

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

**AN ORDINANCE OF THE CITY OF LAKE WORTH, TEXAS, AMENDING ORDINANCE NO. 500, AS AMENDED, THE COMPREHENSIVE ZONING ORDINANCE BY PROVIDING FOR A HISTORIC OVERLAY ZONE APPLICABLE TO THE INDIAN OAKS SUBDIVISION, AS DEPICTED ON EXHIBIT "A"; REVISING THE OFFICIAL ZONING MAP IN ACCORDANCE THEREWITH; PROVIDING SPECIAL DEVELOPMENT REGULATIONS IN THIS HISTORIC OVERLAY ZONE; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCES; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lake Worth is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council of the City of Lake Worth heretofore adopted Ordinance No. 500, as amended, the Comprehensive Zoning Ordinance of the City of Lake Worth, which Ordinance regulates and restricts the location and use of buildings, structures and land for trade, industry, residence and other purposes, and provides for the establishment of zoning districts of such number, shape and area as may be best suited to carry out these regulations; and

**WHEREAS**, the City has embarked upon a program of comprehensive planning in order to provide for the safe, orderly development of the community; and

**WHEREAS**, at its meeting on April 24, 2007, the Lake Worth Historical Preservation Commission considered and made recommendations on a certain request for a historic preservation overlay zoning district;

**WHEREAS**, at its regular meeting held on [REDACTED], the Lake Worth Planning and Zoning Commission considered and made recommendations on a certain request for a historic preservation overlay zoning district;

**WHEREAS**, the City has carefully weighed the property interests of individual land owners against the public benefits and opportunities created by the development of this district; and

**WHEREAS**, the City has carefully structured a system of regulations that do not deprive the property owners of the reasonable economic use of their property while still advancing a legitimate governmental interest; and

**WHEREAS**, the City has carefully identified the specific geographic area for overlay treatment that comports with the City's comprehensive planning guidelines after considering other available alternatives; and

**WHEREAS**, Section 211.003 of the Local Government Code provides that in the case of designated places and areas of historical, cultural, or architectural importance and significance, the governing body of a municipality may regulate the construction, reconstruction, alteration, or razing of buildings and other structures; and

**WHEREAS**, the City Council has determined that the area commonly referred to as the Indian Oaks subdivision, as depicted on Exhibit "A" ("Indian Oaks Historical District") constitutes an area of historical, cultural, or architectural importance;

**WHEREAS**, the City Council, after determining that all legal requirements of notice and hearing have been met, has further determined that in order to preserve and enhance the character of the Indian Oaks Historical District the City Council deems it in

the best interests of the public health, safety and welfare to adopt specific development regulations that are applicable to development within such Historic District.

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

**SECTION 1.**

Ordinance No. 500, as amended, the Comprehensive Zoning Ordinance, is hereby amended by adding Article 14.520, "Historic Overlay Districts", to read as follows.

**ARTICLE 14.520 HISTORIC OVERLAY DISTRICTS**

Sec. 14.521 Indian Oaks Historical District Created

(a) Purpose. The purpose of this section is to promote the public health, safety and general welfare, and:

1. to protect, enhance and perpetuate places and areas which represent distinctive and important elements of the city's historical, cultural, social, and architectural history;
2. to increase public knowledge and appreciation of the city's historic past and unique sense of place;
3. to foster civic and neighborhood pride and a sense of identity;
4. to promote the enjoyment and use of historic resources by the people of the city;
5. to preserve architectural styles, patterns of development, and design preferences reflecting phases of the city's history;
6. to create a more livable urban environment;
7. to enhance property values;
8. to protect and enhance the city's attraction to tourists and visitors;
9. to resolve conflicts between the preservation of historic resources and alternative land uses;

10. to integrate historic preservation and pride into public and private land use planning;
11. to conserve valuable resources through use of the existing building environment;
12. to increase public awareness of the benefits of the rich history of the city;
13. to maintain a harmony between new and historic structures so that they will be compatible in scale, form, color, proportion, texture and material; and
14. to encourage public participation in identifying and preserving historic resources.

