



Winnsboro Planning & Zoning Commission

Workshop Meeting Agenda

501 S. Main St., Winnsboro, TX

October 06, 2020 at 5:30 p.m.

- 1) Call to Order:
- 2) Public Comments:
- 3) **Presentation/Discussion:** DRAFT Proposed Historic District Ordinance With Recommended Changes
- 4) **Presentation/Discussion:** DRAFT Proposed Historic Preservation Ordinance With Recommended Changes
- 5) **Presentation/Discussion:** DRAFT Proposed Vacant Building Ordinance With Recommended Changes
- 6) Adjournment:

The entrance to this meeting is via the rear entrance to City Hall. The facility is wheelchair accessible and parking spaces are available. Request for accommodations or interpretive services must be made at least 48 hours prior to this meeting and may be made by contacting City Hall at 903-342-3654.

SUPPLEMENTAL NOTICE REGARDING PUBLIC PARTICIPATION

In accordance with the order of the office of the Governor issued March 16, 2020, granting temporary suspension of certain rules to allow for telephone or videoconference public meetings in an effort to reduce in-person meetings that assemble large groups of people, due to the COVID-19 (coronavirus) public health emergency, this meeting may be attended by telephone or by in-person attendance.

Individuals wishing to attend by telephone may participate by calling 1 (877)309-2073 access code, 638-179-885

I certify that the above notice was posted at City Hall on _____, 2020, at _____ am/pm.

Angie Pike, City Secretary

PLANNING & ZONING MEETING

October 06, 2020

Item No. 3

Presentation/Discussion: – DRAFT Proposed Historic District Ordinance with Recommended Changes

Suggested Action/Language:

Discussion Only

ORDINANCE No. 1029-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINNSBORO, TEXAS;
ESTABLISHING A HISTORIC OVERLAY DISTRICT; AMENDING ARTICLES AND
SECTIONS IN THE CODE OF ORDINANCE, RESCINDING CONFLICTING PROVISIONS,
PROVIDING A PENALTY CLAUSE, PROVIDING A SEVERABILITY 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 14.05 HISTORIC DISTRICTS

14.05.001 Historic Overlay Districts Purpose

The City of Winnsboro recognizes as a matter of public policy; the protection, enhancement and perpetuation of landmarks, districts of historical and cultural importance or significance is necessary to promote the economic, cultural, educational and general welfare of the public. Historic overlay districts are created to:

- (1) Protect and enhance the landmarks and districts which represent distinctive elements of Winnsboro's historic, architectural and cultural heritage;
- (2) Foster civic pride in the accomplishments of the past;
- (3) Protect and enhance Winnsboro's attractiveness to visitors, thereby supporting and stimulating the economy;
- (4) Insure the harmonious, orderly and efficient growth and development of the city that is sensitive to its historic resources;
- (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of historic properties within the city; and
- (6) Encourage stabilization, restoration and improvements of such properties and their values by offering incentives for rehabilitation and preservation.

14.05.002 – Purposes/Intent/Definitions

Contributing Building

A historic building that is at least 50 years old or older that retains a significant amount of its physical integrity and character defining features including location, setting, design, construction, workmanship, and/or association with historical persons or events.

Downtown Overlay District (DOD)

Establishment of the Downtown Overlay District is intended to protect the aesthetic and visual character of downtown Winnsboro through the establishment of the Downtown Overlay District.

Residential Overlay District (ROD)

The Residential Overlay District is intended to preserve and protect historic residential structures throughout historic sections of the city.

Designated Historic District (DHD)

The Designated Historic District is intended to preserve areas, structures and landmarks of historical or cultural significance. Each designated district may have specific standards unique to the district. These may include Downtown and Residential Overlay Districts as well as existing historic structures or landmarks.

Historic Landmark Designation (HL)

The purpose of the Historic Landmark designation is to protect, preserve and enhance buildings or structures of historical, architectural or cultural importance or value to the City of Winnsboro.

Gateway Overlay District (G).

The Gateway Overlay District is intended to enhance the entry corridors to Winnsboro. Various corridors into the city are designated for the purpose of applying additional landscaping and design standards.

14.05.003 Designation of a Historic Overlay District

- (1) A Historic Overlay District may be established over any base zoning district within the city limits and may be established over more than one base zoning district.
- (2) Creation or expansion of a Historic Overlay District requires approval by the City Council, following the procedures for changes and amendments to all zoning ordinances and districts and administrative procedures in Section 34.
- (3) Consideration of Standards for a Designated Historic District.
The following shall be considered when developing standards for a Designated Historic District.
 - a. The findings adopted by the City Council for a specific Designated Historic District shall define the scope of the City's interest in protecting the historic resource and shall provide the guidelines to be used, along with the applicable regulations, in considering whether to grant or deny a Certificate of Appropriateness.
 - b. The Historic Preservation Commission may develop, and the City Council may approve, supplemental guidelines as it may deem necessary to implement the regulations of a particular designated historic district or the findings applicable to the designation of a particular designated historic district. Such guidelines may include, but are not limited to, the following:
 - i. Charts or samples of acceptable materials for siding, foundations, roofs or other parts of buildings;
 - ii. Illustrations of appropriate architectural details;
 - iii. Numerical specifications of appropriate rhythms or proportions;
 - iv. Specifications of appropriate relationships to streets, sidewalks, other structures and buildings;
 - v. Illustrations of appropriate porch treatments or entrances; or
 - vi. Illustrations of appropriate signage or street furniture.

14.05.004 Historic Overlay District Established

Historic Overlay Districts ~~are established~~ as follows:

Each Historic Overlay District ~~includes~~ all the land within the boundary of the district shown on the Official Zoning Map.

(1) Downtown Overlay District (DOD)

The Downtown Overlay District is established by the City Council to include boundaries previously established for the Winnsboro Downtown District, Ordinance 879-2010 and Ordinance 986-2018; Winnsboro Downtown Reinvestment Zone, Ordinance 757-2002 and Resolution 2001 -31; Winnsboro Main Street District, and Winnsboro Cultural Arts District Resolution 2008 -22. The Downtown Overlay District is generally bounded by Pine Street to the north, North Chestnut Street to the east, Carnegie Street to the south and North Mill Street to the West. The boundaries are depicted on the map incorporated below, and the affected (contributing buildings) are highlighted.

