

JOHN COOPER
MAYOR



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY

Metropolitan Historic Zoning Commission
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STAFF RECOMMENDATION
Historic Property Improvement and Restoration Tax Abatement Program
July 21, 2021

Application: Program Administration for Potential Tax Abatement

Applicant: Councilmember Syracuse

Project Lead: Robin Zeigler, robin.zeigler@nashville.gov

Description of Project: Councilmember Syracuse has filed legislation to develop a Historic Property Improvement and Restoration Tax Abatement Program based on T.C.A. § 67-5-218. The enabling legislation requires the creation of a review board that meets specific criteria and tasks that board with providing the administration of the program. The existing Metro Historic Zoning Commission meets all the criteria for the board; therefore, Councilmember Syracuse’s legislation recommends that the MHZC take on those duties. This report provides a recommendation for management of the program. The plan can be updated by the Commission if the legislation changes prior to final approval.

Recommendation Summary: Staff recommends approval of the administrative proposal for the Historic Property Improvement and Restoration Tax Abatement Program to go into effect on the date specified by Metro Council, if approved by council.

Attachments

A: Councilmember Letter

B: T.C.A. § 67-5-218

C: BL209-49

BACKGROUND:

In accordance with T.C.A. § 67-5-218, Councilmember Syracuse and the Metro Historical Commission have initiated a project (BL2019-3) to incentivize long-term protection of historic properties with the creation of a Historic Property Improvement and Restoration Tax Abatement Program.

Councilmember Syracuse has filed legislation to develop a Historic Property Improvement and Restoration Tax Abatement Program based on T.C.A. § 67-5-218. The enabling legislation requires the creation of a review board that meets specific criteria and tasks that board with providing the administration of the program. The existing Metro Historic Zoning Commission meets all the criteria for the board; therefore, Councilmember Syracuse's legislation recommends that the MHZC take on those duties. This report provides a recommendation for management of the program. The plan can be updated by the Commission if the legislation changes prior to final approval.

What is a Historic Tax Abatement?

A tax abatement is a freeze on taxes granted by a government to encourage specific activities such as local designation (historic preservation of local historic resources) and economic development. Tax abatements usually last for a defined period time or in rare cases indefinitely.

Reasons for a Tax Abatement

- Encourages the local designation and therefore the long-term preservation of historic buildings and sites.
- Provides a financial incentive to rehabilitate existing property where zoning allows for a greater financial return to demolish and develop new.
- Designed to improve neighborhoods and increase the value of properties that might otherwise be demolished or remain vacant.
- Encourages rehab over replacement new construction, which has multiple benefits to the growth of a municipality. Rehab of existing buildings is more likely to add to the affordable/accessible housing pool and more likely to serve new and small businesses than new construction. Rehab is more environmentally sustainable than new construction as it retains embodied energy and keeps valuable building materials out of the landfill. In Metro Nashville, 23% of the waste we send to landfill is created from construction and demolition waste. When landfilled, this material can create greenhouse gases.
- Reduces the cost of living or the cost of doing business for a temporary period of time.
- Stimulates the economy by encouraging rehabilitation. Rehab keeps more money and jobs local than new construction. This same activity improves property and communities, which means higher property tax revenue for the city once abatements expires.

- Encourages continued development within established areas with existing infrastructure rather than encouraging sprawl.

Benefit to the City

The amount the city potentially forgoes in additional tax revenue is offset by the benefit the city receives from long-term protection of historic properties. Local historic designation is proven to have a positive economic value to Nashville. (Please see [The New Nashville: A Study of Impact of Historic Preservation](#) prepared by PlaceEconomics.) Once the improvements are made and the abatements expire, the properties then have higher appraisal values, allowing them to be taxed at a higher amount. Without the incentive, the property might be lost/demolished, or not be improved, and therefore it would not be bringing in a higher tax amount.

