

## ARTICLE VI. - TAX EXEMPTION FOR DESIGNATED HISTORIC SITES

*Footnotes:*

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**Cross reference**— *Historic land preservation and historic districts, § 35-211 et seq.*

## Sec. 10-126. - Purpose.

This article is enacted for the purpose of encouraging the preservation of individually designated historic sites by providing for a reduction of the city's property tax to qualifying properties.

(Ord. No. 87-189, § I(22-50), 10-20-87)

## Sec. 10-127. - Definition.

As used in this article, "designated historic site" means any structure or archeological site and the land necessary for access to and use of the structure or archeological site, if the structure or archeological site is designated as a historically or archeologically significant site in need of tax relief to encourage its preservation pursuant to an ordinance or other law adopted by the governing body of the unit.

(Ord. No. 87-189, § I(22-51), 10-20-87; Ord. No. 2009-290, § 1, 11-17-09)

**Cross reference**— Definitions and rules of construction generally, § 1-2.

## Sec. 10-128. - Partial tax exemption of designated historic sites.

- (a) Any property which was a designated historic site on the first day of January for any year beginning with 1989 and extending to and including 2008, shall be exempt from real property ad valorem taxes levied by the City of Denton to the extent of fifty (50) percent of the assessed value of the designated historic site. The exemption provided for herein shall apply for a maximum of fifteen (15) successive years, beginning with the first year the property is entitled to the exemption during the specified years and continuing and including each and every year of the fourteen (14) successive years thereafter during which the property is a designated historic site on the first day of January of those fourteen (14) years.
- (b) Any property which was a designated historic site on the first day of January 2009 shall be exempt from real property ad valorem taxes levied by the City of Denton for tax year 2009 to the extent of fifty (50) percent of the assessed value of the designated historic site.
- (c) Any property which is designated a historic site after the first day of January 2009 may be exempt from real property ad valorem taxes levied by the City of Denton to the extent of fifty (50) percent of the assessed value of the designated historic site if the property owner demonstrates to city qualifying expenses of ten thousand dollars (\$10,000.00) or more for permanent improvements and/or for restoration of said property. The qualifying expenses are limited to two (2) years prior to designation as a historic site. The historical landmark commission must determine whether the qualifying expenses result in a permanent improvement and/or restoration of said property as a condition of receiving the exemption. The exemption provided for herein shall apply for a maximum of ten (10) successive years, beginning with the first year the property is entitled

to the exemption during the specified years and continuing and including each and every year of the nine (9) successive years thereafter during which the property is a designated historic site on the first day of January of those nine (9) successive years.

- (d) Additional ten (10) year exemptions thereafter will require the property owner to demonstrate to city qualifying expenses of ten thousand dollars (\$10,000.00) or more, beyond those demonstrated for the initial or subsequent exemption, for permanent improvements and/or for restoration of said property. The historical landmark commission must determine whether the qualifying expenses result in a permanent improvement and/or restoration of said property as a condition of receiving the exemption.
- (e) Upon designation as a historic site eligible for a tax exemption or reauthorization of a tax exemption, the director of planning and development shall provide the property owner a certified ordinance or other document that authorizes the tax exemption. To receive the exemption provided herein, a person claiming the exemption must apply for the exemption with the chief appraiser of the Denton Central Appraisal District as provided by state law. Immediately after issuance of a certificate of demolition or removal, the director of planning and development shall notify the chief appraiser of the Denton Central Appraisal District.

(Ord. No. 87-189, § I(22-52), 10-20-87; Ord. No. 98-110, § I, 4-21-98; Ord. No. 2009-290, § 1, 11-17-09)

#### Sec. 10-129. - Recapture of taxes.

- (a) If any designated historic site is, within twenty-five (25) years from any year in which the property received a tax exemption under this article:
  - (1) Removed as a designated historic site by ordinance, upon the request of the owner; or
  - (2) Removed as a designated historic site by ordinance after it has been determined to have been totally or partially destroyed or altered by the willful or negligent act of the owner or the owner's agent, in violation of article V of chapter 35 of this Code;

an additional tax is imposed, on the effective date of the ordinance providing for its removal as a designated historic site, equal to the difference between the city taxes imposed for each year an exemption was made under this article, and the taxes that would have been imposed had the exemption not been made, plus interest on the additional amount at an annual rate of seven (7) percent, calculated from the dates on which the additional taxes would have become due if not exempted.