(2) Residential Overlay District (ROD)

A Residential Historic District was created by the City Council on both sides of West Myrtle Street from South Mill Street to South Post Oak Street. Ordinance 698-1995.

14.05.005 Certificate of Appropriateness Required

All new buildings and changes to existing contributing buildings located in a Historic Overlay District, designated as a Historic Landmark, or located in a National Register of Historic Places of the US National Park Service are subject to the Certificate of Appropriateness provisions of Section 3.14.007 of this Code. Any activity requiring review of a Certificate of Appropriateness per Section 3.14.007 of this Code will be subject to the Design Guidelines adopted by the City of Winnsboro.

14.05.006 Applicability of Historic Overlay District Standards

- (1) Each designated Historic Overlay District may have unique standards that are described in the adopting ordinance for that district.
- (2) The development and design standards contained within this Section are intended to supplement any development and design standards of an underlying base zoning district. The standards of the underlying base zoning district, as well as those of any other applicable overlay district, shall remain in effect unless superseded by specific standards of the applicable historic overlay district.
- (3) In the event of a conflict between the development regulations of the underlying zoning district and the provisions of this Section, the provisions of this Section shall apply.
- (4) Any regulations for a specific Historic Overlay District shall apply to all contributing buildings ~~properties or structures~~ wholly contained within that district and to those portions of any property or district located within the district.
- (5) All uses permitted or conditionally permitted in the underlying zoning districts shall continue to be permitted or conditionally permitted, respectively, unless otherwise specified in the specific standard for the overlay district. The Planning and Zoning Commission shall not have the authority to approve the specific use of a site.

14.05.007 General Guidelines Applicable to All Historic Overlay Districts

- (1) The historic character of a contributing building or structure should be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a building or structure should be avoided.
- (2) Each contributing building or structure should be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other structures, should not be undertaken.
- (3) Most buildings or structures change over time; those changes that have acquired historic significance in their own right should be retained and preserved.
- (4) Distinctive features, finishes and construction techniques or examples of craftsmanship that characterize a building or structure should be preserved.
- (5) Deteriorated historic features should be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the old in design, color, texture and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical or pictorial evidence.
- (6) Chemical or physical treatments, such as sandblasting, that cause damage to historic materials should not be used. The surface cleaning of structures, if appropriate, should be undertaken using the gentlest means possible.
- (7) Significant archeological resources affected by a project should be protected and preserved. If such resources must be disturbed, mitigation measures should be undertaken.
- (8) New additions, exterior alterations or related new construction should not destroy historic materials that characterize the building or structure. The new work should be differentiated from the old and shall be

compatible with the massing, size, scale and architectural features to protect the historic integrity of the building or structure and its environment.

- (9) New additions and adjacent or related new construction should be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (10) Maintaining and repairing features is preferred over replacing features as to maintain the high-quality materials, character, and embodied energy of historic buildings and to reduce the amount of waste that goes to a landfill. However, if features are deteriorated beyond repair, in-kind replacement using new components that match the original in form, finish, and materials is favored. Substitute materials should be used only on a limited basis, and only when they will match the appearance and general properties of the historic material and will not damage the historic resource.

14.05.008 Demolition by Neglect

- (1) An owner of a contributing building or structure designated as a historic landmark or located in a historic overlay district, or person with interest in the real property, shall not allow such structure to fall into a serious state of disrepair so as to result in deterioration which would, in the judgment of the Historic Preservation Officer and the Building Official, produce a detrimental effect upon the life and character of the structure itself.
- (2) The Building Official and Historic Preservation Officer of the City of Winnsboro shall determine the "serious state of disrepair" in accordance with the most current form of the International Property Maintenance Code. Examples of such deterioration include, but are not limited to, the following:

- i. Deterioration of walls or other vertical supports;
- ii. Deterioration of roofs or other horizontal members;
- iii. Deterioration of exterior chimneys;
- iv. Deterioration or crumbling of exterior stucco or mortar;
- v. Ineffective waterproofing of exterior walls, roof or foundations, including broken windows or doors; Deterioration of exterior walls, doors, windows or other means of interior access, creating danger of trespassing;
- vi. Deterioration of plumbing and electrical systems affecting the exterior of the structure; or a hazardous condition resulting from the deterioration of any exterior feature, which might indicate that demolition is necessary for the public safety.

- (3) A property owner, or person with interest in the real property, who is in violation of this Section shall be subject to enforcement measures under Section 3.02-00509 of this Code.
- (4) Should compliance with this Section require more than ordinary maintenance and repair, the provisions of Section 3.13, Certificate of Appropriateness, shall be applicable.

14.05.009 Standards Specific to the Downtown Overlay District

This Section contains specific development and design standards applicable to contributing buildings properties located in the Downtown Overlay District of the City of Winnsboro.

(1) Design and Paint Colors

See Section 3.14.008 ARCHITECTURAL ELEMENTS in this Code.

(2) Building Height

Building height in the Downtown Overlay District shall not exceed 40 feet, unless a Certificate of Appropriateness is approved by Planning and Zoning Commission in accordance with the procedures set forth in Section 3.14.008 of this Code.

(3) Setbacks

Building setbacks adjacent to public rights-of-way in the Downtown Overlay District shall generally be assumed to be zero feet or "built to" the right-of-way line. Such setbacks shall be reviewed on a case-by-case basis in accordance with the adopted Design Guidelines.

(4) Signs

The sign standards shall be those contained within the Section 3.11 of this code and apply to the Downtown Overlay District. In the event that no standards exist, the standards in this Code shall apply, and may be modified

in order to more accurately reflect the express language or the intent of the design guidelines in regard to signs.

SECTION 2. SEVERABILITY CLAUSE:

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3. PENALTY CLAUSE:

(1) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense each day or portion of a day which a violation is committed permitted or continued.

(2) Criminal penalties.

a. An offense under this chapter is punishable by a fine not to exceed \$2,000.

SECTION 4. REPEALING CLAUSE:

Any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provisions of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 5. EFFECTIVE DATE:

This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this the 11th day of August, 2020

Approved:

Attest:

Brenda Shirley, Mayor Pro-Tem

Angie Pike, City Secretary

PLANNING & ZONING MEETING

October 06, 2020

Item No. 4

Presentation/Discussion: – DRAFT Proposed Historic District Preservation Ordinance with Recommended Changes

Suggested Action/Language:
Discussion Only

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 and districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational and cultural 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)

Architectural Details:

Shall mean the small details like moldings, carved woodwork, etc. that add character to a building.

