

ORDINANCE NUMBER _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARROLLTON, TEXAS AMENDING ORDINANCE NUMBER 1470, OTHERWISE KNOWN AS THE COMPREHENSIVE ZONING ORDINANCE, AMENDING THE TEXT OF ARTICLE XX.3 “HP” HISTORIC PRESERVATION OVERLAY DISTRICT TO ADD TO THE INTENT OF THE DESIGNATION OF A HISTORIC LANDMARK AND HISTORIC DISTRICT, CHANGE THE NAME OF THE HISTORIC PRESERVATION ADVISORY COMMITTEE AND THEIR DUTIES, CHANGE THE CRITERIA FOR A DESIGNATION, ADD DEFINITIONS, ADD APPLICATION CRITERIA, AND AMEND THE PROCESS FOR DESIGNATING LANDMARKS AND DISTRICTS; PROVIDING PENALTY, SEVERABILITY, REPEALER AND SAVINGS CLAUSES; AND PROVIDING AN EFFECTIVE DATE ON AND AFTER ITS ADOPTION AND PUBLICATION.

WHEREAS, at a public hearing held on the Second day of November 2023, the Planning & Zoning Commission considered and made recommendation on a change to the Comprehensive Zoning Ordinance of the City of Carrollton (Case No. PLZT 2023-103); and

WHEREAS, the City Council conducted a public hearing on the Fifth day of December 2023, at which all persons were given an opportunity to present testimony; and

WHEREAS, the City Council, after determining all legal requirements of notice and hearing have been met, has further determined the following amendment to the zoning laws would provide for and would be in the best interest of the health, safety, morals and general welfare:

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

Section 1.

All of the above premises are found to be true and correct legislative and factual findings of the City Council, and they are hereby approved, ratified and incorporated into the body of this Ordinance as if copied in their entirety.

Section 2.

Article XX.3. “HP” Historic Preservation Overlay District of the Comprehensive Zoning Ordinance is hereby amended for the sections below and is to read as follows:

“SECTION A. INTENT AND PURPOSE.

The "HP" Historic Preservation Overlay District shall function as an overlay zoning district. The "HP" requirements shall supersede the regulations of the underlying zoning district where such district's regulations 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 designations 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 designations 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.

An historic designation 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. Protect and enhance Carrollton's attractiveness to residents, visitors and tourists
3. Support the harmonious, orderly, and efficient growth and development of the community
4. Promote, maintain and stimulate economic prosperity and the general welfare of the community, and
5. Encourage stabilization, restoration, and improvements of properties and their values.
6. Educate Carrollton residents and visitors of Carrollton history.

SECTION B. DUTIES: HISTORIC PRESERVATION OFFICER, MUSEUM AND HISTORIC PRESERVATION STAFF LIAISON, MUSEUM AND HISTORIC ADVISORY COMMITTEE.

1. HISTORIC PRESERVATION OFFICER: (Also referred to as the “HPO”)

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

The HPO shall also provide assistance to applicants and shall coordinate the City of Carrollton’s historic preservation activities as it relates to the Historic Preservation Overlay District with those of federal and state agencies, and with local, state, and federal preservation organizations.

2. MUSEUM AND HISTORIC PRESERVATION STAFF LIAISON: (Also referred to as the “MHPL”)

The City Manager or their designee shall appoint a staff person of the City of Carrollton to serve as Museum and Historic Preservation Staff Liaison. The liaison will aid the Committee and support Carrollton's history as outlined in Chapter 133 of the Municipal Code of Ordinances.

The MHPL may advise and assist the HPO in historical research, documents, and recommendations, but shall not be responsible for items related to planning and zoning laws.

This person shall also provide assistance to applicants as pertained to the A.W. Perry Homestead, Carrollton history, and markers unrelated to zoning laws 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 with the HPO as needed.

3. MUSEUM AND HISTORIC ADVISORY COMMITTEE: (Also referred to as "the Committee" and "MHAC")

The Museum and Historic Advisory Committee shall conduct meetings as established in Chapter 34 of the Carrollton Code of Ordinances.

SECTION C. DESIGNATIONS.

1. HISTORIC DESIGNATION

A. CONTENTS OF AN APPLICATION FOR DESIGNATION (See Section 133 Municipal Code of Ordinances).

2. HISTORIC DISTRICT

A. CRITERIA FOR HISTORIC DISTRICT:

Applications for a designation for a historic district may be submitted if the district has received National or State historical recognition or satisfies the following:

- 1) Possesses significance in history, architecture, archaeology, or culture and is associated with events that have made a significant contribution to the broad patterns of local history.
- 2) Embodies the distinctive characteristics of a type, period, style or method of architecture or construction; represents an established and familiar feature of the community and represents and/or contributes to a significant and distinguishable entity whose components may lack individual distinction.