- (b) If, in providing for the removal of a property as a designated historic site because of its being partially or totally destroyed or altered, as provided in subsection (a)(2) of this section, the city council, after receiving the determination of the historic landmark commission and planning and zoning commission, determines, after public hearing for which the owner shall be given notice, that the property was totally or partially destroyed or altered by the willful or negligent act of the owner or his representative, in violation of article V of chapter 35, the additional tax provided for in this section shall be imposed.
- (c) A tax lien attaches to the property on the date it is removed as a designated historic site to secure payment of the additional tax and interest imposed by this section. The lien exists in favor of the city for which the additional tax is imposed.
- (d) The city tax assessor and collector shall notify the chief appraiser of the additional tax imposed and shall prepare and deliver a statement to the owner for the additional taxes plus interest as soon as practicable

after removal of the property as a designated historic site. The taxes and interest are due and become delinquent and incur penalties and interest as provided by law for ad valorem taxes imposed by the city if not paid before February 1 of the year following the year in which the additional tax is imposed.

(Ord. No. 87-189, § I(22-53), 10-20-87)

#### ARTICLE VII. - TAX EXEMPTION FOR HISTORICALLY SIGNIFICANT SITES

##### Sec. 10-130. - Granting of partial exemption.

Any property which is designated as a "historically significant site" pursuant to the terms of this article and which is substantially rehabilitated as provided herein shall have abated any increase in the assessed value for ad valorem tax purposes in excess of the assessed value of the property for the tax year immediately prior to the renovation, for a period of ten (10) years following the completion of the renovation. Only the historic structure and the land reasonably necessary for access to, and use of, the structure shall be subject to the tax abatement. The abatement period shall begin on the first day of the tax year following completion of the rehabilitation project.

(Ord. No. 98-116, § I, 4-28-98)

##### Sec. 10-131. - Designation of historically significant sites.

For the purpose of this article, all structures, residential and commercial, fifty (50) years old or older which are within the boundaries of the downtown commercial district as indicated on attachment "A," which is attached hereto [in Ord. No. 98-116] and made a part hereof for all purposes, are designated as historically significant sites in need of tax relief to encourage their preservation.

(Ord. No. 98-116, § I, 4-28-98)

##### Sec. 10-132. - Eligibility.

To be eligible for a property tax abatement, a property must meet the following requirements:

- (1) The property must meet the requirements for designation as a historically significant site in need of tax relief as defined in section 10-131 of this article.
- (2) The property must meet all requirements for application, certification and verification as set forth below.

(Ord. No. 98-116, § I, 4-28-98)

##### Sec. 10-133. - Application process.

Applications for a historically significant site tax exemption pursuant to this article are to be filed with the preservation officer (or such other city official designated by the city manager) of the City of Denton, who shall be the agent for the City of Denton for the purposes of administering this article. Each application must be signed by the owner of the property, be acknowledged before a notary public and shall:

- (1) State the legal description of the property proposed for certification;

- (2) Include an affidavit by the owner stating the structure is fifty (50) years old or older and is located within the Commercial District of the City of Denton, commercial buildings within historic districts, historic conservation or any commercial building that the city council deems historic or in need of preservation;
- (3) Include detailed plans and/or descriptions of the proposed work demonstrating rehabilitation is in accordance with the current property appearance guidelines adopted by ordinance of the city council;
- (4) Include cost estimates indicating the repair or rehabilitation of the exterior of the building will equal or exceed twenty-five (25) percent of the most recent assessed ad valorem tax valuation of the structure or twenty thousand dollars (\$20,000.00), whichever is less. Roof repair or replacement may comprise no more than fifty (50) percent of the minimum threshold amount necessary to qualify for tax abatement;
- (5) Include a projection of the estimated construction time and predicted completion date of the historic repair or rehabilitation;
- (6) Authorize the members of the historic landmark commission, the city manager or designee, and elected officials to visit and inspect the property proposed for certification to verify that it is in need of substantial repair or rehabilitation and to verify repair or rehabilitation;
- (7) Sign an agreement to submit an application for a certificate of appropriateness to determine compliance with property appearance guidelines for any exterior modifications to the property for the duration of the period during which the tax abatement is in effect;
- (8) Include a tax certificate showing all taxes due upon the property have been paid; and
- (9) Provide any additional information to the historic landmark commission which the owner or committee deems relevant or useful, such as the history of the structure, access to the structure by the public, or any proposed changes in use of the structure.