Alteration:

Shall mean any act or process that changes one or more historic, architectural, or physical features of an area, site, place, and/or structure including, but not limited to the erection, construction, reconstruction or removal of any structure.

Applicant:

A person seeking a designation or authorization under this Chapter or the person's designated and duly authorized agent or representative. This term may include the property owner, occupant of the site, the Historic Preservation Commission ("HPC") or City Historical/Heritage Commission.

Appurtenant Features:

Features that define the design of a building or property including but not limited to porches, railings; columns, shutters, steps, fences, attic vents, sidewalks, driveways, garages, airports, outbuildings, gazebos, and arbors.

Archeological Property/Site:

Any locale where there is physical evidence of past human activity that is either prehistoric or historic in age.

Building:

Refers to a dwelling, such as a house, barn, church, hotel, or similar structure created to shelter any form of human activity. The term may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. The term also includes mobile homes, manufactured homes, and industrial housing.

Downtown Historic District (DHD):

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

Rehabilitation/Alteration:

A 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.

Certified Local Government:

A local government certified or approved by the State Historic Preservation Office (SHPO), which has an appointed commission to oversee the survey and inventory of historic resources, to review areas for historically significant structures, and to develop and maintain community planning and education programs.

Contributing Building

Shall mean a historic building that is at least 50 years old or older that retains a significant amount of its physical integrity and character defining features including location, setting, design, construction, workmanship, and/or

association with historical persons or events.

Design Guidelines:

Guidelines of appropriateness or compatibility of building design within a community or historic district. Often in the form of a handbook, design guidelines contain drawings accompanying "do's and don't's" for the property owner. The Historic Preservation Commission has authority to draft and administer design guidelines after approval of the guidelines by the City Council.

Design Review:

The decision making process conducted by the heritage preservation board or an appointed heritage preservation officer that is guided by established terms.

Demolition by Neglect:

Allowing a building to fall into such a state of disrepair that it becomes necessary or desirable to demolish it.

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.

Exterior Architectural Feature:

Shall mean but not be limited to architectural style and general arrangement of such portion of the exterior of a structure as is designed to be open to the view from a public way.

Façade:

The entire building front including the parapet.

Historic Preservation Commission (HPC):

The seven member Board established under this ordinance and appointed by City Council.

Historic Designations:

An official recognition of the significance of a building, property or district. Designation can occur on three different levels:

Federal - The National Register of Historic Places (for both individual buildings and entire districts);

State - Recorded Texas Historic landmarks (only for individual buildings) and State Archeological Landmarks; or

Local - designated under a municipal historic ordinance either individually as a landmark or as a locally designated district.

Historic Districts:

Any neighborhood or region designated by City Council as a historic district.

Historic Landmarks:

A building, structure object or site designated by City Council as a historic landmark.

Historic Preservation:

The protection, reconstruction, rehabilitation, repair and restoration of places and structures of historic, architectural, or archeological significance.

Historic Rehabilitation:

The process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

Historic Resource:

Any building, structure, object or site that is 50 years or older or any resource that has been identified as a high or medium priority because of its unique history or architectural characteristics.

Historic Resources Survey:

A systematic, detailed examination of an area designed to gather information about historic properties sufficient to evaluate them against predetermined criteria of significance.

Integrity:

The authenticity of a property's historic identity, evidenced by survival of physical characteristics that existed during the property's historic or pre-historic period.

Inventory:

A list of historic properties that have been identified and evaluated as meeting specified criteria of significance.

Local Historic District:

A geographically and locally defined area that possesses a significant concentration, linkage, or continuity of buildings, objects, sites, structures, or landscapes united by past events, periods, or styles of architecture, and that, by reason of such factors, constitute a distinct section of the City. Historic sites within a local district need not be contiguous for an area to constitute a district. All sites, buildings, and structures within a local historic district, whether individually contributing or not are subject to the regulations of the district.

Local Historic Landmark:

Any site, building, structure, or landscape of historic significance that receives designation by the City pursuant to this Chapter.

Minor Alterations:

The installation or alteration to awnings, fences, gutters, downspouts, and incandescent lighting fixtures; restoration of original architectural features that constitute a change from the existing condition; alterations to signs; and additions and changes not visible from any street to the rear of the main structure or to an accessory structure.

National Register of Historic Places:

The nation's official list of buildings, districts, and sites (including structures and objects) significant in American history and culture, architecture, archeology, and engineering maintained by the National Park Service and administered on a state-wide basis by the Texas Historical Commission. Restrictions on these properties exist only when there is an undertaking that uses federal funds or that requires a federal permit or license.

Object:

A physical item associated with a specific setting or environment that is movable by nature or design, such as statuary in a designed landscape. 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.

Order of Demolition:

An order issued by the Heritage Preservation Board indicating approval of plans for demolition of a designated landmark or property within a designated district.

Ordinary Maintenance:

Repair of any exterior or architectural feature of a landmark or property within a historic district which does not involve a change to the architectural or historic value, style or general design. In-kind replacement or repair is included in this definition of ordinary maintenance.

Overlay District:

Zoning, applied over one or more other districts, creates a second, mapped zone that is superimposed over the conventional zoning districts. Overlay district typically provide for a higher level of regulations in certain areas such as transit station areas, downtown areas, and historic districts, but may also be used to permit exceptions or less restrictive standards (lower parking ratios in a downtown or transit station area, or more density in an economic development area).

Owner:

The individual, corporation, partnership, or other legal entity in whom is vested the ownership, dominion, or title of property and who is responsible for payment of ad valorem taxes on that property; including a Lessor or Lessee if responsible for payment of ad valorem taxes.

Preservation:

The stabilization of an historic building, its materials and features in their present condition to prevent future

deterioration. Preservation focuses on the maintenance and repair of existing historic materials and retention of a property's form as it has evolved over time. (Protection and Stabilization have now been consolidated under this treatment.)

Preservationist:

Someone with experience, education or training in the field of preservation.

Reconstruction:

The act or process of reproducing by new construction the exact form and detail of a vanished building as it appeared at a specific period of time. A technique used earlier in the 20th century, reconstruction is rarely used today because of the preference to use limited financial resources to preserve existing historic buildings.

