

Historic Preservation Tax Deferment and Waiver Ordinance

Sec. 6-3C. Tax deferment and waiver program relating to real property taxes for certain *qualified* property owners in the town who own a significantly distressed historic building.

(a) *Purpose.*

The town recognizes that the preservation of historic buildings is essential to maintain its historic Town character and salient economic appeal related thereto. Present day economics in relation to private historic property owners' incomes versus cost of living, generally, as compared to years ago when historic structures were first built, coupled with modern, less expensive construction methods, is challenging adequate maintenance to historic structures within Town, or resulting in demolition and replacement altogether. The Town feels it is important to offer a tax deferment option to select property owners, as a way to stimulate maintenance efforts without compromising municipal revenue streams. ~~Certain property owners are unable to adequately preserve their historic building.~~

(b) *Definitions.*

(1) "*Qualified property owner*" ~~is here defined for the purpose of this section as~~ shall be defined as any person who ~~shall satisfies~~ satisfy the criteria in this sub-section (i), (ii) and (iii):

- (i) As listed on current deed and/or mortgage statement and who pays property taxes on the distressed historic building;
- (ii) Whose real estate tax previously billed is not delinquent by more than four quarters;
- (iii) Who completes the application process and complies with the program stipulations contained herein.

(2) "*Deferred amount*" ~~is herein defined for the purpose of this section as~~ shall be defined as the amount of tax that would otherwise be due and payable if the applicant did not qualify under this program.

(3) "*Disqualifying event*" ~~is here defined for the purpose of this section, to include any and all~~ shall be one of the following:

- (i) Written request by the applicant to be removed from the program.
- (ii) Completion of approved restorations prior to application approval.
- (iii) Determination by the North Smithfield Historic District Commission (hereinafter referred to as HDC) that the property owner has not complied with the provisions set forth for this program.

(4) "*Historic building*" is herein defined as any building that *shall* be listed as or within one of the defined North Smithfield local historic districts currently under the purview of the rules, regulations, standards and guidelines of the HDC, ~~, or subsequently submits an application for consideration and approved first by the HDC then followed by the Town Council to be recognized by the HDC as a qualifying historic property.~~ Although not required, the property may also be listed in the National Registry of Historic Places or listed by the Rhode Island Historical Preservation and Heritage Commission (hereinafter referred to as RIHPHC), but only historic buildings listed as or within an HDC local historic district will be considered qualifying for this program. Applicants may submit for RIHPHC or local HDC approval concurrently with their application for tax deferment. District inclusion must occur prior to tax deferment benefit.

(5) "*Significantly distressed*" shall be defined as: ~~is herein defined as:~~

- (i) Any building with a failed or partially failed building envelope or a building envelope that is in imminent danger of failing. The envelope consists of foundations, roofs, doors, windows, siding and trim, and structural frame members.
- (ii) Any building in imminent danger of demolition or collapse.

(6) "*Waived yearly property tax*" shall be defined as ~~is here defined for the purpose of this section as~~ the taxes deferred by the Town Council ~~and waived by the Town Administrator or his~~

designee after approval of the tax deferment application ~~a validation process to be defined~~ by the HDC.

(c) Deferment and Waiver of property tax.

(1) The town hereby establishes a deferment of property taxes on a significantly distressed historic building of a qualified property owner.

(2) Upon proper application and approval by the HDC, ~~to proceed followed by subsequent completion of all requirements as established herein and within the program guidelines to be established by the HDC,~~ the Town Council may grant a deferment of property taxes of qualified historic properties.

(3) The Town Council ~~Town Administrator or his designee shall~~ may waive deferred taxes when the HDC verifies, through specified, financial documentation, ~~as defined by the HDC program guidelines~~ that the property owner spent an amount of money equal to or greater than the amount of deferred taxes to either partially or fully remedy the distressed status of the historic building.

(d) Application process.

(1) The property owner(s) shall first verify that the property and extant building(s) is listed as or within a local historic district. If yes, the property owner(s) shall be eligible to submit the required application to the HDC for approval;

(2) If the property and extant building(s) are not already established as being listed as or within a local historic district, the property owner(s) may ~~shall~~ seek to establish the property and extant building(s) as an historic property in accordance with HDC program rules, and consistent with typical zoning amendments by way of notice and procedure. ~~through the following process:~~

~~—— (a) submit valid documentation including but not limited to historical narratives, historical photographs, etc. to the HDC that shall show compliance with The Secretary of the Interior's Standards for Evaluating Significance Within Registered Historic Districts.~~

~~—— (b) if the property is approved by the HDC in determining historical significance, the HDC shall recommend to the Town Council to approve the property as a local historic district through the applicable rules and regulations according Town procedural requirements, including but not limited to filing a radius plan as specified with listing of abutters and placing the item on the Town Council agenda for a minimum of two public hearings;~~

~~—— (c) if the property is approved in determining historical significance by the Town Council through the required process, the property owner(s) shall submit the required application to the HDC for approval;~~

(3) The property owner(s) may initially submit the required application to the HDC for eligibility in the tax deferment and waiver program between the dates of January 1 and March 31 for taxes assessed the following July of that year;

(4) As part of the required application, the property owner shall submit a defined Restoration Plan to the HDC for approval. The HDC shall utilize the Restoration Plan as a guide to inspect and verify for compliance within The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings as well as compliance with this program.

