

ORDINANCE NO. 2017-2-2

An Ordinance of the City of Plano, Texas, repealing Ordinance No. 2008-8-15, codified as Article II, Ad Valorem Taxes, Division 3, Historic Structures, of Chapter 20, Taxation, of the Code of Ordinances; replacing the provisions establishing the Heritage Tax Exemption Program for the City; and providing a repealer clause, a severability clause, a savings clause, a penalty clause, a publication clause, and an effective date.

WHEREAS, Article 8, Section 1-F of the Texas Constitution and the Texas Tax Code, Section 11.24, enable the City of Plano to exempt from taxation part or all of the assessed value of a structure if the structure is designated as a historically or archeologically significant site in need of tax relief to encourage its preservation; and

WHEREAS, the City Council has heretofore established a program of designating historic sites and structures as heritage resources, through the zoning process, in order to preserve and protect the cultural heritage of Plano; and

WHEREAS, by Ordinance 84-8-24, the City Council established provisions for historic structures for the City of Plano to grant partial exemption from ad valorem taxes for certain structures which have been recommended for exemption, and such Ordinances were collectively codified as Article II, Division 3, Historic Structures, of Chapter 20 of the Code of Ordinances of the City of Plano; and

WHEREAS, designated heritage resources include individually designated structures and structures located within heritage resource overlay districts; and

WHEREAS, preservation of individually designated structures and contributing structures within a heritage resource overlay district is vital to the protection of the cultural heritage of Plano; and

WHEREAS, compatible structures within a heritage resource overlay district contribute to the successful preservation of the heritage district by providing continuity, opportunities for economic development, and necessary infill; and

WHEREAS, the City Council wishes to provide tax relief for the purpose of encouraging historic preservation; and

WHEREAS, upon the recommendation of the Heritage Commission, the City Council now finds it is necessary to adopt updated provisions for the tax exemption program for heritage preservation within the City of Plano and that such provisions are in the best interest of the City and its citizens.

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

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Section I. Ordinance No. 2008-8-15, passed and approved by the City Council of the City of Plano, Texas, on August 25, 2008, is hereby repealed in its entirety.

Section II. Article II, Ad Valorem Taxes, Division 3, Historic Structures, of Chapter 20, Taxation, of the Code of Ordinances of the City of Plano is hereby replaced as follows:

Sec. 20-51. - Granting of exemptions.

The City Council shall by ordinance, concurrent with the levy of taxes for each current year, approve for partial exemption from ad valorem taxes certain heritage resources which have been recommended for exemption pursuant to provisions of this division.

Sec. 20-52. - Historically significant sites.

For the purpose of this division, historically significant sites are defined as structures within the (H) and (HD) zoning overlay districts, except for structures delineated by the Heritage Commission as non-contributing or incompatible structures within a (HD) zoning overlay district.

Sec. 20-53. - Classes of heritage resources.

The heritage resources shall be divided into the following classes:

(1) *Class A.* Structures that are:

- a. Occupied exclusively for residential purposes; and
- b. Individually designated heritage resources located in a zoning overlay district with the suffix "H."

(2) *Class B.* Structures that are:

- a. Occupied in whole or in part for purposes other than residential; and
- b. Individually designated heritage resources located in a zoning overlay district with the suffix "H."

(3) *Class C.* Structures that are:

- a. Occupied exclusively for residential purposes; and
- b. Contributing or compatible structures located in a heritage resource overlay district designated with the suffix "HD."

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(4) *Class D*. Structures that are:

- a. Occupied in whole or in part for purposes other than residential; and
- b. Contributing or compatible structures located in a heritage resource overlay district designated with the suffix "HD."

Sec. 20-54. - Percentage of value exempted.

The following classes of heritage resources which are approved for exemption by ordinance pursuant to the provisions of this division, shall have the following percentage of assessed improvement value exempt from ad valorem taxes levied by the City:

- (1) Class A structures shall have an exemption of one hundred (100) percent of the assessed improvement value of the structure during the applicable collection period.
- (2) Class B structures shall have an exemption of fifty (50) percent of the assessed improvement value of the structure during the applicable collection period.
- (3) Class C structures shall have an exemption of seventy-five (75) percent of the assessed improvement value of the structure during the applicable collection period.
- (4) Class D structures shall have an exemption of thirty-eight (38) percent of the assessed improvement value of the structure during the applicable collection period.

Sec. 20-55. - Application.

