

DATE: July 28, 2022
TO: Honorable Mayor & City Council
FROM: Harold Sickler, Chair, Heritage Commission
VIA: Michael Bell, AICP, Comprehensive Planning Manager
SUBJECT: Results of Heritage Commission Meeting of July 26, 2022

**AGENDA ITEM NO. (2) – PUBLIC HEARING: HERITAGE TAX EXEMPTION ORDINANCE
AMENDMENT
APPLICANT: CITY OF PLANO**

Public Hearing and action on amendments to the Heritage Tax Exemption Ordinance.

APPROVED: 5-0-1

Speaker Registration(s) Received Support: 0 Oppose: 0 Neutral: 1

RESULTS:

Recommended approval of the amendments to the Heritage Tax Exemption Ordinance as submitted.

MB/ko

cc: Michael Bell, Comprehensive Planning Manager
Steve Sims, Lead Planner
Bhavesh Mittal, Heritage Preservation Officer

CITY OF PLANO
HERITAGE COMMISSION

July 26, 2022

Agenda Item No. 2

Public Hearing: Heritage Tax Exemption Ordinance Amendments

DESCRIPTION:

Hold a public hearing and take action on amendments to the Heritage Tax Exemption Ordinance.

REMARKS:

The Heritage Tax Exemption Ordinance was last updated in 2019 in response to a request from the Collin Central Appraisal District (CCAD) for the City of Plano to provide its list of properties approved for heritage tax exemptions by March 1 each year (previously May 1). As state law requires properties receiving a historic tax exemption to be certified eligible as of January 1 each year, this significantly shortened the timeframe for staff to complete site inspections, notify the owners of any properties that failed to meet eligibility requirements, schedule review by the Heritage Commission, process appeals, and schedule final approval by City Council. To address this, the 2019 update modified the ordinance by removing the Heritage Commission from the annual approval process and allowing property owners deemed ineligible for a tax exemption to appeal straight to City Council.

Although intended to streamline the process, the revised procedures have proven challenging for staff to notify property owners and process appeals in time for the second City Council meeting in February (to meet CCAD's March 1 deadline). Specifically, the deadline to submit an appeal to staff's findings that property is ineligible for a tax exemption (10 days prior to City Council) falls on the same date as an internal deadline established by the City Secretary's Office to submit packet materials in advance of upcoming City Council agendas. This does not provide adequate time for staff to provide customer service in response to an appeal or prepare sufficient supporting materials for City Council by the established deadline. The purpose of this agenda item is to make a recommendation to City Council on proposed modifications to the Heritage Tax Exemption Ordinance to address these challenges and provide additional flexibility to the benefit of participating property owners.

Summary of Proposed Changes and Direction from Heritage Commission

On May 24, 2022, staff presented proposed modifications to the Heritage Tax Exemption Ordinance. These included:

1. *Revising procedures so the Heritage Commission would resume consideration of appeals for properties deemed ineligible for a heritage tax exemption and eliminating the direct appeal to City Council.*

Currently, a list of properties deemed eligible for tax exemptions by staff is forwarded to City Council for approval. Any property deemed ineligible has the right to appeal directly to City Council. The ordinance stipulates that property owners deemed ineligible be notified in writing at least 20 days in advance of City Council and that they may submit an appeal up to 10 days prior to City Council. The proposed amendments would delegate authority of granting appeals to the Heritage Commission, to be considered at its January meeting. If granted an appeal, extension, or waiver by the Commission, the property would be included with the list of eligible properties recommended for approval by staff that is forwarded to City Council.

As appeals would no longer be considered by City Council, the proposed amendments also remove the 20-day notification and 10-day appeal deadlines. Instead, staff will notify property owners as quickly as possible following on-site inspections and establish a deadline in the notification. Staff intends to keep the existing timelines through administrative changes in the inspection process; however, mandating specific timelines in the ordinance is problematic as January is often a time of inclement winter weather that can delay inspections or Heritage Commission meetings. (Note: The 20-day notification requirement was added in 2017 when the Heritage Commission had until March 30 to review tax exemptions each year.)

