

INTRODUCED: May 14, 2014

AN ORDINANCE No. 2014-117-90

To repeal City Code §§ 98-132, 98-133, 98-134, 98-135, 98-136, 98-137 and 98-141, concerning the partial exemption of taxation for certain rehabilitated residential, multifamily, commercial and industrial structures; to amend and reordain ch. 98, art. III of the City Code by adding therein a new div. 2.1 (§§ 98-148—98-159), concerning the partial exemption of rehabilitated structures from real estate taxation; and to amend and reordain Appendix A of the City Code by repealing the fees for sections 98-132(c) and 98-135(b), and previously repealed section 98-138(b) and by adding therein new fees for sections 98-151 and 98-154, all for the purpose of revising the City’s rehabilitation tax credit program by defining certain terms and modifying the qualification requirements for the receipt of partial exemption from real estate taxation.

Patrons – President Samuels and Ms. Graziano

Approved as to form and legality
by the City Attorney

PUBLIC HEARING: MAY 27 2014 AT 6 P.M.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 98-132, 98-133, 98-134, 98-135, 98-136, 98-137 and 98-141 of the Code of the City of Richmond (2004) be and are hereby **repealed** as follows:

~~[Sec. 98-132. Partial exemption from taxation for rehabilitated residential and multifamily residential real estate.~~

AYES: 9 NOES: 0 ABSTAIN: _____

ADOPTED: MAY 27 2014 REJECTED: _____ STRICKEN: _____

~~(a) — *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:~~

~~*Multifamily residential real estate* means residential properties of five or more units.~~

~~*Residential real estate* means residential properties of four or fewer units.~~

~~(b) — *Exemption authorized.* Partial exemption from real estate taxes is provided for qualifying property rehabilitated in accordance with the criteria set out in Va. Const. art. X, § 6, ¶ (h), and Code of Virginia, § 58.1-3220, if eligible according to the terms of the state constitution, state law and this section.~~

~~(c) — *Substantial rehabilitation.* For the purposes of this section, residential real estate shall be deemed to be substantially rehabilitated when a structure on the real estate, which is no less than 20 years old, has been so improved as to increase the assessed value of the structure by no less than 20 percent. Multifamily residential real estate shall be deemed to be substantially rehabilitated when a structure on the real estate, which is no less than 20 years old, has been so improved as to increase the assessed value of the structure by no less than 40 percent. Residential real estate that has been substantially rehabilitated by replacement or by renovation and the construction of an addition for residential use may exceed the total square footage of the rehabilitated structure by no more than 100 percent. Multifamily residential units which have been substantially rehabilitated by replacement for multifamily use may exceed the total square footage of the replaced structures by no more than 30 percent.~~

~~As a requisite for qualifying for partial tax exemption for rehabilitation of a residential or multifamily structure, the owner of such residential or multifamily structure shall, after making application for a building permit to rehabilitate such structure, file with the assessor, upon forms furnished by the assessor, an application to qualify such structure as a rehabilitated residential or multifamily structure. Upon receipt of an application for tax exemption, the assessor shall determine the assessed value (referred to as "base value") of the structure prior to commencement of rehabilitation. Such assessment shall serve as a basis for determining whether the rehabilitation increases the assessed value of such structure by at least 20 percent for residential real estate and 40 percent for multifamily residential real estate. The application to qualify for tax exemption shall be effective until two years from the date on which the application is submitted. If by such expiration date rehabilitation has not progressed to such a point that the assessed value of the structure is at least the minimum required percent greater than the base value of such structure to retain such eligibility, a new application to qualify for tax exemption must be filed and a new base value established. The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee as set forth in appendix A to this Code, which fee shall be applied to offset the cost of processing such application, making required assessments, and making an annual inspection to determine the progress of the work. During the period between the receipt of the application and the time at which the assessor shall ascertain that the structure has increased in value by at least the minimum required percent, the assessor shall, at such time during the year as the assessor may fix by regulation, make annual inspections of progress of the rehabilitation undertaken, and the owner of the property shall be subject to taxation upon the full value of the~~

~~improvements to the property. Once rehabilitation of a structure is complete, an owner may, at any time prior to the expiration date of the application, submit a written request to the assessor to inspect the structure to determine if it then qualifies for the rehabilitated property exemption. When it is determined that the minimum required in assessed value (base value is exceeded by the required amount) has occurred, the tax exemption shall become effective beginning on January 1 of the next calendar year. During the effective period of the tax exemption, no additional applications to qualify for partial abatement from taxation for rehabilitation will be accepted for that same parcel.~~

~~(d) — *Credit.* The owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall receive a credit in the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of a seven-year period of exemption in the full amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property and for the three-year period following the initial seven years, a credit for 75, 50 and 25 percent of the full amount respectively. An increase in assessment occurring after the first year of such rehabilitation exemption (i.e., credit) shall not qualify for an increase in such exemption. Such credit shall be applied towards the payment of the real estate taxes due and payable for the tax year for which the credit has been issued. The credit shall be charged against an appropriation made by the council for the purpose of honoring such tax rehabilitation exemptions. No property may have more than one credit in a given year.~~

~~(e) — *Exemption runs with real estate.* Exemption from taxation of real property qualifying for the rehabilitation exemption shall run with the real estate, and the owner of such~~

~~property during each of the years of partial exemption shall be entitled to receive a credit for such partial exemption from taxation.~~

~~(f) — *Improvements on vacant land not qualified.* No improvements made upon vacant land shall be eligible for partial exemption from real estate taxation.~~

~~(g) — *Methods of determining base value.* In determining the base value of a structure and if the rehabilitation results in the percent of increase over such base value as required in subsection (c) of this section, the assessor shall employ usual and customary methods of assessing real estate.~~

