

ORDINANCE NO. 2022-____ - ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 98, ARTICLE III OF THE CITY OF MCKINNEY CODE OF ORDINANCES BY AMENDING SECTION 98-84 BY UPDATING THE PROGRAM REQUIREMENTS AND REGULATIONS RELATING TO THE HISTORIC NEIGHBORHOOD IMPROVEMENT ZONE PROGRAM AND BY AMENDING SECTION 98-85 BY SETTING FORTH THE PROGRAM REQUIREMENTS RELATING TO THE NEIGHBORHOOD EMPOWERMENT ZONE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY PROVISION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in 2007 the City Council of the City of McKinney appointed a committee to study and initiate programs to benefit property owners who desire to invest in the diverse housing mix in historic, central McKinney; and

WHEREAS, the committee sought and received approval of proposed preservation and investment programs tailored to preserve the city's unique and historic neighborhoods while encouraging property owners to maintain and/or rehabilitate their residences; and

WHEREAS, the city established the Historic Neighborhood Improvement Zone (HNIZ) on February 6, 2007 by Ordinance No. 2007-02-0014, and as amended by Ordinance No. 2008-04-030, Ordinance No. 2013-11-110, Ordinance No. 2015-12-105, and Ordinance No. 2018-02-009 wherein owners within a defined geographic area may receive tax exemptions based on verified investment meeting specified criteria; and

WHEREAS, the creation of a Neighborhood Empowerment Zone (NEZ) of the area comprising the same area as the Historic Neighborhood Improvement Zone was also established to promote rehabilitation of affordable housing in the zone; and

WHEREAS, the City Council recognizes that certain provisions of the Code of Ordinances should be reviewed and updated from time to time; and

WHEREAS, the City Council of the City of McKinney, Texas, finds and determines that it is in the best interest of the public health, safety and general welfare of the citizens of McKinney, Texas, to amend Section 98-84, "Historic Neighborhood Improvement Zone Program" and Section 98-85, "Neighborhood Empowerment Zone" by updating the regulations for the programs described herein.

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

Section 1. FINDINGS

All of the above premises are found to be true and correct legislative determinations and are incorporated into the body of this Ordinance as if copied in their entirety.

Section 2. THE MCKINNEY CITY CODE IS HEREBY AMENDED BY AMENDING SECTION 98-84, "HISTORIC NEIGHBORHOOD IMPROVEMENT ZONE PROGRAM" BY UPDATING THE REQUIREMENTS AND REGULATIONS FOR SAID PROGRAM

From and after the effective date of this Ordinance, Chapter 98-84 of the McKinney Code is hereby amended by deleting Section 98-84, entitled "Historic Neighborhood Improvement Zone Program," in its entirety and replacing said Section with a new Section 98-84, entitled "Historic Neighborhood Improvement Zone Program" to read as follows:

"Sec. 98-84. – Historic Neighborhood Improvement Zone Program.

A Historic Neighborhood Improvement Zone Program ("HNIZ Program") is created wherein owners in the defined geographic HNIZ may receive ad valorem tax exemptions inclusive of land and building improvements based on verified investment meeting specified criteria. This program consists of minimum eligibility requirements and three levels of program tax exemption incentives.

(1) Program Eligibility Requirements.

- a. To be eligible for a HNIZ Program Incentive, the following minimum requirements shall apply:
 1. The property shall be owner-occupied and shall maintain a homestead exemption from the Collin Central Appraisal District for the life of the incentive period.
 2. Verified, eligible improvements shall have received all necessary permits and approvals, including an approved Certificate of Appropriateness.
 3. The structure, accessory structures, grounds, property elements and building elements with their materials and finishes have been maintained in good repair and in operable condition to avoid decay, damage, structural failure, and hazardous or unsafe conditions.

