

ORDINANCE NO. 45-2018

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ABILENE AMENDING CHAPTER 1, "GENERAL PROVISIONS," DIVISION 7, "LANDMARKS COMMISSION," SECTION 1.1.7.2, "POWERS AND DUTIES," AND CHAPTER 2, "ZONING REGULATIONS," DIVISION 4 "OVERLAY ZONING DISTRICTS," SECTION 2.3.4.4, "HISTORIC OVERLAY (HO) DISTRICT," OF THE ABILENE LAND DEVELOPMENT CODE AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; DECLARING A PENALTY; AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City, in conjunction with the Landmarks Commission, has been updating sections in the Land Development Code pertaining to Historic Preservation; and

WHEREAS, the City seeks to clarify the meaning and intent of the Abilene Register of Historic Properties, and show the decision making process when applying for Historic Overlay Zoning; and

WHEREAS, the City seeks to clarify zoning changes initiated by the Landmarks Commission, properly ordering the considerations for Certificates of Appropriateness, adding Minimum Maintenance Standards to historically zoned properties, and providing for a 60-day stay on the demolition of buildings listed on the Abilene register of Historic Properties, in order to comply with requirements of the Texas Historic Commission; and

WHEREAS, the Landmarks Commission approved these recommended changes on May 22, 2018; and the Planning and Zoning Commission approved these recommended changes on July 3, 2018.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

- PART 1:** That Chapter 1, Division 7, Section 1.1.7.2, and Chapter 2, Division 4, Section 2.3.4.4 of the Land Development Code, City of Abilene, Texas, are hereby amended as set out in Exhibit A, attached and made a part of this ordinance for all purposes.
- PART 2:** That if the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not effect or invalidate the remainder of any section, subsection, paragraph, subdivision, or clause of this ordinance.
- PART 3:** That any person, firm, or corporation violating the provisions of this Ordinance, shall be deemed to have committed a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than Five

Hundred Dollars (\$500.00). Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense.

PASSED ON FIRST READING this 26th day of July, 2018.


A notice of the time and place, where and when said ordinance would be given a public hearing and considered for final passage was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on 15th day of June, 2018, the same being more than 24 hours prior to a public hearing being held in the Council Chamber of City Hall in Abilene, Texas, at 8:30 a.m. on the 9th day of August, 2018, to permit the public to be heard. Said Ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper, as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON SECOND AND FINAL READING this 9th day of August, 2018.

ATTEST:



CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY

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EXHIBIT "A"

AMEND: Section 1.1.7.2 Powers and Duties

REVISE: Add language that clarifies the source and meaning of the Abilene Register of Historic Properties.

(c) It shall further be the responsibility of the Commission to perform the following duties:

(1) Review and periodically update the Historic Preservation Plan and the comprehensive survey of structures and lands felt by the community to be of historical, cultural, or architectural significance.

(2) Maintain current and accurate records of all Historic Overlay District designations and other historic properties. As a part of this recordkeeping, the Landmarks Commission will maintain an Abilene Register of Historic Properties.

a. The Abilene Register of Historic Properties is compiled using official survey data.

b. The Abilene Register of Historic Properties is used to make decisions regarding the approval of Historic Overlay Districts.

AMEND: Section 2.3.4.4 Historic Overlay (HO) District

REVISE: Add the ability for the Landmarks Commission to appeal to the City Council. Rewording the order of the Certificate of Appropriateness guidelines. Add Minimum Maintenance Standards that will require properties that are receiving tax reduction maintain their structures and sixty (60) day stays on properties on the Abilene Register of Historic Properties as per the Texas Historic Commission requirements.

2) Initiation by Landmarks Commission: The Landmarks Commission may initiate a Historic Overlay District application if the Commission, after holding a public hearing and reviewing all available information, makes a finding pursuant to the criteria for designation contained in Section [2.3.4.4(c)] that the structure should be given Historic Overlay District zoning.

a. Should the Planning and Zoning Commission deny the request, the Landmarks Commission may appeal to the City Council within 45 days.

(5) Action by the Landmarks Commission on a Certificate of Appropriateness:

a. The Landmarks Commission shall determine, from the data submitted and other pertinent information made available at the public hearing, the appropriateness of all undertakings for which a Certificate of Appropriateness is required. The Landmarks Commission shall have the power to approve or deny an application for Certificate of Appropriateness, or to approve a request with such conditions as the Landmarks Commission deems necessary to carry out the purposes of the Historic Overlay District.

b. In considering an application for a Certificate of Appropriateness, the Landmarks Commission shall be guided by, the Secretary of the Interior's "Standards for the Rehabilitation of Historic Buildings", as well as District Standards, and any adopted design guidelines. A copy of the District Standards, any adopted design guidelines, and the Secretary of the Interior's Standards shall be made available to the property owner(s) of historic landmarks or within an Historic Overlay District upon request.

(g) Minimum Maintenance Standards

- (1) No owner or person with an interest in real property on the Abilene Register of Historic Properties or a property located within an Historic Overlay District shall permit the property to fall into a serious state of disrepair so as to result in the significant deterioration of any exterior architectural feature which would, create a detrimental effect upon the historic character of the landmark or district.
- (2) Serious disrepair or significant deterioration shall include but is not limited to the following:
 - a. Deterioration of exterior walls, foundations, or other vertical support that causes leaning, sagging, splitting, listing, or buckling.
 - b. Deterioration of external chimneys that causes leaning, sagging, splitting, listing, or buckling.
 - c. Deterioration or crumbling of exterior plaster finishes, surfaces or mortars.
 - d. Ineffective waterproofing of exterior walls, roofs, and foundations, including broken windows or doors.
 - e. Defective protection or lack of weather protection for exterior wall and roof coverings, including lack of paint, or weathering due to lack of paint or other protective covering.
 - f. Rotting, holes, and other forms of material decay.

- g. Deterioration of exterior stairs, porches, handrails, window and door frames, cornices, entablatures, wall facings, and architectural details that causes delamination, instability, loss of shape and form, or crumbling.
- h. Deterioration that has a detrimental effect upon the special character of the district as a whole or the unique attributes and character of the contributing structure.
- i. Deterioration of any exterior feature so as to create or permit the creation of any hazardous or unsafe conditions to life, health, or other property.

(h) No Building, Sign, or Demolition Permit Shall Be Issued Pending Consideration of Historic Overlay District Designation.

(1) No sign, building, or demolition permit, shall be issued where:

a. A property or district has been placed on an agenda of the Landmarks Commission, Planning and Zoning Commission, or City Council to consider whether same should be included within a Historic Overlay District, or

b. An area, district, site, structure, building, property, or object is listed in an official survey or register of historical sites, or listed on the Abilene Register of Historic Properties, until a final decision regarding inclusion within a Historic Overlay District has been made.

c. The Landmarks Commission has the authority to apply a sixty (60) day stay on the demolition of buildings that are listed on the Abilene Register of Historic Properties.

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