Potential Economic Impact for Property Owners

A “real-world” local commercial example could be the rehabilitation of the Holston House at 118 7th Ave N. Historically, the building is known as the James Robertson Hotel. The architectural firm of Marr and Holman designed the 82,000 square foot building, which was constructed in 1929. Rehabilitation began in 2017 and the building now houses 191 guest rooms as part of the Unbound Collection by Hyatt and three food and beverage spaces. In 2017, the building and land was appraised at \$11,806,000 with an estimated tax bill of 155,102.51. In 2018, the building and land was valued at \$26,145,200 with an estimated tax bill of 343,485.18, an estimated increase of \$188,382.64.

If the owners had sought a Historic Landmark and the tax abatement program had been available for them to apply for, their taxes would have been frozen at the pre-abatement rate for a total of ten years, a savings of 1,883,836.40 over the ten-year period; and the income to the city would have remained steady. In addition, the local landmark would allow for the future protection of the property if the ownership or use changes. All of the work that was actually conducted on the exterior of the building would have met the design guidelines for a Historic Landmark so they would not have had to change their plans to take advantage of the credit. The owners also used the Federal Tax Credits for rehab, and they would have been able to pair that incentive with the abatement.

How Often will the Incentive be Used

For budgeting purposes, it would be optimum to reliably predict how often this proposed incentive would be used. Unfortunately, there are too many variables for making such a forecast; however, there are some indicators that might establish a range of potential use. PlaceEconomics, the author of Nashville’s Economic Impact Study, provides the following information.

PlaceEconomics is currently conducting an analysis for the City of Baltimore on the use and impacts of a property tax credit program they have had for nearly 25 years. Baltimore averages approximately 140 projects a year; however, the investment that represents is more than seven times what is currently being invested annually in eligible properties in

Nashville. With that comparison, Nashville could expect an average of 14 projects per year. That number could increase with applications for new historic overlays. The number of projects could increase if property taxes increase. Currently, Nashville's tax rate is very low relative to other US cities, but an increase could expand interest in the program.

Potential Administrative Impact

The program will likely increase the number of properties protected--a long-term benefit--without a dramatic increase in workload--a short-term consideration, If the program averages 14 projects a year.

There may be an increase in individual Historic Landmark designations, but the incentive is not likely to result in the designation of districts, which are far more time consuming to designate and steward than individual properties. It is the role of the applicant to provide the documentation to prove that a building is eligible for local designation; therefore, designation is not considered a significant time-drain for the MHZC staff or commission. Many of the properties that are likely to use the incentive are already designated. There are approximately 10,500 properties under some type of historic overlay. The purpose of the incentive is not to incentivize rehab itself, as it is in some cities that are addressing blight, but rather to incentive long-term protection of Nashville's historic buildings. Therefore, the work that will use the incentive on the properties already designated is likely to require review anyway.

Comparison to Other Municipalities

Tax abatements (also known as a tax freeze in some municipalities) are used by many cities across the country and are regarded as one of the most cost-effective incentive programs for discouraging demolition. In typical property tax assessment processes, when an improvement is made to a property the amount that the improvement has increased the value of the property is reflected in an increased value for tax purposes. A tax abatement defers reflecting the increased values of the property as a result of those improvements for a fixed amount of time. When improvements are immediately reflected in increased taxes, many cities find that there is a reluctance to improve properties. In today's market, that is not the case for Nashville; however, many property owners find it more financially beneficial to demolish historic properties for new buildings. The abatement would make it more feasible for a property owner to spend money on improving an existing building rather than sending it to the landfill to start over with a new building.

Rutherford County is the first in Tennessee to create an abatement program. The program was implemented in 2019 and two projects have been approved so far. Many states offer some type of historic tax abatement program. They vary in years and qualifications, but most have a review process for the proposed work with the local historic commission. The following are examples of states that have enabling legislation for a tax abatement program: AL, CA, FL, GA, IL, IN, IA, KY, LA, ND, OR, SC, SD, TX, VA, WA. The programs area all very similar to Tennessee's enabling legislation in terms of the overall structure of the programs. For instance, Oregon and Florida's

abatement programs, as well as others, last for 10 years. Most all use their existing design review board to review the proposals.

