

ORDINANCE No. 1030-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINNSBORO, TEXAS;
ESTABLISHING HISTORIC DOWNTOWN PRESERVATION REQUIREMENTS;
AMENDING ARTICLES AND SECTIONS IN THE CODE OF ORDINANCE, RESCINDING
CONFLICTING PROVISIONS, PROVIDING A PENALTY CLAUSE, PROVIDING A
SEVERABILITY CLAUSE; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Winnsboro, Texas has determined that it is in the best interest of the City of Winnsboro for the protection, enhancement and perpetuation of landmarks; that the following articles and sections be added to the Code of Ordinances, as follows.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINNSBORO, TEXAS, AS FOLLOWS:

SECTION 1. THAT THE CODE OF ORDINANCES FOR THE CITY OF WINNSBORO, TEXAS BE AMENDED TO THE FOLLOWING:

ARTICLE 3.14 Historic Downtown Preservation

SECTION 3.14.001: PURPOSE

WHEREAS, Chapter 211 of the Texas Local Government Code provides that cities may adopt regulations for designated places and areas of historical, cultural, or architectural importance and significance;

The City Council of Winnsboro hereby declares as a matter of public policy, that the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and general welfare of the public. This act strives to do the following:

- a. Promote and enhance the historic resources of Winnsboro by maintaining landmarks and districts which represent distinctive elements of Winnsboro's historic, architectural and cultural heritage.
- b. Promote economic prosperity and welfare of the community by encouraging the rehabilitation, maintenance and use of historic properties.
- c. Foster civic pride in our shared heritage as one of Texas' oldest cities, which benefits from a wealth of historic architectural and cultural resources.
- d. Enhance Winnsboro's attractiveness to residents and visitors, thereby supporting and stimulating the economic benefits of local commerce and tourism.

SECTION 3.14.002: DEFINITIONS (For the purpose of regulating structures within the historic district)

Downtown Historic District (DHD):

The downtown area bordered on the north by Pine, south by Carnegie (north side); east by Chestnut, west by Mill, and all property contained therein shall be considered for landmark status.

Rehabilitation/Alteration:

Any physical change to the exterior appearance of a building or structure as seen from the public right-of-way, including but not limited to certain miscellaneous modifications not requiring a permit from the City of

Winnsboro.

Certificate of Appropriateness (COA):

A permit obtained from the Historic Preservation Officer (HPO) for the City of Winnsboro certifying that the proposed improvements meet City code requirements and have been approved by the Historic Preservation Commission of the City of Winnsboro.

Historic Landmark (HL):

A structure which meets specified criteria which constitute significance as designated by the Historic Preservation Commission, the Planning & Zoning Commission & the Winnsboro City Council.

Historic District:

An area designated by the Historic Preservation Commission & the Winnsboro City Council which contains multiple properties, that together constitute a distinct section of the city, which is united historically or aesthetically by plan or physical development.

Historic Overlay District (HOD):

A zoning classification created to address specific issues related to properties located in the city's historic districts.

SECTION 3.14.003: HISTORIC PRESERVATION OFFICER

- (A) The City Administrator shall appoint a qualified city official, staff person, or appropriate resident of the municipal entity to serve as Historic Preservation Officer (HPO). This officer shall be a non-voting member of the commission tasked with administering this ordinance and advise the Commission on matters submitted to it.
- (B) 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.
- (C) The HPO shall be aware of the condition of all structures within the historic district or any designated landmark. The HPO will notify property owners of conditions which may put the structure at risk or jeopardize the historic integrity of the district or landmark.

SECTION 3.14.004: HISTORIC PRESERVATION COMMISSION

There is hereby created a commission to be known as the Historic Preservation Commission of Winnsboro

- (A) Commission Members. The Commission shall consist of seven members appointed by the City Council. To the extent available among the residents of the community, the commission should consist of the following:
 - 1. A majority (minimum of four) shall own property in the downtown district
 - 2. At least one member should be a business owner in the downtown district
 - 3. At least one shall be an architect, planner or representative of a design profession
 - 4. One member shall also be a member of the City of Winnsboro Planning and Zoning Commission
 - 5. Regardless of background, shall have a known and demonstrated interest, competence or knowledge in historic preservation within the city of Winnsboro

(B) Duties of the Commission.