4. There are no pending code violations on the property.
5. The total ad valorem taxes owed to the City must be current and paid on time (on or before January 31st of the year of application)

(2) *Program Incentives.*

- a. Historic Marker Incentive (Level 1): Residential properties that meet the program eligibility requirements outlined in Section 98-84(1) and which meet the Historic Marker (Level 1) Incentive criteria may receive a one-time, 100 percent exemption of the city's ad valorem taxes for a period of 10 years.

The criteria for receiving a Historic Marker (Level 1) Incentive are as follows:

1. The property has received a historic marker designation pursuant to the Historic Marker Program requirements outlined in Section 98-84(8).
2. A minimum investment of \$10,000 in building improvements for the property has been demonstrated within at least the previous 3 years from the date of the request for a Marker Incentive (Level 1).

- b. Rehabilitation Incentive (Level 2): Residential properties that meet the program eligibility requirements outlined in Section 98-84(1) and which meet the Rehabilitation Incentive (Level 2) criteria below may receive a 50 percent exemption of the city's ad valorem taxes for a period of 10 years.

The criteria for receiving a Rehabilitation Incentive (Level 2) are as follows:

1. The residential structure is at least 40 years old.
2. The owner receives a Letter of Eligibility from the City of McKinney verifying that proposed exterior and/or interior improvements to the residential structure qualify for a Rehabilitation Incentive (Level 2) as part of the Historic Neighborhood Improvement Zone Program. Eligible exterior improvements shall be limited to comprehensive maintenance and rehabilitation such as painting, roof, windows, foundation, and siding. Eligible interior improvements shall be limited to things such as improvements or upgrades to sanitary sewer lines, fire, HVAC,

insulation, electrical, and/or plumbing consistent with applicable historic district and building codes, as applicable.

3. No later than 12 months following the issuance of the Letter of Eligibility, the owner completes, or causes to be completed, verified, eligible improvements having a combined cost of at least \$10,000.

- c. Preservation Incentive (Level 3): Residential properties that meet the program eligibility requirements outlined in Section 98-84(1) and which meet the Preservation Incentive (Level 3) criteria below may receive a 30 percent exemption of the city's ad valorem taxes for a period of 10 years.

The criteria for receiving a Preservation Incentive (Level 3) are as follows:

1. The residential structure is at least 40 years old.
2. The owner receives a Letter of Eligibility from the City of McKinney verifying that proposed exterior and/or interior improvements to the residential structure qualify for a Preservation Incentive (Level 3) as part of the Historic Neighborhood Improvement Zone Program. Eligible exterior improvements shall be limited to comprehensive maintenance and rehabilitation such as painting, roof, windows, foundation, and siding. Eligible interior improvements shall be limited to things such as improvements or upgrades to sanitary sewer lines, fire, HVAC, insulation, electrical, and/or plumbing consistent with applicable historic district and building codes, as applicable.
3. No later than 12 months following the issuance of the Letter of Eligibility, the owner completes, or causes to be completed, verified, eligible improvements having a combined cost of at least \$5,000.

- d. Incentive Approvals: HNIZ Program incentives shall be considered by the Historic Preservation Advisory Board (HPAB) and may be appealed to the City Council.

(3) *Aggregate Cap (per year)*:

- a. The City Council may impose an aggregate cap on the total amount of ad valorem taxes which would be exempted in any budget year under any or all of the levels set forth in Chapter

98-84, Section 2. The annual cap shall be exhausted on a “first come, first served” basis, as determined by the actual date the city receives a completed application. The cap shall be a tool to limit any budgetary concerns based on yearly fluctuations in tax revenues, and as such, the annual cap may be raised or lowered each year by the City Council.

