

ORDINANCE NO. 18-002

April 21, 2008

AN AMENDMENT OF THE ZONING ORDINANCE OF THE CITY OF FREDERICKSBURG TO ADD SECTION 3.500 HISTORIC SHOPPING DISTRICT OVERLAY; DEFINING THE HISTORIC SHOPPING DISTRICT; PROVIDING FOR PRINCIPAL PERMITTED USES; PROVIDING FOR GENERAL USES SUBJECT TO THE ISSUANCE OF A CONDITIONAL USE PERMIT; PROVIDING FOR SPECIFIC USES SUBJECT TO ADDITIONAL CONDITIONAL USE REQUIREMENTS; PROVIDING FOR AN EFFECTIVE DATE; CONTAINING A REPEALER CLAUSE AND PARTIAL INVALIDITY CLAUSE

WHEREAS, there exists in the City of Fredericksburg a Historic Shopping District, as hereinafter defined and described, which is composed of the original shopping area of the City and which lies in various zoning districts of the city and part of which is also subject to the provisions of the Historic Overlay District; and

WHEREAS, such area is a vital part of the City of Fredericksburg, containing numerous unique small shops, museums, restaurants, bed and breakfast accommodations and other small businesses; and

WHEREAS, the City Council recognizes that said District draws many visitors each year and receives nationwide exposure for its unique German Heritage and Hill Country Architecture and its shopping opportunities and the continuation and promotion of such business and exposure is vital to Fredericksburg's economic future; and

WHEREAS, the City Council further recognizes that the characteristics of size and uniqueness of the businesses in the District are directly related to the support for the preservation of the many outstanding historic properties in the District, and for the use of such District as a pedestrian oriented area, and further that the encouragement of such business is necessary to maintain the property values and the living and business vitality of the area; and

WHEREAS, the City Council recognizes that the long-term health of the Historic Shopping District would be advanced by promoting a blend of unique and diverse commercial offerings for residents and visitors, and that the entire City of Fredericksburg, as well as such District, would be benefitted thereby; and

WHEREAS, the City Council wishes to promote a thriving historic business district with attractive retail, merchandising, dining, museum, entertainment and recreation opportunities offering residents and visitors alike a diverse and wholesome environment for commercial, cultural, civic and social pursuits that are identifiable with and to the City of Fredericksburg showcasing its commitment to the quality of place and the independent entrepreneurs which have made Fredericksburg the place that it is; and

WHEREAS, layout and other existing physical characteristics of the Historic Shopping District are ideally suited to smaller, local businesses the promotion of which is vital to the continued economic vitality of the City; and

WHEREAS, the City Council further recognizes that notwithstanding the marketability of a business's goods or services or the visual attractiveness of its establishment, certain kinds of businesses can be counterproductive and otherwise detract from the appeal of both the street-scape and overall historic downtown experience, particularly in view of the fact that other sections of the city offer plenty of opportunity for larger businesses and those which require the use of a marketing model or plan similar to those of other like businesses and are more likely to better accommodate the architectural, parking, service and technological needs of such businesses; and

WHEREAS, the City Council also recognizes that businesses run in accordance with a standard operation plan, which standardize aspects of the business such as architecture, services, decor, signs, rooms, uniforms, retail or menu offerings and the like, present a grave danger to the

unique identity of the Historic Shopping District, and if unchecked will lead to standardization of the District's business, retail and restaurant offerings, resulting in an increase of the pressure to alter or destroy historic buildings and decrease the variety of offerings which sets Fredericksburg apart from other locations; and

WHEREAS, in light of the foregoing considerations, the City Council has determined that the welfare of the City's residential, retail, business and tourist based community, as articulated by the principles found in the Comprehensive Plan, will be served and advanced by regulating the establishment of standardized businesses in the Historic Shopping District.

NOW THEREFORE be it ordained that the Zoning Ordinance of the City of Fredericksburg be and is hereby amended to add Sections 3.500 and Section 5.461 as follows:

3.500 HSD Historic Shopping District Overlay

Intent This zone is intended to encompass that portion of the City which constitutes the in-town historic shopping and tourist area. The area within the District is subject to the requirements of the underlying zoning district, the Historic Overlay District, if within its defined area, and the requirements of this Historic Shopping District.

Principal Permitted Uses- see uses listed in the underlying district

Uses Permitted Subject to issuance of a Conditional Use Permit using the review and evaluation criteria of Section 5.460- see the uses listed for the underlying district

Uses Permitted Subject to issuance of a Conditional Use Permit using review and evaluation criteria in Sections 5.460 and 5.461- Any Standardized Business may be located in the Historic Shopping District subject to a Conditional Use Permit as provided in Section 5.400 using the review and evaluation criteria set forth in Sections 5.460 and 5.461: For the purpose of this section, the following definitions shall apply:

A. Historic Shopping District shall be all properties generally located between Elk Street and Acorn Street including the properties fronting on both sides of Acorn Street, and between San Antonio Street including the properties fronting on both sides of such street, and Austin Street including the properties fronting on both sides of such street, as they are depicted on the map of the area attached to this ordinance.

