

CITY OF JOHNSON CITY

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING THE HISTORIC PRESERVATION ORDINANCE BY REPEALING ARTICLE 1.09 HISTORIC PRESERVATION, AND ADOPTING DIVISION 2. HISTORIC PRESERVATION, SECTION 3-16, ET.AL. OF THE CITY OF JOHNSON CITY CODE OF ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE**

RECITALS

WHEREAS, the City Council of the City of Johnson City (“City”) enacted Article 1.09 Historic Preservation in 2001, amended in 2016 (“Ordinance”), regarding the preservation of historic buildings and landmarks in the City; and

WHEREAS, the City Council finds that revisions and upgrades to the Ordinance are necessary for efficient oversight and management with sections amended to wit: the application and approval procedure for a certificate of review by the Historic Review Board and City Council, the duty of the Board to submit annual reports, and clarification of penalties for violations of the Ordinance; and

WHEREAS, pursuant to Texas Local Government Code Section 211.003(b) the City has general authority to enact zoning regulations regarding the construction, reconstruction, alteration, or razing of buildings of historical, cultural, or architectural importance; and

WHEREAS, the City Council finds that placement of an amended Ordinance within the City’s Zoning Ordinance, Chapter 14 is in accord with Local Government Code Section 211.003(b); and

WHEREAS, public hearings on amendments to the City’s Zoning Ordinance, Chapter 14, Article 14.02 were properly noticed and conducted in accordance with Texas Local Government Code Section 211.006.

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Johnson City:

**ARTICLE I. FINDINGS OF FACT**

The foregoing recitals are adopted as facts and are incorporated fully herein.

**ARTICLE II. REPEAL OF ARTICLE 1.09 HISTORIC PRESERVATION**

The City Council of the City of Johnson City hereby repeals *Article 1.09 Historic Preservation* of the City’s Code of Ordinances, Chapter 1 General Provisions, in its entirety as depicted in "*Attachment A*", attached hereto and incorporated fully herein for all intents and purposes.

**ARTICLE III. ZONING ORDINANCE AMENDMENT,  
ADOPTION AND ENACTMENT**

The City Council of the City of Johnson City hereby amends the City's Code of Ordinances, Chapter 14 Zoning, Article 14.02 Zoning Ordinance, Exhibit A Zoning Ordinance, Article III. Zoning Districts, and adopts and enacts *Division 2. Historic Preservation* to Article 14.02 Zoning Ordinance, Exhibit A Zoning Ordinance, Article III. Zoning Districts, as depicted in "**Attachment B**", attached hereto and incorporated fully herein for all intents and purposes, and to read as contained therein.

**ARTICLE IV. REPEALER AND SEVERABILITY**

**REPEALER:** All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

**SEVERABILITY:** Should any of the clauses, sentences, paragraphs, sections or parts of this Ordinance be deemed invalid, unconstitutional, or unenforceable by a court of law or administrative agency with jurisdiction over the matter, such action shall not be construed to affect any other valid portion of this Ordinance.

**ARTICLE V. EFFECTIVE DATE**

This Ordinance shall be effective immediately upon passage and approval.

**PASSED AND APPROVED** this, the \_\_\_\_\_ day of \_\_\_\_\_, 2021,  
by a majority vote of the City Council of Johnson City, Texas.

**CITY OF JOHNSON CITY, TEXAS**

\_\_\_\_\_  
Rhonda Stell, Mayor

Attest:

\_\_\_\_\_  
Rick Schroder  
Chief Administrative Officer/City Secretary

The City Council of the City of Johnson City hereby repeals *Article 1.09 Historic Preservation* in its entirety as depicted below:

**CITY OF JOHNSON CITY CODE OF ORDINANCES  
CHAPTER 1. GENERAL PROVISIONS  
ARTICLE 1.09—HISTORIC PRESERVATION**

**Sec. 1.09.001—Definitions**

~~*Historic district.*—An area which has outstanding historical and cultural significance in the state, region or community, within which the buildings, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of culture and tourism because of their association with history, including:~~