~~(h) — *Demolition of certain structures.* No exemption shall be allowed if the substantial rehabilitation involves the demolition and replacement of any structure either registered as a Virginia Landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic district, regardless of any changes in ownership or of any changes in the boundaries of the parcel (split, combination or otherwise), either or both, that may occur after the demolition.~~

~~(i) — *Effective date of exemption.* The exemption authorized in this section shall be effective July 1, 2006, and for each year thereafter for properties which qualify and for which application is made in accordance with subsection (c) of this section.~~

~~Sec. 98-133. — Failure to pay nonexempt real estate taxes for rehabilitated residential and multifamily residential real estate — Penalty on exempt taxes.~~

~~Whenever the owner of real property which has qualified for partial exemption of real estate taxes under section 98-132 shall fail to pay one half of the nonexempted amount of real estate taxes on the property on or before January 14 of any tax year or the remaining one half of~~

~~such taxes on or before June 14 of any tax year, a penalty shall be added for that installment of one half of ten percent of the real estate taxes which were claimed for exemption in that tax year.~~

~~Sec. 98-134. Same — Forfeiture of exemption.~~

~~For real property first qualifying for partial exemption of real estate taxes under section 98-132 after July 25, 1988, the partial exemption for each tax year shall be conditioned upon the payment of each installment of the nonexempt amount of real estate taxes on the property on or before the due date of such installment. Upon the failure to pay such real estate taxes on or before such due date, the partial exemption claimed for that tax year shall be forfeited, and the annual credit issued for that tax year shall be canceled and shall be of no effect. The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at the rate set forth in section 98-127 of this Code on the nonexempt amount due, is received by the Collections Division of the Department of Finance on or before June 30, or the last business day preceding June 30, of the tax year in question if June 30 falls on a weekend.~~

~~Sec. 98-135. Partial exemption from taxation for rehabilitated commercial or industrial real estate.~~

~~(a) — *Exemption authorized.* Partial exemption from real estate taxes is provided for qualifying property rehabilitated in accordance with the criteria set out in Va. Const. art. X, § 6, ¶ (h) and Code of Virginia, § 58.1-3221, if eligible according to the terms of the state constitution, state law and this section.~~

~~(b) — *Substantial rehabilitation.* For the purpose of this section, commercial or industrial real estate shall be deemed to be substantially rehabilitated when a structure on real~~

~~estate, which is no less than 20 years old, has been so improved by renovation, reconstruction or replacement as to increase the assessed value of the structure by no less than 40 percent. Commercial or industrial structures which have been rehabilitated by complete replacement for commercial or industrial use may exceed the total square footage of the replaced structures by no more than 110 percent. As a requisite for qualifying for partial tax exemption for rehabilitation of a structure, the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of such commercial or industrial structure shall, after making application for a building permit to rehabilitate such structure, file with the assessor, upon forms furnished by the assessor, an application to qualify such structure as a rehabilitated commercial or industrial structure. Upon receipt of an application for tax exemption, the assessor shall determine the assessed value (referred to as "base value") of the structure prior to commencement of rehabilitation. Such assessment shall serve as a basis for determining whether the rehabilitation undertaken increases the assessed value of such structure by at least 40 percent. The application to qualify for tax exemption shall be effective until two years from the date on which the application is submitted. If by such expiration date rehabilitation has not progressed to such a point that the assessed value of the structure is at least 40 percent greater than the base value of such structure to retain such eligibility, a new application to qualify for tax exemption must be filed and a new base value established. The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee as set forth in appendix A to this Code, which fee shall be applied to offset the cost of processing such application, making required assessments, and making an annual inspection to determine the progress of the work. During the period between the receipt of the~~

~~application and the time at which the assessor shall ascertain that the structure has increased in value by at least 40 percent, the assessor shall, at such time during the year as the assessor may fix by regulation, make an annual inspection of progress of the rehabilitation undertaken and the owner, including the possessor of leasehold interest as defined in Code of Virginia, § 58.1-3203, of the property shall be subject to taxation upon the full value of the improvements to the property. An owner, as provided in this section, may, at any time prior to the expiration date of the application and once rehabilitation of a structure is complete, submit a written request to the assessor to inspect the structure to determine if it then qualifies for the rehabilitated property exemption. When it is determined that a 40 percent increase in assessed value (base value is exceeded by 40 percent or more) has occurred, the tax exemption shall become effective beginning on January 1 of the next calendar year. During the effective period of the tax exemption, no additional applications to qualify for partial abatement from taxation for rehabilitation will be accepted for the same parcel.~~

~~(e) — *Credit.* The owner, as provided in this section, of property qualifying for partial exemption of real estate taxes because of rehabilitation of a structure shall be issued a credit in the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the five-year period of partial exemption from real estate taxes and, in each year of a two-year period following the initial five years, a credit for the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property, at 66 and 33 percent of this amount respectively. Commercial or industrial structures that are located within council designated enterprise zones established pursuant to the Enterprise Zone Act, Code of Virginia, § 59.1-270 et seq., are no less than 20~~

~~years old, and are otherwise qualified under this section shall be entitled to a seven year period of exemption in the full amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the 20 years and for the three year period following the initial seven years, a credit for 75, 50 and 25 percent of the full amount respectively. An increase in assessment occurring after the first year of such rehabilitation exemption (i.e., credit) shall not qualify for an increase in such exemption. Such credit shall be applied towards the payment of the real estate taxes due and payable for the tax year for which such credit has been issued. Each credit shall be charged against an appropriation made by the council for the purpose of honoring such tax rehabilitation exemptions.~~

~~(d) — *Exemption runs with real estate.* Exemption from taxation of real property qualifying for the rehabilitation exemption shall run with the real estate and the owner, as provided in this section, of such property during each of the years of partial exemption shall be entitled to receive a credit for such partial exemption from taxation.~~

