HISTORIC LANDMARK COMMISSION
May 6, 2026
SP-2026-0286C.SH
Briefing: Demolition Permit Applications for Property Owned by Religious Organizations
408 W. 23rd Street
Congregational Church of Austin

Purpose

Texas Local Government Code § 211.0165 provides municipal authority for historic landmark designation. In 2019, the Texas Legislature amended that authority through House Bill 2496, 86 (R). In addition to introducing a supermajority requirement for landmark designation over owner objection, the bill mandated that property owned by a religious organization may not be designated without owner consent. Per the attached 2021 memo to the Historic Landmark Commission, to comply with city code and state law, the Historic Preservation Office must administratively approve all applications for the demolition or relocation of a building owned by a religious organization without first scheduling a hearing at the Historic Landmark Commission. At Regular Meetings, as necessary, staff provide the Commission with a briefing regarding any such action taken since the prior Commission meeting.

Prior Action

The property at 408 W. 23rd Street, owned by a religious organization, was approved for demolition on April 7, 2026. It was constructed in ca. 1923 for the First Congregational Church of Austin, who remains the property owner of the subject parcel. It was designed in the 1920s by renowned Austin architect Hugo Kuhene, who reused the 1906 stained-glass windows from the Methodist Church of Austin at W. 9th and Colorado Streets, designed by A. O. Watson.[1] Total demolition and construction of a multifamily structure is proposed.



[1] Ralph A. Bickler, "History of the Congregational Church of Austin," *Pat and Mel Oakes Family Site*, https://www.patandmeloakes.com/PatandMelOakesFamilySite/CCAHistory/History-Bickler.html







Source: Google Maps, 2026

MEMORANDUM

TO: Historic Landmark Commission

FROM: Historic Preservation Office staff

DATE: January 8, 2021; updated June 25, 2021

SUBJECT: Demolition or relocation permit applications for property owned by religious organizations

Texas Local Government Code § 211.0165 provides municipal authority for historic landmark designation. In 2019, the Texas Legislature amended that authority through House Bill 2496, 86 (R). In addition to introducing a supermajority requirement for landmark designation over owner objection, the bill provided that property owned by a religious organization may not be designated without owner consent. Subsection (b) states:

> If the property is owned by an organization that qualifies as a religious organization under Section 11.20, Tax Code, *the municipality may designate the property as a local historic landmark only if the organization consents to the designation* [emphasis added].

A religious organization under Section 11.20 of the Tax Code is defined as one that is organized and operated primarily for the purpose of engaging in religious worship or promoting the spiritual development or well-being of individuals; is operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain; and must use its assets in performing the organization's religious functions or the religious functions of another religious organization; and by charter, bylaw, or other regulation adopted by the organization to govern its affairs direct that on discontinuance of the organization by dissolution or otherwise the assets are to be transferred to this state, the United States, or a charitable, educational, religious, or other similar organization that is qualified as a charitable organization under the IRS Code of 1954.

Most active churches qualify as religious organizations under the Texas Tax Code and are therefore subject to the provisions of § 211.0165 of the Local Government Code.

Demolition and relocation permits for properties without historic designation

Under Land Development Code § 25-11-213, Historic Preservation Office staff reviews all applications for demolition or relocation permits for properties that are at least fifty years of age. The purpose of this review is to determine if a property may meet the criteria for designation as a historic landmark and thus should be referred to the Historic Landmark Commission for a public hearing. Pursuant to Resolution 20160623-082 of the Austin City Council, the Historic Preservation Office has referred all applications for the demolition or relocation of buildings fifty years or older and dedicated to civic use—including but not limited to ecclesiastical, educational, recreational, charitable, hospital, and other institutional or community uses—to the Historic Landmark Commission. For properties threatened with demolition or relocation, these public hearings afford the opportunity for citizens to present evidence relating to the potential for a building to be designated as a historic landmark and preserved, and allow the Commission to initiate and recommend historic zoning for consideration by the land use commission and City Council. The Commission may vote to initiate historic zoning, or the City must release the permit within 75 days of the first Commission meeting on which an application appears on the agenda. Local Government Code § 211.0165 removes buildings owned by religious organizations from this process, as it denies City Council the ability to zone such a property as a historic landmark without the consent of the owner.

Land Development Code § 25-11-213 (E) sets a target of five business days for Historic Preservation Office staff to release permit applications administratively or make a referral to the Historic Landmark Commission. To comply with city code and state law, the Historic Preservation Office will administratively approve all applications for the demolition or relocation of a building owned by a religious organization without first scheduling a hearing at the Historic Landmark Commission. At each meeting, as necessary, staff will provide the Commission with a briefing regarding any such action taken since the prior Commission meeting.

Demolition and relocation permits in National Register Historic Districts

Land Development Code § 25-11-213 includes two additional provisions for historic districts listed in the National Register of Historic Places. Subsection (G)(4) establishes an alternate timetable for consideration of contributing structures in National Register districts. The Commission may vote to initiate historic zoning, or the City must release the permit within 180 days of receipt of a complete application for demolition or relocation. While commonly considered a demolition delay, this provision is not termed as such in code.

As with applications for demolition and relocation of properties outside of National Register districts, the Commission's only recourse to oppose issuance of a permit is through initiation and recommendation of historic zoning. Again, Local Government Code § 211.0165 removes buildings owned by religious organizations from this process, as it denies City Council the ability to zone such a property as a historic landmark without the consent of the owner. The Historic Preservation Office will administratively approve all applications within National Register districts for the demolition or relocation of a building owned by a religious organization, without first scheduling a hearing at the Historic Landmark Commission, and will provide the Commission with a briefing regarding any such action taken since its prior meeting.

Subsection (J) requires review of plans for new construction prior to release of a demolition or relocation permit for a contributing structure in a National Register district. Staff will continue to bring plans for new construction within National Register districts forward for Commission review.

It may be possible to establish a process that more broadly acknowledges the benefits of a public hearing prior to the issuance of certain demolition or relocation permits, but this would require code revisions.

Certificates of Appropriateness for Historic Landmarks and in Historic Districts

Local Government Code § 211.0165 pertains solely to owner consent in the designation process for historic landmarks. It does not affect the review process for existing historic landmarks or for contributing properties in locally designated historic districts (properties with H or HD zoning, respectively). For such properties, other sections of the Land Development Code remain applicable. Specifically, § 25-11-212 requires that an owner seek a certificate of appropriateness from the Historic Landmark Commission and thus gives the Commission authority to deny requests for demolition or relocation. The duty of owners to preserve and repair historic properties remains in effect (§ 25-11-216), and the Commission retains authority to pursue demolition by neglect when a property is not maintained (§ 25-11-217).