

ORDINANCE NO. 05112020E

AN ORDINANCE AMENDING SECTION 38-8 OF THE AIKEN CITY CODE REGARDING SPECIAL REAL PROPERTY TAX ASSESSMENTS FOR REHABILITATED HISTORIC PROPERTIES

WHEREAS, the Special Tax Assessment for Rehabilitation of Historic Properties is designed to promote rehabilitation of historic (landmark or contributing) properties by freezing the appraised value of the property when the owner makes improvements valued in excess of 20 percent of the fair market value; and

WHEREAS, the Design Review Board has recently reviewed recent tax assessment applications and ongoing discussions with stakeholders and this review has highlighted several discrepancies between the established intent of the Special Tax Assessment program and the language of the City Code and has recommended amendments to the City Code as set forth in Exhibit "A" which is attached hereto and incorporated herein by reference; and

WHEREAS, the Planning Commission determined that it would be proper to replace Section 38-8 of the City Code as with the new language set forth in Exhibit "A;" and

WHEREAS, the Council of the City of Aiken has reviewed this amendment and finds that the City Code should be amended as set forth in Exhibit "A;" and

WHEREAS, the Council of the City of Aiken has concluded that the adoption of the proposed amendment to the Aiken City Code is essential to the general health, safety, welfare and economic stability of the City and is in the best interest of its citizens.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF AIKEN HEREBY ORDAINS THAT:

Section 1: Section 38-8 of the Aiken City Code is hereby amended to read as set forth in Exhibit "A."

Section 2: This ordinance shall become effective upon adoption by the Council of the City of Aiken.

Section 3: In the event that any provision of this Ordinance, or any part thereof, or any application thereof to any person or circumstance, is for any reason held to be unconstitutional or otherwise invalid or ineffective by any court of competent jurisdiction on its face or as applied, such holding shall not affect the validity or effectiveness of any of the remaining provisions of this Ordinance, or any part thereof, or any application thereof to any person or circumstance or of said provision as applied to any other person or circumstance. It is hereby declared to be the legislative intent of the City that this Ordinance would have been adopted had such unconstitutional, invalid, or ineffective provisions not been included herein.

ADOPTED by the Council of the City of Aiken at its regular meeting held this 11<sup>th</sup>  
day of May, 2020, at which a quorum was present and voting.

INTRODUCTION AND FIRST READING: April 27, 2020

SECOND READING AND ADOPTION: May 11, 2020

\_\_\_\_\_  
MAYOR

APPROVED:

ATTEST:

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

\_\_\_\_\_  
CITY CLERK

## Exhibit "A"

### Sec. 38-8. - Special real property tax assessments for rehabilitated historic properties.

- (1) *Purpose.* Section 4-9-195 of the South Carolina Code of Laws allows for the granting of special property tax assessments to "rehabilitated historic property" by local government bodies. The City offers such assessments to eligible properties who comply with the conditions established herein in order to:
  - a. Encourage the restoration of historic properties;
  - b. Promote community development and redevelopment;
  - c. Encourage sound community planning; and
  - d. Promote the general health, safety, and welfare of the community.
- (2) *Assessment Offered.* For qualifying properties in the city, a special tax assessment is available for a period of ten years equal to the appraised value of the property at the time of preliminary certification. The assessment may apply to structure(s) rehabilitated and real property on which the structures are located. Where there is a conflict between provisions of this Ordinance and the enabling state code, the more restrictive provision shall control. In no case shall the assessment period ever exceed ten years from the date effective.
- (3) *Determination of Eligibility.* In order to be eligible for the special tax assessment, historic properties must receive both preliminary and final certification.
  - a. *Preliminary Certification.* To be eligible for preliminary certification, a property must meet the following conditions:
    1. *Historic Designation.* The property has received historic designation, meaning that it maintains one or more of the following:
      - (i) The property is listed on the National Register of Historic Places either individually or as a contributing property in a district.
      - (ii) The property is at least 50 years old and is listed individually as a landmark property on the Aiken Historic Register or categorized as a contributing or landmark property located within a historic district listed on the Aiken Historic Register.
    2. *Approval of Work.* The proposed rehabilitation work should receive approval from the Design Review Board (DRB) prior to commencement. Work completed prior to DRB issuance of preliminary certification will be considered by the Design Review Board if completed within the previous twelve months and previously approved via a Certificate of Appropriateness. Any work completed within the twelve months preceding the Board's consideration of preliminary certification but not having received a Certificate of Appropriateness may be considered at the discretion of the Board.

3. *Minimum Expenditures for Rehabilitation.* The cost of the proposed rehabilitation work must satisfy the minimum expenditures for rehabilitation requirement of 20 percent of the fair market value of the eligible building(s). Fair market value means the appraised value as certified to the DRB by a real estate appraiser licensed by the State, the sales price as delineated in a bona fide contract of sale within 12 months of the time it is submitted, or the most recent appraised value published by the County Tax Assessor. The following may be used to satisfy the minimum expenditures for rehabilitation:

(i) Improvements located on or within the designated building(s).