Philadelphia created their program in 2000. The purpose of their program was to incentivize improvements and expansions of the city's real estate, with the ultimate goal of growing the tax base. It is not for historic properties only, as many programs are and as Tennessee's program is written. The purpose of Nashville's program will be to provide for an economic incentive to keeping existing historic buildings rather than demolishing for presumably higher-valued development allowed by base zoning. Despite the different goals, a study done by Kevin Gillen, PhD., senior economic advisor at Houwzer, a Philly-based real estate agency, reveals information that could be useful to Nashville. From 2000 to 2008, the city granted abatements to 10,404 single-family properties. The study revealed that abated properties generally sold for prices that were higher than their original purchase price once their abatements expired, meaning that the city will benefit from the increased value of the property at the end of the abatement period. However, their general appreciation rate has lagged behind that of non-abated properties. (<https://thephiladelphiacitizen.org/the-abatement-debate/>) Gillen states that the "improvement/construction of these properties has contributed significantly to the city, with over \$100 million in direct tax revenue to date and approximately half of that in each year since their abatements have expired." (<https://thephiladelphiacitizen.org/the-value-of-the-abatement/>)

In addition, the study showed that the "value of the buyers/investors place on the abatement is very large and very real: adding approximately 15-20 percent to a property's purchase price." For Nashville, this should mean that the abatement can serve to offset the loss of real or perceived value in demolition and new construction. (<https://thephiladelphiacitizen.org/the-abatement-stakes/>)

Most of the states that do not offer a tax abatement program, and even most of the states that do offer an abatement program, offer a state tax credit for rehabilitation of historic properties. Tennessee is one of only 15 states that does not have a state historic tax credit.

Analysis and Findings:

Staff recommends the following administration of the proposed Historic Property Improvement and Restoration Tax Abatement Program, based on enabling legislation in T.C.A. § 67-5-218 and guidance and support from the Assessor of Property for Metro Nashville and Davidson County and the Office of the Trustee.

Eligibility Requirements

Property & Owner Qualifications

- The building(s) must be contributing in a local historic overlay. (Application for the overlay may be submitted at the same time as the tax credit application.)
- The property must not be zoned R or RS.
- The property must be endangered which could be a situation where the existing zoning more than doubles the development potential beyond what the historic building can physically accommodate. For instance, a 4-story building that is zoned for 20 stories. It could be a physical threat such as damage caused from a disaster or years of neglect.
- The property owner must be up to date on tax payments for the property.

Project Qualifications

- The value of detached new construction on the lot does not qualify and should receive a building permit and preservation permit separate from the rehabilitation project, assuming that new construction on the site meets the design guidelines.
- The project should be a significant rehab and should not be maintenance alone, as maintenance generally does not increase value enough for the program to have value to the property owner.
- The value of the rehab work must be at least \$100,000.
- All proposed work must meet the applicable design guidelines and standards, even work planned for structures on the property that are not historic and new construction.
- The program can only be used once for any one property.

Administration of the Program

MHZC staff will be responsible for administering the program, tracking applications and projects and communicating approved projects to the Office of the Trustee and the Property Assessor. The Assessor will make no changes to assessment; instead the Trustee will invoice the property owner based on the pre-improvement value, obtained from the Property Assessor's website at the time of the application.

Program Timeline

1. Applications will be taken by the deadline of the regularly scheduled MHZC public hearing for July.
2. As a part of the application, MHZC staff will confirm with The Trustee that the owner is up to date on all tax bills.
3. Once approved, the applicant will conduct approved work and request inspections, as required.
4. The project must be completed and inspected by the application deadline for the MHZC's regularly scheduled public hearing in August. (This gives an applicant at least a year to complete a project.)
5. Commission will review the final project and determine whether or not to send the abatement to the Trustee's office at the regularly scheduled August public hearing.
6. If approved, Staff will send information regarding the approved project to the Office of the Trustee by their billing deadline of September 1.
7. Abatement period would begin on January 1st on the year after approval of a completed project and continue for 10 years.