(b) Historic Overlay District Designation. The historic overlay district includes all properties which are located in the area commonly referred to as the Indian Oaks subdivision, and depicted on Exhibit "A". The City Manager may erect suitable plaques appropriately identifying each of the boundaries of this historic overlay district.

(c) Application of Historic Overlay District regulations.

1. To aid in the preservation of the area's historic and architectural integrity and atmosphere, the historic overlay district regulations shall apply to future development within the boundaries of the historic district, provided however, that only the exterior appearance of structures is hereby regulated.

2. The historic overlay district is a zoning overlay which supplements the primary underlying zoning district classification. The historic overlay district is subject to the regulations of the underlying zoning district, except this ordinance shall require additional regulations for the historic overlay district.

3. In the event of a conflict, the regulations contained in this historic overlay district ordinance control over the regulations of the underlying zoning district.

(d) Generally applicable standards.

1. The standards contained in this subsection will control in the absence of specific standards to the contrary contained in subsection XI.8.5 ("Specific Development Standards") of this section.

2. The Indian Oaks Historical District is a unique collection of structures illustrating middle class American domestic architecture and urban design generally spanning the years 1920 to 1949. The standards set forth herein are designed to

enhance the visual image of the historic district by preserving and creating design and architectural features that reflect circa 1920-1949 Americana. All new structures and repairs or modifications to existing structures must be similar to or compatible with the depictions shown in Exhibit "B", which reflect the general architectural style of circa 1920-1949 Americana. Exhibit "B" is hereby adopted and incorporated herein for all purposes and the City Secretary is directed to maintain a properly labeled copy of Exhibit "B" in his or her office. All repairs or modifications to existing structures built after circa 1920 to 1949 must be similar to or compatible with the structure style of the year that the structure was built.

3. The historic character of a property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize a property will be avoided unless the removal or alteration reflects or enhances a circa 1920-1949 Americana design as described and depicted in this section.

4. Distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize an existing property will be preserved to the extent it is cost effective, or replaced with materials, features or construction techniques that are similar to or compatible with circa 1920-1949 Americana as described in this Section.

(e) Specific development standards. The following standards shall apply to all development in the historic overlay district.

1. Architectural standards:

(A) Exterior requirements. All new building facades shall conform to the architectural styles existing between the years of 1920-1949, and already represented within the Indian Oaks Historical District, including stone, period brick, rock and/or siding with a wood-like appearance. See Exhibit "B for" examples.

(B) Size. All new construction shall conform to the scale and appearance of similar existing structures within the Indian Oaks Historical District dating from 1920-1949. Residential homes must be at least 1,000 square feet in size and shall be similar in size to existing structures of the same architectural style in the District.

(C) Architectural fencing. All fencing shall be similar to or compatible with circa 1920-1949 Americana as depicted on Exhibit "B". Decorative front yard fencing is permitted with the following conditions:

(i) Front yard fencing may not be located within three (3) feet from any fire hydrant, or gas and electrical service.

(ii) Front yard fencing must include at least one (1) unobstructed opening of at least four (4) feet in width.

(iii) Front yard fencing must be at least twenty-four (24) inches in height, but may not exceed thirty (30) inches in height.

(iv) Front yard fencing must be constructed of wood, vinyl or wrought iron constructed with horizontal or vertical slats which allow a sphere at least four inches in diameter to pass through between slats. Front yard fencing may not be constructed of chain link fencing.

(V) Front yard fencing may include masonry support columns, not to exceed twenty-four (24) inches by twenty-four (24) inches by thirty (30) inches in height.

(D) Garages. All homes must have either a one-car or two-car garage or carport, not to exceed one (1) story in height and four hundred and fifty (450) square feet in size. Garages and carports shall be constructed of the same, or visually comparable, building materials as the primary residence. In addition, carports must meet the requirements set forth in Sec. 14.608 of this Chapter.

(E) Acts of God. Structures built in a post-1950 style, regardless of when built, which are destroyed by flood, natural disaster, act of God, or accidental fire may be rebuilt in their original style and footprint.