(ii) Additions to the historic building(s) which make possible an efficient contemporary use while preserving those portions and features of the building(s) that are significant to its historic, architectural, and cultural values. Costs associated with new structures, or the addition of rentable/habitable floor space not attributed to efficient contemporary use of space within an existing historic structure shall not be included in the calculation of eligible costs.

(iii) Architectural and engineering services attributable to the design of the improvements.

(iv) Costs necessary to maintain the historic character or integrity of the designated building(s).

b. *Final Certification.* To be eligible for final certification, a property must meet the following conditions:

1. The property has received preliminary certification.

2. The minimum expenditures for rehabilitation were incurred and paid.

3. The completed rehabilitation receives approval from the DRB as being consistent with the plans approved by DRB as part of preliminary certification.

#### *(4) Process.*

a. *Preliminary Certification.*

1. *Application.* Upon determination that a property satisfies the requirement for historic designation, a property owner or owner's agent must submit via application provided by the Planning Department a description of the proposed work and estimated expenditures for said work, along with payment of a \$150 application fee for single-family and/or duplex structure (including eligible accessory structures) and \$300 for all other structures, payable to the City. The completed application and all necessary supporting documentation should be submitted to the Planning Department.

(i) *Work to be reviewed.* The following work shall be included in the application for review by the Design Review Board according to the standards included herein:

1. Repairs or alterations to the exterior of the designated building(s).
2. New construction on the property on which the building is located.
3. Any remaining work, including interior work, where the expenditures for such work are being used to satisfy the minimum expenditures for rehabilitation.

It shall be noted that not all work subject to review is eligible for inclusion in the minimum expenditures for rehabilitation.

(ii) *Standards for rehabilitation work.* To be eligible for the special tax assessment, historic rehabilitations must be appropriate for the historic building and the historic district in which it is located. This is achieved through adherence to the following standards:

1. The historic character of a property shall be retained and preserved; the removal of historic materials or alterations of features that characterize each property shall be avoided.
2. Each property shall be recognized as a physical record of its time, place and use; changes that create a false sense of historical development shall not be undertaken.
3. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
4. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property should be preserved.
5. Deteriorated historic features shall be repaired rather than replaced; where the severity of deterioration requires replacement of a distinctive feature, the new should match the old in design, color, texture, and other visual qualities and, where possible, materials; replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
6. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used; the

surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

7. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property; the new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the historic property and its environment.

8. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

## *2. Review Process.*

(i) *Site Visit.* Upon receipt of a completed application for preliminary certification, Planning Department staff will schedule a site visit for the Board to view the subject property before considering the application at the next available regularly scheduled meeting, to include a public hearing on the application. Even if no interior work is being applied for to meet the minimum expenditures for rehabilitation, the Board will view the interior of the subject building at this time in order to establish a preservation zone.

(ii) *Public Hearing.* At the next available regularly scheduled meeting, the Board will review the application to ensure that the project is consistent with the above standards for rehabilitation. The Board may approve the application as submitted. Alternatively, if the application is not approved, the applicant may revise the application in accordance with the comments provided by the Board and resubmit for their further consideration. Upon issuance of preliminary certification, the Board shall establish a preservation zone to identify critical architectural and historically significant elements that should be preserved. This preservation zone may include interior rooms and elements, as well as exterior elements that would not otherwise be subject to design review.

(iii) *Notification.* Upon issuance of preliminary certification by the Board, City staff shall notify the offices of the County Assessor, Auditor and Treasurer that such property has been duly certified and is eligible for the special assessment.

3. *Time limits.* If an application for preliminary certification is filed by May 1 or the certification is approved by August 1, the special assessment authorized herein is effective for that year. Otherwise, it is effective beginning with the following

year. This shall be referred to as the “date effective”. Upon receipt of preliminary certification, the property must be assessed for two years on the fair market value of the property at the time the preliminary certification was made.

If the project is not complete after two years from date of issuance of preliminary certification by the Design Review Board (which may differ from the date effective), but the minimum expenditures for rehabilitation have been incurred, the property continues to receive the special assessment until the project is completed and then for the duration of the special assessment period.

After two years, if preliminary certification has not yet been applied for, eligible expenditures shall be verified administratively via submittal of documentation by the property owner proving minimum required investment and a site visit to be completed by the Planning Director or his/her designee, in consultation with the Building Official. The property owner may appeal staff findings to the Design Review Board within 30 days of notification of denial.

Properties failing to have met the minimum investment threshold will no longer be eligible for the special assessment and may be required to repay any benefit received during the preceding two years to the City and/or County. Such properties may submit a new application for preliminary certification to receive future benefit. Such application must comply with all requirements for application included herein. Alternatively, the program participant may, upon reaching the two-year deadline for minimum investment, appeal to the Board for an extension of up to 6 months to meet the minimum investment threshold to maintain program eligibility. No more than one extension may be granted per project.