- ~~(1) Historic structures, sites or areas within which the buildings, structures, appurtenances, and places exemplify the cultural, political, economic or social history of the state, region or community.~~
- ~~(2) Historic structures, sites or areas that are identified with the lives of historic personages or with important events in state, regional or local history.~~
- ~~(3) Structures or areas that embody the distinguishing characteristics of an architectural type specimen as to color, proportion, form and architectural details.~~

~~*Historic landmark.*— A place which has outstanding historical and cultural significance in the nation, region or community. The designation “historic landmark” recognizes that the historic place, or the building(s), structure(s), accessory building(s), fences or other appurtenances at the place, are of basic and vital importance for the preservation of culture and the development of tourism.~~

**Sec. 1.09.002—Designation of historic districts and historic landmarks**

~~(a) *Designation of historic districts.* The city council may from time to time designate certain areas in the city as historic districts, and define, amend or eliminate the boundaries of same. Such districts shall bear the word “Historic” in their zoning designation. Such designation shall be in addition to any other zoning district designation established in the zoning ordinance. All zoning maps shall reflect the historic district by the letter “H” as a suffix to the use designated.~~

~~(b) *Criteria for designation of historic district.* In making the designation of an area as a historic district, the city council shall consider one or more of the following criteria:~~

- ~~(1) Character, interest or value as part of the development, heritage or cultural characteristics of the city;~~
- ~~(2) Location as the site of a historical event;~~

- ~~(3) — Embodiment of distinguishing characteristics of an architectural type or specimen;~~
- ~~(4) — Relationship to other distinctive buildings, sites, districts or structures which are historically significant and preserved, or which are eligible for preservation;~~
- ~~(5) — Unique location of singular physical characteristics represents an established and familiar visual feature of a neighborhood, community or the city;~~
- ~~(6) — Value as an aspect of community sentiment of public pride;~~
- ~~(7) — Identification with a person or persons who significantly contributed to the development or culture of the city.~~

~~(c) — Designation of historic landmarks. The city council may from time to time designate certain places in the city as historic landmarks. Such places shall bear the word “Historic” in their zoning designation. Such designation shall be in addition to any other zoning district designation established in the zoning ordinance. All zoning maps shall reflect the historic landmark by the letter “H” as a suffix to the use designated.~~

~~(d) — Criteria for designation of historic landmark. In making the designation of a place as a historic landmark, the city council shall follow the procedures set forth in subsection (b) of this section.~~

**Sec. 1.09.003 — Historic review board**

~~(a) — Creation; composition. The planning and zoning commission of the city shall serve as the historic review board, hereinafter the “board.” In addition to its planning and zoning duties, the commission shall assume all duties and perform all functions of the board as contained and described in this article. All references to the “review board,” or “historic review board” or the “board” in this article are to the planning and zoning commission.~~

~~(b) — Functions. The board shall act in an advisory capacity only, and shall have no power to bind the city by contract or otherwise. It shall be the function of the board to advise the city council concerning all applications for certificates of review in historic districts or historic landmarks.~~

**Sec. 1.09.004 — Certificate of review required; procedures**

~~(a) — No person or entity shall install, construct, reconstruct, alter, change, restore, remove or demolish any exterior architectural feature of any historic landmark or of any building or structure located within a historic district unless application is made for a certificate of review and such a certificate is granted by the city council.~~

~~(b) — The applicant shall submit to the board an application in writing for a certificate of review that includes data and information as required by the city council, including but not limited to the following:~~

- ~~(1) — Name of the applicant and the property owner;~~

- ~~(2) Mailing address of the applicant and permanent address of the property owner;~~
- ~~(3) Location of the property to be altered or repaired;~~
- ~~(4) A detailed description of the nature of the proposed external alteration or repair to be completed;~~
- ~~(5) The intended and desired starting date and completion date of the alterations or repairs to be made;~~
- ~~(6) A drawing or sketch of the proposed external alteration, if applicable.~~

~~(c) Applications that are incomplete or not in compliance with the city building code, restrictions and other city ordinances shall be returned to the applicant for completion and compliance.~~