Applications for heritage tax exemption shall be submitted as follows:

- (1) For the assessment year for which the owner of the structure desires such structure to be tax exempt to the extent provided by this division, the owner shall file with the Heritage Preservation Officer an application, no later than January 1, attesting that the eligibility requirements of this article and Texas Tax Code Section 11.42 are fully satisfied at the time of application submittal.
 - a. Once the owner has filed and been approved for tax exemption of a property, a new application shall not be required to be filed by the property owner annually as long as he/she retains ownership of the property.
 - b. If the property ownership changes on an exempt property, the new owner may request extension of the tax exempt status for the remainder of the calendar year for the year of purchase. A new application will be required to be filed as set out herein for the following assessment year. Any outstanding repair or maintenance items identified in the tax exemption survey of the most recent approved year shall need to be addressed for the following year eligibility.

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c. If a property owner was previously denied tax exempt status for a property, a new application will be required to be filed as set out herein. Any outstanding Zoning Ordinance compliance issues or, exterior repair or maintenance items identified in previous tax exemption surveys shall need to be addressed prior to regain eligibility.

- (2) Application forms are to be available online and from the City planning department.
- (3) The application shall affirmatively set forth the owner's authorization for City staff members to visit and inspect the property and books and records as necessary to certify whether or not the structure is being preserved and maintained as required by Sec. 20-56 of this division.

Sec. 20-56. – Inspection; approval or denial certification.

- (1) Upon receipt of the sworn application, the Heritage Preservation Officer, or its designees, shall conduct a tax exemption survey to inspect the property and review the books and records as necessary to certify whether or not:
- a. The structure is being preserved and maintained in accordance with minimum property, structural, health, and safety standards as adopted by the City of Plano; and
 - b. The building and site are in compliance with the City's Zoning Ordinance; and
 - c. The building and site are in compliance with the inspection criteria of this division listed under (2) and (3) below.
- (2) Building elements with their materials and finishes shall be maintained in good repair and in operable condition to avoid decay, damage, structural failure and hazardous or unsafe conditions to life, health, or other property. Generally:
- a. Exterior surfaces of all structures (main structure and accessory structures) shall be clean, maintained, protected and weathertight. Surfaces that have been previously painted/stuccoed shall be protected with paint and/or other appropriate finishes/coatings.
 - b. Repainting/paint touch-ups shall closely match the existing paint colors and applied at reasonable intervals.
 - c. Damaged, loose, or rotted materials/details shall be reestablished, repaired or replaced. All joints or cracks shall be weatherproofed appropriately by proper maintenance.
 - d. Exterior facades shall be clean from any graffiti, overgrown vegetation, and left over residues from previous work/installations.

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- e. Damaged or worn property elements such as those listed in the immediate section below shall be repaired, restored or replaced and secured properly to remain operable.
 - f. Vacant structures shall be securely closed and weathertight. Any unoccupied structure shall be maintained and secured to avoid becoming a structure that may be considered demolished by neglect as defined in Chapter 16, Planning and Development, Article IV. Heritage Resource Preservation.
 - g. Exterior materials shall be maintained to historic standards as outlined in the Heritage Resource Overlay District Design Guidelines/Standards and the Secretary of the Interior's Standards.
 - h. Exterior plumbing, electrical and mechanical fixtures shall be secured properly.
 - i. Grounds shall be maintained free of excessive rubbish, garbage, junk, refuse or debris.
- (3) The Heritage Preservation Officer, or its designees, shall inspect the structure, accessory structures, property elements and grounds to ensure general maintenance has occurred as described immediately above.
- (4) The Heritage Preservation Officer shall present to the Heritage Commission a list of properties recommended for approval or denial of the tax exemption based on the findings of the tax exemption survey. A denial recommendation could be due to the following reasons:
- a. A structure is not being preserved and maintained in accordance with minimum property, structural, health, and safety standards as adopted by the City of Plano or is not in compliance with the City's Zoning Ordinance; or
 - b. Deficiencies from previous tax exemption surveys were not completed by January 1 of the subject year; or
 - c. Exterior work was completed, installed, or is under construction without a Certificate of Appropriateness (CA) or in deviation of a previously approved CA.
- (5) The Heritage Preservation Officer will notify applicants of properties recommended for denial by registered mail twenty (20) calendar days prior to the Heritage Commission public hearing.
- (6) The Heritage Commission shall hold a public hearing to make a determination of property eligibility and to certify properties have adequately addressed the deficiencies in the required time frame from the previous year and are in compliance. The Heritage Commission may grant an extension to properties if it is determined that extenuating circumstances exist. Such circumstances should generally be justified by supportive information such as:

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- a. Cost estimates or other information indicating the required repair is more substantial than initially expected;
 - b. Documentation that the issue(s) was misidentified or didn't exist in the manner described in the tax exemption survey; or
 - c. Documentation that the issue is being addressed as part of a larger series of repairs or improvements and has received approval with a Certificate of Appropriateness.
- (7) The Heritage Commission shall certify the facts to the City Council not later than March 30 of the subject year, along with the Heritage Commission's determination for approval or denial of applications for tax exemption.
- (8) Following adoption by City Council, the Heritage Preservation Officer will notify applicants of any new deficiencies based on the findings of the tax exemption survey. The applicant shall address deficiencies within the time frame determined at the time of notification.