4. *Amendment to Scope of Work.* Once preliminary certification is granted and until issuance of final certification, changes to the scope of work approved must be approved by the Board via submittal to the Planning Department of an application for amendment. Such changes shall include a reduction in the approved scope of work. Unapproved substantive changes are conducted at the risk of the property owner and may disqualify the project from eligibility. Any subsequent changes to elements on the property not addressed by the scope of work or otherwise designated a part of the preservation zone shall be subject to the Certificate of Appropriateness process established in Chapter 5 of the Zoning Ordinance.
5. *Additional Work.* For the duration of the special assessment period, any work proposed within the preservation zone (repairs or alterations), must receive approval by the Design Review Board via the Certificate of Appropriateness process. Upon receipt of a completed application with all necessary supporting documentation, staff will schedule review of the application at the next possible regularly scheduled Board meeting. Details of such additional work approved will be maintained with the tax assessment application and certification records for that property. The Board shall review such work using the standards for

rehabilitation work included above, as well as the Design Review Manual guidelines where applicable. If the additional work is found to be inconsistent with these guidelines, the property owner shall be given an opportunity to revise their proposal.

(i) Owners of properties having received final certification prior to October 14, 2019 shall have the following options applicable for the remainder of their assessment period:

1. Participating properties shall be subject to the above “Additional Work” policy established after a site visit and hearing by the Board to establish a “preservation zone” for the property.

2. For the remainder of the special assessment period after final certification, the property owner shall notify the DRB of any additional work, other than ordinary maintenance. The DRB will review the work at a regularly scheduled hearing and determine whether the overall project is consistent with the standards for rehabilitation. If the additional work is found to be inconsistent the property owner may withdraw his request and cancel or revise the proposed additional work.

*b. Final Certification.*

1. *Application.* Upon completion of the approved project, the property owner or agent shall submit to the Planning Department an application for final certification. Final certification must be granted in order to be eligible for continuation of the special assessment.

*2. Review Process.*

(i) *Site Visit.* Upon receipt of a completed application for final certification, Planning Department staff will schedule a site visit for the Board to view the subject property before considering the application at the next available regularly scheduled meeting, to include a public hearing on the application. At the site visit, the Board will inspect all areas included in the approved scope of work, as well as any Preservation Zone elements, to determine whether the approved scope of work has been adequately fulfilled and ensure that no unapproved work has been completed that would undermine the historic and architectural significance of the property.

(ii) *Public Hearing.* At the next available regularly scheduled meeting, the Board will review the application and will grant final certification upon



determination that the completed work meets the standards and verification that expenditures have been made in accordance with this section. If a completed project does not comply with all requirements for final certification, final certification will not be granted and any monies not collected by the City and/or County due to the special assessment must be returned to the City and/or County.

- (iii) *Notification.* Upon receiving final certification, the property will be assessed for the remainder of the special assessment period on the fair market value of the property at the time the preliminary certification was made. The assessment period shall never exceed ten years from the date effective. Upon issuance of final certification by the Board, City staff shall notify the offices of the County Assessor, Auditor and Treasurer that such property has been duly certified and is eligible for the special assessment.

3. *Additional Work.* See Sec. 38-8.4.a.5. "Additional Work".

- (5) *Decertification.* At the end of the special assessment period, if the owner of a participating property has not received final certification for the subject property, Planning Department staff shall notify the property owner to complete the application for Final Certification and schedule a final site visit for verification of project completion. If the property owner fails to grant a site visit or the Board reaches an unsatisfactory finding, the Board will, following notice to the property owner, conduct a public hearing and may deem that final certification cannot be granted. The property owner may be required to repay to the City and/or County all property tax monies not collected due to the special assessment.

When the property has received final certification and has been assessed as rehabilitated historic property, it remains so certified and must be granted the special assessment for the duration of the assessment period unless/until the property becomes disqualified by any one of the following:

1. Written notice from the owner to the DRB requesting removal of the preferential assessment;
2. Removal of the historic designation by the City Council; or
3. Rescission of the approval of rehabilitation by the DRB because of alterations or renovation by the owner or the owner's estate which cause the property to no longer possess the qualities and features which made it eligible for final certification.

Notification of any change affecting eligibility must be given immediately to the County Assessor, Auditor, and Treasurer. Under no circumstances shall the sale or transfer of ownership of real property certified and assessed in accordance with this section and any ordinance in effect at the time disqualify the property from receiving the special property tax assessment under this section. This provision shall be applicable and given full force and effect to any special property tax assessment granted prior to the effective date of this paragraph notwithstanding any ordinance in effect from time to time to the contrary.

Once the Board has granted the special property tax assessments authorized herein, the owner of the property or owner's estate shall make application to the County Auditor and other appropriate County offices at the directive of County officials for the maintenance of the special assessment provided for herein or risk decertification.

- (6) *Applicability to Open Assessment Properties.* Unless otherwise indicated herein, the passage of this revised section of the City Code shall supersede previous iterations of this section of the code and apply to all properties currently receiving the special tax assessment via preliminary or final certification.