

6.2 HISTORIC OVERLAY (HO) DISTRICT

(AMENDED 12-05-05, ORD. NO. 05-60)

A. Purpose

The protection, enhancement and perpetuation of districts and landmarks of historical and cultural importance and significance are necessary to promote the economic, cultural, educational and general welfare of the public. It is recognized that within the City of Rockwall numerous areas, sites and structures represent the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural and cultural resources that constitute their heritage, and therefore this overlay district is intended to:

1. Protect and enhance the district and landmarks which represent distinctive elements of Rockwall's historic, architectural and cultural heritage;
2. Foster civic pride in the accomplishments of the past;
3. Protect and enhance Rockwall's attractiveness to visitors and the support and stimulus to the economy thereby provided;
4. Insure the harmonious, orderly and efficient growth and development of the City;
5. Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the City;
6. Stabilize and improve values of such properties.
7. Promote education of significance and importance of historical preservation including the exploration of tax incentives (federal, state or local) that may apply to individual property owners or properties within the historic district as a whole; and
8. Provide guidance to property owners restoring and/or rehabilitating historic significant in an effort to maintain the historical integrity of the area.

B. Terms and Definitions

The following terms and definitions are used in the Historic District Ordinance and the Historic Guidelines.

Applicable Property, Applicable Structure. The term used for properties that meet the following criteria, and are subject to the provisions of this ordinance:

1. Either be a designated historical landmark or be wholly or partially located within a designated historic district, and
2. Either be a contributing property as defined in Section B or be located within 200 feet of a contributing property.

Board: The Rockwall Historic Preservation Advisory Board.

Certificate of Appropriateness (COA). A document approved by the Board certifying that the proposed actions meet the intent of the Ordinance and Guidelines, or that a waiver has been granted.

Contributing Structure. A building, site, structure or object which adds to the historical architectural qualities, historical associations or archaeological value for which a property or district is significant because

1. It was present during the period of significance and possesses historical integrity reflecting its character at that time or is capable of yielding important information about the period, or
2. It independently meets the National Register criteria. The level by which a property is "contributing" (high-, medium- and low-contributing property) was originally determined by a historic survey of the properties within the (HO) Historic Overlay District implemented by the City of Rockwall Community Development Department through the Spring and Summer of 2000. This Survey may be amended from time to time.

District. A designated area within the Preservation District or elsewhere in the City subject to the requirements and standards of the Historic District Ordinance. An identifying name will precede the word "district".

Guidelines. The adopted Historic District Design Guidelines.

Landmark Property. A property or structure(s), not contiguous to or part of an existing historic district that is deemed worthy of preserving.

Non-Contributing Structure. A building, site, structure, or object which does not add to the historical architectural qualities, historical associations, or archaeological value for which a property or district is significant because

1. It was not present during the period of significance, or
2. Due to alterations, disturbances, additions, or other changes it no longer possesses historic integrity reflecting its character at that time or is incapable of yielding important information about the period, or
3. It does not independently meet the National Register criteria.

Preservation District. The area designated as having structures which may be suitable for inclusion in a historic district or districts.

C. Historic Preservation Officer

The Historic Preservation Officer shall administer this ordinance and advise the Historic Preservation Advisory Board on matters submitted to it.

D. Designation Criteria

The Board may recommend to the Commission and the City Council that certain properties be "Landmark Districts" and that specific areas be designated as "Historic Districts" as provided for in this Ordinance. Any such designation must comply with all limitations expressed Sub-Sections E.5 and E.6 below. Such a property or district shall bear the word "landmark" or "historic" in their zoning designation.

E. Designation Procedures

1. The City Council may designate by zoning ordinance certain areas as landmark or historic districts, providing they meet the criteria in Sub-Sections E.5 and E.6. When so designated, the area shall bear the word "historic" or "landmark" in their zoning designation.
2. The following steps shall be followed at every level in the recommendation and approval process:
 - a. Public hearings shall be held and notices of same shall be posted, advertised, and notices sent in the manner prescribed under Sub-

Section G.6, and other procedures specifically provided in the City's Unified Development Code.