~~(e) — *Vacant land not qualified.* No improvements made upon vacant land shall be eligible for partial exemption from real estate taxation.~~

~~(f) — *Methods of determining base value.* In determining the base value of a structure and if the rehabilitation results in a 40 percent increase over such base value, the assessor shall employ usual and customary methods of assessing real estate.~~

~~Sec. 98-136. — Failure to pay nonexempt real estate taxes for rehabilitated commercial or industrial real estate — Penalty on exempt taxes.~~

~~Whenever the owner of real property which has qualified for partial exemption of real estate taxes under section 98-135 shall fail to pay one half of the nonexempted amount of real~~

~~estate taxes on the property on or before January 14 of any tax year or the remaining one half of such taxes on or before June 14 of any tax year, a penalty shall be added for that installment of one half of ten percent of the real estate taxes which were claimed for exemption in that tax year.~~

~~Sec. 98-137. Same — Forfeiture of exemption.~~

~~For real property first qualifying for partial exemption of real estate taxes under section 98-135 after July 25, 1988, the partial exemption for each tax year shall be conditioned upon the payment of each installment of the nonexempt amount of real estate taxes on the property on or before the due date of such installment. Upon the failure to pay such real estate taxes on or before such due date, the partial exemption claimed for that tax year shall be forfeited, and the annual credit issued for that tax year shall be canceled and shall be of no effect. The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at the rate set forth in section 98-127 of this Code on the nonexempt amount due, is received by the Collections Division of the Department of Finance on or before June 30, or the last business day preceding June 30, of the tax year in question if June 30 falls on a weekend.~~

~~Sec. 98-141. Classification of rehabilitated structures eligible for partial tax exemption; application forms; rules and regulations.~~

~~(a) — The assessor shall especially code and identify real property which qualifies for a partial tax exemption for a rehabilitated structure. For the first year that any property is found to be qualified for such exemption, the assessor shall list the property in the appropriate class. Any qualifying property shall be so coded and identified for the full period of exemption provided for the appropriate class, and the owner of the property shall be entitled to receive a credit for each~~

~~year so listed. The assessor shall furnish to the director of finance a list of all eligible properties, which list shall show the base value and initial rehabilitated assessed value for each rehabilitated structure in order that the director of finance may issue the appropriate credits to owners of eligible properties.~~

~~(b) — The director of finance, upon receipt of notice from the assessor that a structure has been found to be qualified for and eligible for partial tax exemption as a rehabilitated structure, shall cause to be prepared a credit in an amount equal to the difference in taxes as computed upon the base value and the initial rehabilitated assessed value (i.e., value attributable to rehabilitation). The credit shall be issued in the name of the owner of the property or a designee, if such owner shall have notified the director of finance in writing to issue such credit in the name of a designee. Whenever practicable such credit shall be forwarded with the tax statement for such qualifying property.~~

~~(c) — The assessor shall cause to be prepared and shall have for distribution in the assessor's office and in the office of the commissioner of buildings forms for use by property owners who propose to rehabilitate qualifying structures and to facilitate requesting that any such structure be assessed in order to qualify for rehabilitated building status and credit. Application forms shall be completed in duplicate and shall be delivered to the commissioner of buildings upon making application for a building permit to undertake such rehabilitation. The commissioner of buildings shall forthwith transmit the original of such application to the assessor in order that the base value of the structure proposed to be rehabilitated may be assessed and made prior to commencement of construction.~~

~~(d) The assessor may prescribe such rules and regulations as deemed requisite for processing applications for exemption for rehabilitated property and exempting the property. A copy of any such rules and regulations shall be available in the office of the assessor and the commissioner of buildings, as well as in the office of the city clerk.]~~

§ 2. That Chapter 98, Article III of the Code of the City of Richmond (2004) be and is hereby amended and reordained by **adding therein a new** Division 2.1, consisting of sections numbered 98-148 through 98-159, as follows:

DIVISION 2.1

PARTIAL EXEMPTION OF REHABILITATED STRUCTURES FROM REAL ESTATE TAXATION.

Sec. 98-148. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Addition means an increase in the square footage of a qualified structure that expands the utility of such structure.

Base value means the assessed value of real estate for which an application has been filed in accordance with this division, as set forth in the land book on January 1 of the tax year in which such application is filed.

Commercial or industrial real estate means land containing a structure or other improvement constructed or used for non-residential purposes in accordance with this Code and other applicable law or a mixed-use development.

Linear feet means the shortest distance from one point to another, measured horizontally in feet, where one foot is equal to 12 inches.

Mixed-use development means a structure or other improvement constructed for both residential and commercial uses where at least 10 percent of the total square footage of such structure or other improvement is comprised of commercial space.

Multifamily residential real estate means land containing a structure or other improvement of five or more units constructed or used for residential purposes in accordance with this Code and other applicable law.

Qualified structure means a structure or other improvement that has qualified for rehabilitation, renovation or replacement in accordance with this division.

Rehabilitation means the process of restoring a qualified structure through (i) renovation, (ii) replacement or (iii) renovation and the construction of an addition.

Renovation means the process of updating the utility of a qualified structure, in whole or in part, including, but not limited to, the partial destruction and rebuilding of such structure.

Replacement means the process of demolishing a qualified structure for which an application has been filed in accordance with this division and subsequently replacing such structure by constructing a new structure on the same real estate upon which the qualified structure was situated.

Residential real estate means land containing a structure or other improvement of four or fewer units constructed or used for residential purposes in accordance with this Code and other applicable law.

Square footage means the area of a structure or other improvement measured in square feet.

Substantially rehabilitated means, (i) for residential real estate, rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 20 percent of the base value, (ii) for multifamily residential real estate, rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 40 percent of the base value and (iii) for commercial or industrial real estate, rehabilitation of a qualified structure so as to increase the assessed value over the base value of the qualified structure by no less than 40 percent of the base value.

