ARTICLE XX.3
"HP" HISTORIC PRESERVATION OVERLAY DISTRICT

(Entire Article Established, Ord. 2706, 07/16/02)

SECTION A. INTENT AND PURPOSE.

The "HP" Historic Preservation Overlay District shall function as an overlay zoning district. The "HP" requirements shall supercede the regulations of the underlying zoning district where such district's regulations are in conflict with the provisions of this Article. All regulations of the underlying zoning districts shall be in effect except as identified in the "HP" Historic Preservation Overlay District regulations.

The City Council of Carrollton hereby declares that as a matter of public policy the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance are necessary to promote the economic, cultural, educational, and general welfare of the public, and that such landmarks and districts represent the unique confluence of time and place that shaped the identity of generations of citizens, both collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage.

The designation of an historic landmark and/or historic district is intended to:

1. Protect and enhance the landmarks and areas which represent distinctive elements of Carrollton's historic, architectural, and cultural heritage;
2. Foster civic pride in past accomplishments of the community;
3. Protect and enhance Carrollton's attractiveness to residents, visitors and tourists;
4. Support the harmonious, orderly, and efficient growth and development of the community;
5. Promote, maintain and stimulate economic prosperity and the general welfare of the community; and
6. Encourage stabilization, restoration, and improvements of properties and their values.

SECTION B. DUTIES: HISTORIC PRESERVATION OFFICER, HISTORIC PRESERVATION ADVISORY COMMITTEE.

1. Historic Preservation Officer (also referred to as the "HPO")

   The City Manager or his designee shall appoint a qualified city official or staff person of the City of Carrollton to serve as Historic Preservation Officer. This officer shall administer this ordinance, meet with the Historic Preservation Advisory Committee at their regular and called meetings and advise them on matters of historic preservation and the administration of this ordinance.

   This officer shall also provide assistance to applicants and shall coordinate the City of Carrollton's historic preservation activities with those of federal and state agencies, and with local, state and federal preservation organizations.

2. Historic Preservation Advisory Committee (also referred to as "the Committee" and "HPAC")

The Historic Preservation Advisory Committee, as established in Section 34.050 of the Carrollton Code of Ordinances, shall conduct public hearings, make recommendations regarding the establishment of historic landmarks and districts, and approve or disapprove appeals of applications for Certificates of Appropriateness and Economic Hardship applications, as set forth in this ordinance.

The Historic Preservation Advisory Committee shall adopt criteria, guidelines, and rules as necessary to administer this ordinance, provided, however, that said criteria, guidelines and rules must be ratified by the City Council.

SECTION C. DESIGNATIONS.

1. Contents of an Application for Designation

The standard application form used by the City of Carrollton Urban Development Department shall be used in accordance with Section A of Article XXXI.

2. Criteria for Designation

A designation for an historic landmark or district may be made if, in the opinion of the City Council, the landmark or district:

a. Possesses significance in history, architecture, archeology or culture;

b. Is associated with events that have made a significant contribution to the broad patterns of local, regional, state or national history;

c. Is associated with the life of a person or persons significant to the community;

d. Embodies the distinctive characteristics of a type, period, style or method of architecture or construction;

e. Represents the work of a significant builder or craftsman;

f. Represents an established and familiar feature of the community;

g. Possesses high artistic values;

h. Represents and/or contributes to a significant and distinguishable entity whose components may lack individual distinction;

i. Has yielded, or is reasonably likely to yield, information important to history or prehistory; or

j. Is eligible for listing in the National Register of Historic Places or recognition by the Texas Historical Commission.

3. Process for Designating Landmarks & Districts

a. The Committee shall, within sixty (60) days from receiving a complete application, hold a public hearing and consider the nomination. Notice of this public hearing shall be posted in the manner set forth in Section B (1), Article XXXI, Carrollton Comprehensive Zoning Ordinance, provided that HPAC shall substitute for any and all references to the Planning and Zoning Commission therein.