2. *Introducing a one-time waiver from eligibility requirements that allows property owners to receive a 50% reduction in their eligible exemption percentage.*

Per the current ordinance, January 1 is a firm deadline to complete repairs required and meet eligibility requirements. The granting of appeals is essentially limited to situations where there is evidence that staff made an error in finding the property ineligible. In practice, however, appeals have been routinely granted for situations where repairs were made after the deadline (but prior to City Council), where some (but not all) repairs were made by the deadline, or where work was performed without a Certificate of Appropriateness but in conformance with adopted standards. The proposed amendments would add a new feature in the appeals process that allows for the Commission to grant a one-year waiver from certain eligibility requirements for situations where property owners made good-faith efforts to maintain their property in accordance with the goals of the tax exemption program. If granted a waiver, property owners would be recommended for approval at half of their eligible tax exemption rate (i.e., if a property was eligible for a 75% tax exemption, they could receive a 38% tax exemption with approval of

a waiver). The proposed amendments also give additional discretion to the Commission to grant appeals for unforeseen or extenuating circumstances.

3. *Revising extension request procedures so that they are considered by the Heritage Commission in conjunction with the appeals process in January each year, rather than as a separate process in October/November as currently exists.*

Extension requests are currently considered by the Heritage Commission each fall. This feature was added in 2019 in order to allow property owners the ability to receive an extension prior to the January 1 deadline to complete required repairs. With the additional flexibility to grant appeals or waivers as discussed above, the proposed amendments would also move the extension review procedures from the fall to part of the same process as appeals each January. As a result, the Commission will have the authority to grant an appeal, waiver, or extension. The change streamlines the procedures and allows property owners an additional two months to determine if an extension is needed.

The Commission agreed with the proposed changes and directed staff to prepare a draft ordinance and solicit feedback from the public.

Summary of Public Outreach

Following finalization of the updates, staff posted a summary of the changes and a strikethrough-underline copy of the draft ordinance to the city website. Informational postcards and emails were sent to all owners of designated heritage properties inviting them to review the draft ordinance on the city website and attend a Zoom meeting hosted by staff to review the proposed changes on July 11, 2022. The Zoom meeting had 19 attendees. Some questions were asked, but no one raised objections to the proposed changes. Staff also received several phone calls and emails from property owners asking for additional information. After the information was provided, these owners were supportive of the changes or had no objections.

RECOMMENDATION:

Staff recommends approval of the amendments to the Heritage Tax Exemption Ordinance 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 historically significant sites ~~which have been recommended~~ that qualify 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 with (H) Zoning and structures located within (HD) zoning overlay districts, except for structures categorized as non-contributing structures within a (HD) zoning overlay district.

Sec. 20-53. – Classes of Historically Significant Sites.

Historically significant sites shall be divided into the following classes:

- (1) *Class A.* Structures that are:
 - a. Occupied exclusively for residential purposes; and
 - b. Individually designated as a Heritage Landmark (H).
- (2) *Class B.* Structures that are:
 - a. Occupied in whole or in part for purposes other than residential; and
 - b. Individually designated as a Heritage Landmark (H).
- (3) *Class C.* Structures that are:
 - a. Occupied exclusively for residential purposes;
 - b. Located in a designated Heritage District (HD); and
 - c. Categorized as contributing or compatible to the (HD) district.
- (4) *Class D.* Structures that are:
 - a. Occupied in whole or in part for purposes other than residential;
 - b. Located in a designated Heritage District (HD); and
 - c. Categorized as contributing or compatible to the (HD) district.

Sec. 20-54. – Percentage of Value Exempted.

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

- (1) Class A structures shall have ~~an~~ a maximum 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~~ a maximum 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~~ a maximum 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~~ a maximum exemption of thirty-eight (38) percent of the assessed improvement value of the structure during the applicable collection period.

A historically significant site may qualify for fifty (50) percent of the maximum heritage tax exemption if granted a waiver as described in Section 20-59.

Sec. 20-55. – Eligibility Requirements.

To qualify for ~~a~~ the maximum heritage tax exemption, a historically significant site must comply with the following eligibility requirements as of January 1 of the year in which the tax exemption is to be granted (current year):

- ~~(1) The structure is being preserved and maintained in accordance with minimum property, structural, health, and safety standards as adopted by the City of Plano; The property has no outstanding code violations related to preservation and maintenance of the property or structure;~~
- ~~(2) The structure and site are in compliance with the City's Zoning Ordinance and Heritage Preservation Ordinance;~~
- (2) There are no delinquent property taxes owed to the City of Plano;
- (3) No permits or applications for demolition or relocation of the structure have been submitted, suspended, approved, issued, or are in any other stage that may allow demolition or relocation of the structure during the current year;
- (4) No exterior work was completed, installed, or is under construction without a Certificate of Appropriateness (CA) or in deviation of a previously approved CA; and
- (5) All required ~~repairs~~ required from maintenance items listed in a previous tax exemption inspection report have been completed by the established deadlines, if applicable.