Recorded Texas Historical Landmark:

A state designation for buildings important for their historical associations and which have retained a high degree of their original historic fabric. They must be at least 50 years of age and retain their original exterior appearance. State historical landmarks receive greater legal protection than National Register of Historic Places designations.

Rehabilitation:

The act or process of returning a property to a state of utility through repair or alteration that makes possible an efficient contemporary use while preserving those portions or features of the property that are significant to its historical, architectural, and cultural values.

Restoration:

Returning a property to a state indicative of a particular period of time in its history, while removing evidence of other periods.

Secretary of the Interior Standards for Rehabilitation:

The standards established by the secretary of the Interior for advising federal agencies on the preservation/rehabilitation of historic properties listed or eligible for listing on the National Register of Historic Places.

Site:

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.

State Archeological Landmark:

A designation made by the Texas Historical Commission and, in the case of privately owned property, with the landowner's permission. Although called "archeological" landmarks, this designation can include buildings as well as archeological sites. For a building to be designated as a State Archeological Landmark, it must first be listed on the

National Register of Historic Places. Damage to a State Archeological Landmark is subject to criminal, not civil, penalties.

State Historic Preservation Office (SHPO):

The State Office responsible for administering federal historic preservation programs as defined in the National Historic Preservation Act of 1966 as amended and subsequent legislation. The Executive Director of the Texas Historical Commission serves as SHPO for the State of Texas.

Site:

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

Structure:

A term used to distinguish specific types of functional constructions from buildings that are usually made for purposes other than creating shelter

Zoning:

A legal measure, enacted by a municipality, including the City, in which the community is divided into districts or zones within which permitted and special uses are established as are regulations governing lot size, building bulk, placement, and other development standards.

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.

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 (7)~~ nine (9) 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 (4)) shall own contributing buildings or property in the downtown district~~
- ~~1-2. At least one member shall be the on the Winnsboro Center for the Arts Board of Directors~~
- ~~2-3. At least one member shall be a business owner or owner of a contributing building in the downtown district~~
- ~~3-4. At least one shall be an architect or representative of a design profession~~
- ~~5. One member shall be a member of the City of Winnsboro Planning and Zoning Commission~~
- ~~4-6. One member shall be a member of the Winnsboro Economic Development Corporation Board~~
- ~~5-7. 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.

(E) Authority: the HPC shall be empower to:

- (a) Make recommendations to the city for the employment of staff and professional consultants as necessary to carry out the duties of the HPC.
- (b) Adopt parliamentary rules and procedures necessary to carry out the business of the HPC, which shall be ratified by the City Council.
- (c) Review and take action on the designation of landmarks and the delineation of Districts, which shall be ratified by the City Council.
- (d) Recommend and confer recognition upon the owners of Landmarks or properties within Districts by means of certificates, plaques, or markers.
- (e) Review and recommend to City Council and other applicable city boards and commissions all proposed changes to the zoning ordinance, building code, general plan or other adopted policies of the city than may affect the purpose of the Article.
- (f) Conduct public hearings and provide comment on buildings, objects, sites, structures, and districts for nomination to the National Register of Historic Places to the Texas Historic Commission. Such recommendations shall be guided by the criteria established in the National Historic Preservation Act of 1966, as amended.
- (g) Implement and maintain a system of survey or inventory of significant historic, architectural, and cultural landmarks and all properties located within designated Districts located in the city. Such information shall be maintained securely, made accessible to the public and should be updated at least every ten (10) years.

- (h) Monitor and report to the Texas Historical Commission all actions affecting any Recorded Texas Historic Landmark, State Archaeological Landmark, National Register property and any locally designated Landmark, as deemed necessary.
- (i) Create sub-committees from among its membership and delegate to these committees' responsibilities to carry out the purposes of this Article.
- (j) Maintain written meeting minutes which are recorded by staff and demonstrate all actions taken by the HPC and the reasons for taking such actions.
- (k) Increase public awareness of the value of historic, cultural, and architectural preservation by developing and participating in public education programs.
- (l) Review and take action on all Certificates of Appropriateness applications for compliance with adopted Design Guidelines pursuant to this Article.
- (m) Review and take action on all appeals on action taken by the HPO regarding the administrative review of Certificates of Appropriateness applications for compliance with adopted Design Guidelines pursuant to this Article.
- (n) Develop, prepare and adopt specific Design Guidelines which shall be ratified by the City Council, for use in the review of all Certificates of Appropriateness applications.
- (o) Prepare and submit annually to the City Council a report summarizing budget costs, goals and objectives and work completed during the previous year, as well as anticipated budgetary requests.
- (p) Make recommendations to the city concerning the utilization of state, federal, or private funds to promote the preservation of Landmarks and Districts within the city.
- (q) Recommend to City Council the acquisition of endangered Landmarks by demolition where its preservation is essential to the purpose of this Article and where private preservation is not feasible.
- (r) Propose incentive program(s) to City Council for local property owners of historic Landmarks or within local Districts.
- (s) Review and take action on all city preservation-related incentive program applications involving work on Landmarks and Districts for compliance with adopted Design Guidelines pursuant to this Article.
- (t) Accept on behalf of the city government donations 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 City Council

(u) Provide comment to the Texas Historical Commission on any federal undertakings (projects utilizing federal funds or requiring a federal permit) pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended

(D)12.

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 Low 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 facilities
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 and outdoor 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) The requirements for a Certificate of Appropriateness only impact the following:

1. Contributing Buildings
2. Alterations to contributing buildings
3. New construction within the HOD

(A)(B) _____ 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)(C) _____ 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)(D) _____ 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 proposed work includes signs or lettering, a sample drawing/example showing the type of lettering to be used, its 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.
2. 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 under 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 of the Planning and 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, roofs 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 REQUIREMENTS

- (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 adorn 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 detached garages and other structures located on the same site, including those used for screening, as set forth in paragraph 1 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; embody 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;
 - 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 a majority of City Council, allowing a public hearing and recommendation by the City Planning & Zoning Commission.
2. Owners of property within a proposed historic district shall be notified prior to the hearing of the Historic Preservation Commission on the recommended designation. At the Commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of the record regarding the historic, architectural, or cultural importance of the proposed historic district.
3. Upon recommendation of the Commission, the proposed historic district shall be submitted to the Secretary of 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 historic district, the City Council shall cause the designated boundaries to be recorded on the official zoning map of the City of Winnsboro.
- 6.8. Criteria for the Designation of Historic Districts
 - a. Contains properties and an environmental setting which meet one or more of the criteria for designation of a landmark; and
 - b. Constitutes a distinct section of the city.