The Committee shall then forward a recommendation to the Planning & Zoning Commission on the nomination, and a report containing the following information, as applicable:

1. An explanation of the significance of the nomination as it relates to the Criteria for Designation;

2. An explanation of the integrity and authenticity of historic character of the nominated landmark;

3. Design criteria to be used to guide and evaluate any alteration, construction, reconstruction, restoration, rehabilitation, removal or demolition of a landmark or within a district; and

4. Testimony or evidence received by the Committee as part of the application or during the public hearing.

b. Upon forwarding a recommendation and report from the Committee to the Planning & Zoning Commission, the process shall follow the procedures set forth in Section B (regarding a hearing before Planning and Zoning Commission), and in Section C (regarding a hearing before the City Council), Article XXXI, Carrollton Comprehensive Zoning Ordinance.

c. Upon designation of an historic landmark or district, the City Council shall cause the designation to be recorded in the real property records of the appropriate county, the tax records of the City of Carrollton and the Dallas Central Appraisal District, and to be shown on the official zoning map of the City of Carrollton by an appropriate mark. The record filed with the county shall include a verified written instrument filed in the real property records of the county clerk's office of each county in which Carrollton is located listing each historic structure or property that is located in the municipality and that county and is designated as historic by a political subdivision of the state by: the street address, if available in the municipal files; the legal description of the real property on which the structure or property is located; and the name of the owner of the real property, if the name is available in the municipal files.

4. Removing a Designation

A designation for an historic landmark or historic district may be removed in the same manner and by the same process by which it was enacted.

SECTION D. CERTIFICATE OF HISTORIC APPROPRIATENESS.

1. Required

In addition to any other permit required by other ordinances of the City of Carrollton, a Certificate of Historic Appropriateness shall be required prior to:

a. Any work which requires the issuance of a permit from the Building Inspections Department of the City of Carrollton and which affects the exterior appearance of a designated historic landmark or any structure located within a designated historic district.

No building permit shall be issued for any alteration, construction, reconstruction, restoration, rehabilitation, removal or demolition on any historic landmark or property within an historic district unless a Certificate of Historic Appropriateness has been approved for said activity.

b. Any work which does not require the issuance of a permit from the Building Inspections Department, but which affects the exterior appearance of a designated historic landmark or any structure located within a designated historic district. Examples of such work may include, but are not limited to:

1. Change of exterior appearance by painting or other finish work;
2. Installation of siding;
3. Window treatment, including, but not limited to, window replacement and the installation of awnings; or
4. Door treatment, including, but not limited to door replacement or alteration.

2. Ordinary Maintenance and Repair; Emergency Repair

a. Nothing in this article shall be construed to prevent the ordinary maintenance and/or repair as defined by Article XXXIV.; nor shall a Certificate of Historic Appropriateness be required by this article for ordinary maintenance and repair.

b. Emergency maintenance and temporary repair as defined by Article XXXIV. may be authorized by the City, provided that said temporary emergency maintenance and temporary repair does not permanently alter the distinctive features of the landmark or district, and that, within thirty (30) days, the owner of record applies for appropriate and adequate permits to make permanent repairs.

3. Process for Obtaining a Certificate of Historic Appropriateness

a. Upon the receipt by the City of Carrollton of an application for a Certificate of Historic Appropriateness, the HPO shall review the application.

If an application meets the criteria listed in subsection 4 of this section, a Certificate of Historic Appropriateness shall be granted.

If, the proposed work does not conform to the criteria listed in subsection 4 of this section, the HPO shall advise the applicant of modifications needed to come into compliance with said criteria. If the applicant makes said modifications, a Certificate of Historic Appropriateness shall be granted.

b. Refusal to grant a Certificate of Historic Appropriateness may be appealed to the Committee by submitting a letter of appeal within ten (10) days of the decision of the HPO.

1. The Committee shall within thirty (30) days, upon receiving a letter of appeal, hold a public hearing and consider the appeal. Notice of this public hearing shall be posted in the manner set forth in Section B (1), Article XXXI, Carrollton Comprehensive Zoning Ordinance, provided that the Committee shall substitute for any and all references to the Planning and Zoning Commission therein.

2. The Committee shall, by motion and vote, approve, approve with modifications, deny for the purpose of continuation or deny the Certificate of Historic Appropriateness.

3. A denial for the purpose of continuation shall only be made to allow the applicant sufficient time to modify their proposal and return to the Committee for additional consideration.

4. In the event the Committee does not act within thirty (30) days, the Certificate shall be deemed approved.

c. An applicant for a Certificate of Historic Appropriateness dissatisfied with the Committee's decision may appeal that decision to the City Council within ten (10) days in accordance with the process and procedures set forth in Article XXXI, Section C, Carrollton Comprehensive Zoning Ordinance, provided that the Committee shall substitute for any and all references to the Planning and Zoning Commission therein.

d. An applicant dissatisfied with the Committee's decision may also file an application for economic hardship as provided in this article with the Committee.