(F) Additions. All additions made to existing structures shall be made with the same building materials as the original portion of the building where possible. Alternate material must be visually comparable with the existing original portion of the structure and any existing original decorative elements. All additions to existing structures must also be built within the same scale and proportion as the original portion of the building being amended.

(G) Remodeling. No existing structure shall be remodeled in such a way as to change its original architectural style. Original existing decorative elements shall be retained or replicated in all remodeling projects. Materials used in remodeling should be the same building materials as the original portion of the building where possible. Alternate material must be visually comparable with the existing original portion of the structure. When past alterations made after 1950 are remodeled or removed, every effort shall be made to return the structure to its original architectural and decorative style.

(H) Signage. All signage, including but not limited to freestanding monument signs shall be similar to or compatible with circa 1920-1949 Americana.

(I) Lighting. All lighting shall be similar to or compatible with circa 1920-1949 Americana.

(J) Color scheme. The color scheme shall be similar to or compatible with circa 1920-1949 Americana as depicted in Exhibit "B".

(K) Roof design standards. In accordance with circa 1920-1949 design criteria, and similar to or compatible with the depiction in Exhibit "B," roofs shall be constructed of composition, asphalt, tile, or metal roofing material. Metal roofing material shall consist of a minimum of twenty six (26) gauge aluminum or steel with proper protection by paint or other materials to prevent corrosion and oxidation or by application of composition shingles applied over approved decking. Corrugated metal and all fiberglass panels are expressly prohibited.

2. Site design standards: Site design standards, including but not limited to, required front bufferyard, parking area restriction, location of parking, drainage area, and loading and service areas shall meet the standards set by the Comprehensive Zoning Ordinance, in addition to the following:

(A) Lot Size. The minimum lot size in the Indian Oaks Historical District shall be 5,000 square feet, or the existing size of the lot on the effective date of this ordinance, whichever is greater.

(B) Building height. The maximum height shall be two (2) stories or thirty-five feet (35'), except roof gables, chimneys and vent stacks may project a maximum of six feet (6') beyond the maximum building height.

3. Landscape standards: All new residences must have at least one three-inch (3") caliper tree in the front yard, of a type native to the area, including: Pecan, Live Oak, Texas Red Oak, Sweetgum, or a tree species similar in nature.

#### **Sec. 14.522 Certificate of appropriateness.**

(a) When required. A person shall not alter a site within the historic overlay district, or alter, place, construct, maintain, or expand any structure on the site without first obtaining a certificate of appropriateness in accordance with this subsection and the regulations and preservation criteria contained in this historic overlay district ordinance.

(b) Penalty. A person who violates this subsection is guilty of a separate offense for each day or portion of a day during which the violation is continued, from the first day the unlawful act was committed until either a certificate of appropriateness is obtained or the property is restored to the condition it was in immediately prior to the violation.

(c) Application. An application for a certificate of appropriateness must be submitted

to the Building Official. The application must include complete documentation of the proposed work. While there is no fee for the certificate of appropriateness, this section shall not affect fee(s) that may be due under any other provision(s) of the City's Code of Ordinances. Within 10 days after submission of an application, the applicant shall be notified in writing of any additional documentation required. No application shall be deemed to be filed until it is made on forms promulgated by the Architectural Control Commission and contains all required supporting plans, designs, photographs, reports, and other exhibits required by the Building Official. The applicant may consult with the Building Official before and after the submission of an application.

(d) The Building Official's determination of procedure. Upon receipt of an application for a certificate of appropriateness, the Building Official shall determine whether the application is to be reviewed under the routine maintenance work review procedure or the standard certificate of appropriateness review procedure.

#### **Sec. 14.523 Routine maintenance work review procedure.**

(a) If the Building Official determines that the applicant is seeking a certificate of appropriateness to authorize only routine maintenance work, he may review the application to determine whether the proposed work complies with the regulations contained in this Section and the preservation and design criteria contained in this historic overlay district ordinance and approve or deny the application within 20 days after a complete application is filed. The applicant must supply complete documentation of the work. The Building Official may also forward any application to the Architectural Control Commission for review.

