

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

**AN ORDINANCE OF THE CITY OF MANSFIELD, TEXAS, AMENDING CHAPTER 38 OF THE MANSFIELD CODE OF ORDINANCES, "TAXATION AND FINANCE," TO ESTABLISH A HISTORIC PRESERVATION TAX EXEMPTION PROGRAM FOR THE CITY OF MANSFIELD; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Article 8, Section 1-f of the Texas Constitution and Section 11.24 of the Texas Tax Code enable the City of Mansfield to exempt from taxation part or all of the assessed value of a structure if the structure is designated by the City as a historically or archeologically significant site in need of tax relief to encourage its preservation; and

**WHEREAS**, the City Council has established a program of designating historic sites and structures as historic landmarks through the zoning process in order to preserve and protect the cultural heritage of Mansfield; and

**WHEREAS**, the City Council is seeking to establish provisions to grant exemptions from ad valorem taxes for certain historically significant structures which have been recommended for exemption to encourage their preservation; and

**WHEREAS**, in accordance with state law the City Council finds that all designated landmark structures are historically significant and entitled to tax relief in order to encourage historic preservation; and

**WHEREAS**, upon the recommendation of the Mansfield Historic Landmark Commission, the City Council now finds it is necessary to adopt provisions for the tax exemption program for historic preservation within the City of Mansfield and that such provisions are in the best interest of the City and its citizens;

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

**SECTION 1.**

That Chapter 38 of the Code of Ordinances, City of Mansfield, Texas, is hereby amended by adding new Sections 38.20 through 38.27 to read as follows:

**"TAX RELIEF FOR HISTORIC STRUCTURES**

**§ 38.20 GRANTING OF EXEMPTIONS.**

The City Council shall by ordinance, concurrent with the levy of taxes for each current year, approve for partial exemption from ad valorem taxes certain historic resources which have been recommended for exemption pursuant to provisions of this Sub-chapter.

## § 38.21 PERCENTAGE OF VALUE EXEMPTED.

Historic resources which are approved for exemption by ordinance pursuant to the provisions of this Sub-chapter shall have the following percentage of assessed improvement value exempt from ad valorem taxes levied by the City:

(A) Level 1: Residential and commercial structures which have obtained an “H”, Historic Landmark Overlay District designation shall be eligible for a one-time exemption of twenty-five (25) percent of the assessed improvement value of the structure for a period of ten (10) years.

(B) Level 2: Residential structures with an “H”, Historic Landmark Overlay District designation shall be eligible for an exemption of up to one hundred (100) percent of the assessed improvement value of the structure for a period of ten (10) years for exterior restorations or repairs that extend the life of the structure amounting to five thousand dollars (\$5,000.00) or more.

(1) A change in a residential use to a commercial use will result in a reduction of one-half of the awarded exemption for the remaining years in the collection period.

(C) Level 3: Commercial structures with an “H”, Historic Landmark Overlay District designation shall be eligible for an exemption of up to fifty (50) percent of the assessed improvement value of the structure for a period of ten (10) years for exterior restorations or repairs that extend the life of the structure amounting to five thousand dollars (\$5,000.00) or more.

(D) Should a property owner receiving a tax exemption under this Sub-chapter remove the “H” Historic Landmark Overlay District designation, the value received from the exemption must be repaid. No repayment is required if a historic structure is destroyed by fire, storm, or other natural act not due to the property owner’s action.

## § 38.22 APPLICATION.

(A) For the assessment year for which the owner of the structure desires such structure to be tax exempt to the extent provided by this Sub-chapter, the owner shall file with the Historic Preservation Officer an application no later than January 1, attesting that the eligibility requirements of this Sub-chapter are fully satisfied at the time of application submittal.

(1) Once an owner has applied and been approved for a tax exemption on an eligible structure, an annual application shall not be required by the City during the collection period as long as the same owner retains ownership of the property.

(2) If the property ownership changes on an exempt property, the new owner may request an extension of the tax exempt status for the remainder of the

calendar year for the year of purchase. A new application will be required to be filed with the City as set out herein for the following assessment year. Any outstanding repair or maintenance items identified in the tax exemption survey of the most recent approved year must be addressed for the following year's eligibility.

