

Sec. 13-32. - Community redevelopment tax incentive program.

(a) **Purpose.** The existence of real property that is maintained in a blighted condition increases the costs to city budgets by increasing the need for government services, including but not limited to social services, public safety services and code enforcement services. Rehabilitation of blighted property decreases this need for such government services.

In furtherance of its objective to eradicate conditions of slum and blight within the city, this mayor and council in exercise of the powers granted to municipal corporations in Chapter 61, Urban Redevelopment, of Title 36 of the Official Code of Georgia Annotated, has designated those areas of the city where conditions of slum and blight are found or are likely to spread.

In recognition of the need for enhanced governmental services and in order to encourage private property owners to maintain their real property and the buildings, structures and improvement thereon in good condition and repair, and as an incentive to encourage community redevelopment, a community redevelopment tax incentive program is hereby established as authorized by Article IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia.

(b) **Definitions.**

(1) "Blighted property," "blighted," or "blight" means any urbanized or developed property that:

- a. Presents two or more of the following conditions:
  1. Uninhabitable, unsafe, or abandoned structures, or
  2. Inadequate provisions for ventilation, light, air, or sanitation, or
  3. An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe that the Governor has declared a state of emergency under the state law or has certified the need for disaster assistance under federal law; provided, however, this division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding specific harm caused by the property and the owner has failed to take reasonable measures to remedy the harm, or
  4. A site identified by the Federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. Section 9601, et seq. or environmental contamination to the extent that requires remedial investigation or a feasibility study, or
  5. Repeated illegal activity on the individual property of which the property owner knew or should have known; or
  6. The maintenance of the property is below state, county, or municipal codes for at least one year after written notice of the code violation to its owner; and
- b. Is conducive to ill health, transmission of disease, infant mortality or crime in the immediate proximity of the property.
- c. Property shall not be deemed blighted solely because of aesthetic conditions.

(2) "Building official." Person authorized to enforce provisions of the technical construction codes.

(3) "Board of Construction Appeals" means a quorum of the Planning and Zoning Commission members and one member from the Smyrna Downtown Development Authority.

- (4) "Community redevelopment" means any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area or portion thereof designated for redevelopment through an urban redevelopment plan or through local ordinances relating to the repair, closing, and demolition of buildings and structures unfit of human habitation.
- (5) "Governing authority" means the mayor and council of the City of Smyrna, a Georgia Municipal Corporation.
- (6) "Millage" or "millage rate" means the levy, in mills, that is established by the governing authority for purposes of financing, in whole or in part, the levying jurisdiction's general fund expenses for the fiscal year.
- (7) "Person." Any natural person, corporation, or unincorporated association.
- (8) "Public officer" means the city manager or such officer or employee of the City as designated by the city manager to perform the duties and responsibilities hereafter set forth in this section.
- (9) "Structure." Anything constructed or erected which has, or the use of which requires, permanent or temporary location on or in the ground, or which is attached to something having a permanent location on the ground, including, but not limited to, the following: buildings, gazebos, signs, billboards, tennis courts, radio and television antennae and satellite dishes (including supporting towers), swimming pools, light fixtures, walls, fences and steps.

(c) ***Levy of increase ad valorem tax on blighted real property.*** There is hereby levied on all real property within the city that has been officially identified as maintained in a blighted condition an increased ad valorem tax by applying a factor of seven times millage rate applied to the property, so that such property shall be taxed at a higher millage rate generally applied in the municipality, or other provided by general law (all properties that meet this definition will be subject to this section).

Such increased ad valorem tax shall be applied and reflected in the next tax bill cycle which begins January 1 of every year following official designation of a real property as blighted.

Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the city administrator and the finance director and used only for community redevelopment purposes, as identified in an approved urban redevelopment program, including defraying the cost of the city's program to close, repair, or demolish unfit buildings and structures.