SECTION 2. SEVERABILITY CLAUSE:

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such

unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3. REPEALING CLAUSE:

Any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provisions of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 4. PENALTY CLAUSE:

- (1) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense each day or portion of a day which a violation is committed permitted or continued.
- (2) Criminal penalties.
 - a. An offense under this chapter is punishable by a fine not to exceed \$2,000.

SECTION 5. EFFECTIVE DATE:

This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this the 11th day of August, 2020.

Approved:

Attest:

Brenda Shirley, Mayor Pro Tem

Angie Pike, City Secretary

PLANNING & ZONING MEETING

October 06, 2020

Item No. 5

Presentation/Discussion: – DRAFT Vacant Building Ordinance with Recommended Changes

Suggested Action/Language:

Discussion Only

ORDINANCE No. 1027-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WINNSBORO, TEXAS, AMENDING CHAPTER 3, BUILDING REGULATIONS OF THE WINNSBORO CODE OF ORDINANCES, DEFINING TERMS; PROVIDING REQUIREMENTS; PROCEDURES, AND FEE FOR THE REGISTRATION AND INSPECTION OF VACANT STRUCTURES IN THE DOWNTOWN HISTORIC MAIN STREET DISTRICT OF THE CITY; PROVIDING DEFENSES; PROVIDING AN APPEAL PROCESS FOR THE DENIAL OR REVOCATION OF A CERTIFICATE OF REGISTRATION; PROVIDING SIGNAGE REQUIREMENTS; PROVIDING INSURANCE REQUIREMENTS; REQUIRING A VACANT BUILDING PLAN; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVING CLAUSE; RESCINDING CONFLICTING PROVISIONS; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, within the Historic Main Street District of the city of Winnsboro, there exist many vacant buildings, that if left unoccupied and unmonitored, may fall into a state of disrepair, become a haven for criminal activity, and create a blight on the area; and

WHEREAS, it the responsibility of the City Council of the City of Winnsboro to protect the health, safety, morals, and welfare of the citizens of the City of Winnsboro by establishing a registration program for vacant buildings in the central Historic Main Street District in order to monitor the vacant buildings and ensure that they are maintained in compliance with this code and other applicable laws and to encourage their demolition or return to occupancy in a timely manner;

NOW THEREFORE; BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINNSBORO TEXAS:

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

The City Code of Winnsboro, Chapter 3 Building Regulations is hereby amended by adding a new Article 3.12 entitled "Vacant Building Registration " to read as follows:

CHAPTER 3.12 - VACANT BUILDINGS

ARTICLE I - GENERAL PROVISIONS:

Section 3.12.001 - There is hereby adopted rules and regulations regarding vacant structures in the Designated Historic Main Street District. This article shall be known and may be cited as the vacant building regulations.

Section 3.12.002 - Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (1) BUILDING means a structure for the support or shelter of any use or occupancy.
- (2) CERTIFICATE OF REGISTRATION (COR) means a Certificate of Registration issued by the City Administrator or their designees under this chapter to the owner or operator of a vacant building.
- (3) DESIGNATED HISTORIC MAIN STREET DISTRICT means the area bounded by Mill Street on the west; Carnegie Street on the south; Pine and Chestnut Street on the east, and Pine Street on the north; as adopted or hereafter amended by the City Council.
- (4) LAWFUL BUSINESS ACTIVITY is that for which the building was built for or intended to be used for. No building shall be used primarily for storage of personal or business items.
- (5) OCCUPIED means that one or more persons conduct business in, or reside in, at least 25 percent of the total area of the building (excluding stairwells, elevator shafts, and mechanical rooms) as the legal or equitable owner, lessee or invitee on a permanent non-transient basis pursuant to and within the scope of a valid Certificate of Occupancy.
- (6) OWNER means a person in whom is vested the ownership or title of real property:
- a. Including, but not limited to:
 - i. The holder of a fee simple title;
 - ii. The holder of life estate;
 - iii. The holder of a leasehold estate for an initial term of five years or more;
 - iv. The buyer in a contract for deed;
 - v. A mortgagee, receiver, executor, or trustee in control of real property; and
 - vi. The named grantee in the last recorded deed; and
 - 1. Not including the holder of a leasehold estate or tenancy for an initial term of less than five years.
- (7) PERSON means any individual, corporation, organization, partnership, association, governmental entity, or any other legal entity.
- (8) PREMISES or PROPERTY means a lot, plot, or parcel of land including and structures on the land.
- (9) REGISTRANT means a person issued a Certificate of Registration for a vacant building under this chapter.
- (10) SECURED means all accessible means of ingress and egress to the vacant structure, including but not limited to all exterior doorways and windows, are locked so as to prevent unauthorized entry.
- (11) STRUCTURE means that which is built or constructed, an edifice or building of any kind, or piece of work artificially built up or composed of parts joined together in some definite manner.

- (12) TEMPORARILY SECURED means all accessible means of ingress and egress to the vacant structure, including but not limited to all exterior doorways and windows, are covered with plywood (or other appropriate material) which has been nailed or bolted in place so as to prevent unauthorized entry.
- (13) VACANT BUILDING means a building located in the city's Historic Main Street District that, regardless of it's structural condition, is not occupied.

Section 3.12.003 – Applicability, Administration, and Authority (Authority granted by Section 9.04.003 Winnsboro Code of Ordinances The city administrator shall promptly and effectively execute or cause to be executed and carried out all duties and responsibilities delegated to him by the city council. Such duties and powers include:

- (1) To devote all his working time and attention to the affairs of the city and to be responsible to the city council for the efficient administration of the city's affairs.
- (2) To see that all provisions of federal, state, and local laws, ordinances and resolutions are enforced.
- (3) To exercise supervision over all departments created by the council. To correlate all of the city's governmental and proprietary functions. In relation to employment and discharge of city employees, the city administrator shall neither employ nor discharge any department head without prior council approval. No city employee within a department may be employed or discharged without the prior knowledge of the department head over such employee or position. In the event the department head is in disagreement with the city administrator regarding the employment or discharge of an employee within that department, the department head shall notify the city administrator who shall delay any decision in the matter pending council action to resolve the matter.

