

ORDINANCE NO. 11-1993

AN ORDINANCE AMENDING CHAPTER 23, SUBPART E, ARTICLE II AND CHAPTER 30, ARTICLE IV, OF THE ABILENE CITY CODE, BY AMENDING CERTAIN SECTIONS AS SET OUT BELOW; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING A PENALTY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

PART 1: That Chapter 23, Subpart E, Article II, of the Abilene City Code be amended as set out in Exhibit "A," and Chapter 30, Article IV, of the Abilene City Code be amended as set out in Exhibit "B," attached hereto and made a part of this ordinance for all purposes.

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of these chapters shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than Two Hundred Dollars (\$200.00). Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Said ordinance, being a penal ordinance, becomes effective ten (10) days after its publication in the newspaper as provided by Section 19 of the Charter of the City of Abilene.

PASSED ON FIRST READING this 11 day of February, A.D. 1993.


PASSED ON SECOND AND FINAL READING this 25 day of February, A.D. 1992.

ATTEST:


CITY SECRETARY


MAYOR

APPROVED:


CITY ATTORNEY

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EXHIBIT A

That Chapter 23, Section 344 of the Abilene City Code be amended to provide the following:

Tax Incentive for Historic Overlay Zones and Districts.

In order to encourage the use of Historic Overlay Zoning and Planned Development Historic Districts, the City Council has established a Tax Reduction Program for Historic Overlay Zones and Districts. Being only applicable to properties within Historic Overlay Zones and Districts, a complete description of the program may be found in Chapter 30, Article IV of the Abilene City Code.

EXHIBIT B

That Chapter 30 of the Abilene City Code be amended to provide the following:

ARTICLE IV. HISTORIC TAX REDUCTION

Section 30-39 Purpose.

The Historic Tax Reduction Program is intended to encourage Historic Preservation within Abilene by providing a property tax reduction to property owners with property in Historic Overlay Zones and Districts. The program consists of two major parts entitled the Historic Zone Tax Reduction and the Historic Project Tax Reduction. The Historic Zone Tax Reduction will provide an incentive for property owners to request Historic Overlay Zoning or Planned Development Historic District and, once zoned, the Zone Tax Reduction will compensate the property owner for the additional regulations imposed within such zones. The Historic Project Tax Reduction will provide the property owner with an incentive to improve, rehabilitate and maintain property within the Historic Zoning District.

Section 30-40 Historic Zone Tax Reduction

The Historic Zone Tax Reduction requires no application from the property owner and shall be automatically provided when a property is zoned Historic Overlay or Planned Development Historic District. The Historic Zone Tax Reduction shall stay in place until the City Council decides to discontinue the program or the Historic Tax Reduction is removed from a subject property as provided under Part 3 of this section, or the Landmarks Commission withholds said tax reduction until repairs are made to the structure, as provided under (4) a. of this section and Section 30-41, Historic Project Tax Reduction.

(1) Council Approval of Historic Zoning

Upon final Council approval of any Historic Zoning, the Planning Director shall, within 10 days, notify the Tax Assessor. The Tax Assessor shall reduce the real property taxes for said zone starting on January first (1) of the following year and each year thereafter.

(2) Reduction Methods for properties with Historic Overlay Zoning and Contributing Properties in Historic Districts.

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- a. A contributing property within a historic district is a property that is considered to be historically significant by local, State, or Federal governments that rank historic properties and generally follow the guidelines of the National Park Service, Department of the Interior, for listing on the National Register of Historic Places.

One of two methods may be used by the Tax Assessor to reduce the taxes for properties within Historic Overlay Zones or Planned Development Historic Districts. The Tax Assessor shall apply the method which renders the larger tax reduction to the property owner.

- a. The Tax Assessor shall provide a real property tax reduction of up to \$200 per year ~~for a historic Overlay Zone~~; or,
- b. The Tax Assessor shall provide a real property tax reduction equal to 20% of the annual taxes ~~from the Historic Overlay Zone~~.
- c. Neither method of tax reduction shall be construed to mean a reduction per year which is greater than the annual taxes which would normally be charged a ~~subject Historic Overlay Zone~~.
- d.
- e. The Tax Assessor shall apply the Historic Tax Reduction prior to any other tax reductions that the Historic Overlay Zone may be eligible for as described in Article IV of this chapter.