(b) Routine maintenance work includes:

(1) the reapplication of paint that is the same as an existing color, or the application of paint that is a color previously approved in this Article and depicted in Exhibit "B";

(2) minor repair using the same material and design as the original;

(3) repair or replacement of roof using materials previously approved in this Article and depicted in Exhibit "B"; and

(4) the process of cleaning (including but not limited to low-pressure water blasting and stripping, and sandblasting and high-pressure water blasting).

(c) The applicant may appeal the Building Official's decision by submitting to the Building Official a written request for appeal within 10 days of the decision. The written request for appeal starts the standard certificate of appropriateness review procedure by the Architectural Control Commission, as set forth in Section 14.524.

**Sec. 14.524 Standard certificate of appropriateness review procedure.**

(a) If the Building Official determines that the applicant is seeking a certificate of appropriateness to authorize work that is not routine maintenance work, or if the Building Official's decision concerning a certificate of appropriateness to authorize only routine maintenance work is appealed, the Building Official shall immediately forward the application to the Architectural Control Commission for review.

(b) Within 60 days after a complete application is filed the Architectural Control Commission shall hold a public hearing and shall approve, deny with prejudice, or deny without prejudice the certificate of appropriateness and forward its decision to the City Manager. The Architectural Control Commission may approve a certificate of appropriateness for work that does not strictly comply with the development provisions of this Section upon a finding that the proposed work is historically accurate and is consistent with the spirit and intent of the development provisions of this Section and that the proposed work will not adversely affect the historic character of the property or the integrity of the historic overlay district. The Architectural Control Commission may impose conditions on the certificate of appropriateness. The applicant has the burden of proof to establish the necessary facts to warrant favorable action. The Building Official shall immediately notify the applicant of the Architectural Control Commission's action. The Architectural Control Commission's decision must be in writing and, if the decision is to deny the certificate of appropriateness, with or without prejudice, the writing must state the reasons why the certificate of appropriateness is denied.

(c) Standard for approval. The Architectural Control Commission must grant the application if it determines that:

(1) the proposed work is consistent with the regulations contained in this section and the development regulations contained in this historic overlay district ordinance;

(2) the proposed work will not have an adverse effect on the historic overlay district; and

(3) the proposed work will not have an adverse effect on the future preservation, maintenance and use of the structure or the historic overlay district.

(d) Issuance. If a certificate of appropriateness has been approved by the Architectural Control Commission:

(1) the Building Official shall issue the certificate of appropriateness to the applicant; and

(2) if all requirements of the development and building codes are met and a

building permit is required for the proposed work, the Building Official shall issue a building permit to the applicant for the proposed work.

(e) Reapplication. If a final decision is reached denying a certificate of appropriateness, no further applications may be considered for the subject matter of the denied certificate of appropriateness for one year from the date of the final decision unless:

(1) the certificate of appropriateness has been denied without prejudice; or

(2) the Architectural Control Commission waives the time limitation because the Architectural Control Commission finds that there are changed circumstances sufficient to warrant a new hearing. A simple majority vote by the Architectural Control Commission is required to grant the request for waiver of the time limitation, in accordance with section 14.525(b), below.

(g) Termination. After the work authorized by the certificate of appropriateness is commenced, the applicant must complete the approved work within 180 days. The Building Official may, in writing, authorize an extension of the certificate of appropriateness for a period not to exceed 180 days upon written request by the applicant.

(h) Revocation. The Building Official may, in writing, revoke a certificate of appropriateness if:

(1) the certificate of appropriateness was issued on the basis of incorrect information supplied;

(2) the certificate of appropriateness was issued in violation of the regulations contained in this Section, the preservation criteria contained in this historic overlay district ordinance, the Comprehensive Zoning Ordinance, or building codes;

(3) the work is not performed in accordance with the certificate of appropriateness, the Comprehensive Zoning Ordinance, or building codes; or

(4) the applicant has suspended or abandoned the work for a period greater than 180 days.

(i) Amendments to a certificate of appropriateness. A certificate of appropriateness may be amended by submitting an application for amendment to the Building Official. The application shall then be subject to the standard certificate of appropriateness review procedure.