Sec. 20-57. - Appeal of Heritage Commission's determination.

Any owner of a qualified heritage resource may appeal denial of the tax exemption by the Heritage Commission by submitting a notice of appeal in the form of a signed letter to the Heritage Preservation Officer within ten (10) business days of the date of the Commission's action. The Heritage Preservation Officer shall submit the letter of appeal to the City Council and it shall be heard as part of Council's consideration of the adopting ordinance noted in section 20-58 of this division. Should the City Council overturn the Heritage Commission's determination and grant tax exempt status to the property, the property will be added to the ordinance and list of exempted properties forwarded to the chief appraiser. If the City Council upholds the determination of the Heritage Commission, the property will not be included in the list forwarded to the chief appraiser with the adopting ordinance and the property owner may resubmit for tax exemption consideration the following year in accordance with section 20-55 of this division.

Sec. 20-58. - Adoption of ordinance by City Council.

The City Council shall adopt an ordinance granting partial exemptions under this division. The ordinance shall specify the class of exempt structures and shall provide that all land shall be assessed for taxation in the same equal and uniform manner as all other taxable properties in the City. The City shall cause a copy of the ordinance and certifications from the Heritage Commission to be forwarded to the chief appraiser not later than May 1 of the subject year.

Sec. 20-59. - Rendition and assessment of heritage resources for ad valorem taxation.

The provisions of this division pertaining to partial exemption of heritage resources do not change the provisions of any other ordinance provision of the City pertaining to taxation, and the applicant's structures shall be rendered and assessed in the same

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manner as any other property if the City Council elects to disapprove the application for exemption.

Sec. 20-60. - Definitions.

Compatible Structure means a structure within a heritage resource overlay district that was substantially constructed after the district's period of significance, but fits within the existing character of the heritage resource overlay district to reflect existing buildings in massing, height, scale, material, roof, color, architectural details, and general appearance, or is built in accordance with an approved Certificate of Appropriateness (CA).

Contributing Structure means a structure within a heritage resource overlay district that was substantially constructed within the district's period of significance and retains a significant amount of its physical integrity and character defining features including location, setting, design, construction, workmanship, or association with historical persons or events.

Heritage Resource means a structure, site, or landmark of historical, cultural, archeological, or architectural importance at the national, state, or local level, and that has received from the Plano City Council local heritage designation individually or as part of a heritage resource overlay district.

Heritage Resource Overlay District means an area which includes two (2) or more structures or sites, together with their accessory buildings, fences, and other appurtenances that are of historical, cultural, archaeological, or architectural importance, and that has received from the Plano City Council local heritage resource overlay district designation. A heritage resource overlay district may have within its boundaries contributing, compatible, non-contributing, and incompatible structures.

Incompatible Structure means a structure within a heritage resource overlay district that is built after the district's designation without an approved Certificate of Appropriateness (CA).

Individually Designated Heritage Resource means a structure, site, or landmark of historical, cultural, archaeological, or architectural importance that has received from the Plano City Council local heritage resource designation on its own and not as part of a heritage resource overlay district. It may consist of only a single property (not a district overlay), or may be located within a heritage resource overlay district.

Non-Contributing Structure means a structure within a heritage resource overlay district that was substantially constructed after the district's period of significance and is not an integral part of the historic, archaeological and architectural fabric of the district or the City, or was substantially constructed within the district's period of significance and does not retain a significant portion of its architectural or design integrity.

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Section III. All provisions of the Code of Ordinances of the City of Plano in conflict with the provisions of this Ordinance are hereby repealed, and all other provisions of the Code of Ordinances of the City of Plano not in conflict with the provisions of this Ordinance shall remain in full force and effect.


Section IV. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable, and if any phrase, clause, sentence, or section of this Ordinance shall be declared unconstitutional or invalid by any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any other remaining phrase, clause, sentence, paragraph, or section of this Ordinance.

Section V. The repeal of any Ordinance or part of Ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the municipality under any section or provisions at the time of this Ordinance.

Section VI. Any person, firm, or corporation found to be violating any term or provision of this Ordinance, shall be subject to a fine in accordance with Section 1-4(b) of the City Code of Ordinances for each offense. Every day a violation continues shall constitute a separate offense.

Section VII. This Ordinance shall become effective immediately upon its passage and publication as required by law.

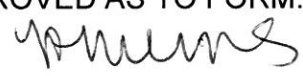
PASSED AND APPROVED THIS THE 13TH DAY OF FEBRUARY, 2017.



Harry LaRosiliere, MAYOR

ATTEST:


Lisa C. Henderson, CITY SECRETARY

APPROVED AS TO FORM:


Paige Mims, CITY ATTORNEY