4. Criteria for Consideration of a Certificate of Historic Appropriateness

a. General

When assessing an application for a Certificate of Historic Appropriateness, consideration shall be given to any design criteria set forth in the ordinance establishing the designated landmark or district and, where applicable, the Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings (adopted herein by attachment: Appendix A to this article), both of which shall be made available to the owners of historic landmarks and the owners of property within historic districts.

Any adopted design guidelines, Secretary of the Interior's Standards for the Rehabilitation of Historic Buildings (Appendix A), and Secretary of the Interior's Guidelines for Rehabilitating Historic Buildings (Appendix B) shall be on file in city secretary's office and made available to the public. (Appendix B is for guidance only and is not adopted by this article.)

General guidelines for the rehabilitation, repair, reconstruction or alteration of landmarks, or for any construction in an historic district shall include, but are not limited to, the following:

1. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property should be avoided where possible.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved where possible.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should, as closely as possible, match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as indiscriminate and careless sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

9. New additions, exterior alterations, or related new construction should not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

10. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

b. Demolition

When assessing an application for a Certificate of Historic Appropriateness for demolition, consideration shall be given to the criteria set forth in subsection A above, any criteria set forth in the ordinance establishing the historic designation, and also may include any of the following:

1. The importance of the building, object, site, or structure to the integrity and character of the surrounding area;

2. The difficulty or impossibility of reproducing such a building, object, site, or structure due to design, texture, material, detail, or unique location;

3. Whether the building, object, site, or structure is one of the last remaining examples of its kind in the neighborhood, city, county, state, or nation;

4. Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what effect such plans will have on the architectural, cultural, historical, archaeological, social, aesthetic, and/or environmental character of the surrounding area;

5. Whether reasonable measures can be taken to save the building, object, site, structure, or cluster from further deterioration, collapse, arson, vandalism or neglect; and

6. Whether reasonable measures can be taken to relocate the building, object, or structure to a new site.

7. The condition of the structure.

8. Estimated cost of restoration or repair.

9. Demonstration that the adaptive use or restoration of the structure has been seriously considered.

5. Contents of an Application for a Certificate of Historic Appropriateness

The standard application form of the City of Carrollton shall be used, provided that not more than one Blueline or blackline exhibit of each plan, elevation or drawing shall be required. The applicant shall provide a complete description of the all the work proposed to be done. Said description shall include, but is not limited to, as appropriate: site plans, construction plans, elevation drawings, photographs of existing conditions, photographs of historical conditions and samples of materials. The description shall also encompass adjacent properties, where appropriate.

It shall be the duty and obligation of the applicant to provide, as part of the application, sufficient information to adequately convey the full effect of the work proposed to be completed and any information applicable to the designated property under this Article.

6. Complete Application Required

An application shall not be accepted unless it is complete, including sufficient description to adequately and completely convey the full effect of the work proposed to be done.

SECTION E. ECONOMIC HARDSHIP APPLICATION PROCEDURE.

1. Motion for Rehearing

After receiving written notification from the Committee of the denial of a certificate of appropriateness, an applicant may file a motion for rehearing with the Committee alleging economic hardship as a basis for granting the certificate of appropriateness. No building permit or demolition permit shall be issued unless the Committee makes a finding that hardship exists.

2. Proof required

a. Non-residential purposes

When a claim of economic hardship is made concerning property used for non-residential purposes the owner must prove, by a preponderance of the evidence, that:

1. the property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
2. the property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return;
3. good faith efforts to find a purchaser interested in acquiring the property at fair market value and preserving it have failed; and
4. the applicant has consulted in good faith with the Committee, local preservation groups and interested parties, if any, in a diligent effort to seek an alternative that would result in preservation of the property.

b. Residential, open farms or open lands purposes

When a claim of economic hardship is made concerning property used for residential purposes or for open farms or open lands, the owner must prove, by a preponderance of the evidence, that:

1. Good faith efforts to find a purchaser interested in acquiring the property at fair market value, and preserving it have failed; and
2. The applicant has consulted in good faith with the Committee, local preservation groups and interested parties, if any, in a diligent effort to seek an alternative that would result in

preservation of the property.

c. Possible Evidence

As evidence of unreasonable economic hardship, the owner may submit the following information to the Committee by affidavit:

1. An estimate of the cost of the proposed construction, alteration, demolition or removal and an estimate of any additional cost that would be incurred to comply with the conditions the Committee required for the issuance of a Certificate of Historic Appropriateness;

2. A report from a licensed engineer or architect with experience in rehabilitation as to the structural soundness of any structures on the property and their suitability for rehabilitation;

3. Estimated market value of the property in its current condition; after completion of the proposed construction, alteration, demolition, or removal; after any changes recommended by the Committee; and, in the case of a proposed demolition, after renovation of the existing property for continued use;

4. In the case of a proposed demolition, an estimate from an architect, developer, real estate consultant, appraiser, or other real estate professional experienced in rehabilitation as to the economic feasibility of rehabilitation or reuse of the existing structure on the property;

5. Remaining balance on any mortgage or other financing secured by the property owner and annual debt service, if any, for the previous two years;

6. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing, or ownership of the property;

7. Any listing of the property for sale or rent, price asked and offers received, if any, within the previous two years;

8. The assessed value of the property according to the two most recent certified tax rolls;

9. Real estate taxes paid for the previous two years, and;

10. Form of ownership or operation of the property, whether sole proprietorship, for-profit or not-for-profit corporation, limited partnership, joint venture, or other.

d. Additional information

In the event the Committee determines that any additional information is necessary in order to evaluate whether an unreasonable economic hardship exists, the Committee shall promptly notify the owner.

The applicant shall consult in good faith with the Committee, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the Committee.

3. Process

The Committee shall, within sixty (60) days from receiving a complete application, hold a public hearing and consider the application for unreasonable economic hardship. Notice of this public hearing shall be posted in the manner set forth in Section B (1), Article XXXI, Carrollton Comprehensive Zoning Ordinance, provided that the Committee shall substitute for any and all references to the Planning and Zoning Commission therein.

If the Committee does not act within sixty (60) days of the receipt of the application, a hardship certificate shall be granted.

All decisions of the Committee shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the city clerk's office for public inspection. The Committee's decision shall state the reasons for granting or denying the hardship application.

4. Appeal

An applicant dissatisfied with the action of the Committee relating to the issuance or denial of an economic hardship application shall have the right to appeal to the City Council within ten (10) days after receipt of notification of such action. The City Council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in Section C, Article XXXI, Carrollton Comprehensive Zoning Ordinance.

SECTION F. TEMPORARY STAY OF ISSUANCE OF PERMITS FOR NOMINATED PROPERTIES.

No permit shall be issued for alteration, construction, reconstruction, restoration, rehabilitation, removal or demolition on any property for which a complete application has been received for historic landmark designation, or which lies in an area for which a complete application has been received for historic district designation, until such time as the City Council has made a determination as to the nominated designation.

SECTION G. DEMOLITION BY NEGLECT.

A. No owner or person with an interest in real property designated as a historic landmark or within an historic district shall permit said property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the Historical Preservation Advisory Committee, produce a detrimental effect upon the character of the historic district as a whole or the life and character of the property itself.

B. Examples of such deterioration include, but are not limited to:

1. Physical deterioration of exterior walls or vertical structural supports;

2. Physical deterioration of roofs or horizontal structural supports;

3. Physical deterioration of chimneys;
4. Physical deterioration of foundations;
5. Physical deterioration of stucco or mortar;
6. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors; or
7. Physical deterioration of any features so as to create a hazardous condition, which could lead to the claim that demolition, is necessary for public safety.

SECTION H. APPLICATION TO PUBLIC PROPERTY.

As allowed by state and federal law, any alteration, construction, reconstruction, restoration, rehabilitation or demolition of any building or structure designated an historic landmark or within a designated historic district and which is owned by any public or governmental entity shall be subject to the same requirements outlined in this Article as applied to privately-owned property.

SECTION I. FINANCIAL INCENTIVES FOR PRESERVATION: HISTORIC LANDMARK DESIGNATION TAX EXEMPTION UNDER V.T.C.A., PROPERTY TAX CODE SECTION 11.24.