Application & Review Process

An application will include

- Application with the Planning Commission for local designation, if the property is not already in a historic overlay
- Preservation Permit application for the proposed project
- Building Permit application
- Abatement Application
- Affidavit of Historic Tax Abatement Agreement filed with the Davidson County Register of Deeds to ensure that future owners understand when the abatement expires and can plan for the increased tax rate
- Application fee (If implemented, the fee will likely go to the General Fund.)

The MHZC will review all components of the application and ensure that proposed works meets the applicable standards and guidelines. Exterior alterations and the exterior of new construction shall be reviewed by the MHZC using the design guidelines for Historic Landmarks, The Secretary of Interior's Standards for the Treatment of Historic Properties, and the design guidelines applicable to the type of designation of the property. Where these documents may conflict, the more restrictive guidance shall be followed. Interior work will not be reviewed unless it affects the exterior or has the potential to jeopardize the structural health of the building or if the property has or is applying for a Historic Landmark-Interior designation. MHZC staff will conduct inspections throughout the project and review the completed project to ensure work meets the Preservation Permit.

The abatement can be rescinded by the MHZC if the owner becomes delinquent with property tax payments or is in violation of any permits. In the case of abatements being rescinded, the historic overlay will not be removed. The abatement can be rescinded if the building is demolished, work is done without a Preservation Permit or does not comply with the approved permit. The abatement can be rescinded if the property owner conducts work without applicable permits on any other property that they own in Metro Nashville. If the abatement is rescinded the owner would be responsible for paying back the difference between the abated value and the improved value. Pursuant to the provisions of § 2.68.030 of the Metropolitan Code of Laws, the MHZC's decisions may be appealed to the Chancery Court of Davidson County or the Circuit Court of Davidson County via a statutory writ of certiorari.

The MHZC should not approve more than 20 projects in any one application year.

Any changes to the administration of the program shall be made by the MHZC and shall meet the requirements of T.C.A. § 67-5-218.

Recommendation:

Staff recommends approval of the administrative proposal for the Historic Property Improvement and Restoration Tax Abatement Program to go into effect on the date specified by Metro Council, if approved by council.

ATTACHMENT A: COUNCILMEMBER CORRESPONDENCE

From: Syracuse, Jeff (Council Member) <Jeff.Syracuse@nashville.gov>
Sent: Thursday, July 8, 2021 3:05 PM
To: Walker, Tim (Historical Commission) <Tim.Walker@nashville.gov>; Zeigler, Robin (Historical Commission) <Robin.Zeigler@nashville.gov>
Subject: Metro Nashville Historic Property Tax Abatement program

Dear Historic Commission and Historic Zoning Commission Members,

As you may know, I proposed [BL2019-3](#) and accompanying [BL2019-49](#) at the beginning of the term, but indefinitely deferred them while we navigated our way through budget difficulties and the pandemic. As we are now on stable ground and the budget we just passed reflects a reinvestment in our community, now is the proper time to bring this proposed program back and advocate that offering a new tool to encourage preservation of our historic sites and cultural assets is also critical to Nashville's future.

Rutherford County is the only other county in Tennessee that has enacted this program. Metro Historic Executive Director Tim Walker, Historic Zoning Administrator Robin Zeigler, Davidson County Property Assessor Vivian Wilhoite and Metro Nashville Trustee Erica Gilmore and I met with Rutherford County representatives of their program to learn about their implementation efforts and help us create our program based on the State statute. The result is the attached program guidelines that will be managed by the Metro Historic Zoning Commission. You all will review this program at an upcoming meeting, so I wanted to send it to you in advance.

