



**CITY OF TYLER  
CITY COUNCIL COMMUNICATION**

**Agenda Number:** O-1

**Date:** January 9, 2008

**Subject:** Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 10 to re-adopt a tax abatement program for historic buildings and structures and extend the sunset review to five years.

**Page:** 1 of 2

**Item Reference:** Tyler City Code Chapter 10; Article II.

**SUNSET REVIEW OF TAX ABATEMENT FOR  
HISTORIC BUILDINGS AND STRUCTURES**

On August 17, 2005, the City Council adopted Ordinance No. 0-2005-61, which added a new City Code Section 10-26 relating to tax abatement for historic structures. If a building or structure was at least 50 years old and had previously been designated as a historical landmark under City Code Section 10-22, then the property owner could apply for a Certificate of Appropriateness in order to obtain the tax abatement.

The owner could seek to have abated one hundred percent of the amount of any increase in the assessed value for purposes of ad valorem taxes levied by the City of Tyler in excess of the assessed value of the property, if the improvements/renovations were consistent with the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Structures, if such renovations were at a minimum cost of \$30,000.00, and if completed within two years from date of issuance of a Certificate of Appropriateness. The tax abatement would only apply to the increase in the assessed value of the property over the assessed base value of the property, regardless of the actual value of any permits or improvements.

The tax abatements would become applicable to the property on January 1 of the first tax year following the date of issuance of the Certificate of Appropriateness. Such tax abatements continue in effect for a period of five years as long as the property remains on the Tyler Historic Landmark Register. If the improvements, renovation or restoration repair work on a particular piece of property were not completed within two years, then the City could re-capture all tax abatements previously received on the property, and the property owner would not be eligible for the tax abatement for the remaining three years.

The total amount of the improvements subject to tax abatements per year for the five-year period on a single piece of property is subject to a maximum of \$2,000,000.00. The abatement would only be granted upon the adoption of an ordinance by the City Council. The abatement would be available for buildings and structures on either residential or commercial property.

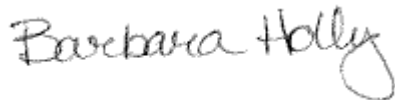
**Agenda Number: O-1**

**Page: 2 of 2**

At the time of adoption in 2005, a Sunset Review provision was added to Section 10-26.h., whereby this tax abatement program would be reviewed no later than two years after its adoption, to determine if the program should be continued, modified or repealed. As part of the sunset review, the Planning and Zoning Department has reviewed the tax abatement provisions in City Code Section 10-26, and recommends re-adoption of the existing tax abatement provisions in order to encourage rehabilitation of historic buildings. On December 5, 2007, the Tyler Historical Preservation Board reviewed this ordinance and voted to recommend re-adoption of the tax abatement provisions with a recommended five year sunset review following re-adoption of this ordinance. Upon research gathered from the City's Administrative Services Department and the Smith County Appraisal District, there have been no applications for tax abatement since the adoption of the ordinance in 2005. However, the Historical Preservation Board recommends keeping the abatement provisions as a potential incentive for historical preservation.

**RECOMMENDATION:**

It is recommended that the City Council adopt an ordinance amending Tyler City Code Chapter 10 to re-adopt a tax abatement program for historic buildings and structures and extend the sunset review to five years.



**Drafted/Recommended By:  
Department Leader**

**Barbara Holly, Planning Director**

**Edited/Submitted By:  
City Manager**

**r**

**ORDINANCE NO. 0-2008-8**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING TYLER CITY CODE CHAPTER 10, "PLANNING AND ZONING", ARTICLE II., "HISTORICAL PRESERVATION", RE-ADOPTING A TAX ABATEMENT PROGRAM FOR HISTORIC BUILDINGS AND STRUCTURES LOCATED IN HISTORIC DISTRICTS; ESTABLISHING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.**

**WHEREAS**, it is the intent of the City Council to promote the public welfare; and

**WHEREAS**, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety and welfare of citizens; and

**WHEREAS**, the City of Tyler is a home-rule municipality acting under its Charter adopted by the electorate pursuant to Article 11, Section 5 of the Texas Constitution and Chapter 9 of the Texas Local Government Code; and