(1997 Code, art. 8.300; Ordinance adopting Code)

- (1) This article shall apply to all vacant structures, as defined herein, which are now in existence or which may hereafter be constructed or converted from other uses and which are within the Central Business District, all Historic Districts, and all vacant designated landmarks.
- (2) The City Administrator or his designee is authorized to administer and enforce the provisions of this article.
- (3) The City Administrator or his designee shall have the authority to render interpretations of this title and to adopt policies and procedures in order to clarify the application of its provisions. The City Administrator or his designee, at his sole discretion, may also enter into an agreement with a registered property owner to obtain compliance with this ordinance by a date certain.
- (4) The City Administrator shall implement and enforce this chapter and may by written order establish such rules, regulations, or procedures, not inconsistent with this chapter, as determined necessary to discharge any duty under or to effect the policy of this chapter.

Section 3.12.004 – Delivery of Notices

- (1) Any written notice that the City Administrator is required to give an applicant or registrant in this chapter is deemed to be delivered:
- a. On the date the notice is hand delivered to the applicant or registrant; or

- b. Three days after the United States Mail postmarked date, properly addressed to the applicant or registrant at the address provided for the applicant or registrant in the most recent registration application.

Section 3.12.005 – Violations; Penalty (Granted by Texas LGC) Should also be noted that the decision on the penalty is at the discretion of the Municipal Court

(Authority for Criminal Penalties

1. Penalty for ordinance violations.

a. Texas Local Government Code § 54.001 provides that the maximum penalty for violation of a municipal ordinance, rule or police regulation:

i. Is \$500.00.

ii. Governing fire safety, zoning or public health and sanitation, is \$2,000.00.

iii. Governing the dumping of refuse is \$4,000.00.

(3) b. Because Texas Penal Code § 6.02 allows a municipality to dispense with the requirement of a culpable mental state for the violation of a municipal ordinance if the penalty for violation of the ordinance does not exceed \$500.00, many municipalities restrict penalties to a fine of \$500.00 and dispense with a culpable mental state. See Texas Penal Code §§ 6.02(f),(2)(4)12.23.)

(1) A person who violates a provision of this chapter, or who fails to perform an act required of the person by this chapter, commits an offense. A person commits a separate offense each day or portion of a day which a violation is committed, permitted or continued.

(2) Criminal penalties.

- a. An offense under this chapter is punishable by a fine not to exceed \$500 for the first offense and not to exceed \$2,000 for subsequent offenses.
- b. As an alternative to imposing the criminal penalty prescribed in Subsection (a) the city may impose administrative penalties, fees, and court costs in accordance and as authorized by Section 54.044 of the Texas Local Government Code, for an offense under this chapter. The alternative administrative penalty range for an offense is the same as prescribed for a criminal offense under subsection (a).
- c. The penalties provided for in Subsections (a) and (b) are in addition to any other enforcement remedies that the city may have under the city ordinances and state law.

ARTICLE II - REGISTRATION AND INSPECTION OF VACANT BUILDINGS

Section 3.12.006 - Registration required, Defenses

- (1) A person commits an offense if the person owns or operates a vacant building without a valid Certificate of Registration. A separate Certificate of Registration is required for each street address at which any vacant building is located, regardless of any separate occupied buildings that may also be located at the same street address. If more than one vacant building is located at the same street address, only one certificate of

registration is required for all the vacant buildings.

(2) It is a defense to prosecution under this section that:

- a. The building was occupied within the 45 60-day period preceding the date of the alleged offense;
- b. At the time of the alleged offense the building was in the process of being renovated, rehabilitated, repaired or demolished (pursuant to appropriate and valid permits issued by the city building official) and has been occupied within the 90-day period preceding the date of the alleged offense;
- c. Within the 90-day period preceding the date of the alleged offense, the building suffered damage or destruction from a fire, flood, storm or similar event that rendered the building incapable of being occupied, except that this defense does not apply if the building was rendered incapable of being occupied by the intentional act of the owner, operator, lessee, or other invitee or an agent of the owner, operator, lessee or other invitee; or
- d. The building was owned by the City of Winnsboro, the State of Texas, or the United States government.

Section 3.12.007 – Registration Application

(1) To obtain a Certificate of Registration for a vacant building, a person must submit an application on a form for that purpose to the City Administrator. The applicant must be the person who will own, control, or operate the vacant building. The application must contain all of the following information:

- a. The name, street address, mailing address and telephone number of the applicant or the applicant's authorized agent.
- b. The name, all street addresses, main telephone number if any, of the vacant building and a description of the type of property it is (such as, but not limited to, a commercial building, a warehouse, an office, a hotel, an apartment complex, a boarding house, a group home, a loft, a townhome, a condominium, or a single family residence).
- c. The names, street addresses, mailing addresses, and telephone numbers of all owners of the vacant building and any lien holders and other persons with a financial interest in the vacant building.
- d. The name, street address, mailing address and telephone number of a person or persons to contact in an emergency as required by Section 3.12.014 of this chapter.
- e. The form of business of the applicant (and owner, if different from the applicant): the name, street address, mailing address and telephone number of a high managerial agent of the business.
- f. Proof of insurance required by Section 3.12.015 of this chapter.
- g. The number of buildings (including vacant and occupied buildings), dwelling units, swimming pools and spas located in or on the premises of the vacant buildings.
- h. Documentary evidence of payment of ad valorem taxes owed in connections with the vacant building and the premises on which it is located.

- i. The total area in square feet of the vacant building, the number of stories contained in the vacant building, the area in square feet and whether each story is above or below ground level.
 - j. The date on which the vacant building was last occupied, a description of the last use of the vacant building and a description of any hazardous materials uses or conditions that currently exist or previously existed in the vacant building.
 - k. Such additional information as the applicant desires to include or that the City Administrator deems necessary to aid in the determination of whether the requested Certificate of Registration should be granted.
- (2) If the application for a Certificate of Registration is being made for multiple vacant buildings located at the same address then the information in Section (1) must be provided for each vacant building located at that address.
- (3) A registrant shall notify the City Administrator within 10 days after any material change in the information contained in the application for a Certificate of Registration for a vacant building, including any changes in ownership of the property.