(3) If a property owner was previously denied tax exempt status for a property, a new application must be filed with the City as set out herein. Any outstanding Zoning Ordinance compliance issues or exterior repair or maintenance items identified in previous tax exemption surveys must be addressed to regain eligibility.

(B) An application for a tax exemption shall be initiated by the owner of the subject property or by his or her agent, by completion of forms provided by the Historic Preservation Officer. For Level 2 and Level 3 exemptions, the application must include receipts for the cost of a qualifying restoration or repair project.

(C) The application shall affirmatively set forth the owner's authorization for City staff members to visit and inspect the property and books and records as necessary to certify whether or not the structure is being preserved and maintained as required by Section 38.23 of this Sub-chapter.

#### § 38.23 INSPECTION; APPROVAL OR DENIAL CERTIFICATION.

(A) Upon receipt of an application, the Historic Preservation Officer or designee shall conduct an inspection survey of the property and review the books and records as necessary to certify whether or not:

(1) The structure is being preserved and maintained in accordance with the City's applicable regulations and historic design guidelines; and

(2) The building and site are in compliance with the City's Zoning Ordinance; and

(3) The building and site are in compliance with the inspection criteria of this Sub-chapter listed under Paragraphs (B) and (C) below.

(B) Building elements with their materials and finishes shall be maintained in good repair and in operable condition to avoid decay, damage, structural failure and hazardous or unsafe conditions. Generally:

(1) Exterior surfaces of all structures (main structure and accessory structures) shall be clean, maintained, protected and weathertight.

(2) Repainting/paint touch-ups shall closely match the existing paint colors and applied at reasonable intervals.

(3) Damaged, loose, or rotted materials/details shall be reestablished,

repaired or replaced. All joints or cracks shall be weatherproofed appropriately by proper maintenance.

(4) Exterior facades shall be clean from any graffiti, overgrown vegetation, and left over residues from previous work/installations.

(5) Damaged or worn property elements shall be repaired, restored or replaced and secured properly to remain operable.

(6) Vacant structures shall be securely closed and weathertight. Any unoccupied structure shall be maintained and secured to avoid becoming a structure that may be considered demolished by neglect.

(7) Exterior materials shall be maintained to historic standards as outlined in the applicable historic landmark design guidelines and the Secretary of the Interior's Standards.

(8) Exterior plumbing, electrical and mechanical fixtures shall be secured properly.

(9) Grounds shall be maintained free of excessive rubbish, garbage, junk, refuse or debris.

(C) The Historic Preservation Officer or designee shall inspect the structure, accessory structures, property elements and grounds to ensure general maintenance has occurred as described immediately above.

(D) The Historic Preservation Officer shall present to the Historic Landmark Commission a list of properties recommended for approval or denial of the tax exemption based on the findings of the inspection survey. A denial recommendation may include the following reasons:

(1) A structure is not being preserved and maintained in accordance with the City's applicable regulations and historic design guidelines or is not in compliance with the City's Zoning Ordinance; or

(2) Deficiencies from previous inspection surveys were not completed by January 1 of the subject year; or

(3) Exterior work was completed, installed, or is under construction without a Certificate of Approval or in deviation of a previously approved Certificate of Approval.

(E) The Historic Landmark Commission shall hold a public hearing to make a determination of property eligibility and to certify properties have adequately addressed the deficiencies in the required time frame from the previous year and are in compliance. The Historic Landmark Commission may grant an extension to properties if it is determined that extenuating circumstances exist. Such circumstances should generally be justified by supportive information

such as:

(1) Cost estimates or other information indicating the required repair is more substantial than initially expected;

(2) Documentation that the issue(s) was misidentified or didn't exist in the manner described in the tax exemption survey; or

(3) Documentation that the issue is being addressed as part of a larger series of repairs or improvements and has received approval with a Certificate of Approval.

(F) The Historic Landmark Commission shall certify the facts to the City Council not later than March 1 of the subject year, along with the Historic Landmark Commission's determination for approval or denial of applications for tax exemption.

(G) Following adoption by City Council, the Historic Preservation Officer will notify applicants of any new deficiencies based on the findings of the tax exemption survey. The applicant shall address deficiencies within the time frame determined at the time of notification.

