

## **ORDINANCE NO. 2023-05**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MONTGOMERY, TEXAS AMENDING CHAPTER 82 "TAXATION" OF THE CITY CODE OF ORDINANCES TO ADD ARTICLE VI. "PARTIAL AD VALOREM TAX EXEMPTION FOR HISTORICALLY SIGNIFICANT STRUCTURES"; MAKING FINDINGS AND CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; CONTAINING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY.**

WHEREAS, the City Council recognizes the significance of historical structures within the City of Montgomery, Texas (the "City");

WHEREAS, the City has a number of well-preserved historically significant structures built in the late 1800's and early 1900's that are still occupied today;

WHEREAS, the City acknowledges the effort and expense required to maintain these historically significant structures and desires to encourage preservation through the creation of a partial ad valorem tax exemptions for historically significant structures in the City;

WHEREAS, in accordance with Section 11.24 the Texas Tax Code, the City exempts part of the assessed value of the historic structures by adding Article VI. "Partial ad valorem tax exemption for historically significant structures" to Chapter 82 "Taxation";

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

**Section 1.** The City Council adopts the findings and recitals above as true and correct.

**Section 2.** Chapter 82 "Taxation" of the Code of Ordinances is hereby amended by adding Article VI "Partial ad valorem tax exemption for historically significant structures" to read as follows:

"Sec. 82-95. - Definitions.

Historic Home means a structure built primarily for and used for residential purposes.

Historic Landmark means an individual property designated by the city council under Chapter 98 of the City Code of Ordinances, as having outstanding historical and cultural significance in the nation, region, or community. For historical landmark buildings or structures located on a tract or parcel of land exceeding 9,000 square feet in area, only the buildings or structures and a 25-foot buffer around said buildings or structures shall be subject to the provisions of this chapter.

Historic Preservation District means an area of the city designated by the city council under Chapter 98 of the City Code of Ordinances, as having definable geographic boundaries, and a

significant concentration, linkage or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development.

Structure means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types, but exclusive of customary fences, or boundary or retaining walls.

#### Sec. 82-96. Granting of Partial Exemption.

Any property deemed to meet the requirements of this chapter shall be eligible for a twenty-five percent (25%) exemption from ad valorem taxes levied by the city for each tax year.

#### Sec. 82-97. Eligibility.

To be eligible for a partial ad valorem tax exemption, a property must meet the following criteria:

1. The property must contain at least one historic home or structure used as the primary dwelling for the property.
2. The historic home must be at least 100-years old at the time of application.
3. The historic home must be located within the corporate boundaries of the city for at least 25 years at the time of application.
4. The historic home must meet the preservation and maintenance requirements as set out in this chapter.

#### Sec. 82-98. Application.

Applications for a partial ad valorem tax exemption pursuant to the provisions of this chapter are to be filed with City Secretary (or other such city official as designated by the city administrator) on a form prescribed by the City. Each application must be signed by the owner of the property, be acknowledged before a notary public and shall:

1. State the legal description and the street address of the subject property.
2. Be located within the Historic Preservation District or designated by the city as a historically significant structure. For the purpose of this Chapter, an application submitted to the city for designation as a historic significant structure prior to application for a partial ad valorem tax exemption shall constitute compliance with this provision if no such application has been submitted within the previous five years by the current property owner.
3. Include an affidavit by the owner stating the historic home is used for residential purposes, is at least 100 years old, has been located within the city limits for at least 25 years, and meets the preservation and maintenance requirements of this chapter.
4. Include a tax certificate showing all taxes due upon the property have been paid.

#### Sec. 82-99. Preservation and Maintenance.

The following requirements shall be met for the city to determine that a historic site has been maintained in accordance with minimum property, structural and health standards:

1. Any well, cesspool or cistern shall be securely covered or closed;

2. Dead trees and tree limbs that are reasonably capable of causing injury to a person shall be removed;
3. Any structure or portion of a structure which is vacant shall be securely closed so as to prevent unauthorized entry;
4. Paint or other coatings shall be applied at reasonable intervals so as to protect the exterior surfaces of a structure which are subject to decay;
5. The exterior grounds shall be maintained free of excessive rubbish, garbage, junk or refuse;
6. Screens and shutters existing at the time of historic designation or added subsequent thereto shall be maintained in good repair;
7. Broken windows shall be replaced or re-glazed;
8. Exterior doors and doorways shall be maintained in good repair and operable condition;
9. Skirting around the structure, if any, shall be maintained in good repair;
10. Porch flooring and supports shall be maintained in a sound condition, capable of bearing an imposed load safely;
11. Railings and handrails of exterior stairs, steps, balconies, porches and other exterior features shall be maintained in a sound condition so as to afford safety;
12. Rotted exterior wood shall be replaced and repainted;
13. Broken or partially missing gutters or downspouts shall be replaced or repaired;
14. Loose bricks or stones in the exterior of a structure shall be re-established or replaced and all joints weatherproofed by proper maintenance of appropriate materials;
15. Fences and the exteriors of accessory buildings shall be maintained in reasonable repair, including painting if applicable; and
16. The property shall be kept in conformance with all city codes.

Sec. 82-100. Verification and Approval Process.

Upon receipt of a completed application, the city council may, following recommendations either for or against such designation by the planning and zoning commission, designate certain sites and/or structures in the city as a historically significant structure. The city shall take necessary steps to determine if the property is eligible for a partial ad valorem tax exemption and that all requirements of the Chapter have been met. Upon approval, the city shall provide a letter to the property owner granting the partial exemption and signed by the city administrator. It is the responsibility of the property owner to file all necessary forms with the Montgomery County Appraisal District for the exemption.

Sec. 83-101. Alteration or Destruction.

- a. During the exemption period, if the city administrator has reason to believe that an exempted structure has been altered or totally or partially destroyed by the willful act or negligence of the owner or his representative, the city administrator shall immediately cause the matter to be scheduled for the earliest possible consideration by the city council. If, after giving notice and hearing to the owner, the city council determines that the exempted structure has been totally or partially destroyed or altered by the willful act or negligence of the owner or his representative, the owner shall immediately repay to the city all of the tax revenues that were not paid because of the exemption.

- b. Where an exempted structure is totally or partially destroyed or altered by a means other than the willful act or negligence of the owner or his representative, the owner shall, whenever feasible, request a building permit to reconstruct the historically significant site in accordance with plans and specifications (plans) that comply with the property appearance guidelines and building and development codes of the city. The cost of renovation is hereby deemed feasible when destruction or alteration is fifty (50) percent or less of the assessed ad valorem tax value of the building without deduction for the abatement hereunder. The plans for the structure must be approved by the planning and zoning commission. If rebuilding activities are not completed within one (1) year of the damage to the structure, the repayment of the tax revenues not paid because of the exemption shall be required as set forth in subsection (a) above, unless city council grants an extension for such permits.
- c. If the owner of a damaged historic structure exempted under this article applies for a demolition permit, the building official shall follow the regulations contained in Section 98-352 (Approval Required for Demolition) of the zoning chapter, as amended, in processing such permit. In cases where a demolition permit is issued by the city because renovation is not feasible, repayment of tax revenue is not required.
- d. If the owner of a historic structure which is damaged by a willful or negligent act of the owner or his representative has such structure demolished or such structure is not repaired within one (1) year of the damage, such owner will not be eligible for future abatement unless a revised application for such structure is approved by the city council."

**SECTION 3.** If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect any of the remaining provisions of this Ordinance.

**SECTION 4.** All other ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed; provided, however, that such repeal shall be only to the extent of such inconsistency and in all other respects this Ordinance shall be cumulative of other ordinances regulating and governing the subject matter covered by this Ordinance on all ordinances or sections of the City Code not specifically amended or repealed shall remain in full force and effect.

**SECTION 5.** It is hereby officially found and determined that the meeting at which this Ordinance was considered was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551, of the Texas Government Code.

**SECTION 6.** This Ordinance shall take effect immediately upon its passage, adoption and publication as required by state law.

PASSED AND APPROVED by the City Council of the City of Montgomery, Texas on the 14th day of March, 2023.



Byron Sanford, Mayor

ATTEST:



Nicola Browe, City Secretary

APPROVED AS TO FORM:



Alan P. Petrov, City Attorney