

ORDINANCE NO. 2013-11-_____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS, AMENDING CHAPTER 98 OF THE CITY OF MCKINNEY CODE OF ORDINANCES BY AMENDING SECTION 98-84 RELATING TO THE HISTORIC NEIGHBORHOOD IMPROVEMENT ZONE PROGRAM; 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, Texas 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 adopted a philosophy whereby its proposed programs would be tailored to preserve the City's unique and historic neighborhoods while encouraging property owners to maintain and/or rehabilitate their residences; and

WHEREAS, the committee desired to initiate its first program (Phase I) to raise awareness to the larger, integrated set of economic initiatives for the affected areas; and

WHEREAS, the committee sought and received City Council approval of a program wherein owners in a defined geographic Historic Neighborhood Improvement Zone ("HNIZ") may receive tax exemptions based on verified investment meeting specified criteria; and

WHEREAS, the HNIZ program currently allows property owners to receive an exemption of up to 100% of their City of McKinney ad valorem taxes for up to fifteen (15) years based upon specified historic designations and residential improvement expenditures; and

WHEREAS, the concurrently-created Neighborhood Empowerment Zone overlay of the area comprising the HNIZ program also promotes rehabilitation of affordable housing in the zone; and

WHEREAS, in accordance with the foregoing premises, the City Council of the City of McKinney, Texas passed Ordinance No. 2007-02-014 on February 6, 2007, which ordinance was further amended by Ordinance No. 2008-04-030 to promote the purposes described hereinabove.

WHEREAS, the City Council of the City of McKinney, Texas, now desires to make certain amendments thereto to promote the purposes described hereinabove.

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

Section 1. All of the above premises are found to be true and correct legislative and factual findings of the City of McKinney, and are hereby approved and incorporated into the body of this Ordinance as if restated in their entirety.

Section 2. The Code of Ordinances of the City of McKinney, Texas, Chapter 98, Section 98-84 is hereby amended and shall read as follows:

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

A Historic Neighborhood Improvement Zone Program ("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 three (3) levels of participation and corresponding tax exemptions.

(1) Level 1: Residential properties which have received the designation of the Historic Marker Program by the HPAB prior to November 19, 2013 are eligible to receive a one-time, 100 percent exemption of the City's ad valorem taxes for a period of fifteen (15) years. Residential properties which receive the designation of the Historic Marker Program by the HPAB on or after November 19, 2013 are eligible to receive a one-time, 100 percent exemption of the City's ad valorem taxes for a period of seven (7) years. The process and criteria for receiving the Historic Marker designation are as follows:

Purpose: 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 provided the building has been rehabilitated or restored according to the Secretary of the Interior's Standards.*
- b. *In order to obtain a marker, the following requirements must be met:*
 1. *Written documented history.*
 2. *The building must be a minimum of 50 years of age.*
 3. *The house must be located within the HNIZ.*
 4. *Photo documentation of all four elevations using black and white photos with negatives, color slides, and copies of any available historic photographs.*
 5. *Legal description of the property with a location map.*
 6. *Site plan of the property.*
- c. *The application shall be reviewed by the Historic Preservation Officer (HPO). The HPO may ask for additions or revisions to the documentation if necessary. Once the application is completed, the HPO will send a staff report to the Historic Preservation Advisory Board (HPAB) for approval or denial of the historic marker application, with appropriate appeals to the City Council.*
- d. *If awarded, the owner may purchase and display the marker.*
- e. *If the HPAB approves the marker, the applicant may make application to the HPO for a Level 1 tax incentive for consideration by the HPAB, with appropriate appeals to City Council, provided the building has architectural integrity and has been properly rehabilitated or restored and maintained. The marker and tax incentive may be sought simultaneously or separately.*

(2) Level 2: Owners shall submit plans for exterior improvements to residential properties to the HPO. The owner may then receive a letter of eligibility if the improvements qualify for the Program. Thereafter, owners who make verified exterior improvements (however limited to comprehensive maintenance and rehabilitation painting, roof, windows, foundation, and siding) consistent with applicable codes, both historic district and building codes, as applicable, in any 12-month period beginning with receipt of a letter of eligibility and having a combined cost in excess of \$10,000, during that 12-month period, may receive an exemption of 50% of the City's ad valorem taxes for a period of fifteen (15) years, as finally determined by applications submitted to the Building and Standards Commission. Owners may submit additional applications under Level 2 during any period of exemption. If such applications are approved, the exemption period shall be extended from the date of the last approval. In such event, the exemption periods run concurrently until the earliest approval expires and continues until the latter approval expires.