(d) ***Official identification of property maintained in blighted condition.***

- (1) In order for a parcel of real property to be officially designated as maintained in a blighted condition and subject to increased taxation, the following steps must be completed:
  - a. An inspection must be performed on the parcel of property. In order for an inspection to be performed,
    - 1. A request may be made by the public officer or by at least five residents of the city for inspection of a parcel of property, said inspection to be based on the criteria as delineated by ordinance, or
    - 2. The public officer may cause a survey of existing housing conditions to be performed, or may refer to any such survey conducted or finalized within the previous five years, to locate or identify any parcels that may be in a blighted condition and for which a full inspection should be

conducted to determine if that parcel of property meets the criteria set out in this section for designation as being maintained in a blighted condition.

- b. A written inspection report of the findings for any parcel of property inspected pursuant to subsection (a) above shall be prepared and submitted to the public officer. Where feasible, photographs of the conditions found to exist on the property on the date of inspection shall be made and will supplement the inspection report. Where compliance with minimum construction, housing, occupancy, fire and life safety codes in effect within the city are in question, the inspection shall be conducted by a certified inspector possessing the requisite qualifications to determine minimal code compliance.
- c. Following completion of the inspection report, the public officer shall make a determination, in writing, that a property is maintained in a blighted condition, as defined by this section, and is subject to increase taxation.
- d. Said inspection report and supporting documents will be reviewed by the City of Smyrna Board of Construction Appeals for confirmation and approval of all findings and recommendations by the building official and concurrence that the property identified meets the definition of blighted area as defined under this section. At this point, the Mayor and Council shall be provided written notice that such property has been identified as being maintained in a blighted condition.
- e. The Public Officer shall cause a written notice of his determination that the real property at issue is being maintained in a blighted condition to be served upon the person(s) shown on the most recent tax digest of Cobb County as responsible for payment of ad valorem taxes assessed thereon and parties in interest; provided, however, where through the existence of reasonable diligence it becomes known to the public officer that real property has been sold or conveyed since publication of the most recent tax digest, written notice shall be given to the person(s) known or reasonably believed to then own the property or be chargeable with the payment of ad valorem taxes thereon, at the best address available. Service in the manner set forth at O.C.G.A. § 41-2-12 shall constitute sufficient notice to the property's owner or person chargeable with the payment of ad valorem taxes for purpose of this section, except that posting of the notice on the property will not be required.

- (2) The written notice given to the person(s) chargeable with the payment of ad valorem taxes and parties in interest shall notify such person and parties in interest of the public officer's determination that the real property is being maintained in a blighted condition and shall advise such person and parties in interest of the hours and location at which the person may inspect and copy the public officer's determination and any supporting documentation. Persons and parties in interest notified that the real property of which the person(s) is chargeable with the payment of ad valorem taxes shall have 30 days from the receipt of notice in which to request an appeals hearing before the city's board of construction appeals. Written request for hearing shall be filed with the public officer and shall be date stamped upon receipt. Upon receipt of a request for appeal hearing, the public officer shall notify the board of construction appeals and the building official who performed the inspection and prepared the inspection report.

(3) Within 30 days of the receipt of a request for an appeal hearing, the public officer shall set a date, time and location for the hearing and shall give at least ten business days notice to the person(s) and/or parties in interest requesting the hearing, the public officer and the building official who performed the inspection and prepared the inspection report. A notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriff's advertisement appears in Cobb County once a week for two consecutive weeks prior to the hearing. Hearings may be continued upon request of any party, for good cause.

(4) At the hearing, the public officer shall have the burden of demonstrating by a preponderance of the evidence that the subject property is maintained in a blighted condition, as defined by this section. Upon hearing from the public officer and/or their witnesses and the person(s) or parties in interest requesting the hearing and/or their witnesses, the board of construction appeals shall make a determination either affirming or reversing the determination of the public officer. The determination shall be in writing and copies thereof shall be served on the parties by certified mail or statutory overnight delivery. The determination by the board of construction appeals shall be deemed final. A copy of such determination shall be served upon the City of Smyrna Tax Official and the Tax Commissioner of Cobb County, who shall include the increased tax on the next regular tax bill rendered on behalf of the city.