~~(d) If the review board determines that the application involves ordinary repair or maintenance, or alteration, change, restoration, or removal of any exterior architectural feature of a building or structure which does not involve significant changes in the architectural or historic value, style, general design or appearance, they shall within seven (7) days approve the application and forward a copy of the application and approval to the mayor, or to the mayor pro tem if the mayor is not available. The mayor or the mayor pro tem shall within three (3) business days either approve the review board decision or call for a meeting of the city council to consider the application. If the mayor or mayor pro tem does not take any action within three (3) business days, it shall be deemed that such person has approved the board's decision.~~

~~(e) If the review board determines that the application involves an alteration, change, restoration, removal or demolition of an external architectural feature of a building or structure which involves a significant change in the architectural or historic value, style, general design or appearance, they shall refer the application to the city council and call for a meeting of the city council to consider the application. The city council shall hold a meeting to consider the application within forty (40) days after receipt of a completed application. The applicant shall be given written notice of the time and place of the meeting. Notice of the meeting shall be published in the official newspaper of the city at least five (5) days prior to such meeting. The city council may hold any additional meetings it considers necessary to carry out its responsibilities under this article. The applicant or his agent shall attend at least one meeting of the city council during which his application is considered. The council shall make its decision within sixty (60) days after receipt of a completed application unless the city council and applicant mutually agree to extend the period of review. If action is not taken within sixty (60) days after receipt of a completed application, it shall be deemed that the council approves the application.~~

~~(f) The project will be inspected by a representative of the city periodically and must conform to all submitted and approved plans and specifications.~~

~~(g) Notwithstanding anything in this section to the contrary, the city council shall make its recommendation within one hundred twenty (120) days after receipt of a completed application for a permit to demolish a historic landmark or a building within a historic district, or to move a historic landmark, or to move a building into or out of a historic district.~~

~~(h) — The city council shall forward its report and recommendation to the applicant.~~

**~~Sec. 1.09.005 — Criteria for action on certificate of review~~**

~~In determining the recommendation and action on an application for a certificate of review, the historic review board shall consider the following matters:~~

~~(1) — The effect of the proposed change upon the general historic, cultural and architectural nature of the district or landmark.~~

~~(2) — The appropriateness of exterior architectural features that can be seen from a public street, alley, or walkway.~~

~~(3) — The general design, scale, arrangement, texture and material of the building or structure and the relation of such factors to similar features of buildings or structures in the district. The criteria shall not be the aesthetic appeal to the board of the structure or the proposed remodeling but rather its conformity to the general character of the particular historic area involved.~~

~~(4) — All signs shall be in keeping with the character of the historic district or landmark.~~

~~(5) — The value of the historic district or landmark as the area of unique interest and character shall not be impaired.~~

~~(6) — The general and specific Standards for Rehabilitation and Guidelines for Applying the Standards for Rehabilitation as issued by the Secretary of the Interior.~~

~~(7) — The importance of finding a way to meet the current needs of the property owner, and the importance of approving plans that will be economically reasonable for the property owner to carry out.~~

**~~Sec. 1.09.006 — Reports and recommendations by board~~**

~~(a) — The board shall make an annual report to the city council on the state of historic preservation in the city and shall include in the report a summary of its activities for the past year and a proposed program for the next year.~~

~~(b) — The board shall have the further responsibility of recommending to the city council, the planning and zoning commission, and city departments the adoption of policies, the sources of funds, and designation of historic districts and historic landmarks that may further the city's preservation effort.~~

**~~Sec. 1.09.007 — Violations; penalty~~**

~~(a) — It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, relocate, restore, demolish, raze, or maintain any building, structure, accessory building, fence or other appurtenance in a historic district or historic landmark in violation of the provisions of this article,~~

~~and proper city officials, or their duly authorized representatives, in addition to other remedies, may institute any appropriate action or proceeding to prevent such unlawful construction, reconstruction, structural alteration, remodeling, renovation, restoration, relocation, demolition, razing or maintenance, to restrain, correct, or abate such violation, and to prevent any illegal act, conduct, business or maintenance in and about such premises; each day such violation continues shall constitute a separate violation.~~