Each application shall contain sufficient documentation confirming or supporting the information submitted therein.

(Ord. No. 98-116, § 1, 4-28-98; Ord. No. 2014-125, § 1, 5-6-14)

#### Sec. 10-134. - Certification process.

Upon receipt of the sworn application, the preservation officer shall forward the application to the historic landmark commission for review. The historic landmark commission shall review the proposed rehabilitation for conformance with the current version of the property appearance guidelines. The historic landmark commission shall recommend to the city council whether the structure shall be eligible for the tax exemption. The commission may recommend approval of the application as submitted, approval with conditions, or denial. The historic landmark commission shall review the application within forty-five (45) days of its submittal to the preservation officer. The written recommendation of the historic landmark commission shall be delivered to the city manager no more than ten (10) days after the commission's decision is rendered. If the decision of the commission is for approval with conditions, and the applicant concurs with such conditions, the above ten (10) days for delivery will not commence until the application is amended to comply with the conditions approved by the commission. Upon receipt of the recommendation of the historic landmark commission, the city manager shall, within a reasonable time, place the matter upon the city council agenda for determination of eligibility. In determining eligibility, the city council shall first determine that all the requirements of this article have been met and that only the historic structure and the land reasonably necessary for access to, and use thereof, is to be provided favorable tax relief as provided in section 10-130 of this article. If eligibility is determined, the council shall

authorize the city manager to execute a tax exemption certificate upon verification of completion of repairs or renovation. If required by the Denton County Appraisal District, the city manager or designee shall provide annually a list of structures eligible for tax exemption under this article.

(Ord. No. 98-116, § I, 4-28-98)

#### Sec. 10-135. - Verification process.

Upon completion of the repair or rehabilitation, the certified applicant shall submit to the preservation officer a sworn statement of completion acknowledging that the structure has been substantially repaired or rehabilitated in accordance with the plan approved by the city council. Applicant must also present documentation verifying that the cost of repair or rehabilitation meets or exceeds the amounts established in section 10-133 of this article. The preservation officer or designee, upon receipt of the sworn statement of completion, but no later than thirty (30) days thereafter, shall make an investigation of the property and shall approve or disapprove the fact that the property has been completed as required for certification. If the repair or renovation deviates in any way from the construction plan approved by council, the historic landmark commission shall determine whether or not the modifications are in accordance with the property appearance guidelines. If verification of completion shall be deemed unfavorable, the certified applicant shall be required to complete or correct the repair or rehabilitation in order to obtain the tax exemption provided by this article or appeal the commission's decision to the city council. When the verification of completion receives a favorable review by the preservation officer, or the commission or the council, whichever is applicable, the preservation officer shall notify the city manager in writing of compliance. Thereafter, the city manager shall execute a tax exemption certificate and forward same to the Denton County Appraisal District.

(Ord. No. 98-116, § I, 4-28-98)

#### Sec. 10-136. - Property appearance guidelines.

The property appearance guidelines on file in the office of the preservation officer, the planning department and such other office as the city manager may designate, are hereby approved and incorporated herein and made a part hereof for all purposes. The property appearance guidelines shall be periodically reviewed by the historical landmark commission and desired changes by the commission to such guidelines shall be recommended to the city council. Any changes to the property appearance guidelines shall not be effective until such changes are approved by the city council. The city council may direct the city manager or the preservation officer to propose certain changes to the property appearance guidelines but such changes shall not be adopted by city council without a recommendation from the historic landmark commission.