B. APPLICATION CRITERIA:

- 1) Source verification is required for all information pertaining to claims of significance.
- 2) Applicant must be sole owner or have written permission granting approval for application from current owner(s), any persons named in the application, or any other company, corporation or individual who may have a say or right of objection to the designation.

C. PROCESS FOR DESIGNATING DISTRICT:

- 1) Submit to MHAC an application and associated drawings that explains the different criteria for designation that the proposed properties meet.
- 2) The Committee shall present applications during the next scheduled meeting with no less than 10 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 MHAC shall substitute for any and all references to the Planning and Zoning Commission therein.
- 3) The MHAC will hold a public hearing to consider that nomination and make a recommendation to the Planning and Zoning Commission, as set forth in Article XXXI. Changes and Amendments, Section B. Hearing Before the Planning and Zoning Commission.
- 4) 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.
- 5) 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.

D. REMOVING A DISTRICT DESIGNATION:

A designation for an 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 Inspection Department of the City of Carrollton, and which affects the exterior appearance of a designated historic 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 structure 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 structure located within a designated historic district. Examples of such work may include, but are not limited to:
 - i. Changing of exterior appearance by painting or other finish work
 - ii. Installation of siding
 - iii. Window treatment, including, but not limited to, window replacement and the installation of awnings, or
 - iv. 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 authorize by the City, provided that said temporary emergency maintenance and temporary repair does not permanently alter the distinctive features of the historically designated structure or district, and that, within 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 10 days of the decision of the HPO.
 - i. The Committee shall within 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.

- ii. The Committee shall, by motion and vote, approve, approve with modifications, deny for the purpose of continuation or deny the Certificate of Historic Appropriateness.
 - iii. 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.
 - iv. In the event the Committee does not act within 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 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 structure 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 structures 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 the 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 structures, or for any construction in an historic district shall include, but are not limited to, the following:

- i. 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.
- ii. 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.

- iii. 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.
- iv. Most properties change over time; those changes that have acquired historic significance shall be retained and preserved.
- v. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved where possible.
- vi. 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.
- vii. 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.
- viii. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
- ix. 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.
- x. 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:

- i. The importance of the building, object, site, or structure to the integrity and character of the surrounding area
- ii. The difficulty or impossibility of reproducing such a building, object, site, or structure due to design, texture, material, detail, or unique location

- iii. 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
- iv. 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
- v. Whether reasonable measures can be taken to save the building, object, site, structure, or cluster from further deterioration, collapse, arson, vandalism or neglect, and
- vi. Whether reasonable measures can be taken to relocate the building, object, or structure to a new site
- vii. The condition of the structure
- viii. Estimated cost of restoration or repair
- ix. 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 Blue-line 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, and 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 G. DEMOLITION BY NEGLECT.

- 1. No owner or person with an interest in real property designated as a historic designation or within an historic district shall permit said property to fall into a serious state of disrepair to result in the deterioration of any exterior architectural feature which would, in the judgment of the Museum and Historic 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.”
- 2. Examples of such deterioration include, but are not limited to:

- a. Physical deterioration of exterior walls or vertical structural supports
- b. Physical deterioration of roofs or horizontal structural supports
- c. Physical deterioration of chimneys
- d. Physical deterioration of foundation
- e. Physical deterioration of stucco or mortar
- f. Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors, or
- g. Physical deterioration of any features to create a hazardous condition, which could lead to the claim that demolition, is necessary for public safety.”

Section 3.

Any person, firm or corporation violating a provision of this ordinance, upon conviction, is guilty of an offense punishable as provided in Section 10.99 of the Carrollton City Code.

Section 4.

The provisions of this ordinance are severable in accordance with Section 10.07 of the Carrollton City Code.

Section 5.

This ordinance shall be cumulative of all provisions of ordinances of the City of Carrollton, Texas, except where the provisions of this ordinance are in direct conflict with the provisions of such ordinances, in which event the conflicting provisions of such ordinances are hereby repealed.

Section 6.

Ordinance Number 1470, otherwise known as the Comprehensive Zoning Ordinance, Chapter 153 of the Code of Ordinances, and the Official Zoning Map, as amended, shall remain in full force and effect.

Section 7.

This ordinance shall become and be effective on and after its adoption and publication.

PASSED AND APPROVED this the Fifth day of December 2023.

CITY OF CARROLLTON

By: _____
Steve Babick, Mayor

ATTEST:

Chloe Sawatzky
City Secretary

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Albert Thomas
Assistant City Attorney

Michael McCauley
Senior Planner