

ORDINANCE NO. O-2011-9

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, ESTABLISHING A HISTORIC DISTRICT OVERLAY KNOWN AS HERITAGE NEIGHBORHOOD NO. 2, AND CONSISTING OF 52 PROPERTIES GENERALLY BOUNDED BY THE EAST FACE OF DONNYBROOK AVENUE, THE NORTH AND SOUTH FACE OF EAST CHARNWOOD, THE EAST AND WEST FACE OF OAKLAND AVENUE AND THE NORTH FACE OF WELLS STREET; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council to protect the public health, safety and welfare; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and general welfare of citizens; and

WHEREAS, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

WHEREAS, Texas Local Government Code Section 51.072(a) states that a home-rule municipality has full power of self-government; and

WHEREAS, Texas Local Government Code Section 51.072(b) provides that the grant of powers to a municipality under the Texas Local Government Code does not prevent by implication or otherwise, the municipality from exercising the authority incident to self-government; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is for good government, peace, or order of the municipality; and

WHEREAS, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of the municipality; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make any and all rules and regulations by ordinances and resolutions; and

WHEREAS, Section 1 of the Tyler City Charter states that the City of Tyler may make and enforce local police, sanitary, and other regulations, and may pass such ordinances as may be expedient for maintaining and promoting the peace, good government and welfare of the City, and for the performance of the functions thereof; and

WHEREAS, Section 6 of the Tyler City Charter states that pursuant to the provisions of and subject only to the limitations imposed by State law and the Charter, all powers of the City shall be vested in an elective Council, which shall, among other duties, enact legislation; and

WHEREAS, Texas Local Government Code Section 211.003(a)(5) authorizes the governing body of a municipality to regulate the location and use of buildings, or structures, and land for business, industrial, residential, or other purposes; and

WHEREAS, the powers granted to municipalities under Texas Local Government Code Chapter 211, Subchapter A., are for the purpose of promoting the public health, safety, morals, and general welfare, as well as preserving places and areas of historical, cultural or architectural importance and significance; and

WHEREAS, City Code Section 10-714 authorizes the establishment of Historic District Overlays to establish and preserve structures, sites or areas that have outstanding historical and cultural significance;

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

PART 1: That a Historic District Overlay is hereby approved for nineteen properties generally bounded by Broadway Avenue, Lindsey Lane, College Avenue and Rusk Street, and as more fully shown in Exhibit A” attached hereto.

PART 2: That the City Council hereby makes the following findings:

a. That a petition was received by the Planning and Zoning Department containing the signatures of at least 75 percent of the property owners located within the proposed Historic Overlay District.

b. That proper notice has been provided to all appropriate persons pursuant to City Code Sections 10-714.g. and 10-586.

c. That all of the property owners to be affected by this designation and all interested persons have been afforded a full and fair hearing and an opportunity to provide their opinions to the City Council.

d. That a recommendation for approval has been received from the Historical Preservation Board.

e. That the purpose of said Historic District Overlay is to establish and preserve structures, sites or areas that have outstanding historical and cultural significance; and

f. That the area shown in Exhibit “A” is located within a designated Historic District listed in the National Register of Historic Places;

g. That the area shown in Exhibit “A” meets one or more of the requirements in City Code Section 10-714.d.

PART 3: That the area shown in Exhibit "A" shall be governed by the guidelines in City Code Section 10-714.g. and in the U.S. Secretary of the Interior Guidelines for Rehabilitating Historic Structures.

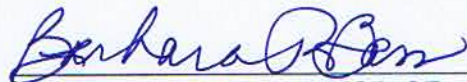
PART 4: That nothing contained in this designation of property as a Historic District Overlay shall affect the use of the property, and all uses therein shall be governed by the zoning use districts established in the Unified Development Code in Tyler City Code Chapter 10.

PART 5: That the City Manager or designee is hereby ordered and directed to cause the zoning map to reflect the above described designation.

PART 4: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 5: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be February 11, 2011.

PASSED AND APPROVED this 9th day of February, A. D., 2011.