(j) Emergency procedure. If a structure in the historic overlay district is damaged and the building official determines that the structure is a public safety hazard or will suffer additional damage without immediate repair, the building official may allow the

property owner to temporarily protect the structure. In such a case, the property owner shall apply for a certificate of appropriateness within 10 days of the occurrence which caused the damage. The protection authorized under this subsection must not permanently alter the architectural features of the structure.

**Sec. 14.525 Architectural Control Commission.**

(a) Creation and membership. There is hereby created an Architectural Control Commission. The Historical Preservation Commission for the City is hereby designated to serve as the Architectural Control Commission.

(b) Quorum and voting. A quorum exists when there are physically present a simple majority of the number of members officially appointed to the Architectural Control Commission. Issues are decided by a simple majority of the members present.

(c) Powers and duties. The Architectural Control Commission has the following powers and duties:

(1) To thoroughly familiarize itself with the structures, land, areas, and districts within the historic overlay districts;

(2) To identify guidelines and review procedures to be used in determining whether to grant or deny certificates of appropriateness;

(3) To suggest sources of funds, including federal, state, municipal, private, and foundation sources, for preservation and restoration activities and for acquisitions;

(4) To review applications for certificates of appropriateness for proposed work and design on a property subject to this historic overlay district ordinance;

(5) To recommend and initiate, when appropriate, an amendment to this historic overlay district ordinance; and

(6) To identify cases of demolition by neglect and initiate remedial actions.

(d) Meetings, records and rules.

(1) All meetings and hearings of the Architectural Control Commission must be open to the public in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551.

(2) All records of the Architectural Control Commission are public records open to inspection at reasonable times and upon reasonable notice in accordance with the Texas Open Records Act, Texas Government Code Chapter 552.

(3) The Architectural Control Commission may adopt rules to govern its proceedings that are not inconsistent with the City of Lake Worth Code of Ordinances, the Lake Worth Charter or state law.

**Sec. 14.526 Appeal to the Zoning Board of Adjustment.**

Any party who disagrees with a decision of the Architectural Control Commission may appeal a final decision of that Commission to the Zoning Board of Adjustment (“ZBA”) by submitting a written request for appeal within ten (10) days following the entry of the decision from which appeal is taken. The ZBA shall place the item upon their formal agenda and will consider the record of the hearing before the Architectural Control Commission and any evidence or information offered by interested parties prior to ruling on the appeal. The ZBA may affirm the decision of the Architectural Control Commission, reverse the decision of the Architectural Control Commission or modify the decision of the Architectural Control Commission, but it may not grant a variance to the requirements of this Section. The decision of the ZBA shall be final.

**SECTION 2.**

This Ordinance shall be cumulative of all provisions of ordinances and of the Code of Ordinances of the City of Lake Worth, Texas, as amended, except where the provisions of this Ordinance are in direct conflict with the provisions of such ordinances and such code, in which event the conflicting provisions of such ordinances and such code are hereby repealed.

**SECTION 3.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and sections of this ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since the same would have been

enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

#### **SECTION 4.**

Any person, firm or corporation who violates, disobeys, omits, neglects or refuses to comply with or who resists the enforcement of any of the provisions of this ordinance shall be fined not more than Two Thousand Dollars (\$2,000.00) for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

#### **SECTION 5.**

All rights or remedies of the City of Lake Worth, Texas are expressly saved as to any and all violations of Ordinance No. 500, as amended, or any other ordinance affecting zoning and land use thereto 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 and criminal, same shall not be affected by this Ordinance but may be prosecuted until final disposition by the Courts.

#### **SECTION 6.**

The City Secretary of the City of Lake Worth is hereby directed to publish in the official newspaper of the City of Lake Worth, the caption, Section 1, penalty clause, publication clause, and effective date clause of this ordinance two (2) days as authorized by Section 52.013 of the Local Government Code.

#### **SECTION 7.**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

**PASSED AND APPROVED ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2007.**

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY SECRETARY

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

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
CITY ATTORNEY