

## ORDINANCE NO. 2022-46

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS, AMENDING WYLIE’S CODE OF ORDINANCES, ORDINANCE NO. 2021-17, AS AMENDED, AMENDING CHAPTER 58 (HISTORICAL PRESERVATION), ARTICLE I (GENERAL) AND ARTICLE II (LANDMARKS); PROVIDING FOR A PENALTY FOR THE VIOLATION OF THIS ORDINANCE; PROVIDING FOR A SAVINGS AND REPEALING CLAUSE; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, City Council has adopted “*Honoring our past; Embracing our present; Planning our future*” as the City’s mission statement; and

**WHEREAS**, cultural and historic resources enhance the quality of life for individuals living in, working in, and visiting the City of Wylie; and

**WHEREAS**, designating a local historic landmark is to bring attention to the general public of places of importance and protect the historic resource from inappropriate changes or demolition; and

**WHEREAS**, Chapter 211, Section 211.0165 of the Texas Local Government Code outlines the necessary steps and grants authority to the municipality to designate Historic Landmarks or Districts; and

**WHEREAS**, the City Council finds that it is in the best interest of the citizens of Wylie to amend Chapter 58 (Historical Preservation), Article I (General) and Article II (Landmarks) of the City’s Code of Ordinances, Ordinance No. 2021-17, as amended (“Code of Ordinances”), as set forth below, to promote public health, safety and welfare to promote cultural, or architectural importance and significance.

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

**SECTION 1: Findings Incorporated.** The findings set forth above are incorporated into the body of this Ordinance as if fully set forth herein.

**SECTION 2: That Chapter 58 of the Code of Ordinances, City of Wylie, Texas,** is hereby amended as follows:

### **“CHAPTER 58 – HISTORICAL PRESERVATION**

#### **ARTICLE I. - IN GENERAL**

**Secs. 58-1 - 58.19. - Reserved**

#### **ARTICLE II. - LANDMARKS**

**Sec. 58-20. - Definitions.**

**Accessory Structure** means structures which are incidental to, and located on the same lot as a principle building(s) including but not limited to, gazebos, garages, sheds, greenhouses, etc.

**Building** means a structure for the support or shelter of any use or occupancy.

**Certificate of Appropriateness (COA)** means a permit issued by the historic review commission and the city council granting an applicant approval for the alteration, change, demolition, relocation, excavation, or new construction of contributing site, contributing structure, or landmark for work proposed by an owner or applicant that is subject to this article.

**Contributing Structure** means a building, site, structure, or object that adds to the historic character, or cultural values and possesses historic integrity of the district or area, and because it was constructed during the period of significance, typically at least 50 years old.

**Demolition** means an act or process (notwithstanding acts of God, criminal activity, etc.) which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic, or architectural integrity.

**Demolition by Neglect** means allowing a structure, whether intentional or unintentional, to fall into such a state of disrepair that it becomes necessary or desirable to demolish it.

**Demolition Delay** means suspension by the City of Wylie of an application for removal or demolition of a structure.

**Design Standards** means guidelines adopted by the city council defining the requirements that will preserve the historic and architectural character of a structure or a historic district.

**Downtown Historic District (DTH)** means an area as described in Section 6.3 Downtown Historic District (DTH) B. District Boundaries of the city's Zoning Ordinance. The historic district may have within its boundaries contributing, and non-contributing structures.

**Historic Review Commission (HRC)** means the historic review commission of the City of Wylie.

**Historic Landmark (HL)** means a structure, a group of structures, a site, an area, a district, or combination thereof, that has received designation from the Wylie City Council on its own and not as part of the Downtown Historic district. It may or may not also be located within the Downtown Historic district as part of a separate designation.

**Historic Preservation** means the protection, rehabilitation, restoration, or reconstruction of historically significant structures in an effort to preserve the historic character of Wylie.

**Heritage Preservation Plan or Preservation Plan** means a document created by the historic review commission to provide a current inventory of heritage resources, a list of potential heritage resources, and to make policy recommendations to guide heritage preservation activities for the city of Wylie.