B. Standardized Business shall mean a business which is required by contractual or other arrangement or affiliation to maintain one or more of the following items: standardized (“formula”) array of services and/or merchandise, trademark, logo, signs, service mark, symbol, decor, architecture, layout, uniform, menu, or similar standardized features and which causes it to be substantially identical to more than ten (10) other businesses regardless of ownership or location at the time the application therefor is completed. Standardized Businesses can include, but are not limited to: restaurants, retail stores, banks, sales offices, spas, hair and nail salons, art galleries, and hotel/motel/inn/Bed and Breakfast establishments. A statement made under oath, and subject to penalties for perjury concerning the status as a standardized business shall be submitted with the application for Conditional use permit, along with any other reasonable proof required by the person administering the City’s Zoning ordinance.

### Property Development Standards

Except as hereinafter provided, no building or structure or part thereof shall be erected, altered or converted for any use permitted in this district unless it is in conformity with all the standards and regulations herein specified for lot area, lot width, lot depth, dwelling unit area, lot coverage, yards and building height. The following standards shall apply except in cases where a lot does not meet the standards herein required but was an official "lot of record" prior to the adoption of this ordinance. In such cases, the present dimension shall be maintained as a minimum standard until such time as the use is removed. The replacement shall meet the standards and regulations herein specified.

Lot Area - The minimum lot area shall be as provided in any underlying zone or as may be required upon approval of a Conditional Use Permit.

B. Lot Dimensions - Shall be as provided in any underlying zone, or as may be required upon approval of a Conditional Use Permit.

C. Yards - Each lot shall have front, side and rear yards extending across the full widths and lengths of the lot as may be required in the underlying zone, or as may be required upon approval of a Conditional Use Permit.

D. Height Regulations - Shall be as provided in the underlying zoning District.

E. Fences, Walls and Visibility - Section 7.530.

F. Parking - The standards of Section 7.800 shall apply.

G. Temporary/Accessory Building Regulations - Section 8.000.

H. Historic Preservation Ordinance

I. Signs - Sign Ordinance

J. Existing Building Footprint - Shall not be increased in the Historic Shopping District, nor shall any existing building be connected with another except (1) where necessary to meet accessibility or fire standards and (2) for minor alterations.

Section 5.461 Review and Evaluation Criteria for Historic Shopping District

The Planning and Zoning Commission and City Council shall review and evaluate Conditional Use Permits applications for all Standardized Businesses within the Historic Shopping District using the following criteria:

A. Affirmative finding that the existence of such business will not:

(1) materially alter the general characteristic of the surrounding area of the small town German and Hill Country environment, (2) detract from the uniqueness of, nor materially alter the identity of, the Historic Shopping District, (3) contribute to the nationwide trend of standardized offerings, or (4) impair the intent of this ordinance or the comprehensive plan of the City; and

B. Affirmative finding that the business will:

(1) add diversity to the mix of businesses in the area including type of service, amusement, product, price range and the like, and (2) complement those businesses already in the Historic Shopping District, and (3) help promote and foster the local economic base as a whole, or (4) is currently existing in the District or is regionally or locally based or is serving a community need or local demand, and

C. The Planning and Zoning Commission may recommend and the Council shall require that a Standardized Business:

(1) will not utilize or contain the features or attributes of a Standardized Business as defined above except the service, product or amusement, and a sign, no more than two square feet in size showing the franchise or business affiliation, if desired, (2) be pedestrian oriented as opposed to automobile oriented, to encourage walking in the HSD, (3) utilize a unique visual appearance that reflects or compliments the Historic character of the HSD, and not project a visual appearance that is homogeneous with its elements in other communities, and (4) not be in such close proximity to Standardized Businesses to significantly destroy a mix of standardized businesses with other businesses.

D. The Planning and Zoning Commission may recommend and the Council may place other reasonable conditions upon the granting of the application which may not be specifically set out herein provided that such conditions promote the goals of this ordinance. It is specifically permitted that the City Council may place restrictions upon the operation of the business such as hours of operation to conform generally with other businesses in the area or the requirement of the addition of architectural features to maintain the character and architectural look of the area.

E. The burden of proof in conditional use proceedings shall be upon the applicant. The Council may require the applicant to submit a traffic study, prepared by a Registered Professional Engineer, approved by the Board, or to submit any other reasonable substantiation of the elements of the application.

F. The fact that a use may be more profitable or that a structure may be more valuable if the conditional use granted shall not be grounds for issuance of the permit.

\_\_\_\_\_End of Code Text\_\_\_\_\_

**SEVERABILITY OR INVALIDITY**

If any provision of this ordinance or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without defeating the purpose or objective of the provisions, and to this end, the provisions of this ordinance are declared to be severable.

**REPEALER**

All ordinances and parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

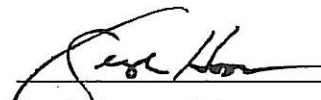
**EFFECTIVE FOLLOWING PUBLICATION**

This ordinance shall be effective from and after the date of its passage and publication in accordance with the law.

**PENALTIES**

Penalties provided for in the Code Ordinances of the city of Fredericksburg for violation of its Zoning Ordinance shall apply to violations hereof.

PASSED AND APPROVED this the 21st day of April, 2008.

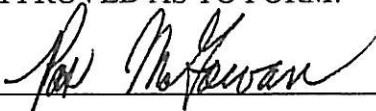
  
\_\_\_\_\_  
Jeryl Hoover, Mayor  
City of Fredericksburg, Texas



ATTEST:

  
\_\_\_\_\_  
Shelley Britton, City Secretary

APPROVED AS TO FORM:

  
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Pat McGowan, City Attorney