Sec. 98-149. Partial exemption provided for certain rehabilitated, renovated or replacement residential, multifamily, commercial or industrial structures, or other improvements.

In accordance with the criteria set out in Va. Const. art. X, § 6, ¶ (h) and Code of Virginia, §§ 58.1-3220 and 58.1-3221, partial exemption is hereby provided from taxation of real estate on which any qualified structure has undergone substantial rehabilitation for residential, multifamily, commercial or industrial use, subject to the conditions set forth in this division.

Sec. 98-150. Eligibility for partial exemption of rehabilitated residential and multifamily structures or other improvements.

(a) *Residential real estate.* In order to qualify for the partial exemption set forth in section 98-152 of this Code, qualified structures on residential real estate must meet the following requirements:

- (1) On the date that an application for partial tax exemption has been filed in accordance with this division, the qualified structure is no less than 20 years of age, has

been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application.

(2) The qualified structure is substantially rehabilitated after the date on which an application is filed in accordance with this division but prior to the expiration date of such application as provided in section 98-151 of this Code.

(3) For qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for residential use, the total square footage of any such replacement structure or addition does not exceed the total square footage of the qualified structure or other improvement by more than 100 percent.

(b) *Multifamily residential real estate.* In order to qualify for the partial exemption set forth in section 98-152 of this Code, qualified structures on multifamily residential real estate shall meet the following requirements:

(1) On the date that an application for partial tax exemption has been filed in accordance with this division, the qualified structure is no less than 20 years of age, has been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application.

(2) The qualified structure is substantially rehabilitated after the date on which an application is filed in accordance with this division but prior to the expiration date of such application as provided in section 98-151 of this Code.

(3) For qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for use as multifamily residential real estate, the total square footage of any such replacement structure or addition does not exceed the total square footage of the qualified structure or other improvement by more than 30 percent.

(c) *Determination of age and linear feet of original exterior walls of a structure or other improvement.* For purposes of determining the age of a structure or other improvement for which an application for partial tax exemption has been filed in accordance with this division, the earliest assessment date of the structure or other improvement in the records of the city assessor shall be used to calculate the age of such structure or other improvement. For purposes of determining the total linear feet of the exterior walls of a structure or other improvement as such structure or other improvement existed 20 years before the date that an application for partial tax exemption has been filed in accordance with this division, the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application as reflected in the records of the city assessor shall be used. In determining the total linear feet of the exterior walls of the structure or other improvement for purposes of this division, the city assessor shall employ usual and customary methods of determining the linear feet of exterior walls of structures or other improvements.

(d) *Determination of square footage of addition.* Upon inspection of the qualified structure to determine if it then qualifies for the partial exemption in accordance with section 98-151 of this Code, the city assessor shall determine the square footage of any addition constructed in accordance with the requirements of this division. In determining the square footage of the addition, the city assessor shall employ usual and customary methods of determining the square footage of real estate.

Sec. 98-151. Application for partial exemption of rehabilitated residential real estate or multifamily residential real estate.

In order to qualify for the partial exemption provided for in section 98-152 of this Code, the owner of residential real estate or multifamily residential real estate shall, prior to commencement of rehabilitation and after making application for a building permit for the rehabilitation of such structure, file with the city assessor, upon forms furnished by the city assessor, an application to qualify the structure or other improvements upon residential real estate or multifamily residential real estate as a qualified structure. Upon receipt of an application for the partial exemption, the city assessor shall provide written notification to the owner of such residential real estate or multifamily residential real estate of the base value of the qualified structure. Such notice shall also notify the property owner that such property owner may appeal the base value in accordance with the applicable provisions of this Code or state law, in which case the base value as subsequently determined by the city assessor, the City of Richmond Board of Review of Real Estate Assessments or a court of competent jurisdiction upon such appeal shall be the base value for purposes of this section. The application to qualify for the partial exemption shall be effective until two years from the date on which the application is

submitted. If by such expiration date rehabilitation has not progressed to such a point that the qualified structure has been substantially rehabilitated, a new application to qualify for tax exemption must be filed. Upon such filing, the city assessor shall, in accordance with the notice requirements of this subsection, provide the property owner with notification of the base value of the property as set forth in the land book on January 1 of the tax year in which such new application is filed. The initial application to qualify for the rehabilitated structure tax exemption and any subsequent application must be accompanied by a payment of a fee as set forth in appendix A to this Code, which fee shall be applied to offset the cost of processing such application, making required assessments, and making annual inspections to determine the progress of the work. During the period between the receipt of the application and the time at which the city assessor ascertains that the qualified structure has been substantially rehabilitated, the city assessor shall, at such time during the year as the city assessor may fix by regulation, make annual inspections of progress of the rehabilitation undertaken, and the owner of the property shall be subject to taxation upon the full value of the improvements to the property. Once rehabilitation of a qualified structure is complete, an owner may, at any time prior to the expiration date of the application, submit a written request to the city assessor to inspect the qualified structure to determine if it then qualifies for the partial exemption. When it is determined that the minimum required increase in the assessed value has occurred, the partial exemption shall become effective beginning on January 1 of the next calendar year. During the effective period of the partial exemption, no more than one additional application to qualify for partial exemption from real estate taxation for rehabilitated structures may be accepted for the same property. However, upon any approval of a partial exemption based on any such additional

application for partial exemption, the owner of the residential real estate or multifamily residential real estate shall waive all rights to and interest in any unexpired partial exemption existing at the time that an additional application to qualify for partial exemption from real estate taxation for rehabilitated structures for the same property is approved for partial exemption, and such unexpired partial exemption shall cease. If the the owner of the residential real estate or multifamily residential real estate fails or refuses to waive such rights or interest, the approval of the partial exemption based on the additional application for partial exemption shall be revoked, but the existing partial exemption shall continue in effect for the remainder of the applicable exemption period. In addition, no such application shall be for the (i) renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age, (ii) replacement of a qualified structure on which an existing partial exemption is based, (iii) construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age or (iv) any combination of (i), (ii) or (iii) above.