1. Prepare rules and procedures as necessary to carry out the business of the Commission, which shall be ratified by the City Council
2. Maintain written minutes that record all action taken by the Commission and the reasons for taking such actions
3. Adopt criteria for the designation of historic, architectural and cultural landmarks and the delineation of historic districts, which shall be ratified by the City Council
4. Approve or deny applications for Certificates of Appropriateness pursuant to this act
5. Conduct historic property surveys and maintain an inventory of significant historic, architectural and cultural landmarks and all properties located in historic district within the city
6. Recommend the designation of resources as landmarks and historic districts.
7. Recommend conferral of recognition upon the owners of landmarks or properties within districts by means of certificates, plaques, or markers
8. Increase public awareness of the value of historic, cultural and architectural preservation by developing and participating in public education programs
9. Make recommendations to the city government concerning utilization of state, federal or private funds to promote the preservation of landmarks and historic districts within the city
10. Prepare specific design guidelines for the review of landmarks and districts
11. Notify property owners of conditions which may place a landmark at risk or jeopardize the historic integrity of the district or landmark.

(C) Commission Terms & Appointments. Commission members shall serve no more than two terms consisting of three years each term; with the exception that the initial term of two members shall be 1 year, two members shall be 2 years, and three members shall be 3 years. The Chairman and Vice Chairman of the Commission shall be elected by and from the members of the Commission. In the event there are no qualifying persons available to fill the positions that would be vacated due to the aforementioned term limits; at the recommendation of the remaining commissioners, the City Council should extend the expiring terms in one year intervals.

(D) Commission Meetings. 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 any two Commission members. All meetings shall be held in conformance with the Texas Open meetings Act, Texas Civil Statutes, Article 6252-17. A quorum for the transaction of business shall consist of not less than a majority of the full-authorized membership.

SECTION 3.14.005: USE REGULATIONS

The purpose of the Historic Downtown District is to allow a mix of land uses that are compatible and complementary with one another, and which are conducive to the revitalization of the area. Certain uses have been determined to be wholly incompatible with the goals of the District, and are therefore specifically prohibited. All uses are regulated by the City of Winnsboro Zoning Ordinances.

(a) **Permitted Uses:** Establishments which fall within the following general categories shall be permitted in accordance with the city's zoning ordinance.

1. Uses in B -1 and B -2 Zoning except for provision for Loft residences located on the second or higher floor.

(b) **Prohibited Uses:** The following uses are specifically prohibited in the Historic Downtown District, and shall not be allowed, unless such business is already in existence, in which case, said business would be considered "grandfathered in":

1. The storage or sale of hazardous chemicals
2. Auto repair stores, tire stores, automobile or vehicle sales establishments
3. Sexually oriented businesses or adult entertainment facility
4. Day care facility for any age group
5. Manufacturing facilities of any type, whether the manufacturing process consists of the mechanical or chemical transformation of materials or substances into new products, including the assembling of component parts, the manufacturing of products, and the blending of materials
6. Storage facilities, including storage warehouses or indoor storage facilities, for the storage of personal, household or business items, except storage facilities accessory and incidental to a use permitted by paragraph (a) of this Section
7. Funeral homes and mortuaries
8. Laundry facilities
9. Outdoor commercial swimming pool
10. Veterinarian offices, including kennels, boarding facilities, animal hospitals, shelters, or pet day care facilities.
11. Portable Buildings (unless temporary permit has been issued for construction purposes)

SECTION 3.14.006: CERTIFICATES OF APPROPRIATENESS FOR ALTERATION AND/OR NEW CONSTRUCTION

(A) Certificate of Appropriateness (COA) for Alteration or New Construction Affecting Landmarks or Historic Districts:

Persons shall obtain a Certificate of Appropriateness to carry out: any exterior new construction, reconstruction, alteration, restoration, exterior new rehabilitation, or relocation of any historic landmark or on any property within a historic district. Likewise any person making any material change in the light fixtures, signs, sidewalks, fences, steps, paving, building exteriors or other exterior elements in a district or to a landmark, visible from a public right-of-way (excluding alleys) in that district or landmark, which affect the appearance and cohesiveness of any historic landmark or any property within the historic district shall obtain a Certificate of Appropriateness prior to work commencing.

