

ORDINANCE NO. 75-1985

An ordinance amending Chapter 23 and Chapter 30 of the Abilene City Code of 1985; pertaining to the automatic reduction of property taxes for properties within the Historic Overlay Zoning District; and, providing a property tax reduction on a case by case basis for partial or total compensation for the cost of improvement or rehabilitation of properties within Historic Overlay Zoning Districts.

Whereas, Tex. Civ. Stat. Art. 7150 (1977) enables the City of Abilene to exempt certain historic sites from ad valorem taxation; and,

Whereas, the City Council of the City of Abilene finds that tax relief is needed to encourage the preservation of historic structures within the City; and,

Whereas, the City Council has heretofore established a program of zoning historic sites and structures in order to preserve the cultural heritage of Abilene; how, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF ABILENE

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

2. Tax Incentive for Historic Overlay Zones.

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

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

ARTICLE IV. HISTORIC TAX REDUCTION

Sec. 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. 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 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.

Sec. 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. 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.

(1) Council Approval of Historic Zoning

Upon final Council approval of 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

One of two methods may be used by the Tax Assessor to reduce the taxes for properties within Historic Overlay Zones. 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. 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) If an Historic Landmark within a Historic Overlay Zone 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 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 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 that the Historic Overlay Zone be removed from the 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. Furthermore, 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 historic plaque and/or add 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 that the Historic Overlay Zoning be removed. 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.

Sec. 30-41 Historic Project Tax Reduction.

The Historic Project Tax Reduction shall be made available to owners of property with an Historic Overlay Zone. 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 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.
- 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. A property owner currently receiving a Project Tax Reduction may apply for additional Tax Reduction for additional projects which, if approved, will 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.
- e. All approved project tax reductions shall run with the land and shall not be affected by changes in property ownership.
- f. If a Project Tax Reduction has been approved and where the historic property within the Historic Overlay Zone 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 an Historic Overlay Zone;
 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 or 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.

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 representatives 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 Reductions. 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 of 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.

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 approved 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.

Sec. 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 including those properties within the Reinvestment Zone Number One City of Abilene (Tax Increment Financing District).



PASSED ON FIRST READING THIS 26 day of September, A.D. 19 85.

PASSED ON SECOND AND FINAL READING this 10 day of _____
October, A.D. 19 85.

ATTEST:

Patricia Patton

CITY SECRETARY

David Stubbeman

MAYOR

APPROVED:

Karen Anderson

CITY ATTORNEY