Sec. 98-152. Amount of exemption for rehabilitated residential or multifamily qualified structures.

Except as provided in section 98-151 of this Code with regard to a property for which an additional application has been approved for partial exemption, the owner of property qualifying for partial exemption of real estate taxes because of rehabilitation of a residential or multifamily structure, or other improvement, shall receive a credit in the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of a seven-year period of exemption in the full amount of the difference in taxes computed

upon the base value and the initial rehabilitated assessed value of the property and for the three-year period following the initial seven years, a credit for 75 percent in year eight, 50 percent in year nine and 25 percent in year ten of the full amount of the partial exemption. However, for any structure which has been substantially rehabilitated by replacement or by renovation and the construction of an addition, the owner of property qualifying for partial exemption of real estate taxes shall not receive a credit for any amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value attributable to any square footage exceeding the applicable limitations on square footage established by subsection (c) of this section. No exemption shall be issued during the effective period of an exemption for any rehabilitation on the same property for which an additional application has been filed for residential real estate in accordance with section 98-151 of this Code that is achieved through the (i) renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age, (ii) replacement of a qualified structure on which an existing partial exemption is based, (iii) construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age or (iv) any combination of (i), (ii) or (iii) above. An increase in assessment occurring after the first year of such the partial exemption shall not qualify for an increase in such partial exemption. Such credit shall be applied towards the payment of the real estate taxes due and payable for the tax year for which the credit has been issued. The credit shall be charged against an appropriation made by the council for the purpose of honoring such tax rehabilitation exemptions. No property may have more than one credit in a given year.

Sec. 98-153. Eligibility for partial exemption of rehabilitated commercial and industrial structures or other improvements.

In order to qualify for the partial exemption provided for in section 98-155 of this Code, qualified structures on commercial or industrial real estate shall meet the following requirements:

(a) On the date that an application for partial tax exemption has been filed in accordance with this division, the qualified structure is no less than 20 years of age, has been situated at its existing location for no less than 20 years and has exterior walls, the total linear feet of which exterior walls is at least 80 percent of the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application. For purposes of determining the age of a structure or other improvement for which an application for partial tax exemption has been filed in accordance with this division, the earliest assessment date of the structure or other improvement in the records of the city assessor shall be used to calculate the age of such structure or other improvement. For purposes of determining the total linear feet of the exterior walls of a structure or other improvement as such structure or other improvement existed 20 years before the date that an application for partial tax exemption has been filed in accordance with this division, the total linear feet of the exterior walls of the structure or other improvement as such structure or other improvement existed 20 years before the date of application as reflected in the records of the city assessor shall be used. In determining the total linear feet of the exterior walls of the structure or other improvement for purposes of this division, the city assessor shall employ usual and customary methods of determining the linear feet of exterior walls of structures or other improvements.

(b) The qualified structure is substantially rehabilitated after the date on which an application is filed in accordance with this division, but prior to the expiration date of such application as provided in section 98-154 of this Code. For commercial or industrial qualified structures substantially rehabilitated by replacement or by renovation and the construction of an addition for commercial or industrial use, the total square footage of any such replacement structure or addition does not exceed the total square footage of the qualified structure or other improvement by more than 100 percent. Upon inspection of the qualified structure to determine if it then qualifies for the partial exemption in accordance with section 98-154 of this Code, the city assessor shall determine the square footage of any addition constructed in accordance with the requirements of this division. In determining the square footage of the addition, the city assessor shall employ usual and customary methods of determining the square footage of real estate.

Sec. 98-154. Application for partial exemption of rehabilitated commercial or industrial structures, or other improvements.

In order to qualify for the partial exemption provided for in section 98-155 of this Code, the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of commercial or industrial qualified structures shall, prior to commencement of rehabilitation and after making application for a building permit to rehabilitate such structure, file with the city assessor, upon forms furnished by the city assessor, an application to qualify such structure or other improvement as a qualified structure rehabilitated for commercial or industrial use. Upon receipt of an application for tax exemption, the city assessor shall provide written notification to the owner of such commercial or industrial

qualified structure, or other improvement, of the base value of the qualified structure. Such notice shall also notify the property owner that such property owner may appeal the base value in accordance with the applicable provisions of this Code or state law, in which case the base value as subsequently determined by the city assessor, the City of Richmond Board of Review of Real Estate Assessments or a court of competent jurisdiction upon such appeal shall be the base value for purposes of this section. The application to qualify for tax exemption shall be effective until two years from the date on which the application is submitted. If by such expiration date rehabilitation has not progressed to such a point that the qualified structure has been substantially rehabilitated to retain such eligibility, a new application to qualify for tax exemption must be filed. Upon such filing, the city assessor shall, in accordance with the notice requirements of this subsection, provide the property owner with notification of the base value of the property as set forth in the land book on January 1 of the tax year in which such new application is filed. The initial application to qualify for the partial exemption and any subsequent application must be accompanied by a payment of a fee as set forth in appendix A to this Code, which fee shall be applied to offset the cost of processing such application, making required assessments, and making an annual inspection to determine the progress of the work. During the period between the receipt of the application and the time at which the city assessor ascertains that the structure has been substantially rehabilitated, the city assessor shall, at such time during the year as the city assessor may fix by regulation, make an annual inspection of progress of the rehabilitation undertaken, and the owner, including the possessor of leasehold interest as defined in Code of Virginia, § 58.1-3203, of the property shall be subject to taxation upon the full value of the improvements to the property. An owner, as provided in this section, may, at any time prior to