**Heritage Resource** means a property or properties designated by the city council as a Historic Landmark (HL) or Downtown Historic district (DTH).

**Maintenance** means any work for which the purpose and effect of which is to correct or protect with

least degree of intervention any deterioration or decay of or damage to a structure or property, or any part thereof, and to repair or replace the same, as nearly as may be practicable, to avoid any further deterioration, decay, or damage, using the same materials or those materials available which are as close as practicable to the original and all of which must comply with applicable codes and ordinances. Maintenance does not include a change in design, material, or outward appearance, but does include in-kind repairs or replacements.

**Minor in-kind repairs or replacements** means small-scale repairs or replacements to correct minor problems or damage to the exterior of a structure or building, not including a change in design, material, or outward appearance. Examples that satisfy this definition include, but are not limited to touch up painting, spot replacement of shingles, replacement of a windowpane, caulking, and securing loose boards.

**National Historic Landmark** means a nationally significant historic place designated by the Secretary of the Interior for its exceptional value or quality in illustrating or interpreting the heritage of the United States.

**National Register of Historic Places** means 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.

**Non-contributing structure** means a structure within a heritage district that was substantially constructed after the district's period of significance and is not an integral part of the historic, archaeological and architectural fabric of the district or the city, or was substantially constructed within the district's period of significance and does not retain a significant portion of its architectural or design integrity.

**Potential heritage resource** means a property listed in the preservation plan that, according to preliminary research, may have historical, cultural, archeological or architectural importance, either as an individual property or as part of a larger district. A potential heritage resource has not received designation, but has the potential to become designated with further historic research, restoration, or property owner interest.

**Preservation** means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project.

**Reasonable rate of return** means a reasonable profit or capital appreciation, which may accrue from the use or ownership of a structure or property as the result of an investment or labor.

**Reconstruction** means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location.

**Recorded Texas Historical Landmark** means a state designation for buildings important for their historical associations and which have retained a high degree of their original historic fabric, at least fifty (50) years of age, and retained their original exterior appearance.

**Rehabilitation** means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values.

**Relocation** means any change of the location of a structure, object, or material thing in its present setting to another setting.

**Restoration** means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project.

**Secretary of the Interior's Standards for Rehabilitation** means the standards established by the Secretary of the Interior for advising federal agencies on the preservation and rehabilitation of historic properties listed or eligible for listing on the National Register of Historic Places.

**State Antiquities Landmark** means a designation made by the Texas Historical Commission and, in the case of privately-owned property, with the landowner's permission. 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.

#### **Sec. 58-21. - Landmark Designation Purpose.**

In accordance with Section 11 of Ordinance No. 2013-17, and Local Government Code Chapter 211, Section 211.0165 Designation of Historic Landmark, as amended, the municipality shall have the authority to recommend historic landmarks that have local importance. Designating local historic landmarks as Places of Importance brings attention to the general public and protects the historic resource from inappropriate changes or demolition. Such places of importance may be edifices or locations which are distinctive and important elements of the city's cultural, social, economic, political, archeological and architectural history.

#### **Sec. 58-22. - City council to designate.**

Designation of city landmarks will be made by the City Council. Designations may be initiated by a property owner, the Wylie Historical Society of the city, the City Council, or the Planning and Zoning Commission, the Historic Review Commission, or city staff. If the property owner does not consent, the designation or inclusion of the owner's property must be approved by a three-fourths vote of the

City Council, and the Historic Review Commission.