(3) Tax Reduction for Noncontributing Properties Within Historic Overlay Zoning Districts and Within Planned Development Historic Districts

- a. a noncontributing property within a historic district is a property that is considered not to be historically significant by State, local or Federal governments that rank historic properties and generally follow the guidelines of the National Park Service Department of the Interior for listing on the National Register of Historic Places.
- b. The tax reduction for noncontributing properties shall be 10% or \$100 per year, whichever is greater. Whenever this zoning is approved, the Tax Assessor shall be notified of the tax reduction for noncontributing properties, and the property owner need not apply.
- c. This tax reduction stays in place as long as the City Council continues the historic tax reduction program.

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- d. Noncontributing properties do not qualify for the Historic Project Tax Reduction as outlined in Section 30-41.
- e. Neither method of tax reduction (10% or \$100) shall be construed to mean a reduction per year which is greater than the annual taxes which would normally be charged.
- f. The Tax Assessor shall apply the Historic Tax Reduction prior to any other tax reductions that the Historic Overlay Zone or the Historic District Zone may be eligible for as described in Article IV of this chapter.

(3)
(4)

If a Historic Landmark within a Historic Overlay Zone or Planned Development Historic District is altered or destroyed, the following shall apply.

- a. If the Planning Director has reason to believe that a Historic Landmark within a Historic Overlay Zone or a contributing property in a Planned Development Historic District has been totally or partially destroyed or altered by the willful act or negligence of the owner or his representative, the Planning Director shall immediately cause the matter to be scheduled for the earliest possible consideration by the Landmarks Commission. If, after giving notice and hearing to the land owner, the Landmarks Commission determines that the Historic Landmark has been totally or partially destroyed or altered by the willful act or negligence of the owner or his representative, the Commission shall recommend to the Planning and Zoning Commission and the Planning and Zoning Commission recommend to the City Council as referenced in Section 23-356.1, B of the Zoning Ordinance, that the Historic Overlay Zone be removed from the property or that the Historic Overlay Zone or Planned Development Historic District tax benefit or reduction be withheld by the Landmarks Commission until the property can be repaired (if possible) as outlined in Section 23-356.5 under a Certificate of Appropriateness. If the Planning and Zoning Commission and the City Council do not accept the recommendation from the Landmarks Commission, the decision shall be final. If the property cannot be repaired, then, the Historic Overlay Zone or the Planned Development Historic District designation shall be removed from the property. If the property is in a district, it could remain in the district, but become a noncontributing property, as determined by

Paragraph 3, Section a. - definition of a noncontributing property. In addition, the Landmarks Commission shall discontinue the Historic Zone Tax Reduction for the subject zone and any other tax reduction provided in this article for the zone (unless repaired). Furthermore, if the zoning is removed, the Landmarks Commission shall require the owner, or his heirs, assigns, or successors, to pay during the forthcoming seven year period, any taxes that may have been reduced during the previous seven years under Section 30-41 of this article. Upon making such findings, the Landmarks Commission or its representative shall file a written request with the Tax Assessor to discontinue the Historic Zone Tax Reduction on said zone and remove the historic plaque and/or additional taxes if applicable.

- b. Where a Historic Landmark is totally or partially destroyed or altered other than by the willful act or negligence of the owner or his representative, the owner shall, within 30 days request a demolition permit when restoration is not feasible, or request a building permit to reconstruct the Historic Landmark in accordance with the Landmarks Ordinance. The determination as to whether restoration is feasible shall be made by the Landmarks Commission, as part of the Certificate of Appropriateness review procedure required to be followed in obtaining a demolition or building permit. In cases where a demolition permit is issued by the City because restoration is not feasible, the Commission shall recommend to the Planning and Zoning Commission and the Planning and Zoning Commission recommend to the City Council that the Historic Overlay Zoning be removed as referenced in Section 23-356.1 B of the Zoning Ordinance. In addition, the Landmarks Commission shall remove all Historic Zone Tax Reductions and any other tax reductions described in this article and applicable to the subject zone.