- b. For calendar year 2022 and continuing annually thereafter until otherwise adjusted by the City Council, the aggregate cap on exempted ad valorem taxes shall be \$500,000 per year.
- (4) *Additional Incentives:* All HNIZ Program incentives approved by the HPAB shall replace any existing HNIZ Program incentive, including the incentive period, that may otherwise exist on a residential property.
 - (5) *Implementation:*
 - a. The city shall set up an application process providing for the review of applications, verification of improvements and certification of the exemption incentives.
 - b. Exemptions may continue and be transferable upon sale of the property.
 - c. Exemption incentives shall be subject to the program requirements of Chapter 98-84, as amended; except that the established expiration date for an exemption shall be based on the exemption periods in place at the time of approval of the incentive.
 - (6) *Annual Inspections:* Code inspection and periodic checks by the Director of Planning or their designee on annual owner certifications for previously-constructed exterior improvements of the structure, accessory structures, grounds, site features, and building elements shall be a key element to verification of new construction, maintenance of improvements and overall maintenance of the property. The exterior shall be maintained to historic standards as outlined in the Secretary of the Interior’s Standards for Rehabilitation.
 - (7) *Suspension of tax exemption:* The city may suspend a HNIZ Program Incentive on any property at any time if: the property is altered without proper approvals, is no longer owner occupied, is totally or partially destroyed by willful act or negligence of the homeowner or their representative, or the overall maintenance of the property, including but not limited to eligible exterior improvements, fall into a state of disrepair and no longer promote the intent and philosophy of the program. Should the Director of Planning or their designee find

that a property is in a state of disrepair and does not meet the intent and philosophy of the program, the owner shall be notified of the specific deficiencies in writing and shall have one year to cure the deficiencies from the date of such written notification. If the deficiencies are not remedied within one year, the City Council may suspend the HNIZ Program Incentive for the property.

(8) *Historic Marker Program:* The purpose of the marker program is to encourage owners of historic properties to become actively involved in the preservation of McKinney's historic past through the recognition of historic events, people, and architecture.

- a. The marker, if awarded, would allow the owner of the building to apply for an ad valorem tax incentive through the HNIZ Program provided the building has been rehabilitated or restored according to the Secretary of the Interior's Standards.
- a. Requests for a Historic Marker shall include the following minimum information:
 - 1. A written documented history.
 - 2. Verification that the building is a minimum of 50 years of age.
 - 3. Verification that the residential property is located within the HNIZ boundary.
 - 4. Photo documentation of all four elevations using black and white or color photographs and copies of any available historic photographs.
 - 5. Legal description of the property with a location map.
 - 6. Site plan of the property shall be provided, if available.
 - 7. Additional information as deemed necessary by the Director of Planning or their designee.
- c. Requests for a Historic Marker shall be considered for approval or denial by the Historic Preservation Advisory Board (HPAB) and may be appealed to the City Council.
- d. If awarded, the owner shall be responsible for the purchase and display of the marker on the property.”

(9) *Program Suspension:* The City may suspend the program at any time.

Section 3. **THE MCKINNEY CITY CODE IS HEREBY AMENDED BY AMENDING SECTION 98-85, “NEIGHBORHOOD EMPOWERMENT ZONE” BY**

SETTING FORTH THE REQUIREMENTS AND REGULATIONS FOR SAID PROGRAM

From and after the effective date of this Ordinance, Chapter 98 of the McKinney Code is hereby amended by deleting Section 98-85, entitled "Neighborhood Empowerment Zone," in its entirety and replacing said Section with a new Section 98-85, entitled "Neighborhood Empowerment Zone" to read as follows:

"Sec. 98-85. - Neighborhood empowerment zone.

A neighborhood empowerment zone (NEZ) as set forth in V.T.C.A., Local Government Code ch. 378, as amended, is hereby created to promote the rehabilitation of affordable housing in the NEZ. The NEZ shall be geographically coexistent with the HNIZ.