1. Calculation of Tax Exemption

Any property which has been designated as an historic landmark or which is located within a designated historic district shall qualify for an exemption of City ad valorem taxes, provided that the historic landmark or property which is located within a designated historic district has been determined by the City Council to be a historically or archeologically significant site in need of tax relief to encourage its preservation. The tax exemption shall exempt from City ad valorem taxation any increase in the assessed value of the building/structure and the land necessary for access and use of the building/structure following the designation by the City Council for a period of ten (10) years.

a. This tax incentive shall begin on the first day of the first tax year after verification of completion of the preservation required for certification.
b. This tax incentive shall only be granted for properties where the value of the rehabilitation exceeds thirty percent (30%) of the assessed value of the building/structure in the base year. For the purposes of this Section, the "base year" shall be the year in which the application for the tax exemption was approved by Council. In the event that the structure or the land is assessed during such ten (10) year period at a lower value than the assessed value for the base year, the Council shall reevaluate the exemption amount for the remainder of the ten (10) year period.
c. This tax incentive shall only be granted on historic landmark properties or properties located within a designated historic district for the increase in the assessed value of a building/structure and the land necessary for access and use of the building/structure.
d. In order to qualify for the exemption, the Council must approve the application for the tax exemption prior to the commencement of the work and the work must be verified in compliance with this section.

2. Application process

Any application for tax exemption shall be filed with the Historic Preservation Officer. Each application shall contain sufficient documentation to support the information submitted therein. Each application shall be signed and sworn to by the owner of the property and shall:

a. State the legal description and the address of the property proposed for certification;
b. Provide proof of title in the application to the property proposed for certification;
c. Provide proof that taxes or other assessments are not delinquent on the property;
d. Include a complete set of final plans for the improvement;
e. Include a statement of costs for the renovation and/or restoration and the assessed value of the building;
f. Include a projection of the estimated construction time and predicted completion date;
g. Include a detailed statement of the proposed use of the property;
h. Provide any additional information to HPAC which is necessary in determining eligibility or which the owner deems relevant or useful; and
i. Contain a written agreement to maintain, for the duration of the tax exemption, the certified property in accordance with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, and the applicable city building codes.

3. Certification process.

a. Upon receipt of the sworn application, the Committee shall make an investigation of the property and shall certify the facts to the City Manager or Designee of the City of Carrollton within thirty (30) days along with the Committee's documentation and recommendation for approval or disapproval of the tax exemption.

b. Upon receipt of the application for a tax exemption, as well as the recommendation of the Committee, the City Manager or Designee shall immediately forward the application to the City Council and, within sixty (60) days, the Council shall approve by resolution or disapprove eligibility of the property for City ad valorem tax relief pursuant to this section and may outline conditions. Approval or disapproval shall be provided in writing to the applicant. In determining eligibility, the City Council shall first determine that all the requirements of this section have been met.

c. No property shall be certified for tax exemption purposes until the applicant has filed a commitment to repay to the City all City taxes previously exempted if the owner is required to repay the taxes for noncompliance with this section as provided below. The commitment shall be filed in the appropriate County Deed Records and shall run with the land and bind the owner and the owner's heirs and assigns. Any unpaid repayment shall constitute a lien against the property.

d. The application for certification may be processed concurrently with any application for a certificate of appropriateness which is required under this ordinance.

4. Verification Process

Upon completion of the project, the applicant shall submit a sworn statement of completion acknowledging that the "historically or archeologically significant property" has been improved as required by the Committee. The Committee, upon receipt of the sworn statement of completion, but no later than thirty (30) days thereafter, shall make an investigation of the property and shall verify that the property has been completed as required for certification. If verification of completion shall be deemed unfavorable, the applicant shall be required to complete the renovation and/or restoration in order to secure the tax exemption provided herein. If the verification of completion is favorable, the applicant shall timely provide the appropriate paperwork to the Chief Appraiser of Dallas Central Appraisal District (regardless of which county the property is in) in order to receive the exemption. If the verification of completion is favorable, the Committee shall timely provide written notification to the Tax Assessor-Collector for the City of Carrollton.

5. Transferability of tax exemption

The benefits and liabilities of this City ad valorem tax incentive program are transferable and run with the property. A property may take advantage of the tax incentive program once. A copy of the certification must be filed by the property owner in the county deed records. Proof of the filing shall be presented to the Historic Preservation Officer.

SECTION J. CUMULATIVE REMEDIES.

That the provisions of this Article shall apply in addition to other enforcement provisions or penalties which are available at law or in equity, but not limited to, those available for adversely affecting historic structures or properties under Section 315.006 of the Texas Local Government Code and Section 442.016 of the Texas Government Code.