the expiration date of the application and once rehabilitation of a qualified structure is complete, submit a written request to the city assessor to inspect the structure to determine if it then qualifies for the partial exemption from real estate taxation for which section 98-155 of this Code provides. When it is determined that the minimum required increase in the assessed value has occurred (i.e., the base value is exceeded by 40 percent or more), the tax exemption shall become effective beginning on January 1 of the next calendar year. During the effective period of the partial exemption, no more than one additional application to qualify for partial exemption from real estate taxation for rehabilitated structures may be accepted for the same property. However, upon any approval of a partial exemption based on any such additional application for partial exemption, the owner of the commercial or industrial qualified structures shall waive all rights to and interest in any unexpired partial exemption existing at the time that an additional application to qualify for partial exemption from real estate taxation for rehabilitated structures for the same property is approved for partial exemption, and such unexpired partial exemption shall cease. If the owner of the commercial or industrial qualified structures fails or refuses to waive such rights or interest, the approval of the partial exemption based on the additional application for partial exemption shall be revoked, but the existing partial exemption shall continue in effect for the remainder of the applicable exemption period. In addition, no such application shall be for the (i) renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age, (ii) replacement of a qualified structure on which an existing partial exemption is based, (iii) construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age or (iv) any combination of (i), (ii) or (iii) above.

Sec. 98-155. Amount of exemption for rehabilitated commercial or industrial qualified structures.

Except as provided in section 98-154 of this Code with regard to a property for which an additional application has been approved for partial exemption, the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of property qualifying for partial exemption of real estate taxes because of rehabilitation of a commercial or industrial qualified structure shall be issued a credit in the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the five-year period of partial exemption from real estate taxes and, in each year of a two-year period following the initial five years, a credit for the amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property, at 66 percent in year six and 33 percent in year seven of the full amount of the partial exemption. Commercial or industrial qualified structures that are located within council-designated enterprise zones established pursuant to the Enterprise Zone Act, Code of Virginia, § 59.1-270—59.1-284.01 are no less than 20 years old, and are otherwise qualified under this division shall be entitled to a seven-year period of exemption in the full amount of the difference in taxes computed upon the base value and the initial rehabilitated assessed value of the property for each year of the seven years and for the three-year period following the initial seven years, a credit for 75 percent in year eight, 50 percent in year nine and 25 percent in year 10 of the full amount of the partial exemption. No exemption shall be issued during the effective period of an exemption for any rehabilitation on the same property for which an additional application has been filed for residential real estate in accordance with section 98-154 of this Code that is

achieved through the (i) renovation of a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age, (ii) replacement of a qualified structure on which an existing partial exemption is based, (iii) construction of an addition to be attached to a structure or other improvement, or any portion of a structure or other improvement, that is less than 20 years of age or (iv) any combination of (i), (ii) or (iii) above. An increase in assessment occurring after the first year of the partial exemption shall not qualify for an increase in such partial exemption. Such credit shall be applied towards the payment of the real estate taxes due and payable for the tax year for which such credit has been issued. Each credit shall be charged against an appropriation made by the council for the purpose of honoring such tax rehabilitation exemptions.

Sec. 98-156. Partial exemption runs with real estate; penalty for nonpayment of taxes; forfeiture of exemption.

(a) *Exemption runs with real estate.* Exemption from taxation of real property qualifying for the partial tax exemption provided for in sections 98-152 and 98-155 of this Code shall run with the real estate, and the owner of such property, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, during each of the years of partial exemption shall be entitled to receive a credit for such partial exemption from taxation.

(b) *Penalty for nonpayment of taxes.* Whenever the owner, including the possessor of a leasehold interest in real estate as defined in Code of Virginia, § 58.1-3203, of real property that has qualified for partial exemption of real estate taxes in accordance with this division shall fail to pay one-half of the nonexempted amount of real estate taxes on the property on or before

January 14 of any tax year or the remaining one-half of such taxes on or before June 14 of any tax year, a penalty shall be added for that installment of one-half of ten percent of the real estate taxes which were claimed for exemption in that tax year.

(c) *Forfeiture of exemption.* For real property qualifying for partial exemption of real estate taxes in accordance with this division, the partial exemption for each tax year shall be conditioned upon the payment of each installment of the nonexempt amount of real estate taxes on the property on or before the due date of such installment. Upon the failure to pay such real estate taxes on or before such due date, the partial exemption claimed for that tax year shall be forfeited, and the annual credit issued for that tax year shall be canceled and shall be of no effect. The partial exemption claimed for any tax year shall be retained if payment of the nonexempt amount, plus the ten percent late payment penalty and interest at the rate set forth in section 98-127 of this Code on the nonexempt amount due, is received by the collections division of the department of finance on or before June 30, or the last business day preceding June 30, if June 30 falls on a weekend, of the tax year in question.

Sec. 98-157. Demolition of certain structures; rehabilitation of structures in old and historic districts and design overlay districts; improvements on vacant land not qualified.

(a) *Demolition of certain structures.* For substantially rehabilitated structures or other improvements on residential real estate or multifamily residential real estate, no exemption shall be allowed if the substantial rehabilitation is achieved through the demolition and replacement of any structure either registered as a Virginia Landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic district, regardless of any changes in ownership or of any changes in the boundaries of the parcel,

either or both, that may occur after the demolition, whether any such change is achieved by splitting such parcel, combining such parcel with another parcel or otherwise. For substantially rehabilitated commercial or industrial structures or other improvements, no exemption shall be allowed if the substantial rehabilitation is achieved through the demolition and replacement of any structure either registered as a Virginia Landmark or determined by the Department of Historic Resources to contribute to the significance of a registered historic landmark, regardless of any changes in ownership or of any changes in the boundaries of the parcel, either or both, that may occur after the demolition, whether any such change is achieved by splitting such parcel, combining such parcel with another parcel or otherwise. If any qualified structure is designated as a Virginia Landmark, listed as a structure contributing to the significance of a registered historic district or listed as a structure contributing to the significance of a registered historic landmark, and altered in any manner during the rehabilitation process provided for in this division, the applicant must submit a letter issued by the Virginia Department of Historic Resources confirming that such rehabilitation complies with the requirements of such designation or listing in order to continue with the qualifying process.