- (1) *Neighborhood empowerment zone (NEZ) overlay under Local Government Code Chapter 378:* The neighborhood empowerment zone overlay (NEZ) shall be geographically coexistent with the HNIZ. The NEZ is created wherein development projects in the defined geographic area may receive impact fee waivers based on specified criteria.
 - a. Single family: Within the NEZ, new single family residential construction commencing on a lot of record is eligible to receive residential roadway, water, and wastewater impact fee waivers, provided that the design and completion of the new construction is generally compatible with the massing, size, scale, and architectural features of the surrounding neighborhood. Prior to construction, an application shall be made to the HPO, who shall determine whether the proposed construction is eligible for the waiver of impact fees. Impact fees shall be collected at the time of building permit issuance and remitted to the owner upon completion and final inspection of compliant construction. The HPO shall make a determination of eligibility for impact fee waivers based, in part, on the "Guidelines for New Construction in the NEZ" attached hereto as Exhibit B and made a part hereof for all purposes. Appeals of the HPO's determination of eligibility for impact fee waivers shall be made to the City Council.
 - b. Multi-family: Within the NEZ, new multi-family construction, being three or more dwelling units on a

single lot and commencing on a lot of record, is eligible to receive roadway impact fee waivers only, provided that the design and completion of the new construction is generally compatible with the massing, size, scale, and architectural features of the surrounding neighborhood. Prior to construction, an application shall be made to the HPO, who will present an eligibility determination for roadway impact fee waivers to the City Council for approval or denial based on the proposed construction. The City Council shall determine eligibility for impact fee waivers based, in part, on the "Guidelines for New Construction in the NEZ" attached hereto as Exhibit B and made a part hereof for all purposes. All impact fees shall be collected at the time of building permit issuance and remitted to the owner upon completion and final inspection of compliant construction.

- c. Non-residential: Within the NEZ, new non-residential or vertically-integrated mixed-use (non-residential and residential uses in a single structure) construction commencing on a lot of record, is eligible to receive roadway impact fee waivers only provided that the completion of the construction and development project meets at least three of the following criteria:
1. Compatibility. Construction is generally compatible with the massing, size, scale, and architectural features of the surrounding buildings and environment;
 2. Amenities. Construction includes enhanced pedestrian and/or streetscape amenities;
 3. Town Center Master Plan. Development project is consistent with, and promotes the Town Center Master Plan;
 4. Investment. New construction on a vacant site includes a minimum capital investment of \$75,000.00. Rehabilitation of an existing building in accordance with the Secretary of the Interior Standards includes a minimum capital investment of \$75,000.00 or 30 percent of the present building value as appraised by the Collin Central Appraisal District, whichever is greater;
 5. Mixed-use. Construction includes vertical integration of residential and non-residential

uses in the same structure with non-residential uses on the entire ground floor;

6. Job creation. Development project creates one new, full-time job (or correlative FTE) per 200 square feet of gross floor area; or
7. Vacant/underutilized site/building. Construction occurs within the vacant/underutilized sites/buildings improvement area as designated in the Tax Increment Reinvestment Zone Number 1 Project Plan.

- (a) Prior to construction, an application shall be made to the HPO that includes supporting documentation of the project's ability to meet the eligibility criteria established for the waiver of roadway impact fees. For projects where roadway impact fees exceed \$50,000.00, the HPO shall make a determination of eligibility for roadway impact fee waivers and present a recommendation to the City Council for approval or denial. The HPO determination of eligibility shall be based on the merits of the owner's application and documentation received read in conjunction with the criteria above. For projects with roadway impact fees that are equal to or less than \$50,000.00, the HPO shall have the authority to determine whether the proposed project is eligible for the waiver of roadway impact fees, with appropriate appeals to the City Council. All roadway impact fees shall be collected at the time of building permit issuance and remitted to the owner upon completion and final inspection of the compliant construction. Upon completion and final inspection, the HPO shall have the authority to waive 100 percent of roadway impact fees up to and including \$50,000.00 or in accordance with the eligibility determination made by the City Council after its consideration of an owner's eligibility.