Section 3.12.008 – Registration Fee and Inspection Charge

The fee for a certificate of registration and inspection for each vacant building is \$500.00 for the first year of vacancy. The fee shall increase by \$500.00 for each year the building remains vacant.

Section 3.12.009 – Issuance, Denial, and Display of Certificate of Registration

- (1) Upon payment of all required fees, the City Administrator shall issue a Certificate of Registration for a vacant building to the applicant if the City Administrator determines that:
- a. The applicant has complied with all requirements for issuance of the Certificate of Registration;
 - b. The applicant has not made a false statement as to a material matter in an application for a Certificate of Registration; and
 - c. The applicant has no outstanding fees assessed under this chapter.
- (2) If the City Administrator determines that the requirements of Section 3.12.007(1) have not been met the City Administrator shall deny a Certificate of Registration to the applicant.
- (3) If the City Administrator determines that an applicant should be denied a Certificate of Registration, the director shall deliver written notice of denial to the applicant and include the reason for denial with a statement informing the applicant of the right of appeal.
- (4) A Certificate of Registration issued under this section must be displayed to the public in a manner and location approved by the City Administrator. The certificate of registration must be presented upon request to the City Administrator or to a peace officer for examination.

Section 3.12.010 – Revocation of Registration

- (1) The City Administrator shall revoke a certificate of registration for a vacant building if the director determines that:

- a. the registrant failed to comply with any provision of this chapter or any other city ordinance or state or federal law applicable to the building;
 - b. the registrant intentionally made a false statement as to a material matter in the application or in a hearing concerning the certificate of registration; or
 - c. the registrant failed to pay a fee required by this chapter at the time it was due.
- (2) Before revoking a certificate of registration under Subsection (1) the City Administrator shall deliver written notice to the registrant that the certificate of registration is being considered for revocation. The notice must include the reason for the proposed revocation, action the registrant must take to prevent the revocation, and a statement that the registrant has 10 days after the date of delivery to comply with the notice.
- (3) If after 10 days from the date the notice required in Subsection (2) is delivered, the registrant has not complied with the notice, the director shall revoke the certificate of registration and deliver written notice of the revocation to the registrant. The notice must include the reason for the revocation, the date the director orders the revocation and a statement informing the registrant of the right of appeal.

Section 3.12.011 – Appeals (Appeal process – Due Process – City Council has final authority)

If the City Administrator denies issuance or renewal of Certificate of Registration or revokes a Certificate of Registration, this action is final unless the applicant or registrant files an appeal with the Planning and Zoning Commission. If the applicant or registrant's appeal is denied by the Planning and Zoning Commission the applicant or registrant can appeal to the City Council. **The decision of the City Council is final.**

Section 3.12.011 – Expiration and Renewal of Registration

- (1) A certificate of registration for a vacant building expires the earlier of:
- a. one year after the date of issuance;
 - b. the date the vacant building changes controlling ownership as determined by the City Administrator;
 - c. the date the building becomes occupied as determined by City Administrator; or
 - d. the date the vacant building is demolished as determined by the director.
- (2) A certificate of registration may be renewed by making application in accordance with Section 3.12.011 and paying the registration fee and inspection charge as required by Section 312.008. A registrant shall apply for renewal at least 30 days before expiration of the certificate of registration.

Section 3.12.012 – Nontransferability

A certificate of registration for a vacant building is not transferable.

Section 3.12.013 – Property Inspections

- (1) For the purpose of ascertaining whether violations of this chapter or any other city ordinance or state or federal law applicable to the building exist the director is authorized at a reasonable time to inspect:

- a. the exterior of a vacant building; and
 - b. the interior of a vacant building, if the permission of the owner, operator or other person in control is given or a search warrant is obtained.
- (2) The City Administrator or designee shall inspect a vacant building at least once during each 12-month period that the building is not occupied.
- (3) An applicant or registrant shall permit representatives of the police department, Department of Environmental and Health Services, fire department, Department of Code Compliance, and the building official to inspect the interior and exterior of a vacant building, for the purpose of ensuring compliance with the law at reasonable times upon request. The applicant or registrant commits an offense if he either personally or through an agent or employee refuses to permit a lawful inspection of the vacant building as required by this subsection.
- (4) Whenever a vacant building is inspected by the City Administrator or designee, and a violation of this chapter or any other city ordinance or state or federal law applicable to the building is found, the building or premises will, after the expiration of any time limit for compliance given in a notice or order issued because of the violation, be re-inspected by the City Administrator or designee to determine that the violation has been eliminated.

ARTICLE III - MISCELLANEOUS REQUIREMENTS FOR VACANT BUILDINGS.

Section 3.12.014 – Emergency Response Information

- (1) An owner, operator, or other person in control of a vacant building shall provide the City Administrator with the name, street and mailing address, and telephone number of a person or persons who can be contacted 24 hours a day, seven days a week in the event of an emergency condition in or on the premises of the vacant building. An emergency condition includes any fire, natural disaster, collapse hazard, burst pipe, serious police incident, or other condition that requires an immediate response to prevent harm to property or the public.
- (2) The owner, operator, or other person in control of a vacant building, or an authorized agent must arrive at the premises within one hour after a contact person named under this section is notified by the city or emergency response personnel that an emergency condition has occurred on the premises.
- (3) A sign containing the emergency contact information required in Subsection (1) of this section must be attached in a conspicuous location on the exterior of each facade of the vacant building that faces a public right-of-way. The owner is responsible for providing the Winnsboro Police Department and Winnsboro Fire Department emergency contact information, and maintaining the accuracy of this information. It shall be a violation of this ordinance if the owner fails to provide or maintain the accuracy of the emergency contact information with the Winnsboro Police and Winnsboro Fire Departments.
- (4) The sign required by subsection (4) must:
 - a. Comply with the city's sign regulations;
 - b. Be 24 inches tall and 18 inches wide and constructed of a rigid weather resistant material;
 - c. contain the words "VACANT BUILDING" in 2-3/8-inch-high and two-inch-wide black letters on a bright yellow background followed by the information required in Subsection (1) in one-inch-high black letters on a bright yellow background;

~~d.a. be in a format approved by the City Administrator; and~~

~~e.b. be readable day and night.~~

~~(5) A person commits an offense if he removes or obstructs or allows the removal or obstruction of a sign required to be posted on a vacant building under this section. It is a defense to prosecution under this subsection that the removal or obstruction was caused by:~~