- b. Property owners and other interested parties may present testimony or documentary evidence that will become part of a record regarding the historic, architectural, or cultural importance of the proposed district. The record also may contain staff reports, public comments, or other evidence offered outside of the hearing and entered into the record.
3. The Board shall make its recommendation to the Planning and Zoning Commission within a reasonable time period, allowing for deliberations and strict adherence to timeframes required for public hearings. The Planning and Zoning Commission shall schedule a public hearing to be held within forty-five (45) days of receiving the Board's recommendation.
4. Upon designation of an area as a landmark or historic district, the designation should be recorded in the tax records of the City of Rockwall, and the City official zoning maps. All zoning maps should indicate the designated districts by an appropriate mark.
5. A historic landmark property may be a single property or structure not contiguous to or part of an existing historic district, but is deemed worth of preserving. A landmark district may be designated if the property meets one of the following:
 - a. Possesses significance in history, architecture, archeology, and/or culture;
 - b. Is associated with events that made a significant contribution to the broad patterns of local, regional, state and/or national history;
 - c. Is associated with the lives of persons significant in the City of Rockwall's past;
 - d. Embodies the distinctive characteristics of a type, period, and/or method of construction;
 - e. Represents the work of a master designer, builder, and/or craftsman; or
 - f. Represents an established and familiar visual historical feature of the City.
6. The Board may recommend a historic district to the Council to be designated if it:
 - a. Contains a significant number of properties which meet one or more of the criteria for designation of a landmark as outlined in Sub-Section E.5 above, or
 - b. Constitutes a distinct historical section of the City.
7. The boundaries of each designated historic district shall be specified in written detail and shall be filed in the City Secretary's office for public inspection.

F. Certificate of Appropriateness for Alteration or New Construction

1. Applicability of Ordinance

- a. **Included Properties.** The provisions of this ordinance shall apply only to those properties, hereinafter referred to as "Applicable Properties", which meet the following criteria:

- i. Either be a designated historical landmark or be wholly or partially located within a designated historic district, and
 - ii. Either be a contributing property as defined in Sub-Section B or be located within 200 feet of a contributing property.
- b. **Excluded properties.** Properties owned by a religious institution or used for religious purposes shall not be considered eligible for designation as a contributing property (and shall not be effected by adjacent contributing properties) unless they derive primary significance from either architectural distinction or historical importance

2. COA does not Replace other Codes

The COA is in addition to and does not replace any other City permits or codes that must be followed.

3. Examples

These are examples of situations that require a Certificate of Appropriateness (COA) for work performed on an Applicable Property. Additional information is located in the *Design Guidelines* as referenced.

- a. Construction of a new building. (Section III)
- b. Demolition or removal of an existing structure. (Sections VI and VII)
- c. Alterations to the façade, including additions and removals that will be visible from a public street. (Section III)
- d. New improvements that would substantially obstruct the view of the main or front elevation as seen from a public street.
- e. Painting of a masonry surface not previously painted. For other painting, see Design Guidelines, residential properties Section III.M.

Any addition or deletion of landscape materials or landscape design elements need not receive a Certificate of Appropriateness from the Council. It is recommended, however, that all proposed landscaping used in the District be extracted from the "Recommended Plant List" as provided in the Landscape Ordinance of the City of Rockwall. City staff shall maintain a list of plant material that is appropriate for all designated historic areas.

Any person wishing to paint a structure within a historic district may do so without receiving a Certificate of Appropriateness from the Board. City staff and/or the Board shall provide review and comment as requested by the property owner about color selection and design. Such review and comment, however, shall not be binding.

The Board may recommend guidelines to enable the Historic Preservation Officer to issue a Certificate of Appropriateness for exterior restorations and renovations requiring a building permit.

G Application Procedure

1. Application Form

Prior to the commencement of any work requiring a COA the owner shall file with the Historic Preservation Officer an application for such a certificate. The application, a copy of which is available as EXHIBIT (2) of the *Historic Design Guidelines*, shall contain:

- a. Name, address, telephone number of applicant, detailed description of proposed work.
- b. Location of the proposed work (street address) and photographs of the property and adjacent properties. (Historical photographs also may be helpful.)
- c. Elevation drawings of the proposed changes, if available, and preferably in color.
- d. Samples of materials to be used, if requested by the Board.
- e. If applicable, a scale drawing of any signs showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
- f. Site plan in accordance with the Unified Development Code, if applicable.
- g. Any other information which the Board may deem necessary in order to visualize the proposed work, and any additional material the applicant wishes to submit.

2. Building Permit

A COA issued by the Board is required before a building permit will be issued for any work.

3. Time Frame for Actions

The Board shall deny, approve, or approve the COA with modifications within 60 days from receipt of the completed application and supporting documentation. The Board shall hold a public hearing on the application at which an opportunity will be provided for proponents and opponents of the application to present their views.

Should the Board not take action within the sixty (60) day period, the COA shall be automatically referred to the City Council for their approval or denial, following a public hearing.

4. Written Decisions

All decisions of the Board shall be in writing. An approved Certificate of Appropriateness shall be sent to the applicant and a copy filed with the City Secretary's office for public inspection. The Board's decision shall state the reasons for denying or modifying any application.