(e) Deferment and Waiver Process.

~~(1) If the HDC approves an application and Restoration Plan for a property with a distressed historic building, it may nominate the property to the Town Council for participation in the tax deferment and waiver program. The Town Administrator shall be informed of all activity related to this program.~~

~~(2) The Town Council shall review as Town procedures require and may approve a nominated historic building for a tax deferment and subsequent waiver by the Town Administrator.~~

(3) Upon partial or full completion of the work, ~~that can be afforded by the property owner(s) with the expenditure of the deferred property tax or with additional expenditure of other funding as defined in the Restoration Plan and as agreed to by the HDC,~~ the property owner shall appear

before the HDC with appropriate documentation as defined in the program guidelines to testify that the work has been completed in accordance with the Restoration Plan, and ~~that the work shall satisfy compliance with the~~ Rules and Regulations and Standards and Guidelines of the HDC. Upon HDC approval, written validation shall then be sent to the Town Council. ~~TA, and thus verifying the property owner(s) to be in compliance with the program, and the Town Administrator or his/her designee shall waive the deferred taxes.~~

(4) After property owner(s) establish full compliance on initial application through the entire approval process including being granted a tax deferment and waiver, and if the Restoration Plan has only been partially remedied, the property owner(s) may petition the HDC to continue the Restoration Plan within the required guidelines as set forth under the initial application process. Upon receipt of said petition, the HDC shall review for a Continuance under the following conditions:

(a) the HDC shall validate that the distressed building(s) still qualifies for a tax deferment and waiver, and that the property owner spent an amount equal to or more than the deferred taxes on the distressed historic building in accordance with the approved Restoration Plan.

(b) if there are no other property owners that have applied and been approved to begin work on an approved Restoration Plan within the next defined filing year for the program and/or;

~~(c) there are enough remaining budgeted funds to continue work on the initial approved Restoration Plan~~

(5) Tax deferments shall cease when the HDC determines that the historic property is no longer distressed or the property owner fails to follow the Restoration Plan and/or fails to follow the HDC Rules and Regulations and Standards and Guidelines. ~~and/or spend sufficient money on the distressed historic building.~~

(6) By December 15 each year, the property owner shall pay the difference between all deferred taxes and the amount spent on the restoration plan if the amount spent on restoration is less than the deferred taxes.

(7) ~~A Failure of the property owner to comply with the Restoration Plan, or the occurrence of a disqualifying event of a temporary nature shall nullify the deferment~~ and or waiver and ~~and thus also the waiver and shall~~ require re-application into the program.

(8) The Town Council may not authorize deferment of more than \$25,000 combined for all distressed historic buildings under application with a defined Restoration Plan each year.

(f) Recording of deferral; lien.

(1) All historic properties qualified and approved for the Tax Deferment and Waiver Program will have the deferral and waiver noted on the property deed and the deferral and waiver will be registered and recorded with the North Smithfield Town Clerk and Tax Assessor. Current recording fees shall apply as may be required and shall be paid by the historic property owner(s).

(2) All taxes deferred shall constitute a lien on the real estate for which the deferment was granted until paid in accordance with the provisions of this section or unless waived by the Town Council ~~Town Administrator or his/her designee after certification by the HDC that the work was completed according the Restoration Plan and the provisions set forth herein and within the program guidelines.~~

(3) Once the Restoration Plan has been validated to be in compliance with all the rules as set forth in this program, and approved by the HDC, a notice shall be sent by the HDC to the Town Clerk and Assessor ~~Administrator~~ attesting to the completion of the required and qualifying work, and ~~notifying the Town Administrator that~~ the deferment can be removed from the deed and the taxes waived. The notice ~~from the Town Administrator~~ of waiving of the taxes shall be registered on the deed and recorded with the Town Clerk thus removing the lien that had been placed on it. All fees associated with this procedure are to be paid by the historic property owner(s).

159 **(g) *Payment of Deferral.***

160 (1) All deferrals must be paid in full within six months of a disqualifying event, in the case of a
161 death of the legal owner of the property, at closing & conveyance in the event of a sale, and
162 within three months of any other disqualifying event.

163 (2) Failure to report the disqualifying event, and/or to pay the deferral tax when due, will carry a
164 maximum penalty of \$100.00 per month, ~~or portion thereof,~~ and applicable interest as currently
165 defined on the assessed tax. Interest will be assessed and due in the same manner as other past
166 due tax receivables and will apply to all amounts previously deferred as well as current amounts
167 due.

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170 **(h) *Appeal.***

171 Appeals of all decisions as to the application, administration, eligibility or other matter relating
172 to this section shall be made to the zoning board of review in accordance with zoning section
173 19.12 appeals. Appeals of all tax matters shall be directed to the Tax Assessor in accordance
174 with RIGL 44-5-26 ~~in writing concurrently to the Town Administrator and the Town Council.~~

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176 **(i) *Severability.***

177 This section and its various provisions--sentences, sections, subsections and clauses--are
178 declared to be severable, and the remainder shall survive in full force and effect should any
179 particular provision be deemed invalid.
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