EXHIBIT B

GUIDELINES FOR NEW CONSTRUCTION IN THE NEIGHBORHOOD EMPOWERMENT ZONE

New construction in the Neighborhood Empowerment Zone (NEZ) should be compatible with the massing, size, scale, and architectural features of the surrounding homes. New construction in the NEZ should not attempt to recreate or replicate a past architectural style in its entirety but should take cues from the architectural and design elements of surrounding historic structures. No specific architectural style shall be required for new construction in the NEZ.

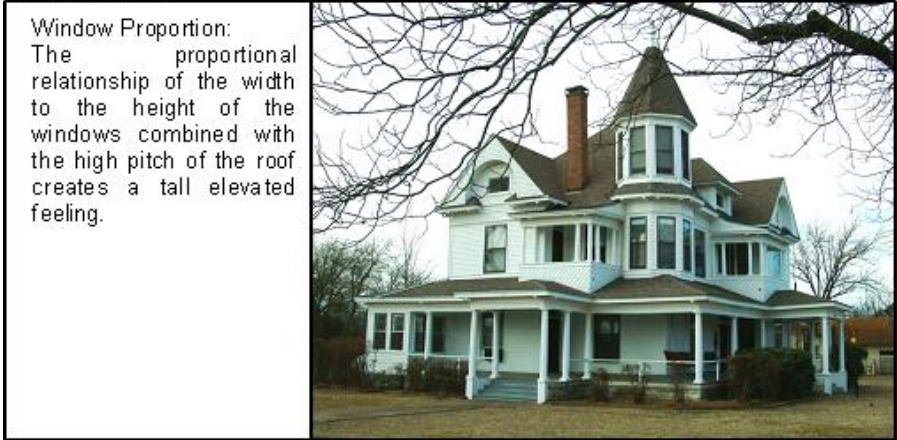
The following aspects of new construction in the NEZ should be visually compatible with the buildings and environment with which the new construction is related. These include but are not limited to: height, proportion between width and height of façade, proportion and relationship between doors and windows, rhythm of solids and voids created by openings in the façade, materials, textures, colors, patterns, trims, and design of the roof. New construction in the NEZ should also preserve the existing rhythm created by existing building masses in the neighborhood.

Height: All new construction in the NEZ should take into consideration the general height of the buildings in the neighborhood and shall also comply with the regulating zoning district.

Proportion of the buildings front façade: The relationship of the width to height of a building creates a proportion that should be taken into consideration (such as tall and narrow, low and squat, or square). This proportional relationship should reflect the dominant character of the neighborhood.

Proportion of openings within the façade: This is a relationship of the width to height of windows and doors. For example, a window may be one unit wide and three units high, thus creating a proportional relationship of 1:3. If the majority of the buildings within a neighborhood have this 1:3 relationship, then new design should reflect this proportion as well. Large picture windows or horizontal bands of windows should be avoided. Modern interpretations of historic windows are acceptable if they retain the historic size ratios and pattern of placement on the façade. Doors should also be compatible in proportion. (See Illustration 1)

Illustration 1



Rhythm of solids to voids: Rhythm is an ordered recurrent alternation of wall to openings as well as spacing between buildings. This rhythm creates a feel as one moves past a building or group of buildings. The design of a new structure in the NEZ should respect the rhythm of the surrounding

neighborhood in terms of its size, distance between buildings on either side, and the spacing of windows and doors. (See Illustration 2)

Illustration 2



Relationship of materials: New designs in the NEZ should use materials that are compatible with the neighborhood and should seek to reflect the predominant materials found in the neighborhood. If the majority of existing buildings are brick, then the proposed building should be brick. If the predominant material is lap siding, then the proposed material should be lap siding. The texture and color of the materials should be considered as well and be compatible with the surrounding buildings.