**WHEREAS**, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend or repeal an ordinance, rule or police regulation that is for the good government, peace, or order of the municipality; and

**WHEREAS**, Texas Local Government Code Section 51.001(2) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or police regulation that is necessary or proper for carrying out a power granted by law to the municipality or to an office or department of a municipality; and

**WHEREAS**, City Code Chapter 10, Article II., relates to historical preservation; and

**WHEREAS**, City Code Section 10-20.a. states that the City Council finds that the recognition and preservation of historic landmarks is in the public interest and serves to promote the welfare of the community; and

**WHEREAS**, City Code Section 10-20.a. states that the purposes of Sections 10-20 through 10-25 is to preserve the historic structures of the community through a voluntary program of owner participation, and to carry out the City's responsibilities as a Certified Local Government; and

**WHEREAS**, City Code Section 10-20.b. defines "historic landmark" as any site or area of historic or cultural importance or significance as designated by the City Council, and shall include historic structures, sites, districts or areas; and

**WHEREAS**, City Code Section 10-21.b. states that some of the purposes of the Historical Preservation Board are to educate the community about its rich historical legacy and to encourage historical preservation as inspiration for future generations; to study and research the necessity for historical districts for the City; to recommend to the City Council historic landmarks which should be included in the Tyler Historic Landmark Register; to familiarize itself with buildings, structures, sites, districts, areas, places and lands within the City which may be eligible for designation as historic landmarks; to establish criteria a make recommendations to the City Council to be used in determining whether certain buildings, districts and areas should be designated as historical landmarks; to establish guidelines and review requests for certificates

of appropriateness and certificates of demolition for buildings, structures and sites designated as historical landmarks; to formulate plans and programs for public and private action for encouraging and promoting the preservation of historical landmarks; to prepare design guidelines for review of historical landmarks and districts; and to propose to the City Council tax abatement programs for historical landmarks and districts; and

**WHEREAS**, City Code Section 10-21.c.1 states that the powers and duties of the Historical Preservation Board are to act in an advisory capacity and make recommendations to the City Council concerning establishment of any location, structure, building or area as an official historical site and shall make future recommendations regarding preservation and restoration of such areas or buildings, subsequent to their establishment as official historical sites or districts; and

**WHEREAS**, City Code Section 10-21.c.2 states that the powers and duties of the Historical Preservation Board are to conduct hearings and research for the purpose of determining the feasibility of recommending to the City Manager, the Planning and Zoning Commission and City Council locations, sites and structures to preserve and restore as official historic sites or districts; and

**WHEREAS**, on August 17, 2005, the City Council adopted City Code Section 10-26, which established a voluntary program by which owners of properties designated as historic landmarks may obtain certain tax abatements; and

**WHEREAS**, City Code Section 10-26.h. requires a sunset review of the tax abatement provisions within 2 year after the adoption of the tax provisions; and

**WHEREAS**, the Planning and Zoning Department has reviewed the tax abatement provisions related to historic structures, and recommends re-adoption; and

**WHEREAS**, on 12/5/07, the Tyler Historical Preservation Board reviewed this proposed ordinance and recommended approval;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:**

**PART 1:** That Tyler City Code Chapter 10, "Planning and Zoning", Article II., "Historical Preservation", is hereby amended by re-adopting Section 10-26 to read as follows:

Sec. 10-26. Tax abatements for historic landmarks.

a. The tax abatement provided for in this section is intended to encourage historic preservation within the City of Tyler. Any building or structure that has been designated as a historic landmark pursuant to the terms of this Article, and which is substantially rehabilitated as provided herein, may have abated one hundred percent (100%) of the amount of any increase in the assessed value for purposes of ad valorem taxes levied by the City of Tyler in excess of the assessed value of the property for a period of five (5) years following issuance of a Certificate of Appropriateness. Said tax abatement shall only apply to the increase in the assessed value of the property over the assessed base value of the property, regardless of the actual value of any permits and improvements. In order to be eligible for tax abatement, said renovations must be at a minimum cost of *thirty thousand dollars (\$30,000.00)* and must be completed within a period of two (2) years from the date of issuance of a Certificate of Appropriateness. The tax

abatements would become applicable to the property in January of the first tax year following the date of issuance of a Certificate of Appropriateness. The tax abatements shall continue in effect during the established five-year period as long as the property remains on the Tyler historic landmark register. The total amount of said improvements subject to tax abatement per year for the five-year period on a single piece of property shall not exceed *two million dollars (\$2,000,000)*.