(Ord. No. 98-116, § I, 4-28-98; Ord. No. 2014-125, § 2, 5-6-14)

#### Sec. 10-137. - Alteration or destruction.

- (a) During the exemption period, if the preservation officer or a member of the historic landmark commission has reason to believe that an exempted structure has been altered or totally or partially destroyed by the willful act or negligence of the owner or his representative, the preservation officer shall immediately cause the matter to be scheduled for the earliest possible consideration by the city council. If, after giving notice and hearing to the owner, the city council determines that the exempted structure has been totally or

partially destroyed or altered by the willful act or negligence of the owner or his representative, the owner shall immediately repay to the city all of the tax revenues that were not paid because of the exemption plus interest calculated at an annual rate of seven (7) percent.

- (b) Where an exempted structure is totally or partially destroyed or altered by other than the willful act or negligence of the owner or his representative, the owner shall, whenever feasible, request a building permit to reconstruct the historically significant site in accordance with plans and specifications (plans) that comply with the property appearance guidelines and building and development codes of the city. The cost of renovation is hereby deemed feasible when destruction or alteration is fifty (50) percent or less of the assessed ad valorem tax value of the building without deduction for the abatement hereunder. The plans for the structure must be approved by the preservation officer or designee. If there is any question that the plans do not comply with the property appearance guidelines the historic landmark commission shall determine if such plans are in compliance with such guidelines, A decision by the commission, denying the issuance of the building permit for failure of the plans to comply with the property appearance guidelines, may be appealed by the owner to the city council. If rebuilding activities are not completed within one (1) year of the damage to the structure, the repayment of the tax revenues not paid because of the exemption shall be required as set forth in subsection (a) above, unless city council grants an extension for such permits.
- (c) If the owner of a damaged historic structure exempted under this article applies for a demolition permit, the building official shall follow the regulations contained in section 35-220 (Demolition or removal of historic landmarks) of the zoning chapter, as amended, in processing such permit. In cases where a demolition permit is issued by the city because renovation is not feasible, repayment of tax revenue is not required.
- (d) If the owner of a historic structure which is damaged by a willful or negligent act of the owner or his representative has such structure demolished or such structure is not repaired within one (1) year of the damage, such owner will not be eligible for future abatement unless a revised application for such structure is approved by the city council.

(Ord. No. 98-116, § I, 4-28-98)

Sec. 10-138. - Transferability to future owner(s).

If the tax exemption certificate executed by the city manager per section 10-135 is timely recorded by the owner of the structure in the deed records of Denton County with the approved application, the tax exemption authorized above shall constitute a covenant running with the land for the ten-year period provided in this article. Should the owner of the structure ever cease to comply with the terms of the application and of this article during such ten-year period, this abatement may be revoked for the years remaining within such ten-year period, upon the finding of such incompliance by the city council, after giving notice and hearing to the owner. The city manager or his designee shall advise the chief appraiser of the Denton County Appraisal District of the revocation of the abatement and shall file an appropriate document in the deed records of Denton County revoking the tax exemption.

(Ord. No. 98-116, § I, 4-28-98)

Sec. 10-139. - Authority of chief appraiser.

The chief appraiser for the county appraisal district shall determine that portion of land which is reasonably necessary for access to and use of historic structures for which applications for exemptions are granted and shall assess for taxation all such excess land in the same equal and uniform manner as all other taxable properties in the city. It shall be in the discretion of the chief appraiser as to whether or not owners of historically significant structures under this article must file an application with such appraiser's office annually to obtain the exemption granted above or if one (1) application can be executed by the owner of the historically significant structure to obtain the ten-year historic exemption.

(Ord. No. 98-116, § I, 4-28-98)

Sec. 10-140. - Use in conjunction with other tax incentives.

At the discretion of city council, the tax abatement provided in this article may be used in conjunction with tax abatements for historic landmark zoning as provided in article VI chapter 10 of the Denton City Code. The applicant must meet all requirements for each tax abatement separately in order to be considered for both abatements.

This tax abatement may be used in conjunction with other types of abatements that may be developed in the future, unless otherwise prohibited by statute or by ordinance.

(Ord. No. 98-116, § I, 4-28-98)

Sec. 10-141. - Definitions.

Should the exact meaning of terms contained in this article be in dispute, the meaning of such terms as utilized in the interpretation or definition of such terms in article V "Historic Landmark Preservation and Historic Districts" of chapter 35 (zoning) of the City Code, as amended, or in this chapter shall control.

(Ord. No. 98-116, § I, 4-28-98)