any property within an Historic District, without first obtaining a certificate of appropriateness.

Section 18-402 Criteria for Approval of a Certificate of Appropriateness

In considering an application for a certificate of appropriateness, the Commission shall be guided by any adopted design guidelines, and where applicable, the following from *The Secretary of Interior's Standards for the Rehabilitation of Historic Buildings*. Any adopted design guidelines and **Secretary of Interior's Standards** shall be made available to the property owners of historic landmarks or within Historic Districts.

- a. Every reasonable effort shall be made to adapt the property in a manner which requires minimal alteration of the building, structure object, or site and its environment.

- b. The distinguishing original qualities or character of a building, structure, object, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
- c. All buildings, structures, objects, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
- d. Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, object or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
- e. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, object or site shall be kept where possible.
- f. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new materials should reflect the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications of features, substantiated by historical, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
- g. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
- h. Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to, any project.
- i. Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations, and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

- j. Wherever possible, new additions or alterations to buildings, structures, objects, or sites shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building, structure, object or site would be unimpaired.

Section 18-403 Certification of Appropriateness Application Procedure

1. Prior to the commencement of any work requiring a certificate of appropriateness, the owner shall file an application for such a certificate with the Board of Aldermen. The application shall contain:
 - i. Name, address, telephone number of applicant, detailed description of proposed work.
 - ii. Location and photograph of the property and adjacent properties, and copies of any historical photographs available as well.
 - iii. Elevation drawings of the proposed changes, if available.
 - iv. Samples of materials to be used.
 - v. If the proposal includes signs or lettering, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination, if any, and a plan showing the sign's location on the property.
 - vi. Any other information which the Commission may deem necessary in order to visualize the proposed work.
2. No building permit shall be issued for such proposed work until a certificate of appropriateness has first been issued by the Commission. The certificate of appropriateness required by this act shall be in addition to and prior to, and not in lieu of any building permit that may be required by any other ordinance of the city of Rio Grande City.
3. The Commission shall review the application at a regularly scheduled meeting within sixty (60) days from the date the application is received, at which time an opportunity will be provided for the applicant to be heard. The Commission shall approve, deny, suspend

for a specified period, or approve with modifications the permit within forty-five (45) days after the review meeting. In the event the Commission does not act within ninety (90) days of the receipt of the application, a permit shall be granted.

4. All decisions of the Commission shall be in writing. The Commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant. Additional copies shall be filed as a part of the public record on that property and dispersed to appropriate city departments, e.g., building inspection.
5. An applicant for a certificate of appropriateness dissatisfied with the action of the Commission relating to the issuance, suspension or denial of a certificate of appropriateness shall have the right of appeal to the Board of Aldermen within thirty (30) days after receipt of notification of such action. The Board of Aldermen shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

Section 18-404 Certificate of Appropriateness Required for Demolition

A permit for the demolition of a Historic Landmark or property within an Historic District, including secondary buildings and landscape features, shall not be granted by the building inspector without the review of a completed application for a certificate of appropriateness by the Commission.

Section 18-405 Economic Hardship Application Procedure

- a. After receiving written notification from the Commission of the denial of a certificate of appropriateness, an applicant may commence the hardship process. No building permit or demolition permit shall be issued unless the Commission makes a finding that hardship exists.
- b. When a claim of economic hardship is made due to the effect of this ordinance, the owner must prove that:
 1. the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible.

2. the property cannot be adapted for any other use, whether by the current owner or by a purchaser; which would result in a reasonable return; and
 3. efforts to find a purchaser interested in acquiring the property and preserving it have failed.
- c. The application shall consult in good faith with the Commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such effort must be shown to the Commission.
 - d. The Commission shall hold a public hearing on the application within sixty (60) days from the date the application is received by the preservation officer. Following the hearing, the Commission has thirty (30) days in which to prepare a written recommendation to the building inspector. In the event that the Commission does not act within ninety (90) days of the receipt of the application, a permit shall be granted.
 - e. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the city secretary's office for public inspection. The Commission's decision shall state the reasons for granting or denying the hardship application.
 - f. An applicant for a certificate of appropriateness dissatisfied with the action of the Commission relating to the issuance, suspension or denial of a certificate of appropriateness shall have the right to appeal in writing to the Board of Aldermen within thirty (30) days after receipt of notification of such action. The City Council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the City.