(3) Level 3: Owners shall submit plans for improvements to residential properties to the HPO and to the Building Permits department. The owner may receive a letter of eligibility, if the improvements qualify for the Program. Owners who make verified exterior improvements (however limited to comprehensive maintenance and rehabilitation painting, roof, windows, foundation, and siding) consistent with applicable codes, both historic district and building codes, as applicable, or who make verified interior improvements to upgrade interior systems to current building codes (however limited to sanitary sewer lines, fire, HVAC, insulation, electrical, plumbing, or a combination of interior or exterior improvements) in any 12-month period beginning with receipt of a letter of eligibility and having a combined cost in excess of \$5,000, during that 12-month period may receive an exemption of 30% of the City's ad valorem taxes for a period of 15 years, as finally determined by applications submitted to the Building and Standards Commission. If an owner submits plans for additional improvements under Level 2 or Level 3 during any period of exemption previously granted under Level 3, such owner, upon approval of the Building and Standards Commission, shall receive an exemption of 50% of the ad valorem taxes for a period of fifteen (15) years from the date of such approval.

(4) Aggregate Cap (per year): 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 subsections (a) – (c) of this Section. 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. For calendar year 2013 and continuing annually thereafter until otherwise adjusted by the City Council, the aggregate cap on exempted ad valorem taxes shall be \$100,000 per year.

(5) Program Suspension: The City Council may suspend the Program at any time.

(6) Implementation: The City shall set up an application process providing for the review of applications based upon Administrative Guidelines promulgated by the HPO, verification of improvements and certification of the exemptions. The Administrative Guidelines shall be consistent with this ordinance yet provide flexibility in reviewing, granting and processing exemptions. The exemption may continue and be transferable upon sale of the property. Code inspection and periodic checks on annual owner certifications for previously-constructed exterior improvements shall be a key element to verification of new construction, maintenance of improvements and overall maintenance of the property.

(7) Suspension of Tax Exemption: The City of McKinney may suspend a Level 1, Level 2, or Level 3 tax exemption of any property at any time should 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 HPO 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 (1) year to cure the deficiencies from the date of such written notification. If the deficiencies are not remedied within one (1) year, the City Council may suspend the tax exemption.

(8) 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.

(1) 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.

(2) Multi-Family: Within the NEZ, new multi-family construction, being three (3) 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.

(3) 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 (3) of the following criteria:

- (a) *Compatibility*. Construction is generally compatible with the massing, size, scale, and architectural features of the surrounding buildings and environment;
- (b) *Amenities*. Construction includes enhanced pedestrian and/or streetscape amenities;
- (c) *Town Center Master Plan*. Development project is consistent with, and promotes the Town Center Master Plan;
- (d) *Investment*. New construction on a vacant site includes a minimum capital investment of \$75,000. Rehabilitation of an existing building in accordance with the Secretary of the Interior Standards includes a minimum capital investment of \$75,000 or 30 percent of the present building value as appraised by the Collin Central Appraisal District, whichever is greater;
- (e) *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;
- (f) *Job Creation*. Development project creates 1 new, full-time job (or correlative FTE) per 200 square feet of gross floor area; or
- (g) *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.

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 fifty thousand dollars (\$50,000), 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 fifty thousand dollars (\$50,000), 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% of roadway impact fees up to and including fifty thousand dollars (\$50,000) or in accordance with the eligibility determination made by the City Council after its consideration of an Owner's eligibility.

Section 3. If any section, subsection, paragraph, sentence, phrase or clause of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance, which shall remain in full force and effect, and to this end, the provisions of this Ordinance are declared to be severable.

Section 4. It shall be unlawful for any person, firm or corporation to develop this property, or any portion thereof, in any manner other than is authorized by this Ordinance, and upon conviction therefore, shall be fined any sum not exceeding \$2,000.00, and each day that such violation shall continue shall be considered a separate offense. These penal provisions shall not prevent an action on behalf of the City of McKinney to enjoin any violation or threatened violation of the terms of this Ordinance, or an action for mandatory injunction to remove any previous violation hereof.

Section 5. The caption of this Ordinance shall be published one time in a newspaper having general circulation in the City of McKinney, and shall become effective upon such publication.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MCKINNEY, TEXAS ON THIS THE 19th DAY OF NOVEMBER, 2013.

CITY OF MCKINNEY, TEXAS

BRIAN LOUGHMILLER
Mayor

CORRECTLY ENROLLED:

SANDY HART, TRMC, MMC
City Secretary
BLANCA I. GARCIA
Assistant City Secretary

DATE: _____

APPROVED AS TO FORM:

MARK S. HOUSER
City Attorney