

DEMOLITION DELAY ORDINANCES

Another preservation tool available to Texas cities is a demolition delay ordinance. With this legal tool, a city has the authority to delay the demolition of a building for a set number of days, in order to identify whether the building has historic significance, as well as to identify alternatives to demolition. The delay period depends on the city and typically ranges from 45 to 180 days. At the end of the delay period, the owner can typically still continue with the demolition unless, during the delay, the city decides the building should not be demolished and (1) the building already has local historic landmark status, (2) the building is a contributing property in a local historic district, or (3) the city designates the building as a historic landmark.



City demolition delay ordinances in Texas range in coverage. The **City of San Antonio** applies its demolition delay ordinance to all buildings, regardless of historic status, with all demolition permits referred to the City's historic preservation officer to review. For properties that have not been designated as local historic landmarks or are not contributing properties in a historic landmark district, the preservation officer has up to 30 days to determine whether the building has historical, cultural, architectural, or archeological significance. If the officer finds that a building is significant, the city will follow its process of designating the property as a local historic landmark.³¹

For properties that have received a historic landmark designation or that are a contributing property in a historic district in San Antonio, the property goes through a 60-day administrative review.³² During that time period, the city's historic preservation office works with the property owner, the community, preservation organizations, and city agencies to identify alternatives to demolition, followed by a public hearing. In order for a demolition to proceed, the applicant must provide documentation of either unreasonable hardship or the structure's loss of historical significance.

Other cities, such as the **City of Dallas**, apply the city's demolition delay ordinance to properties in designated geographic areas called "Demolition Delay Overlay Districts." These are areas that have been identified as having a concentration of historic or likely historic properties, but typically exclude areas that have been designated as a historic landmark district by the city (In historic landmark districts, demolition requests follow a different process whereby cities typically have the authority to not only delay but also deny a demolition permit.).

The City of Dallas has four Demolition Delay Overlay Districts.³³ These districts cover all buildings in the district that are at least 50 years old and have been designated as a historic structure according to one of a variety of criteria set forth in the ordinance,³⁴ such as a listing on the National Register of Historic Places.

When a demolition permit is submitted to the City of Dallas for a building in a Demolition Delay Overlay District, the city building official is required to refer the application to the city's historic preservation officer, who must determine within 10 days whether the building is covered under the demolition delay ordinance.³⁵ If the building is covered, then within 45 days of the determination, the historic preservation officer will schedule a meeting with the building's owner and appropriate city officials to discuss alternatives to demolition and tools to promote preservation of the property. The meeting may include representatives from historic preservation organizations and similar groups. The city must also post a notice of the meeting on the city's website, along with a sign on the property. After the 45 days have passed, if the property owner declines to enter into an agreement to preserve the building and the property has not been designated as a local historic landmark, the city will issue a permit allowing the owner to move forward with the demolition.³⁶

Local Advocacy Checklist

- Does your city have a historic zoning overlay ordinance?
 - Do the overlays created by the city protect buildings and areas of the city with historical significance to African Americans?
- Does your city have a demolition delay overlay ordinance to review demolition applications for buildings that might have historical significance?
- Do the overlays protect areas with historical significance to African Americans?