Section 30-41 Historic Project Tax Reduction

The Historic Project Tax Reduction shall be made available to owners of property with a Historic Overlay Zone or a Planned Development Historic District. Such owners shall be considered eligible to apply to the Landmarks Commission for a Project Tax Reduction.

(1) General Provisions

- a. Only properties within Historic Overlay Zones or Planned Development Historic Districts are eligible to be considered for Historic Project Tax Reductions.
- b. A property owner or his or her agent may apply for up to a 50% property tax reduction for property improvements within Historic Overlay Zones or Planned Development Historic Districts. Said 50% credit shall be limited to 10 years per approved project. A current or new owner shall continue to receive credit until the 10 year credit period expires. After an existing 10 year period expires, a new 10 year credit period may be applied for because credit time periods shall not run concurrently. The Planning Director shall keep records of all approved work and allotted time periods. All information shall be forwarded to the Tax Assessor.
- c. Eligible projects shall amount to \$750 or more and may include exterior improvements and some interior improvements limited to the frame (walls, floor and ceiling) as well as plumbing, electrical wiring, and mechanical items (heating and air conditioning). Fixtures, decorative items and personal property shall not be eligible for consideration.
- d. The following shall be eligible costs:

Appropriate costs for tax reduction projects on all structures will include material and labor for repairing, replacing, or adding, if like the original, or as close to the original as possible, any of the following:

Structural Walls

Structural Subfloors

Structural Ceilings

Exterior Doors

Exterior Paint

Mechanical Equipment

Windows

Any Exterior Brick Veneers, or treatments

All Plumbing and no Fixtures*

All electrical wiring and no Fixtures*

Roof - Structural and Integrity, gutter or roof drainage systems

Facade Items

Elevators in Commercial Buildings

Architectural, Engineering, Constructive Demolition and Clean up if it is Directly Related

Foundations

Any Termite Damage and Treatment

Security and/or fire protection systems - in relation to the protection of the building

* Provable, documented replacement of historic fixtures may be considered as eligible.

e. Ineligible costs include but are not limited to the following:

Overhead

Payroll

Taxes

Postage

Supervisor Payroll

Equipment Repairs

Tools

Interior Cabinets (plus trim or paint on these cabinets)

Portable restrooms

Lodging and meals

Any items not directly related to the structural integrity or viability of the building

No fixtures (See Paragraph [d] above)

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~~d.~~

A property owner currently receiving a Project Tax Reduction may apply for additional Tax Reduction for additional projects which, if approved, will shall be credited to the owners Project Tax Reduction account. After a current project has been reimbursed, then tax reductions may commence on another approved project up to a maximum of 10 years per project, as provided in Section 30-41, (1), b.

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All approved project tax reductions shall run with the land and shall not be affected by changes in property ownership.

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If a Project Tax Reduction has been approved and where the historic property within the Historic Overlay or the Planned Development Historic District is totally or partially destroyed or altered by the willful act or negligence of the owner or his representative, the owner shall be required to pay during the forthcoming seven year period back taxes equal to those reduced during the previous seven years. (See Section 30-40 (3)).

(2) Application and Approval Process.

- a. Prior to filing an application with the Planning Director for a Historic Project Tax Reduction, the prospective applicant shall:
1. Certify to the Planning Director or his representative that the subject property is within a Historic Overlay Zone or in a Planned Development Historic District; and,
 2. Certify to the Planning Director or his representative, that the Project Reduction request is for a project which has received a Certificate of Appropriateness. If a Certificate of Appropriateness has not been required, the applicant shall submit a "Project Proposal" to the Landmarks Commission. The Project Proposal will enable the Landmarks Commission to give preliminary approval or disapproval before the property owner invests additional time and money; and,
 3. Certify to the Planning Director or his representative that the improvement project for which the applicant wishes to apply a tax reduction has been completed.
- b. An application for a Project Tax Reduction shall be initiated by the owner of the subject property by his or her agent, by completion of the appropriate application forms provided by the Planning Director or his representative. The application shall include all receipts for the cost of the project as well as an affidavit affirming that all information on the application is correct and that the receipts presented are for the cost of the project. Said application shall be received by the Planning Director or his representative at least twenty (20) days prior to a public hearing by the Landmarks Commission. The same procedure applies in a historic district. Each individual owner must apply for this project tax reduction.
- c. No fees shall be required either upon filing of the application or upon approval or disapproval by the Landmarks Commission.
- d. The Planning Director or his representative shall prepare a report for the Landmarks Commission members delineating the contents of the application, an assessment as to whether the project was completed as put forth in the Project Proposal or the Certificate of Appropriateness and

other materials deemed useful by the Commission in performing its duties.