(5) Persons aggrieved by the determination of the board of construction appeals affirming the determination of the public officer may petition the Superior Court of Cobb County for a writ of certiorari, within 30 days of issuance of the board of construction appeal's written determination.

(e) ***Remediation or redevelopment to remove designation of blighted condition.***

(1) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on real property that has been officially designated pursuant to this section as property maintained in a blighted condition may petition the public officer to lift the designation, upon proof of compliance with the following:

- a. Completion of work required under a plan of remedial action or redevelopment approved by the city's building official and zoning administrator that addresses the conditions of blight found to exist on or within the property, including compliance with all applicable minimum codes; and
- b. Completion of work required under a court order entered in a proceeding brought pursuant to unfit buildings and structures of chapters 5 or 21 of the Code of Smyrna, Georgia, and
- c. Any outstanding ad valorem taxes (state, school, county and city, including the increased tax pursuant to this section) and governmental liens due and payable on the property must be satisfied in full.

(2) Before action on a petition to lift the designation, the public officer shall cause the property to be thoroughly inspected by a building inspector, who by written inspection report, shall certify that all requisite work has been performed to applicable code in a workmanlike manner, in accordance with the specifications of the plan of remedial action or redevelopment, or applicable court order. Upon finding required work to be satisfactorily performed, the public officer shall issue a written determination that the real property is no longer maintained in a blighted condition. Copies of this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax Commissioner of Cobb County.

(3) All corrective action plans shall be in writing, signed by the person(s) chargeable with the payment of ad valorem taxes on the real property and the building official and zoning administrator, and contain the following:

- a. The corrective action plan shall be consistent with the city's comprehensive plan and all laws and ordinances governing the subject property, and shall conform to any urban redevelopment plan adopted for that area.
- b. The corrective action plan shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures, in accordance with minimal statewide codes; where structures are demolished, the plan shall include provisions for debris removal, stabilization and landscaping of the property.
- c. On parcels of five acres or greater, the plan shall address the relationship to local objectives respecting land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements.
- d. The plan shall contain verifiable funding sources that will be used to complete its requirements and show the feasibility thereof; and
- e. The plan shall contain a timetable for completion of required work.

(f) ***Decreased rate of taxation to be applied after successful remedial action or redevelopment of blighted property.*** Real property which has had its designation as maintained in a blighted condition removed by the public officer, shall be eligible for a decrease in the rate of city ad valorem taxation by applying a factor of 0.25 to the city millage rate applied to the property, so that such property shall be taxed at a lower millage rate than the millage rate generally applied in the municipality or otherwise provided by general law; such decreased rate of taxation shall be applied beginning with the next tax bill rendered following removal of official designation of a real property as blighted. The decreased rate of taxation may be given in successive years, depending on the amount of cost expended by the person(s) chargeable with payment of ad valorem taxes on the property to satisfy its remediation or redevelopment, with every \$40,000.00 or portion thereof equaling one year of tax reduction; provided, however, that no property shall be entitled to reduction in city ad valorem taxes for more than two successive years.

- (1) In order to claim entitlement for a decreased rate of taxation, the person(s) chargeable with payment of ad valorem taxes on the property shall submit a notarized affidavit to the public officer, supported by receipts or other evidence of payment, of the amount expended.

(g) ***Duty of public officer to provide notice to county tax commissioner.*** It shall be the duty of the public officer to notify the City of Smyrna Tax Official and Cobb County Tax Commissioner in writing as to designation or removal of designation of a specific property as maintained in a blighted condition. Such notice shall identify the specific property by street, address and tax map, land lot and tax parcel number, as assigned by the Cobb County Tax Assessor's Office. The public officer shall cooperate with the tax commissioner to assure accurate tax billing of those properties subject to increase or reduced ad valorem taxation under this section.