b. To be eligible for a property tax abatement under this section, a property must meet the following requirements:

1. The building or structure must meet the requirements for, and have previously been designated as, a historic landmark pursuant to section 10-22.
2. The structure or building upon which the renovation is to occur must be at least fifty (50) years old or older;
3. The tax abatement under this section is available for buildings or structures on both residential and commercial property.
4. Any renovations or improvements must conform to the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings, a copy of which is available in the Planning and Zoning Department.

c. Application process. Applications for tax abatement under this section are voluntary. Any owner seeking tax abatement under this section shall file an application for a Certificate of Appropriateness in conformance with section 10-23. Said application shall include a projection of the estimated construction time and predicted completion date of the historic repair or rehabilitation. The requirements of sections 10-23 and 10-24 shall govern the application, granting and removal, and maintenance process for the Certificate of Appropriateness. However, the actual granting of the tax abatement under this section shall be subject to the discretion and approval of the City Council. After a public hearing, the City Council may by ordinance approve the abatement provided for in this section. If approved by City Council, the applicant for abatement shall cause a copy of the ordinance and application for exemption to the Smith County Appraisal District not later than January 1<sup>st</sup> of each subject tax year.

d. Time for completion; re-capture. If the improvements, renovation or restoration repair work on a particular piece of property are not completed within two (2) years from the date of issuance of the Certificate of Appropriateness, any and all tax abatements previously received on said property during the two-year period shall be revoked, and the City may re-capture all tax abatements that the property owner received during said two-year period. In addition to the re-capture, the property owner shall not be eligible for the tax abatement for the remaining three (3) years.

e. Eligible costs. Eligible costs shall include construction, reconstruction, alteration, change, restoration, removal or demolition of any exterior architectural feature of a building or structure on the Tyler historic landmark register. Materials and labor for repairing, replacing or adding any of the following shall be eligible, if expressly approved as part of the Certificate of Appropriateness:

1. Structural walls;
2. Exterior doors;
3. Windows;
4. Exterior brick veneers or treatments;
5. Roof and gutter where necessary for structural integrity;

6. Facade items;
7. Limited demolition, not more than fifteen percent (15%) of the original structure, and cleanup related to the eligible costs in this subsection;
8. Exterior paint (consistent with those colors available during the time period that the structure was built);
9. Foundations;
10. Structural subfloors;
11. Structural ceilings;
12. Termite damage and treatment;
13. Fixtures and decorative items attached to the main structure, or that contribute to the historic integrity of the property;
14. Fencing that contributes to the historic integrity of the property.

f. Ineligible costs. Ineligible costs shall include the following:

1. Overhead;
2. Taxes;
3. Supervisor payroll;
4. Repairs of construction equipment;
5. Tools;
6. Plumbing and electrical wiring;
7. Mechanical equipment; air conditioning systems;
8. Any other items not directly related to the exterior appearance or the structural integrity or viability of the structure, except that interior items for commercial properties shall be allowed.

g. Use in conjunction with other incentives. The tax abatement authorized by this section may be used in conjunction with other types of abatements or incentives, either existing and that may be developed in the future, unless otherwise prohibited by statute or ordinance.

h. Sunset review. Before the fifth anniversary of the date of adoption of this section, the City Manager shall review the tax abatement program established herein. The City Manager shall review the effects of, and any benefits or problems associated with, this program. Following such review, the City Manager shall make a recommendation to the City Council regarding whether to continue, modify, or repeal this section. (Ord. No. 0-2005-61; 8/17/05) (Ord. No. 0-2008-8; 1/9/08)

**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 this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall become effective upon its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be January 11, 2008.

**PASSED AND APPROVED** this 9th day of January, A. D., 2008.

\_\_\_\_\_  
JOSEPH O. SEEBER, MAYOR OF  
THE CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

\_\_\_\_\_  
CASSANDRA BRAGER, CITY CLERK

\_\_\_\_\_  
CITY ATTORNEY