Neighbors across Nashville have spoke loudly during this period of unprecedented growth in Nashville that has resulted in the loss of many historic properties and have asked for our support in encouraging property owners to invest in their historic properties instead of tearing them down. As you'll note in the draft of this program, the preservation of properties such as those affected by the 2nd Avenue bombing and others can be supported by this program and it can make a big difference. This program can be a vital component of helping to ensure we save Nashville's critical historic properties and I am asking for your support and advocacy in passing these bills.

These bills will be brought back and considered at the August 3, 2021 Council Meeting. This will be third and final reading. Prior to the August 3rd meeting, *but after the July 20th meeting*, I encourage you to write to Council Members (councilmembers@nashville.gov) and encourage their vote in favor. Your advocacy can help ensure these bills pass and we can enact the program. Please also consider contacting other historic preservation advocates across Davidson County so they too are aware of this proposal and encourage them to write to Council Members as well.

Thank you for your service to Nashville & Davidson County and advocacy of our historic and cultural assets.

Best Regards,
Jeff

Jeff Syracuse

Metro Council Member, 15th District

Metro Historic Courthouse

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ATTACHMENT B: T.C.A. § 67-5-218

**2010 Tennessee Code
Title 67 - Taxes And Licenses
Chapter 5 - Property Taxes
Part 2 - Exemptions
67-5-218 - Historic properties.**

67-5-218. Historic properties.

(a) (1) There shall be exempt from property taxation the value of any improvement made to or restoration of any structure included within the provisions of title 4, chapter 11, part 2, or that is certified by a historic properties review board, as provided for in subdivision (a)(2), when the improvement or restoration is necessitated by:

(A) Any comprehensive plan for the development of a district or zone authorized in § 13-7-401;

(B) The official preservation plan of the state of Tennessee as required by the provisions of United States Public Law 89-665;

(C) Any other federal or state plan of development or redevelopment that includes the preservation and restoration of structures covered by this section; or

(D) The agreement of the owner of an individual structure to restore such structure in accordance with guidelines specified by a historic properties review board, as provided for herein, and to refrain from significantly altering or demolishing such structure during the period of exemption.

(2) The chief administrative officer of each county shall appoint a historic properties review board for that jurisdiction, to be approved by a majority vote of the county governing body.

(A) The review board shall consist of at least five (5) members of whom at least one (1) shall be an architect, if resident in the county, who is a member of the American Institute of Architects or meets the membership qualifications of that body, one (1) shall be a member of the local planning commission, and one (1) shall be the county historian, a member of the county historical commission, or a member of the county historical society.

(B) The review board shall formulate criteria for certification of historic properties with the assistance of the Tennessee historical commission, and subject to review and comment by the state preservation officer.

(3) All structures, except those on the Tennessee or National Register of Historic Properties, whose owners seek to benefit from the provisions of this section, shall be certified in accordance with these criteria. The exemption of any structure certified in accordance with this section, wherever located, shall also include any structure or residence used in the management or care of such historical structure. Any structure one hundred seventy-five (175) years of age or older shall be presumed to meet the criteria on the basis of age alone, any structure one hundred twenty-five (125) years of age or older shall be presumed to meet the criteria, unless established otherwise, and any structure seventy-five (75) years of age or older shall be assumed to meet the criteria subject to individual review.

(4) Such exemptions shall continue in effect for ten (10) years in the case of a partial or exterior restoration or improvement, as determined by the review board, and fifteen (15) years in the case of a total restoration, as determined by the review board.

(A) At the end of the applicable period, the structure shall be assessed and taxed on the basis of its full market value.

(B) If any structure receiving an exemption under this section is demolished or significantly altered, as determined by the review board, during the period of exemption, the exemption of the improved value will immediately end and the owner shall be liable at that time for any difference between the tax paid and the tax that would have been due on such improved value.

(C) The exemptions and restrictions provided for in this section shall apply to the structure itself and pass with its title.