(b) *Rehabilitation of structures in old and historic districts and design overlay districts.* For substantially rehabilitated structures or other improvements subject to the provisions of Division 4 or Division 5 of Chapter 114, Article IX of this Code, no exemption shall be allowed if such substantial rehabilitation is achieved through or results in a violation of the provisions of Division 4 or Division 5 of Chapter 114, Article IX of this Code, or if the owner of any such structure or other improvement has not obtained the approval required by

section 114-930.6 of this Code for old and historic districts or the approval required by section 114-940.7 of this Code for design overlay districts.

(c) *Improvements on vacant land not qualified.* No improvements made upon vacant land shall be eligible for the partial exemption from real estate taxation provided for in this division. For purposes of this subsection, the phrase “vacant land” means real estate with no structures or other improvements.

Sec. 98-158. Classification of rehabilitated structures eligible for partial tax exemption; application forms; rules and regulations.

(a) The city assessor shall identify real property that qualifies for a partial tax exemption for a rehabilitated structure or other improvement. For the first year that any property is found to be qualified for such exemption, the city assessor shall identify the property in the appropriate class. Any qualifying property shall be so identified for the full period of exemption provided for the appropriate class, and the owner of the property shall be entitled to receive a credit for each year so listed. The city assessor shall furnish to the director of finance a list of all properties with qualified structures for which application has been made in accordance with this division, which list shall show the base value and initial rehabilitated assessed value for each qualified structure so that the director of finance may issue the appropriate credits to owners of the qualified structures.

(b) The director of finance, upon receipt of notice from the city assessor that a structure has been found to be qualified for and eligible for partial tax exemption as a rehabilitated structure or other improvement, shall cause to be issued a credit in an amount equal to the difference in taxes as computed upon the base value and the initial rehabilitated assessed

value. The credit shall be issued in the name of the owner of the property. Whenever practicable, such credit shall be forwarded with the tax statement for such qualified structure.

(c) The city assessor shall cause to be prepared and shall have for distribution in the office of the city assessor and in the office of the commissioner of buildings applications for use by property owners who propose to rehabilitate eligible structures or other improvements.

(d) The city assessor may prescribe such rules and regulations as the city assessor deems necessary for processing applications for exemption for rehabilitated property and exempting the property. A copy of any such rules and regulations shall be available in the office of the city assessor and the office of commissioner of buildings, as well as in the office of the city clerk.

Sec. 98-159. Effective date of exemption.

The partial exemption authorized in this division shall be effective for applications for partial tax exemption filed on or after May 27, 2014, and for each year thereafter for properties which qualify and for which application is made in accordance with this division.

§ 3. That Appendix A of the Code of the City of Richmond (2004) be and is hereby amended and reordained by repealing the enumerated fees for sections 98-132(c) and 98-135(b), and previously repealed section 98-138(b) of the Code of the City of Richmond (2004) and adding therein new fees for sections 98-151 and 98-154 of the Code of the City of Richmond (2004) as follows:

<i>Code Section</i>	<i>Description</i>	<i>Fee</i>
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[98-132(e)]	[Fee for the initial application and any subsequent application to qualify for the rehabilitated structure tax exemption for residential real estate and multifamily residential real estate containing five or fewer units]	[125.00]
	[Fee for initial application and any subsequent application to qualify for the rehabilitated structure tax exemption for multifamily residential real estate containing six or more units]	[250.00]
[98-135(b)]	[Fee for the initial application and any subsequent application to qualify for the rehabilitated structure tax exemption for commercial or industrial real estate]	[250.00]
[98-138(b)]	[Fee for the initial application and any subsequent application to qualify for the rehabilitated structure tax exemption for hotels rehabilitated for residential use]	[250.00]
<u>98-151</u>	<u>Fee for the initial application and any subsequent application to qualify for the rehabilitated structure tax exemption for residential real estate and multifamily residential real estate containing five or fewer units</u>	<u>125.00</u>
	<u>Fee for initial application and any subsequent application to qualify for the rehabilitated structure tax exemption for multifamily residential real estate containing six or more units</u>	<u>250.00</u>
<u>98-154</u>	<u>Fee for the initial application and any subsequent application to qualify for the rehabilitated structure tax exemption for commercial or industrial real estate</u>	<u>250.00</u>

§ 4. This ordinance shall be in force and effect upon adoption.