~~a. a city employee in the performance of official duties; or~~

~~b. the owner, operator, or lessee of the vacant building for the purpose of:~~

~~i. repair or maintenance to the sign;~~

~~ii. complying with this chapter or a rule or regulation promulgated under this chapter; or~~

~~iii. removing the sign when registration of the vacant building is no longer required under this chapter.~~

~~c. A minor variation of a required minimum height or width of a sign or lettering is not a violation of this section.~~

Section 3.12.015 – Insurance

- (1) Prior to the issuance of a Certificate of Registration, the registrant shall procure and keep in full force and effect at all times during the registration term, commercial general liability insurance coverage (including, but not limited to, premises/operations and personal and advertising injury) protecting the city of Winnsboro against any and all claims for damages to persons or property as a result of or arising out of the registrant's operation maintenance or use of the vacant building with minimum combined bodily injury (including death) and property damage limits of not less than \$1,000,000 for each occurrence and \$2,000,000 aggregate.
- (2) The insurance policy must be written by an insurance company approved by the State of Texas and acceptable to the city and issued in a standard form approved by the Texas Department of Insurance. All provisions of the policy must be acceptable to the city and must name the city and its officers and employees as additional insureds and provide for 30 days written notice to the director of cancellation, non-renewal or material change to the insurance policy.
- (3) A registrant shall provide to the director an updated certificate of insurance for the vacant building every six months that the building is required to be registered under this chapter.

Section 3.12.016 – Vacant Building Plan

- (1) Within 30 days after the date a certificate of registration is issued for a vacant building the registrant shall submit to the City Administrator or designee a vacant building plan complying with this section.
- (2) The vacant building plan must contain the following:
 - a. A plan of action and a time schedule for correcting all existing violations of this chapter or any other city ordinance or state or federal law applicable to the building or its premises.

- b. A plan of action for maintaining the building and its premises in compliance with this chapter and all applicable city ordinances and state and federal laws.
 - c. A plan of action for maintaining the building and its premises in a safe and secure manner including but not limited to any provisions for lighting security patrols, alarm systems fire suppression systems and securing the building from unauthorized entry.
 - d. A plan of action for occupying, leasing or selling the building, including but not limited to a time schedule for renovating or repairing the building and a time schedule for marketing, advertising or offering the building for sale or lease. ~~The plan of action for leasing or selling the property must reflect marketing the property at regionally fair market value as determined by regional comparable values reviewed and approved by the governing body.~~
 - e. A plan of action and time schedule for any demolition of the building.
- (3) A registrant may update the vacant building plan at any time, but shall provide the City Administrator ~~Administrator or designee~~ with an updated vacant building plan at least once every six months that the building is required to be registered under this chapter.

Section 3.12.017 - Standard of care for vacant property

- (1) The standard of care, subject to approval by the City Administrator or designee, shall include, but is not limited to:
- a. **Protective Treatment:** All exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition, weather tight and in such condition so as to prevent the entry of rodents and other pests. All exposed wood or metal surfaces subject to rust or corrosion, other than decay resistant woods or surfaces designed for stabilization by oxidation shall be protected from the elements and against decay or rust by periodic application of weather coating materials such as paint or similar surface treatment. All surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. All siding, cladding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight.
 - b. **Premises Identification:** The property shall have address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be a minimum of 4 inches (102 mm) high with a minimum stroke width of 0.5 inch (12.7 mm).
 - c. **Structure:** All structural members and foundation shall be maintained free from deterioration, and shall be capable of safely supporting the imposed loads.
 - d. **Exterior Walls:** All exterior walls shall be kept in good condition and shall be free from holes, breaks and loose or rotting materials. Exterior walls shall be maintained weatherproof and properly surface coated where necessary to prevent deterioration.
 - e. **Interior and exterior areas:** The property must be kept free of junk, trash, debris or combustible materials.

- f. Vegetation and landscaping: Shall be maintained in good and healthy condition
 - g. Roof and drainage: The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drainage shall be adequate to prevent accumulation, dampness or deterioration. Roof drains, gutters and downspouts shall be maintained in good repair, free from obstructions and operational.
 - h. Decorative Features: All cornices, belt courses, corbels, applications, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.
 - i. Overhang Extensions and Awnings: All overhang extensions including, but not limited to canopies, marquees, signs, awnings and fire escapes shall be maintained in good repair and be properly anchored and supported as to be kept in a sound and safe condition.
 - j. Stairways, decks, porches and balconies: Every exterior stairway, deck, porch, balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.
 - k. Handrails and Guards: Every exterior handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.
 - l. Window, Skylight and Door: Every window, storefront, skylight and exterior door part, including but not limited to the frame, trim, window screens and hardware shall be kept in sound condition and good repair. All broken or missing windows shall be replaced with glass and secured in a manner so as to prevent unauthorized entry. All broken or missing doors shall be replaced with appropriately sized doors which shall be secured to prevent unauthorized entry. All glass shall be maintained in sound condition and good repair. All exterior doors, door assemblies and hardware shall be maintained in good condition and secured. Locks at all exterior doors, exterior attic access, windows, or exterior hatchways shall tightly secure the opening. Windows and doors shall not be secured by plywood or other similar means mounted on the exterior except as a temporary securing measure, and the same shall be removed within a period of time designated by the City Administrator or his designee.
- (2) All repairs shall be subject to approval by the City of Winnsboro. All required permits and final inspections prior to and/or following repairs shall be in accordance with applicable laws and rules.
- (3) Failure to maintain the vacant property to the standard of care specified by the City of Winnsboro is a violation of this article.

SECTION 2. SEVERABILITY CLAUSE:

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation of this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

SECTION 3. REPEALING CLAUSE:

Any provision of any prior ordinance of the City whether codified or uncoded, which are in conflict with any provisions of the Ordinance, are hereby repealed to the extent of the conflict, but all other provisions of the

ordinances of the City whether codified or uncoded, which are not in conflict with the provisions of this Ordinance, shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE:

This Ordinance shall become effective immediately upon its passage.

PASSED AND APPROVED this the 11th day of August, 2020

Approved:

Brenda Shirley, Mayor Pro-Tem

Attest:

Angie Pike, City Secretary

DRAFT