- e. The Landmarks Commission shall hold a public hearing on all requests for Historic Project Tax Reduction. Said hearing shall not be scheduled until the completed application form is submitted.

Public notice shall include the date, time, and place of the public hearing, legal description of the property, and a general description of the applicant's request for a Project Tax Reduction. Said notice shall be posted at City Hall and published in the official newspaper as required by the Texas Open Meetings Act.

The Planning Director shall be responsible for notice requirements. When the Planning Director has provided such notice as required on a request for Historic Project Tax Reduction, the interest of the public will be deemed to have been attached to the request, and the proponent may not then withdraw the request prior to the hearing.

After hearing the request, the Landmarks Commission may allow the withdrawal of the request upon the affirmative vote of six (6) of its members or alternates.

- f. At the public hearing, the Landmarks Commission shall determine, from the data submitted by the applicant and the information provided by staff, if the completed project is substantially in compliance with the Project Proposal or the Certificate of Appropriateness. If the Commission finds that additional information relative to the pending application is necessary for its review the Landmarks Commission may postpone the public hearing on an application until such information is provided.

The Landmarks Commission shall have the authority to approve or disapprove an application for a project Tax Reduction, or to approve a request with such conditions as the Landmarks Commission deems necessary to bring the project into compliance with the approved Project Proposal or the Certificate of Appropriateness. The Commission shall not approve requests for Historic Project Tax Reductions where the project was completed prior to the adoption of this ordinance, where the applicant has not obtained a Certificate of Appropriateness, if one is required, or where the applicant has not substantially complied with the requirements imposed on a project proposal or Certificate of Appropriateness.

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- g. Any request for Historic Project Tax Reduction that has been denied by the Landmarks Commission may, within 10 days of said decision, be appealed to the City Council. The appellant must, within the time specified, submit a written notice to the City Secretary. The Planning Director and the City Secretary shall ensure that the proposed change is placed on the Agenda of the City Council for first reading at the earliest practical date.

If the City Council shall call a public hearing to consider the appellant's request, the City Secretary shall cause to be published a public notice thereof in the official newspaper of the City not less than fifteen (15) days prior to the date of the public hearing.

After such public hearing and second reading of said request, the City Council may enact said ordinance as in other cases or may decline to enact said ordinance. The action then taken by the City Council shall be final.

(3) Effective Date

The Tax Assessor shall reduce taxes upon final Landmarks Commission approval or where the City Council has provided approval for a Historic Project Tax Reduction. Upon approval, the Planning Director shall, within 10 days of said decision, notify the Tax Assessor. The Tax Assessor shall reduce the taxes for the subject zone in accordance with the General Provisions herein and as indicated by the approved request. Such reduction of taxes shall take affect starting on January first of the following year and each year thereafter until the tax reimbursement is complete or until the City Council notifies the Tax Assessor to terminate the Project Tax Reduction.

(4) Program Discontinuance

Should the City Council decide to discontinue the Historic Project Tax Reduction Program, all Project Tax Reductions shall be permitted to continue for up to 20 years. Once the Council discontinues the program, the Planning Director shall not accept any new applications for Historic Project Tax Reductions.

Section 30-42 Historic Tax Reduction in Tax Increment Districts

Sections 30-40 and 30-41 within this Article shall be applicable to all real property within Historic Overlay Zones and

Planned Development Historic Districts including those properties within the Reinvestment Zone Number One City of Abilene (Tax Increment Financing District), as enacted by the Abilene City Council, Ordinance 138-1982. For further information on TIF districts, see Council Resolution _____.

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