#### § 38.24 APPEAL OF HISTORIC LANDMARK COMMISSION'S DETERMINATION.

Any owner of a qualified historic resource may appeal denial of the tax exemption by the Historic Landmark Commission by submitting a notice of appeal in the form of a signed letter to the Historic Preservation Officer within ten (10) business days of the date of the Commission's action. The Historic Preservation Officer shall submit the letter of appeal to the City Council and it shall be heard as part of Council's consideration of the adopting ordinance noted in Section 38.25 of this Sub-chapter. Should the City Council overturn the Historic Landmark Commission's determination and grant tax exempt status to the property, the property will be added to the ordinance and list of exempted properties forwarded to the chief appraiser. If the City Council upholds the determination of the Historic Landmark Commission, the property will not be included in the list forwarded to the chief appraiser with the adopting ordinance and the property owner may resubmit for tax exemption consideration the following year in accordance with Section 38.22 of this Sub-Chapter.

#### § 38.25 ADOPTION OF ORDINANCE BY CITY COUNCIL.

The City Council shall adopt an ordinance granting exemptions under this Sub-chapter. The ordinance shall specify the exempt structures and shall provide that all land shall be assessed for taxation in the same equal and uniform manner as all other taxable properties in the City. The City shall cause a copy of the ordinance and certifications from the Historic Landmark Commission to be forwarded to the chief appraiser not later than April 30 of the subject year.

§ 38.26 RENDITION AND ASSESSMENT OF HISTORIC RESOURCES FOR AD VALOREM TAXATION.

The provisions of this Sub-chapter pertaining to partial exemption of historic resources do not change the provisions of any other ordinance provision of the City pertaining to taxation, and the applicant's structures shall be rendered and assessed in the same manner as any other property if the City Council elects to disapprove the application for exemption.

§ 38.27 DEFINITIONS.

***COMPATIBLE STRUCTURE.*** A structure within a Historic Landmark Overlay District that was substantially constructed after the district's period of significance, but fits within the existing character of the Historic Landmark Overlay District to reflect existing buildings in massing, height, scale, material, roof, color, architectural details, and general appearance, or is built in accordance with an approved Certificate of Approval.

***CONTRIBUTING STRUCTURE.*** A structure within a Historic Landmark Overlay District that was substantially constructed within the district's period of significance and retains a significant amount of its physical integrity and character defining features including location, setting, design, construction, workmanship, or association with historical persons or events.

***HISTORICALLY SIGNIFICANT SITE.*** For the purposes of this Sub-Chapter, structures within the H, Historic Landmark Overlay District, except for structures delineated by the Historic Landmark Commission as non-contributing or incompatible structures.

***HISTORIC RESOURCE.*** A structure, site, or landmark of historical, cultural, archeological, or architectural importance at the national, state, or local level, and that has received from the Mansfield City Council local historic landmark designation within the Historic Landmark Overlay District.

***HISTORIC LANDMARK OVERLAY DISTRICT.*** An area which includes one (1) or more structures, sites or properties, together with their accessory buildings, fences, and other appurtenances that are of historical, cultural, archaeological, or architectural importance, and that has received from the Mansfield City Council local historic landmark designation in accordance with Section 5400 of the Zoning Ordinance. A Historic Landmark Overlay District may have within its boundaries contributing, compatible, non-contributing, and incompatible structures.

***INCOMPATIBLE STRUCTURE.*** A structure within a Historic Landmark Overlay District that is built after the district's designation without an approved Certificate of Approval.

***NON-CONTRIBUTING STRUCTURE.*** A structure within a Historic Landmark Overlay 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.”

## **SECTION 2.**

That all ordinances of the City in conflict with the provisions of this ordinance be, and the same are hereby, repealed and all other ordinances of the City not in conflict with the provisions of this ordinance shall remain in full force and effect.

## **SECTION 3.**

Should any paragraph, sentence, subdivision, clause, phrase or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional.

## **SECTION 4.**

This ordinance shall take effect immediately from and after its passage on third and final reading and the publication of the caption, as the law and charter in such cases provide.

First reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

Second reading approved on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

DULY PASSED on the third and final reading by the City Council of the City of Mansfield, Texas, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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**David L. Cook, Mayor**

ATTEST:

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**Susana Marin, City Secretary**

APPROVED AS TO FORM AND LEGALITY

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**Allen Taylor, City Attorney**