Sec. 20-56. – 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.

- 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 property shall retain tax exempt status for the remainder of the current year and the new property owner is responsible for any outstanding repairs and other eligibility requirements to maintain eligibility for the following year. A new application will be required to be filed as set out herein for the following assessment year.
 - 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 eligibility requirements, including maintenance items identified in previous tax exemption inspections, must be met to regain eligibility.
- (2) Application forms are to be available online and from the City of Plano 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. 20-57 of this division.

Sec. 20-57. – Inspection.

Upon receipt of sworn application, the Heritage Preservation Officer, or his/her designees, shall inspect the property and review the books and records as necessary to certify the following:

- (1) The property meets ~~all~~ the eligibility requirements as outlined in Section 20-55 (1)-(4); and
- (2) All required maintenance items have been adequately addressed so that the ~~The~~ structure, accessory structures, grounds, property elements, and building elements with their materials and finishes have been 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.
- 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 District Design Guidelines/Standards and the Secretary of the Interior's Standards for the Treatment of Historic Properties.
- 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.

Sec. 20-58. – Eligible Property Certification – Eligibility Determination and Certification.

Following completion of the inspection, the Heritage Preservation Officer, or his/her designee, shall make a finding determination as to whether or not the application meets all eligibility requirements. A list of all properties which have been certified in compliance e with eligibility requirements shall be forwarded to the City Council for approval. Upon such determination:

- (1) A list of all properties which have been certified in compliance with the eligibility requirements shall be forwarded to the City Council for approval.
- (2) Notification shall be sent to applicants of properties deemed ineligible that do not meet the eligibility requirements for tax-exempt status.

Sec. 20-59. – Ineligible Property Notification and Appeals Appeals/Extensions and Waivers to Eligibility Determination.

- (1) Notification shall be sent to applicants of properties deemed ineligible for tax-exempt status by certified mail at least twenty (20) calendar days prior to City Council consideration of the adoption ordinance as described in Section 20-60 of this division.
- (2) An applicant may appeal the finding of the Heritage Preservation Officer that the property is ineligible for tax-exempt status by submitting a notice of appeal in the form of a signed letter to the Heritage Preservation Officer at least ten (10) calendar days prior to City Council consideration of the adoption ordinance.

- ~~(3) Appeals shall be limited to evidence that the Heritage Preservation Officer incorrectly deemed the property ineligible or to present new evidence that the property indeed met eligibility requirements as of January 1 of the current year.~~
- ~~(4) 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 adoption ordinance.~~

Applicants who receive a notification that their property does not meet the eligibility requirements may request an extension or appeal to the Heritage Commission as follows:

(1) Appeals/Extensions.

- a. Requests for appeals/extensions shall be submitted in the form of a signed letter from the owner of the property, or his or her authorized agent, to the Heritage Preservation Officer by the deadline established in the notification. The request should include:
 - i. The reason(s) for the appeal/extension; and
 - ii. Documentation to support the reason(s) for appeal/extension.
- b. The Heritage Preservation Officer shall submit the letter to the Heritage Commission for its review.
- c. The Heritage Commission may approve or deny the appeal/extension request. In considering appeals/extensions, the Heritage Commission may grant an appeal/extension and determine the property eligible for exemption if it finds that:
 - i. There was an error in determining the property did not meet the eligibility requirements in Section 20-55(1)-(5) for tax-exempt status as of January 1 of the current year; or
 - ii. Cost estimates or other information indicating the repair required is more substantial than initially expected; or
 - iii. The required maintenance items identified in the inspection report are being addressed as part of a larger series of repairs or improvements that may require additional time to complete than allowed by the deadline established in the inspection report; or
 - iv. Granting an appeal/extension is in the best interests of the long-term preservation and maintenance of the historically significant site.

(2) Waivers.