~~(b) Any person, firm or corporation violating any provision of this article shall be guilty of a misdemeanor, and each shall be deemed guilty of a separate offense for each day or portion thereof during which any violation hereof is committed, continued or permitted, and upon conviction any such violation shall be punishable by a fine not to exceed two hundred dollars (\$200.00).~~

The City Council of the City of Johnson City hereby amends the City’s Code of Ordinances, Chapter 14 Zoning, Article 14.02 Zoning Ordinance, Exhibit A Zoning Ordinance, Article III. Zoning Districts, and adopts and enacts *Division 2. Historic Preservation* to Article 14.02 Zoning Ordinance, Exhibit A Zoning Ordinance, Article III. Zoning Districts, to read as follows:

**CITY OF JOHNSON CITY CODE OF ORDINANCES**

**CHAPTER 14 ZONING**

**ARTICLE 14.02 ZONING ORDINANCE**

**EXHIBIT A ZONING ORDINANCE**

**ARTICLE III. ZONING DISTRICTS**

**DIVISION 2 HISTORIC PRESERVATION**

**Sec. 3-16 Definitions**

*Historic overlay district; “H”*. An area which has outstanding historical and cultural significance in the State, region, or City, within which the buildings, structures, accessory buildings, fences, or other appurtenances are of basic and vital importance for the development of culture and tourism because of their association with history, including:

- (1) Historic structures, sites, or areas within which the buildings, structures, appurtenances, and places exemplify the cultural, political, economic, or social history of the State, region, or City.
- (2) Historic structures, sites, or areas that are identified with the lives of historic personages or with important events in State, regional, or local history.
- (3) Structures or areas that embody the distinguishing characteristics of an architectural type specimen as to color, proportion, form, and architectural details.

*Historic landmark; “HL”*. A place which has outstanding historical and cultural significance in the nation, region, or City. The designation “historic landmark” recognizes that the historic place or the building(s), structure(s), accessory building(s), fences, or other appurtenances at the place, are of basic and vital importance for the preservation of culture and the development of tourism.

**Sec. 3-17 Designation of historic districts and historic landmarks**

(a) Designation of historic districts. The City Council designates the area notated on the City’s official Zoning Map as the “Historic Overlay District”. The Historic Overlay District shall bear the word “Historic” in its zoning designation, and such designation shall be in addition to any other

Zoning District designation established in the Zoning Ordinance. All Zoning Maps shall reflect the Historic Overlay District by the letter “H”.

(b) Criteria for designation of Historic Overlay District. In making the designation of an area as a historic district, the City Council shall consider one or more of the following criteria:

- (1) Character, interest, or value as part of the development, heritage, or cultural characteristics of the City;
- (2) Location as the site of a historical event;
- (3) Embodiment of distinguishing characteristics of an architectural type or specimen;
- (4) Relationship to other distinctive buildings, sites, districts, or structures which are historically significant and preserved, or which are eligible for preservation;
- (5) Unique location of singular physical characteristics represents an established and familiar visual feature of a neighborhood, community, or the City;
- (6) Value as an aspect of community sentiment of public pride; and
- (7) Identification with a person or persons who significantly contributed to the development or culture of the City.

(c) Designation of historic landmarks. After public notice and hearing, the City Council may from time-to-time designate certain places in the City as historic landmarks. Such places shall bear the word “Historic” in their zoning designation, and such designations shall be in addition to any other Zoning District designation established in the Zoning Ordinance. All Zoning Maps shall reflect the historic landmark by the designation “HL”.

(d) Criteria for designation of historic landmark. In making the designation of a place as a historic landmark, the City Council shall consider the criteria set forth in Subsection (b) of this Section.

