

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

**AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF FORT WORTH, BEING ORDINANCE NO. 21653, AS AMENDED, CODIFIED AS APPENDIX “A” OF THE CODE OF THE CITY OF FORT WORTH, BY AMENDING CHAPTER 4 “DISTRICT REGULATIONS,” ARTICLE 4 “OVERLAY DISTRICTS,” SECTION 4.401 “HISTORIC PRESERVATION ORDINANCE – HISTORIC OVERLAYS,” SUBSECTION 4.401(c)(5) “PROCEDURES FOR DESIGNATION AND DESIGNATION REMOVAL,” AND AMENDING CHAPTER 2 “REVIEW BODIES,” SECTION 2.100 “ZONING COMMISSION,” SUBSECTION 2.100(h) “POWERS AND DUTIES,” TO CLARIFY THAT THE HISTORIC AND CULTURAL LANDMARKS COMMISSION IS THE EXCLUSIVE AUTHORITY FOR RECOMMENDING HISTORIC DESIGNATIONS, OR REMOVALS THEREOF, TO THE CITY COUNCIL; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A SAVINGS CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

WHEREAS, in 2021 the Texas Legislature adopted Senate Bill 1585, codified at Texas Local Government Code § 211.0165(a-1), which requires a municipality with more than one commission, zoning, planning or historical, to designate one of those commissions with the exclusive authority to review and recommend designations of properties as local historic landmarks or the inclusion of properties in a local historic district; and

WHEREAS, pursuant to Senate Bill 1585, the City Council previously adopted Ordinance No. 25251-12-2021, which designated the Historic and Cultural Landmarks Commission (“HCLC”) as the body exclusively responsible for recommending historic designations to the City Council and the City has operated accordingly since the adoption of that Ordinance; and

**WHEREAS**, despite the adoption of Ordinance No. 25251-12-2021, a reference remains in the Historic Preservation Ordinance suggesting the necessity of recommendations from the HCLC to first go to the Zoning Commission before going to City Council, which is no longer necessary after Senate Bill 1585 and the City Council’s previous designation of the HCLC as the exclusive authority for recommending historic designations and designation removal; and

**WHEREAS**, it is recommended that the City Council make the following conforming updates to the Historic Preservation Ordinance and Section 2.100(h) of the Zoning Ordinance to clarify that that the HCLC is the commission with the exclusive authority to recommend designation of property as historic or inclusion in a historic district, or removals of such designations, to the City Council.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FORT WORTH, TEXAS THAT:**

**SECTION 1.**

Chapter 4 “District Regulations,” Article 4 “Overlay Districts,” Section 4.401 “Historic Preservation Ordinance – Historic Overlays,” Subsection 4.401(c)(5) “Procedures for Designation and Designation Removal,” of the Zoning Ordinance of the City of Fort Worth, being Ordinance No. 21653, is hereby amended as follows:

**§ 4.401 HISTORIC PRESERVATION ORDINANCE - HISTORIC OVERLAYS.**

...

(c) *Identification and designation of cultural resources.*

...

(5) *Procedures for designation and designation removal.*

...

~~d. Step 4: consideration by the zoning commission.~~

~~1. The matter must be submitted to the zoning commission for its review and recommendation within 45 calendar days after the HCLC makes its recommendation, or as soon thereafter as is reasonably practicable.~~

~~2. The zoning commission must give notice and conduct its public hearing on the matter in accordance Chapter 3 of the city's Zoning Ordinance.~~

~~e. Step 5: city council hearing and action.~~

1. After both the HCLC and Zoning Commission makes their recommendations, the matter must be submitted to the city council for its review and consideration.

2. The city council must give notice and conduct a hearing on the matter in accordance with Chapter 3 of the city's Zoning Ordinance.

~~f. Step 6: post designation and designation removal requirements.~~

...

## SECTION 2.

Chapter 2 “Review Bodies,” Section 2.100 “Zoning Commission,” Subsection 2.100(h) “Powers and Duties,” of the Zoning Ordinance of the City of Fort Worth, being Ordinance No. 21653, is hereby amended as follows:

### § 2.100 ZONING COMMISSION.

...

(h) *Powers and duties.* The zoning commission is hereby charged with the duty and invested with the authority to:

(1) Advise the city council relating to the creation and amendment of these zoning regulations and districts as the zoning commission may deem beneficial and in the best interests of the city;

(2) Procure information, hold public hearings and make recommendations to the city council relating to the creation, amendment and implementation of zoning regulations and districts as provided in Tex. Local Government Code Chapter 211, together with all amendments thereto, authorizing cities and incorporated villages to pass regulations and all powers granted under such act are specifically adopted and made a part hereof as contemplated by § 31A of Chapter XXVII of the Charter of the city; provided however that the Historic and Cultural Landmarks Commission has the exclusive authority to recommend to City Council whether certain buildings, structures and properties should be designated as landmarks through a “highly significant endangered overlay,” “historic and cultural landmark overlay” or “demolition delay overlay,” or that an area containing two

or more eligible structures should be designated through a “historic and cultural landmark district overlay,” or that such structures or properties be included in a historic district or that such designations be amended or removed, in accordance with § 4.401, Historic Preservation Ordinance – Historic Overlays.

### **SECTION 3.**

This ordinance shall be cumulative of all provisions of ordinances and of the Code of the City of Fort Worth, Texas (2015), as amended, except where provisions of this ordinance are in direct conflict with the provisions of such ordinances and such Code, in which event conflicting provisions of such ordinances and such Code are hereby repealed.

### **SECTION 4.**

All rights or remedies of the City of Fort Worth, Texas, are expressly saved as to any and all violations of Ordinance Nos. 3011, 13896, 21653 or any amendments thereto and any other ordinances affecting zoning that have accrued at the time of the effective date of this ordinance; and as to such accrued violations, and all pending litigation, both civil or criminal, whether pending in court or not, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

### **SECTION 5.**

It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared void, ineffective or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such voidness, ineffectiveness or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance, since the same would have been enacted by the City Council without the incorporation herein of any such void, ineffective or unconstitutional phrase, clause, sentence, paragraph or section.

### **SECTION 6.**

This ordinance shall take effect upon adoption by the City Council.

APPROVED AS TO FORM AND LEGALITY:

By: \_\_\_\_\_  
Trey Qualls  
Assistant City Attorney

\_\_\_\_\_  
Jannette Goodall  
City Secretary

ADOPTED: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_