(5) Exemptions may be made in all counties in accordance with subdivisions (a)(1)-(4) for property that would be exempt under § 67-5-212.

(b) The provisions of this section shall only apply to counties having a population of two hundred thousand (200,000) or more, according to the 1970 federal census, or any subsequent federal census, it being the finding of the general assembly that redevelopment pressures are greater on historic structures in heavily urbanized areas.

(c) (1) The provisions of this section shall apply only to those counties that, by a majority vote of the governing body of the county, choose to come under its provisions.

(2) Any incorporated municipality that desires to come under the provisions of this section may do so separately by a majority vote of its governing body. In that event, however, only the territory within the corporate bounds of the municipality shall be affected by the provisions of this section.

[Acts 1976, ch. 826, §§ 2-4; 1978, ch. 621, § 1; 1980, ch. 697, §§ 1, 2; T.C.A., §§ 67-519 67-521.]

ATTACHMENT C: FILED LEGISLATION

Bill BL2019-3

An ordinance amending Metropolitan Code Chapters 5.20 and 17.40 authorizing the Metropolitan Government of Nashville and Davidson County to come under the provisions of Tennessee Code Annotated Section 67-5-218 and establishing a Historic Property Review Board empowered to abate property taxes relating to certain improvements or restorations made to historic properties (Proposal No. 2019Z-018TX-001).

WHEREAS, it is in the interest of the Metropolitan Government of Nashville and Davidson County to encourage the preservation and adaptive reuse of historic properties; and

WHEREAS, T.C.A. § 67-5-218 authorizes a county that meets certain requirements to appoint a Historic Properties Review Board for that jurisdiction; and

WHEREAS, the decision to come under T.C.A. § 67-5-218 to allow for the creation of a Historic Property Review Board and the abatement of certain property taxes as provided in the statute requires a majority vote of the governing body of the county pursuant to T.C.A. § 67-5-218(c)(1); and

WHEREAS, the existing Historic Zoning Commission meets the requirements for the makeup of the Historic Property Review Board as defined by T.C.A. § 67-5-218(a)(2)(A); and

WHEREAS, the members of the Historic Zoning Commission are knowledgeable on the historic properties in Nashville and Davidson County and are capable of establishing the required criteria for certification of historic properties as stipulated in T.C.A. § 67-5-218(a)(2)(B).

NOW THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY: Section 1. That Metropolitan Code Chapter 5.20 is hereby amended by creating a new section 5.20.100 as follows:

5.20.100 – Historic Property Improvement and Restoration Tax Abatement Program.

A. The provisions of Tennessee Code Annotated Section 67-5-218 shall be applicable to the Metropolitan Government of Nashville and Davidson County.

B. The historic zoning commission as established by Article IX of Chapter 17.40 of the Metropolitan Code shall serve as the historic property review board for Nashville and Davidson County.

C. The historic property review board shall develop criteria for certification of historic properties pursuant to T.C.A. § 67-5-218(a)(2)(B).

D. The historic property review board shall review and approve property tax abatements for improvements or restorations made to historic properties that meet the criteria for certification as established by the historic property review board or that meet other conditions for approval as established in T.C.A. § 67-5-218(a)(B)(3).

Section 2. That Metropolitan Code Section 17.40.410 is hereby amended by inserting a new subsection D as follows and renumbering the subsequent sections accordingly:

D. Historic Property Review Board. The historic zoning commission shall carry the responsibilities and perform the duties of the historic property review board as established in T.C.A. § 67-5-218.

Section 3. This Ordinance shall take effect from and after its adoption, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

Sponsor(s): Jeff Syracuse, Kathleen Murphy, Nancy VanReece, Tonya Hancock, Freddie O'Connell, Burkley Allen, Zulfat Suara, Brandon Taylor

Introduced 10/1/2019. Passed second reading 11/5/2019. Indefinitely deferred 2/4/2020. Brought back at the 7/20/2021 meeting with the final reading to be 8/3/2021.