**Sec. 58-23. Criteria and Markers.**

1. Criteria. In making such designations as set forth in this article, the City Council and the Historic Review Commission shall consider one or more of the following criteria:
  - a. Character, interest or value as part of the development, heritage or cultural characteristics of the City of Wylie, State of Texas, or the United States;
  - b. Identification with a person or persons who significantly contributed to the culture and development of the City;
  - c. Location as the site of a significant historic event;
  - d. Exemplification of the cultural, economic, social or historical heritage of the City;
  - e. Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on historical, cultural or architectural motif;
  - f. Unique location of singular physical characteristics representing an established and familiar visual feature of a neighborhood, community or the City;
  - g. Value as an aspect of community sentiment or public pride.
  - h. Detailed recommendation from the Historic Preservation Commission.
2. Markers. Designated landmarks will be awarded markers based on the category of selection.
  - a. Historical edifices and similarly small sites shall be designated with a marker detailing the historical significance of the edifice or site.
  - b. Historical zones, areas and residential neighborhoods shall, where possible in cooperation with the parks and recreation department, be provided with a conspicuous and attractive landscaped area with a marker detailing the historical significance of the zone, area or residential neighborhood.
3. Revocation of Local Historical Landmarks.
  - a. Loss of integrity (through alteration, addition, or designation) is the most common reason for the withdrawal of Landmark Designation. The City Council shall have the power to revoke any Local Historical landmark (LHL) for the violation of any criteria set forth by this ordinance.

The following criteria shall justify the withdrawal of a Local Historical Landmark designation:

- (1) The property has ceased to meet criteria for designation; the qualities for which it was originally designated have been lost or destroyed.
- (2) Additional information forthcoming after the designation demonstrates that the property does not possess sufficient significance to be a Local Historic Landmark.
- (3) A professional error was made in the designation of the property.

Revocation of a Local Historical Landmark designation requires:

- (1) A public hearing where the HRC and City Council shall determine the nature and extent of the violation of the designation;
- (2) Proper notice to the designee;
- (3) Written notice from the HRC, which shall give the designee the reasons for the proposed revocation of the designation; and
- (4) A finding by the Council that reasonable corrective measures have not been done by

the designee and that revocation of the designation is required.

**Sec. 58-24. City to take into account all landmarks when making improvements.**

The City Council, when considering normal city improvements such as lighting, pavement or landscaping, shall, where designated historic landmarks exist, make every effort to ensure that such improvements are in keeping with and enhance the appearance of the landmark edifice or site.

**Sec. 58-25. Ordinary Maintenance.** Nothing in this ordinance should be construed to prevent ordinary maintenance or repair of any exterior architectural feature of a property designated as a landmark or within a historic overlay district. Ordinary maintenance shall be defined as any work that does not constitute a change in design, material, color from a historic palette or outward appearance, and include in-kind replacement or repair.

**Sec. 58-26. Off-Street Parking and Loading.**

Due to the development nature of property with a Historic Landmark Designation, it is recognized that conventional off-street parking, loading, and development standards required by Section 6.3 of the comprehensive zoning ordinance for individual lots may be difficult to provide. Any uses proposed with a Historic Landmark Designation may present a plan for parking to the Historic Review Commission and or the Planning and Zoning Commission. Upon review, the required Commission may determine different amounts and methods in establishing off-street parking.”

**SECTION 3: Savings/Repealing Clause.** All provisions of the Code of Ordinances shall remain in full force and effect, save and except as amended by this or any other ordinance. All provisions of any ordinance in conflict with this Ordinance are hereby repealed to the extent they are in conflict; but such repeal shall not abate any pending prosecution for violation of the repealed ordinance, nor shall the repeal prevent a prosecution from being commenced for any violation if occurring prior to the repeal of the ordinance. Any remaining portions of said ordinances shall remain in full force and effect.

**SECTION 4: Severability.** Should any section, subsection, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, it is expressly provided that any and all remaining portions of this Ordinance shall remain in full force and effect. The City Council hereby declares that it would have passed this Ordinance, and each section, subsection, clause or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared unconstitutional or invalid.

**SECTION 5: Effective Date.** This Ordinance shall become effective immediately upon its adoption.

**DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF WYLIE, TEXAS,** on this 31st day of May, 2022.

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Matthew Porter, Mayor

**ATTEST:**

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Stephanie Storm, City Secretary