- a. In lieu of granting an appeal/extension, the Heritage Commission may grant a one-year waiver from eligibility requirements as allowed in subsection c below.
- b. Approval of a waiver shall qualify a property to receive a fifty (50) percent reduction as follows:
 - i. Class A structures shall have an exemption of fifty (50) percent of the assessed improvement value of the structure during the applicable collection period.
 - ii. Class B structures shall have an exemption of twenty-five (25) percent of the assessed improvement value of the structure during the applicable collection period.
 - iii. Class C structures shall have an exemption of thirty-eight (38) percent of the assessed improvement value of the structure during the applicable collection period.
 - iv. Class D structures shall have an exemption of nineteen (19) percent of the assessed improvement value of the structure during the applicable collection period.
- c. The Heritage Commission may approve the waiver request unless:
 - i. A waiver from eligibility requirements was granted for the previous year; or
 - ii. There are delinquent taxes owed to the City of Plano; or
 - iii. Permits or applications for demolition or relocation of the structure have been submitted, suspended, approved, issued, or are in any other stage that may allow demolition or relocation of the structure during the current year;

The Heritage Commission shall act on the request in a timely manner, as practicable, so as to allow all properties granted an appeal, extension, or waiver to be included in the list of eligible properties forwarded to the City Council as described in Section 20-58(1) of this division. If denied an appeal, extension, or waiver, a new application may be submitted for the following year.

Sec. 20-60. – City Council Adoption Ordinance.

~~The City Council shall review the list of properties certified as eligible for tax exemption and consider any appeals. In considering appeals, the City Council shall only grant an appeal if it finds that the property met eligibility requirements as of January 1 of the current year. The City Council shall then consider and adopt an ordinance granting partial tax exemption 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 to be forwarded to the chief appraiser not later than~~ forward a copy of the ordinance to the appraisal district no later than March 1 of the subject year.

Sec. 20-61. – Inspection Report and Required RepairsMaintenance Items.

By no later than March 31 of the current year, the Heritage Preservation Officer, or his/her designee, shall send to the applicant:

- (1) Written notification of the City Council's approval; and
- (2) A copy of the inspection report that details, at a minimum, ~~any maintenance items requiring repair and a deadline to complete the required repairs in order to maintain eligibility for the following year:~~
 - a. Required Maintenance Items. Any maintenance deficiencies, as generally described in Section 20-57(2), that require repair by the end of the current year in order to maintain eligibility for the following year.
 - b. Other Maintenance Items. Any other maintenance deficiencies that do not require repair by the end of the current year to maintain eligibility for the following year, but that may continue to deteriorate if left unresolved and result in listing as a required maintenance item in future inspection reports.

Sec. 20-62. – Appeal of Inspection Report.

- (1) Any applicant may appeal the results of the inspection report by submitting a notice of appeal ~~in the form of a signed letter to the Heritage Preservation Officer in the manner prescribed in the written notification of City Council's approval by April 30 of the current year. Appeals shall be limited to required maintenance items listed in the inspection report as requiring repair to meet the requirements maintain eligibility for the following year and the deadline to complete them.~~
- (2) The Heritage Commission shall ~~hold a public hearing~~ consider any appeals of the inspection report by May 31 of the current year. The Heritage Commission may grant an appeal if it finds that extenuating circumstances exist. Such circumstances should generally be justified by supporting information such as documentation showing that the repair was misidentified or did not exist in the manner described in the inspection report.
 - a. ~~Documentation that the required repair was misidentified or did not exist in the manner described in the inspection report;~~
 - b. ~~Cost estimates or other information indicating the repair required is more substantial than initially expected; or~~

- ~~c. Documentation that the issue is being addressed as part of a larger series of repairs or improvements that may require additional time to complete than allowed by the deadline established in the inspection report.~~

~~Sec. 20-63. – Extension Requests~~

- ~~(1) An applicant may submit a request to extend the deadline to complete a required repair to the Heritage Commission. Requests shall be submitted in the form of a signed letter to the Heritage Preservation Officer by October 31 of the current year.~~
- ~~(2) The Heritage Commission shall hold a public hearing to consider the extension request by December 31 of the current year. The Heritage Commission may grant an extension to the deadline if it is determined that extenuating circumstances exist, as generally described in Section 20-62(b) and 20-62(c) of this division.~~
- ~~(3) Extensions shall be granted in one-year increments from the originally established deadline.~~

Sec. 20-63. – Rendition and assessment of historically significant sites for ad valorem taxation.

The provisions of this division pertaining to partial exemption of historically significant sites 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 manner as any other property if the City Council elects to disapprove the application for exemption.

Sec. 20-6564. – Definitions.

The definitions codified in Article VI, Heritage Resource Preservation, of Chapter 16, Planning and Development, of the Code of Ordinances of the City of Plano, as amended, shall apply to this Division.

Exhibit A – Summary of Heritage Tax Exemption Process