5. Standards for Approval

The Historic Preservation Advisory Board must approve the application for a Certificate of Appropriateness if it determines that:

- a. For contributing structures, the application will not adversely affect the character of the site; and the proposed work is consistent with the regulations contained in this section and proposed preservation criteria; or
- b. For non-contributing structures, the proposed work is compatible with the historic district.

6. Public Hearing

A public hearing before the Board is required as defined in Section E.6 before a decision can be made on a zoning recommendation forwarded to the Planning and Zoning Commission.

- a. The Board shall hold a Public Hearing on all actions considered and appeals made to it. Said public hearing shall be held, when necessary, on the Third Thursday of the Month. In cases where this “regularly scheduled” meeting date is not appropriate (e.g., in cases as set forth under Section I, Emergency Procedure) an alternative meeting date will be set.
- b. Written notice of the public hearing shall be sent to the applicant, all persons who are owners of real property lying within two hundred (200) feet of the subject property and to all other persons deemed by the Board to be affected.
- c. Written notice shall be given not less than ten (10) days before the date set for the public hearing to all such owners of record as the ownership appears on the current on-line tax roll. The notice may be served by deposition of the same, properly addressed and postage paid, in the U.S. Post Office.

H. Actions After Board Decision

1. Appeal Process

If the Certificate of Appropriateness is denied, the applicant may appeal to the City Council by filing a written notice with the Historic Preservation Officer within ten (10) business days after the decision of the Board. In considering an appeal, the sole issue before the City Council shall be whether the Board erred in its decision. The City Council shall consider the same standards and evidence that was considered in making the decision. Appeal to the Council constitutes the final administrative remedy.

If the Certificate of Appropriateness is approved, any property owner within the subject historic district aggrieved by any decision of the Board may appeal to the City Council. Said appeals may be made by filing a written notice with the Historic Preservation Officer within ten (10) business days after the decision of Board.

2. Reapplication

If an appeal is denied by both the Board and the Council, no further applications may be considered for the subject matter of the denied Certificate of Appropriateness for one (1) year from the date of the final decision unless:

- a. The Certificate of Appropriateness has been denied without prejudice; or
- b. The Board waives the time limitation because it that there are changes or circumstances sufficient to warrant a new hearing. A simple majority vote by the Board is required to grant the request for the waiver of the time limitation.

3. Suspension of Work

After the work authorized by the Certificate of Appropriateness is commenced, the applicant must make continuous progress towards

completion of the work, and shall not suspend or abandon the work for a period of more than 180 days. The Historic Preservation Officer and/or Building Official may, in writing, authorize a suspension of work for a period greater than 180 days upon written request by the applicant showing circumstances beyond his control.

I. Emergency Procedure

If any Applicable Structure is damaged and the building official determines that it is a public safety hazard or will suffer additional damage without immediate repair, the building official may allow the property owner to temporarily protect the structure whether or not the materials used conform to the Guidelines. However, in such a case, the property owner must then apply for a Certificate of Appropriateness for the restoration, rebuilding, remodeling, demolition or removal of the structure within ten (10) days of the occurrence that caused the damage. The temporary protection authorized under this subsection must not permanently alter the architectural features of the structure.

J. Demolition

1. Requires a Certificate of Appropriateness.

A Certificate of Appropriateness is required prior to receiving a permit for demolition of a property within a historic district, including secondary buildings. An application for demolition of a contributing structure on the grounds of hardship may be filed. The applicant must establish the following elements to prove hardship:

- a. The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible; and
- b. 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; and
- c. Efforts to find a purchaser interested in acquiring the property and preserving it have failed; and/or
- d. The structure or property is in such condition as to be irreparably damaged and as such poses a nuisance to the surrounding area and is a "threat" to the health, safety and general welfare of the community.

2. Expiration

A Certificate of Appropriateness for the demolition or removal expires if the work authorized by the Certificate for demolition or removal is not commenced within 180 days from that date of the issuance of the Certificate for demolition.

K. Enforcement

All work performed pursuant to a Certificate of Appropriateness (COA) issued under this ordinance shall conform to all requirements included therein. It shall be the duty of the Building Inspection Department to periodically inspect any such work to assure compliance. In the event work is found that is not being performed in accordance with the COA, the Building Inspection Department may suspend the COA, issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect. A Certificate of Appropriateness may be reinstated, any

stop work order lifted, and work may resume upon assurance that compliance will henceforth exist.

L. Ordinary Maintenance

Nothing in this ordinance shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within a historic district that does not involve a change in design or material. In-kind replacement or repair is included in this definition of ordinary maintenance.

M. Preservation Incentives

To promote the goal of stabilizing and improving values of properties within the District, and encourage the rehabilitation and stabilization of structures, the City Council by Resolution may offer tax incentives.