BARBARA BASS, MAYOR OF
THE CITY OF TYLER, TEXAS

ATTEST:


CASSANDRA BRAGER, CITY CLERK

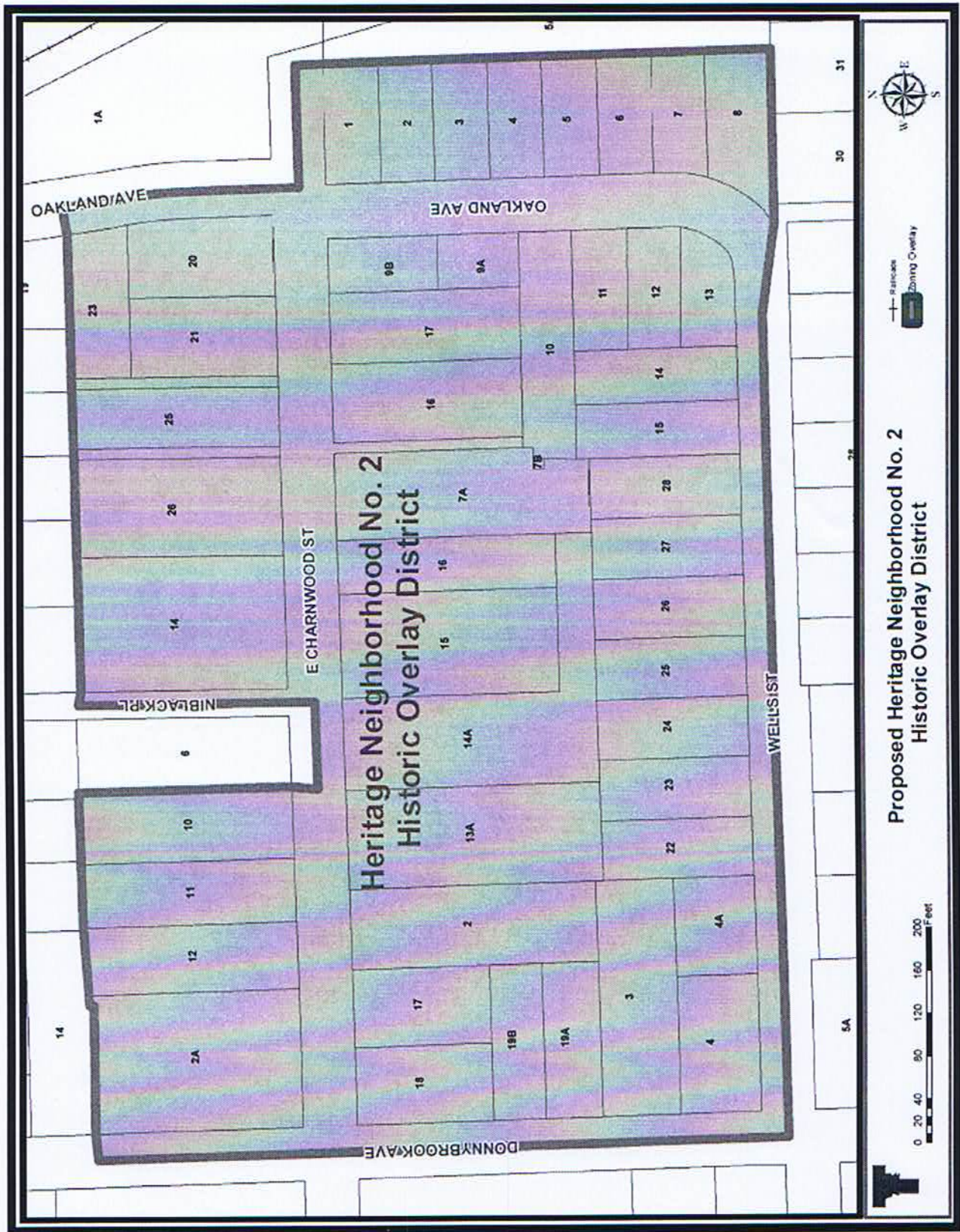


APPROVED:


GARY C. LANDERS, CITY ATTORNEY

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EXHIBIT 'A'



Proposed Heritage Neighborhood No. 2
Historic Overlay District