### **Sec. 3-18 Historic review board**

(a) Creation; composition. The Planning and Zoning Commission of the City shall serve as the Historic Review Board, hereinafter the “Board.” In addition to its planning and zoning duties, the Commission shall assume all duties and perform all functions of the Board as contained and described in this Division. All references to the “review board,” or “historic review board” or the “board” in this Division are to the Planning and Zoning Commission.

(b) Functions. The Board shall act in an advisory capacity only, and shall have no power to bind the City by contract or otherwise. It shall be the function of the Board to advise the City Council concerning all applications for certificates of review in Historic Overlay Districts or Historic Landmarks.

### **Sec. 3-19 Certificate of review required; procedures**

(a) No person or entity shall install, construct, reconstruct, alter, change, restore, remove, or demolish any exterior architectural feature of any historic landmark or of any building or structure located within a Historic Overlay District unless application is made for a certificate of review and such a certificate is granted by the City Council.

(b) The applicant shall submit to the Board an application in writing for a certificate of review that includes data and information required by the City Council, including, but not limited to, the following:

- (1) Name of the applicant and the property owner;
- (2) Mailing address of the applicant and permanent address of the property owner;
- (3) Location of the property to be altered or repaired;
- (4) A detailed description of the nature of the proposed external alteration or repair to be completed;
- (5) The intended and desired starting date and completion date of the alterations or repairs to be made; and
- (6) A drawing or sketch of the proposed external alteration, if applicable.

(c) Applications that are incomplete or not in compliance with the City Building Code, restrictions, and other City Ordinances shall be returned to the applicant for completion and compliance.

(d) All applications shall be subject to review by the Board and action by the City Council. The Board shall review the applications for all certificates of review and determine whether the applications are in conformance with this Division. With the exception of Subsection (e) hereof, the City Council shall approve, approve with conditions, or deny all applications within sixty (60) days of application submittal.

(e) For a permit to demolish or move a historic landmark or building within a Historic Overlay District or any other Zoning District, the City Council shall render a decision within one hundred twenty (120) days after receipt of a completed application.

### **Sec. 3-20 Criteria for action on certificate of review**

In determining the recommendation and action on an application for a certificate of review, the Board and City Council shall consider the following matters:

- (1) The effect of the proposed change upon the general historic, cultural, and architectural nature of the District or landmark;

- (2) The appropriateness of exterior architectural features that can be seen from a public street, alley, or walkway;
- (3) The general design, scale, arrangement, texture, and material of the building or structure and the relation of such factors to similar features of buildings or structures in the District. The criteria shall not be the aesthetic appeal of the structure or the proposed remodeling, but rather, its conformity to the general character of the particular historic area involved;
- (4) The character of the Historic Overlay District or Landmark for all signs;
- (5) Preservation of the value of the Historic Overlay District or Landmark, as the area of unique interest and character;
- (6) The general and specific Standards for Rehabilitation and Guidelines for Applying the Standards for Rehabilitation, as issued by the Secretary of the Interior; and
- (7) The importance of balancing the current needs of the property owner with the importance of approving plans that will be economically reasonable for the property owner.

### **Sec. 3-21 Violations; penalty**

(a) It shall be unlawful to construct, reconstruct, structurally alter, remodel, renovate, relocate, restore, demolish, raze, or maintain any building, structure, accessory building, fence or other appurtenance in a Historic Overlay District or Historic Landmark in violation of the provisions of this Division. The City may institute any appropriate action or proceeding to prevent such unlawful construction, reconstruction, structural alteration, remodeling, renovation, restoration, relocation, demolition, razing, or maintenance; to restrain, correct, or abate such violation; and to prevent any illegal act, conduct, business, or maintenance in and about such premises. Each day such violation continues shall constitute a separate violation.

(b) Criminal Offense. Violation of any provision of this Division is a misdemeanor. Each day of a violation shall constitute a separate offense. A fine for a violation may not exceed two hundred dollars (\$200.00).”

(c) Civil Action. A person who violates a provision of this Ordinance is subject to a civil suit for injunctive relief and to a civil penalty. The City may seek also to recover damages from the violator in an amount adequate for the City to undertake activity necessary to bring compliance with the Ordinance.