(B) Criteria for Approval of a Certificate of Appropriateness. Approval or disapproval of applications for Certificates of Appropriateness shall be determined by the Historic Preservation Commission, following a public hearing on the matter. In considering an application for a Certificate of Appropriateness, the Commission shall be guided by any specific design guidelines adopted for a particular district or landmark.

(C) 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 Commission. The application shall contain:
 - a. Physical address of property to be modified
 - b. Name, address, telephone number of applicant
 - c. Detailed description of proposed work.
 - b. Elevation drawings of the proposed changes, if available.
 - c. Samples or description of materials to be used.
 - d. If the proposal includes signs or lettering, a scale drawing/example 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.
 - e. Any other information that the Commission may deem necessary in order to visualize the proposed

work.

- f. Current photographs of the property and adjacent properties as well as historical photographs, if available, shall be provided to Commission staff

2. The Commission shall issue a Certificate of Appropriateness prior to the issuing of a building permit. The (COA) required by this section shall be in addition to and not in lieu of, any building permit that may be required by any other ordinance of the City of Winnsboro.
3. The Commission shall review the application at a regularly scheduled meeting within forty-five (45) 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 take one of the following actions on the building permit: approve, deny, or approve with modifications. In the event the Commission does not act within ninety (90) days of the receipt of the application, the Certificate of Appropriateness shall be deemed to have been approved.
4. All decisions of the Commission shall be in writing. The Commission's decision shall state its findings pertaining to approval, denial or modification of the application. A copy shall be sent to the applicant. Additional copies shall be filed as part of the public record on that property and dispersed to the Planning & Zoning Commission and the Inspections & Permits Department.
5. An applicant for a Certificate of Appropriateness (COA) dissatisfied with the action of the Commission regarding issuance or denial of a (COA) shall have the right to appeal to the City Council 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.

(D) Certificate of Appropriateness Required for Demolition

The review of a completed application for a Certificate of Appropriateness by the Commission is required prior to issuing a demolition permit of an historic landmark or property within an historic district including secondary buildings and landscape features, as provided for in subsections (F), (G) AND (H) of this section.

(E) Economic Hardship Application Procedure

1. After receiving written notification from the Commission of the denial of a Certificate of Appropriateness, an applicant may commence the hardship process; or, this process may be simultaneous with the original Certificate of Appropriateness application procedure. The Commission must confirm that a hardship exists before a building permit or demolition permit shall be issued.
2. When a claim of economic hardship is made, due to the effect of this ordinance, the owner must prove that:
 - a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - b. 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
 - c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed.
3. The applicant 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 efforts must be shown to the Commission.
4. The Commission shall hold a public hearing on the application within sixty (60) days from the date the application is received by the (HPO) preservation officer. Following the hearing, the Commission has thirty

(30) days to prepare a written recommendation to the building official. In the event that the Commission does not act within ninety (90) days of the receipt of the application, a permit may be granted.

5. All decisions of the Commission shall be in writing. A copy shall be sent to the applicant by mail, and a copy filed with each the Planning & Zoning Commission and the Inspections and Permits Department. The Commission's decision shall state the reasons for granting or denying the hardship application. (per Section 3.14.007 C:4)
 6. An applicant for a Certificate of Appropriateness (COA) dissatisfied with the action of the Commission regarding issuance or denial of a Certificate of Appropriateness shall have the right to appeal to the City Council within thirty (30) days after receipt of notification of action. The City Council shall give notice, follow publication procedure, hold hearings and make its decision.
- (F) 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 periodically inspect any such work to assure compliance. In the event work is not being performed in accordance with the Certificate of Appropriateness, or upon notification of such fact by the Commission 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. Once compliance is confirmed by the building official, the stop work order may be lifted by the receipt of a written notice of compliance by the official to both the Planning & Zoning Commission and the Inspections and Permits Department.
- (G) 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 a historic district that does not involve a change in design, material, or outward appearance. In-kind replacement or repair is included in this definition of ordinary maintenance.
- (H) Demolition by Neglect. No owner or person with an interest in real property designated as a landmark or included within a historic district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural 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. Examples of such deterioration shall include:
1. Deterioration of exterior walls or other vertical supports
 2. Deterioration of roofs or other horizontal members
 3. Deterioration of exterior chimneys
 4. Deterioration or crumbling stucco or mortar
 5. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors
 6. Deterioration of any feature so as to create a hazardous condition, which could lead to the claim that demolition is necessary for public safety.