Section 18-406 Enforcement

All work performed pursuant to a certificate of appropriateness issued under this ordinance shall conform to any requirements included therein. It shall be the duty of the Building Official to inspect periodically any such work to assure compliance. In the event the work is not being performed in accordance with the certificate of appropriateness, or upon notification

of such fact by the Board of Aldermen and verification by the Building Official, the Building Official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

Section 18-407 Ordinary Maintenance

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an Historic District which does not involve a change in design, material, or outward appearance. In-kind replacement or repair is included in this definition of ordinary maintenance.

Section 18-408 Demolition by Neglect

No owner or person with an interest in real property designated as a landmark or included within an Historic District shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior feature which would, in the judgment of the Commission, produce a detrimental effect upon the character of the Historic District as a whole or the life and character of the property itself.

Section 18-409 Penalties

Failure to comply with any of the provisions of this ordinance shall be deemed a violation and the violator shall be liable for a misdemeanor charge, and be subject to fine and/or imprisonment, for each day that the violation continues, in conformation to the penalties provided for in the existing zoning ordinance.

Be it noted that if a violation occurs or is about to occur, the city is authorized to bring action to enforce the ordinance under Sec. 211.012 of the Municipal Zoning Authority or its successors.

SECTION III. This Ordinance shall be effective after its passage and signature by the Mayor of the City of Rio Grande City, Texas.

SECTION IV. The City Secretary is hereby authorized to publish a notice of this Ordinance in the Code of Ordinance Book for the City of Rio Grande City, Texas, according to law.

SECTION V. The City Secretary is hereby authorized to publish a notice of this Ordinance in the official newspaper in and for the City of Rio Grande City, Texas, according to law.

SECTION VI. If any section, or part of any section, paragraph or clause of this Ordinance is declared invalid or unconstitutional for any reason, such declaration shall not be held to invalidate or impair the validity, force or effect of any other section, part of any section, paragraph or clause of this Ordinance.

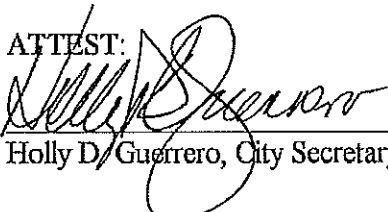
PASSED AND APPROVED BY THE BOARD OF ALDERMEN OF THE CITY OF RIO GRANDE CITY, TEXAS, at a regular meeting called and held in on this 23rd day of July, 1997, held in accordance with the provisions of Chapter 551 of the Texas Government Code.

Signed this the 23^d day of July, 1997.

CITY OF RIO GRANDE CITY, TEXAS

By: 
BALDEMAR GARZA, MAYOR

ATTEST:


Holly D. Guerrero, City Secretary

APPROVED AS TO FORM:

James E. Darling
City Attorney

**City of Rio Grande City
Historic District Boundary**

Starting from a point of the intersection of Cox Street and U.S. Highway 83 East along U.S. Highway 83 to the intersection of Second Street (U.S. Highway 83), thence North to the intersection of Pope Alley, thence North along Pope Alley to the intersection of Third Street, thence East along Third Street to the intersection of Garcia Street, thence North along Garcia Street to the intersection of Sixth Street, thence West along Sixth Street to the intersection of Avasolo Street, thence South along Avasolo Street to the intersection of Second Street (U.S. Highway 83), thence East along U.S. Highway 83 to the intersection of FM 755, thence South Along FM 755 to the Starr Camargo Bridge, thence returning West along U.S. Highway 83 to the intersection of Santo Nino Street, thence South along Santo Nino Street to the intersection of Water Street, thence West along Water Street to the intersection of Garcia Street, thence North along Garcia Street to the intersection of Main Street (U.S. Highway 83), thence West along Main Street (U.S. Highway 83) to the starting point a the intersection of Cox Street.