Richmond City Council

The Voice of the People

Richmond, Virginia

Office of the Council Chief of Staff

Ordinance/Resolution Request

TO Allen Jackson, City Attorney

THROUGH Lou Ali, Council Chief of Staff *W*

FROM Steven Taylor, Council Policy Analyst *ST*

COPY Charles Samuels, 2nd District Council Member
 Kathy Graziano, 4th District Council Member
 Marianne Pitts, 2nd District Liaison
 Tim Grimes, 4th District Liaison
 Haskell Brown, Deputy City Attorney
 Tabrica Rentz, Assistant City Attorney
 Vincent Jones, Council Deputy Chief of Staff

DATE May 13, 2014

PAGE/s 1 of 2

TITLE Amending City Code Regarding Partial Tax Exemption for Rehabilitated Properties – Effective May 27, 2014

RECEIVED
MAY 14 2014

OFFICE OF CITY ATTORNEY

This is a request for the drafting of an **Ordinance** **Resolution**

REQUESTING COUNCILMEMBER/PATRON

Agelasto & Graziano

SUGGESTED STANDING COMMITTEE

Land Use, Housing & Transportation

ORDINANCE/RESOLUTION SUMMARY

Patrons request that an ordinance be drafted that repeals sections 98-132 through 98-137 and 98-141, concerning partial tax exemptions for rehabilitated and replaced residential, multifamily, commercial and industrial structures, and to amend and reordain Chapter 98, art. III of the City Code by adding a new division, concerning partial tax exemptions for rehabilitated and replaced residential, multifamily, commercial and industrial structures for the purposes of revising the program to include defining certain terms and modifying requirements for the rehabilitation, renovation, replacement of or additions to real property qualifying for partial exemption of real estate taxes. The partial exemption authorized in this new division shall be effective for applications for partial tax exemption filed on or after May 27, 2014.

BACKGROUND

Since 1979, the City of Richmond has offered rehabilitation tax credits in an effort to spur economic development through redevelopment. The ordinance has been revised over the years, to the point that the economic advantages to the development community have exceeded the original intent of the ordinance. Because structure replacement has been included, the result has been the exemption of real estate from City taxes, without clear preservation of older or historic structures. These revisions are intended to address loopholes in the existing ordinance that could negatively affect the City in the long-term, due to loss of revenue and possible overbuilding.

As authorized by the Virginia Constitution and the Code of Virginia, the governing body of any county, city or town may, by ordinance, provide for the partial exemption from taxation of real estate on which any building no less than 15 years (residential) and 20 years (commercial/industrial) of age that has at least three adjoining exterior walls and has undergone substantial rehabilitation, renovation or replacement, subject to such conditions as the ordinance may prescribe. Due to different building conditions and interpretations of the program guidelines, the patrons have requested a rewrite of the ordinance in lieu of several amendments to address current issues. The revisions shall be captured in a new division of Chapter 98. The patrons initiated a staff work group in the fall of 2013 to review the existing program and identify necessary changes. Additionally, a meeting was held with local developers to include their feedback in any recommended changes.

Definitions

Due to the interest in the incentives of the rehabilitation tax credit ordinance, development that has spurred economic development has also created unique situations and interpretations that need to be addressed with new terms and definitions. For purposes of addressing the ordinance and the City Assessor's administration of the ordinance, the following words, terms and phrases with their definitions should be included to clarify the City's intent, as it relates to the rehabilitation ordinance: 1) Addition; 2) Base Value; 3) Commercial or Industrial real estate; 4) Linear feet; 5) Mixed-use development; 6) Multifamily residential real estate; 7) Qualified structure; 8) Rehabilitation; 9) Renovation; 10) Replacement; 11) Residential real estate; 12) Square footage; 13) Substantially rehabilitated

The aforementioned definitions included in the revised City Code will ensure that the City's intent is captured in the ordinance with consistency by the City Assessor in administration of the requirements of the ordinance.

Proposed Changes

In addition to definitions, there are aspects of the program that require revisions in order to address growing concerns that the original intent of encouraging rehabilitation along with economic development, in application, is not working as anticipated. The revisions should address the following issues:

- 1) The method by which the City Assessor will calculate the final value used in the tax credit calculation – Past court decision indicates it is the assessed value placed on the subsequent land book
- 2) Effective date of application as a basis for calculating final value and tax credit – All other Virginia localities use the "Before/After" method, which is the

land book value before and after rehabilitation

- 3) The method by which initial base value is determined – Instead of allowing devaluing of property right before application, use the most recent land book value
- 4) Determination of age and linear feet of original exterior walls of a structure or other improvement
- 5) Refining how additions to a qualified structure are treated as it relates to the rehabilitation tax credit – There should be categories of additions for single-family residential, multi-family, and commercial/industrial. For residential rehabilitation or replacement the addition would receive 100% tax credit, multi-family would receive tax credit for an addition that is up to 30% of the original structure, commercial and/or industrial rehabilitations would receive tax credits up to 110% of the original structure's size. Additions exceeding these sizes are eligible for the credit up to the limits established in the ordinance. They can exceed these thresholds but will only receive the credit as allowed.
- 6) Demolition of qualifying structures after the tax credit is in place, as this issue is not addressed in the authorizing State Statute. The qualifying structure should remain through the rehabilitation process and the life of the tax credit.
- 7) Treatment of replacement structures - There should be categories of additions for residential, multi-family, and commercial/industrial. For single-family residential rehabilitation or replacement the applicant would receive 100% tax credit, multi-family would receive tax credit for an addition that is up to 30% of the original structure, commercial and/or industrial replacement structures would receive tax credits up to 100% of the original structure's size.
- 8) Demolition work on qualifying structures, immediately prior to application, should not affect the base value, as the preceding January 1; Land Book value will determine base value.
- 9) Historic Preservation – No exemptions should be allowed for substantially rehabilitated structures in old and historic districts and design overlay districts where the historic character and integrity of the subject structure has been destroyed. Also, only the actual construction date of the building or building section seeking to utilize the credit should be considered not individual components. Additionally, a process for resolving conflict between the City's and national or state historic designations, should be specified.
- 10) Additional credits – Include guidelines for when additional applications are acceptable for residential rehabilitation only, with structures that meet the 20 year age requirement
- 11) Include the costs for applications

The intent is that the identified adjustments will continue the success of the ordinance by returning the focus to rehabilitation. Additionally, the focus on the purely economic incentives is removed from multi-family projects, with a focus on commercial and/or industrial projects, which have the most potential to create opportunities for Richmond residents and long-term revenue for the City.