SECTION 3.14.007: ARCHITECTURAL ELEMENTS

- (a) New development or construction within the Historic Downtown District must have front and side facades constructed of wood, brick, masonry, stone, stucco or glass. Architectural metal accents, such as copper or bronze may be used to accent structural elements. No metal buildings shall be permitted, unless such structures are faced with wood, brick, masonry or stucco.

- (b) Existing structures. Every reasonable effort shall be made to adapt a property in a manner that requires minimal alteration of any distinctive architectural features or characteristics of a structure.
- (c) The design of walls and other structures located on the same site, including those used for screening, as set forth in paragraph I hereof, shall be constructed of the same or similar materials as the main building on the lot.
- (d) Paint colors must be taken from an appropriate historical palette.
- (e) Provided, however, with regard to subparagraphs 2 and 3 (b) and (c) above, an applicant may present to the Planning and Zoning Commission and Council, on a site plan, specifications that include elevation drawings and proposed alternative materials, which meet or exceed the appearance and durability requirements above.

SECTION 3.14.008: DESIGNATION OF HISTORIC LANDMARKS & DISTRICTS

1. Designation of Historic Landmarks is accomplished by amendment to the official zoning map for the City of Winnsboro. Such an amendment must be approved by ordinance of City Council, following a public hearing and recommendation by both the Historic Preservation Commission and the City Planning and Zoning Commission, in that order.
2. Property owners of proposed historic landmarks shall be notified prior to the hearing of the Preservation Commission, on the recommended designation. At the Commission’s public hearing, owners, interested parties, and technical experts may present testimony or document evidence that will become part of a record regarding the historic, architectural or cultural importance of the proposed historic landmark.
3. Upon recommendation of the Commission, the proposed historic landmark shall be submitted to the City Secretary for the City Planning & Zoning Commission within forty-five (45) days from the date of submission of designation request. The City Planning & Zoning Commission shall give notice and conduct its hearing on the proposed designation within forty-five (45) days of receipt of such recommendation from the Commission.
4. Upon designation of a building, object, site, or structure as a historic landmark or district, the City Council shall cause the designation to be recorded in the official zoning maps of the City of Winnsboro. The official zoning map should indicate the designated landmarks with an appropriate mark.
5. Criteria for the Designation of Historic Landmarks. A historic landmark or district may be designated if it:
 - a. possesses significance in history, architecture, archaeology, or culture;
 - b. is associated with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;
 - c. is associated with the lives of persons significant in our past; embodies the distinctive characteristics of a type, period, or method of construction;
 - d. represents the work of a master designer, builder, or craftsman;
 - e. represents an established and familiar visual feature of the city;
 - f. Possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
 - g. Has yielded, or may be likely to yield, information important in prehistory or history.

Designation of Other Historic Districts

1. Designation of Historic Districts is accomplished by amendment to the official zoning map for the City of Winnsboro. Such an amendment must be approved by ordinance of City Council, allowing a public hearing and recommendation by the City Planning & Zoning Commission.

PLANNING & ZONING MEETING

August 04, 2020

Item No. 5

Discussion/Action: –Consider Recommendation of Ordinance Number 1030-2020, Historic Preservation Ordinance

Suggested Action/Language:

I move that the Planning & Zoning Commission *recommend/not recommend* the above ordinance to the Winnsboro City Council, *as presented/with the following stipulations*.