Relationship to roof shapes: Roof shape includes the type and pitch of the roof (such as hip, gable, mansard, or shed). The treatment of the eaves, rafter tails, soffits, bargeboards, and fascia are important considerations when designing any new construction in the NEZ. For example, if the majority of the existing houses in a neighborhood have a gabled roof, then the proposed new construction should have a gabled roof. Additionally, if the existing buildings in a neighborhood have boxed eaves, then the new construction should seek to either incorporate the same or similar design element.

Relationships to architectural details: Architectural details include features such as cornices, brackets, columns, lintels, arches, roof crests, quoins, balustrades, doors, windows, and chimneys. New construction in the NEZ should be compatible with the predominant architectural details on surrounding buildings. These details do not need to be copied in the new construction, but they should be reflected in some manner. For example, if the majority of houses in the neighborhood have pediments above the windows, then the new construction should reflect pediment-like features above the windows as well. Additionally, chimneys that are not constructed of historical materials (brick or stone) should be located to the rear of the building in order to reduce the visibility of the modern chimney covering from the public right-of-way.

Scale: Scale is created by the architectural detailing that relates to the size of a human and by the building mass as it relates to open space. A large building on a small lot has a different appearance when compared to a large building on a large lot. This relationship should be considered when designing for a particular neighborhood. New construction in the NEZ should observe the scale of surrounding and nearby structures. The window and door lines should be similar to neighboring structures. The detailing should be consistent with the size of the building. For example, a small house should not have massive or oversized details and decorations.

Massing: The term massing refers to how the basic shapes of the building are fit together. Massing can be very simple, such as a single rectangular shape, be more complex with an L-shape, or have a combination of shapes. Additional massing elements are also found among the different architectural styles. For example, in Victorian architecture, elements such as bays, towers, and turrets add to the basic massing of the house. Massing patterns of the neighborhood structures should be considered and reflected in the design of new construction in the NEZ. New construction in the NEZ shall also comply with the floor-area-ratios dictated by the regulating zoning district.

Directional expression of the front elevation: The use of architectural details and the proportion of the width to height ratio create structural shape. The structural shape will be expressed either vertically or horizontally. A building with a ratio of 1:5 will have a vertical appearance while a ratio of 5:1 would have a horizontal appearance. Tall narrow windows give a vertical appearance while wide windows tend to create a horizontal feel. New construction in the NEZ should observe the predominant feel of the surrounding area.

Rhythm of spacing and setbacks: It is important that new construction in the NEZ be consistent with adjacent structures in spacing and setback, which sets a rhythm for the block and neighborhood and is a part of the historic character. The setback of new construction in the NEZ should generally be within 10 percent of the setback lines of the adjacent structures. Setbacks for new construction in the NEZ should maintain the existing pattern of setbacks in the block if at all possible. New construction in the NEZ shall also comply with the setbacks dictated by the regulating zoning district. (See Illustration 3)

Illustration 3



Variation of styles: If groupings of two or more new homes are being built in the same area, then the new construction should reflect a variation in the styles of homes. It is not appropriate to build the same home or simply change the position of the front porch or the type of window or front door to comply with these criteria.”

Section 4. **PENALTY CLAUSE**

Any person, firm or corporation violating or failing to comply with any of the provisions of this Ordinance shall be subject to the penalty provisions set forth in Section 1-18 of the McKinney Code; and each and every day such violation or failure to comply shall continue shall be deemed to constitute a separate offense.

Section 5. **SEVERABILITY CLAUSE**

If any section, subsection, clause, phrase or provision of this Ordinance is for any reason held unconstitutional or void by a court of competent jurisdiction, such holding shall not affect any valid portion of this or any other ordinance of the City of McKinney, Texas.

Section 6. **EFFECTIVE DATE**

This Ordinance shall take effect and be in full force from and after its passage and publication, in accordance with law.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THIS THE 15th DAY OF MARCH 2022.

GEORGE C. FULLER
Mayor

CORRECTLY ENROLLED:

EMPRESS DRANE
City Secretary
JOSHUA STEVENSON
Deputy City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney