

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Office of Archaeology and Historic Preservation

(agency name)

Administrative Order No. 9

(1) I, Jacob E. Thomas, director of the Office of Archaeology and Historic Preservation

do promulgate and adopt at 111 W. 21st Avenue, Olympia, WA (place)

the annexed rules relating to:

Chapter 449, Laws of 1985 -- Special Valuation for Historic Properties

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on. These rules shall take effect: [] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2). [] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, Jacob E. Thomas, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is: certain properties eligible for special valuation in 1986 will become ineligible for special valuation unless application is made prior to October 1, 1985.

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

[X] (a) This rule is promulgated pursuant to RCW Chapter 449, Laws of 1985 and is intended to administratively implement that statute.

[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

[] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED September 20 19 85 By Jacob E. Thomas State Historic Preservation Officer Title

STATE OF WASHINGTON FILED SEP 20 1985 CODE REVISER'S OFFICE WSR

Chapter 25-15 WAC

SPECIAL VALUATION FOR HISTORIC PROPERTIES

WAC

25-15-010	Purpose.
25-15-020	Authority.
25-15-030	Definitions.
25-15-040	Responsibilities of the local legislative authority.
25-15-050	Requirements for local review boards.
25-15-060	Defining the class of eligible historic property.
25-15-070	Responsibilities of local review boards.
25-15-080	Responsibilities of the state historic preservation officer.
25-15-090	Responsibilities of the owner--Application requirements.
25-15-100	Washington state advisory council's standards for the rehabilitation and maintenance of historic properties.
25-15-110	Historic preservation special valuation covenant.
25-15-120	Eligibility and disqualification.

NEW SECTION

WAC 25-15-010 PURPOSE. The purpose of these rules is to implement special valuation for improvements to historic buildings under which the assessed value of eligible historic property is determined at a rate that excludes, for up to ten years, the actual cost of the rehabilitation.

NEW SECTION

WAC 25-15-020 AUTHORITY. These rules are promulgated by the advisory council on historic preservation under the authority granted in section 12, chapter 449, Laws of 1985.

NEW SECTION

WAC 25-15-030 DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout these rules:

(1) "Local legislative authority" means the municipal government within incorporated cities and the county government in unincorporated areas.

(2) "Local review board" means any appointed committee designated by local ordinance to make determinations concerning the eligibility of historic properties for special valuation and to approve or deny applications.

(3) "Historic district" means historic property consisting of multiple buildings, sites, structures, or objects located in proximity to one another and related in historic period or theme.

(4) "Certified historic structure" means property located within an historic district which has been:

(a) Certified by the secretary of the interior as contributing to the significance of an historic district pursuant to 36 CFR 67.4; or

(b) Certified by the state historic preservation officer as contributing to the significance of an historic district pursuant to WAC 25-15-080(3); or

(c) Certified, under a process specified in local administrative rules, as contributing to the significance of an historic district in a local register of historic places which has been created by a local government historic preservation program certified by the secretary of the interior as provided in P.L. 96-515.

(5) "Class of historic property" means all historic property meeting any neutral, objective criteria for determining which types of historic property are eligible for special assessment that have been adopted by the local legislative authority under an ordinance or administrative rule, consistent with the purposes of chapter 449, Laws of 1985.

(6) "Actual cost of rehabilitation" means costs incurred prior to the date of application and directly resulting from one or more of the following:

(a) Improvements to an existing building located on or within the perimeters of the original structure; or

(b) Improvements outside of but directly attached to the original structure which are necessary to make the building fully useable; or

(c) Architectural and engineering services attributable to the design of the improvements; or

(d) All costs defined in 26 CFR 1.48-12(c) as "qualified rehabilitation expenditures" for purposes of the federal twenty-five percent historic preservation investment tax credit.

(7) "Historic property" means real property together with improvements thereon, except property listed in a register primarily for objects buried below ground, which is:

(a) Listed in a local register of historic places created by comprehensive ordinance, certified by the secretary of the interior as provided in P.L. 96-515; or

(b) Listed in the national register of historic places.

(8) "Substantial improvement" means the actual cost of rehabilitation which is twenty-five percent or greater of the assessed valuation of the historic structure prior to rehabilitation.

(9) "Special valuation" means the determination of the assessed value of the historic property at a rate that excludes, for up to ten years, the actual cost of a substantial improvement.

(10) "State review board" means the advisory council on historic preservation established under chapter 27.34 RCW, or any successor agency designated by the state to act as the state historic preservation review board under federal law.

(11) "Owner" means the owner of record.

NEW SECTION

WAC 25-15-040 RESPONSIBILITIES OF THE LOCAL LEGISLATIVE AUTHORITY. Each local jurisdiction, at the option of the local legislative authority, shall designate a local review board and establish one or more classes of historic property that are eligible for special valuation under these rules.

NEW SECTION

WAC 25-15-050 REQUIREMENTS FOR LOCAL REVIEW BOARDS. (1) The local review board may be an existing board or commission of local

government or a special purpose authority, but shall not be the same as the local legislative authority.

(2) The local review board shall be identified by local ordinance as having responsibility to:

(a) Make determinations concerning the eligibility of individual properties;

(b) Verify that the improvements are consistent with the advisory council's standards for rehabilitation and maintenance;

(c) Enter into protective covenants as required under WAC 25-15-070(2);

(d) Approve or deny applications for special valuation; and

(e) Monitor property for continued compliance with the covenant and statutory eligibility requirements.

(3) Multiple jurisdictions within the same county may elect to jointly designate, under an interlocal agreement, a single local review board to carry out the purposes of chapter 449, Laws of 1985.

(4) The local review board shall adopt bylaws and/or administrative rules governing:

(a) Compliance with the Open Public Meetings Act (chapter 42.30 RCW);

(b) Number of voting members and quorum requirements;

(c) Method of appointment and term of office;

(d) Rules of parliamentary procedure;

(e) Order and conduct of business; and

(f) Frequency of meetings.

NEW SECTION

WAC 25-15-060 DEFINING THE CLASS OF ELIGIBLE HISTORIC PROPERTY.

(1) The "class of eligible historic property" shall be defined by the local legislative authority using objective criteria which lead to consistent decisions on determinations of eligibility.

(2) The criteria for the class of eligible historic property may take into account such factors as geographic location, date of construction, type of use, local landmarks designation, and other verifiable criteria consistent with the purposes of chapter 449, Laws of 1985, and these rules.

(3) Within historic districts, only certified historic structures may be included in the class of eligible historic property.

(4) Once a local jurisdiction has established a class of eligible historic property, it may amend the criteria defining the class at any time. However, if the new criteria are more restrictive than the previous criteria, the new criteria may not take effect for a period of two years following October 1 of the year in which the change is made. Amendments to the criteria shall not have the effect of disqualifying property already subject to special valuation.

NEW SECTION

WAC 25-15-070 RESPONSIBILITIES OF LOCAL REVIEW BOARDS. (1) Following receipt of an application for special assessment from the county assessor, the local review board shall, consistent with locally adopted rules of procedure, determine if the property meets the following criteria:

(a) The property is historic property;

(b) The property is included within a class of historic property determined eligible for special valuation by the local legislative authority under an ordinance or administrative rule;

(c) The property has been substantially improved within twenty-four months prior to the date of application; and

(d) The property has not been altered in any way which adversely affects those elements which qualify it as historically significant.

(2) If the local review board finds that the property satisfies all four of the above requirements, then it shall, on behalf of the local jurisdiction, enter into a covenant with the owner which, at a minimum, includes the provisions set forth in WAC 25-15-110. Upon execution of said covenant between the owner and the local review board, the local review board shall approve the application.

(3) If the local review board determines that the property does not meet all of the requirements for special valuation, then it shall deny the application.

(4) An application for special valuation shall be approved or denied by the local review board before December 31 of the calendar year in which the application is made. The local review board shall certify its decision in writing on forms provided by the department of revenue and state the facts upon which the approval or denial is based. The local review board shall file a copy of the certification with the county assessor within ten days of issuing a decision.

(5) If the application is approved, the local review board shall forward a copy of the covenant to the county assessor for recording and shall notify the state review board that the property has been approved for special valuation.

(6) For property already subject to special valuation, the local review board shall determine, according to its bylaws and rules of procedure, whether or not the property has become disqualified, either because of the owner's failure to comply with the terms of the covenant, or because of a loss of historic value resulting from physical changes to the building or site. In the event that a local review board concludes that a property is no longer qualified for special valuation, it shall notify the owner, the county assessor, and the state review board on forms supplied by the department of revenue and state the facts supporting its findings.

NEW SECTION

WAC 25-15-080 RESPONSIBILITIES OF THE STATE HISTORIC PRESERVATION OFFICER. (1) The state historic preservation officer will, upon request, provide technical assistance to the local legislative authority and the local review board in conducting special valuation activities.

(2) The state historic preservation officer shall inform the local review board if the state review board is notified by the owner of property subject to special valuation that the property no longer qualifies for special valuation under chapter 449, Laws of 1985.

(3) The state historic preservation officer shall, at the request of the applicant, review current photographs and any historic photographs or other documentation provided by the applicant to determine if a building located within an historic district contributes to the historic significance of the district. If the building was constructed during the period of significance attributed to the district by the state review board, and if the building has not been modified to such an extent that it has lost the majority of its original historic or architectural characteristics, then the state historic preservation officer shall issue a written statement that the property is a certified historic structure.

NEW SECTION

WAC 25-15-090 RESPONSIBILITIES OF THE OWNER--APPLICATION REQUIREMENTS. (1) The owner of property desiring special valuation shall apply to the assessor of the county in which the property is located upon forms prescribed by the department of revenue and supplied by the county assessor.

(2) Applications shall be made no later than October 1 of the calendar year preceding the first assessment year for which special valuation is requested.

(3) Applications shall include a legal description of the property, comprehensive exterior and interior photographs of the property before and after rehabilitation, architectural plans or other legible drawings depicting the completed rehabilitation work, and a notarized affidavit attesting to the actual cost of the rehabilitation work completed prior to the date of application and the period of time during which the work was performed.

(4) For properties located within historic districts, the application shall also include, in addition to the information specified in subsection (3) of this section, a statement from the secretary of the interior, the state historic preservation officer, or the appropriate local official indicating that the property is a certified historic structure.

(5) Property owners applying for or receiving special valuation under these rules shall make available to the assessor or the local review board upon request documentation as to the actual cost of the rehabilitation project and the period of time during which the rehabilitation took place.

NEW SECTION

WAC 25-15-100 WASHINGTON STATE ADVISORY COUNCIL'S STANDARDS FOR THE REHABILITATION AND MAINTENANCE OF HISTORIC PROPERTIES. The following rehabilitation and maintenance standards shall be used by local review boards as minimum requirements for determining whether or not an historic property is eligible for special valuation and whether or not the property continues to be eligible for special valuation once it has been so classified:

(1) Rehabilitation.

(a) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.

(b) The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(c) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(d) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(e) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(f) Deteriorated architectural features shall be repaired rather than replaced, whenever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be

based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(g) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(h) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to, any project.

(i) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood, or environment.

(j) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(2) Maintenance.

(a) Buildings and structures shall not be allowed to deteriorate beyond the point where routine maintenance and repair will return them to good condition.

(b) Buildings shall be kept in a safe and habitable condition at all times. Structural defects and hazards shall be corrected. Any condition which constitutes a fire hazard shall be eliminated.

(c) Buildings shall be protected against ongoing water damage due to defective roofing, flashing, glazing, caulking, or other causes. Moisture condensation resulting from inadequate heat or ventilation shall be eliminated if present at levels sufficient to promote rot or decay of building materials.

(d) Deteriorated exterior architectural features and any broken or missing doors and windows shall be repaired or replaced.

(e) Painted exterior surfaces shall be maintained and repainted as necessary to prevent a deteriorated appearance or damage to the substrate. Exterior masonry surfaces shall be tuck pointed where required to maintain the mortar in sound condition. Finished tuck pointing shall match the original mortar joint in hardness and appearance.

NEW SECTION

WAC 25-15-110 HISTORIC PRESERVATION SPECIAL VALUATION COVENANT. The following historic preservation special valuation covenant shall be used by local review boards as the minimum agreement necessary to comply with the requirements of WAC 25-15-070 (2):

This Historic Preservation Covenant is entered into on this day of, 19.., by and between (hereinafter referred to as APPLICANT) and (hereinafter referred to as LOCAL REVIEW BOARD).

WHEREAS APPLICANT is the owner of record of the building or buildings commonly known as, located at, State of Washington, as more fully described in Exhibit A, attached hereto and incorporated herein by this reference (hereinafter referred to as PROPERTY); and

WHEREAS APPLICANT has requested special valuation of the PROPERTY pursuant to section 12, chapter 449, Laws of 1985; and

WHEREAS the LOCAL REVIEW BOARD has determined that the PROPERTY has been substantially rehabilitated within the two year period preceding the date of application and the actual cost of said rehabilitation equals or exceeds twenty-five percent of the Assessed Valuation of the PROPERTY prior to the improvements; and

WHEREAS the LOCAL REVIEW BOARD has verified that the PROPERTY is historic property that falls within a class of properties determined eligible for special valuation by local ordinance or administrative rule; and

WHEREAS the LOCAL REVIEW BOARD finds that the rehabilitation work has not altered the PROPERTY in any way which adversely affects those elements which qualify it as historically significant;

NOW THEREFORE, in recognition of the foregoing, the APPLICANT enters into this Covenant with the LOCAL REVIEW BOARD and agrees to adhere to the following terms and conditions:

1. APPLICANT agrees to comply with the Washington State Advisory Council's Standards for the Maintenance and Rehabilitation of Historic Properties as set forth in Exhibit B, which is attached hereto and by this reference incorporated herein.
2. Without the express written permission of the LOCAL REVIEW BOARD signed by a duly authorized representative thereof, no construction, alteration or remodeling or any other action shall be undertaken or permitted to be undertaken which would affect the appearance of the PROPERTY as depicted in the photographs attached hereto and incorporated herein by this reference as Exhibits ... through ..., or which would adversely affect the structural soundness of the PROPERTY; provided, however, that the reconstruction, repair, repainting, or refinishing of presently existing parts or elements of the PROPERTY subject to this Covenant, damage to which has resulted from casualty loss, deterioration or wear and tear, shall be permitted without the prior approval of the LOCAL REVIEW BOARD, provided that such reconstruction, repair, repainting, or refinishing is performed in a manner which will not alter the appearance of those elements of the PROPERTY subject to this Covenant as they are as of this date. Exterior changes which shall require the consent of the LOCAL REVIEW BOARD shall include, but not be limited to, any substantial structural change or any change in design, color or materials.
3. The PROPERTY shall not be demolished without the prior written consent of the LOCAL REVIEW BOARD.
4. If the PROPERTY is not visible from a public right of way, the APPLICANT shall make historic aspects of the PROPERTY accessible to the public one day each year.
5. The APPLICANT shall monitor the PROPERTY for its continued qualification for special valuation and notify the appropriate County Assessor within 30 days if the PROPERTY becomes disqualified because of
 - a. a loss of historic integrity,
 - b. sale or transfer to new ownership exempt from taxation, or
 - c. sale or transfer to new ownership which does not intend to agree to the terms of this Covenant nor file a notice of compliance form with the County Assessor.
6. The APPLICANT and LOCAL REVIEW BOARD both agree that there shall be no changes in standards of maintenance, public access, alteration, or report requirements, or any other provisions of this Covenant, during the period of the classification without the approval of all parties to this Covenant.

Term of the Agreement. This Covenant shall take effect immediately upon signature and remain in effect until the property is no longer eligible for special valuation either through disqualification or upon expiration of the ten-year period of special valuation commencing January 1, 19.., and ending December 31, 19...

Hold Harmless. The APPLICANT or its successors or assigns shall hold the State and the LOCAL REVIEW BOARD harmless from any and all liability and claims which may be asserted against the State and the LOCAL REVIEW BOARD as a result of this Historic Preservation Special Valuation Covenant or the participation by the APPLICANT in the Special Valuation Program.

Governing Law. The terms of this Covenant shall be construed in accordance with the laws of the State of Washington.

NEW SECTION

WAC 25-15-120 ELIGIBILITY AND DISQUALIFICATION. (1) The actual cost of the rehabilitation work shall be calculated on the basis of expenses incurred for improvements or work elements completed prior to the date of application. Properties subject to ongoing or phased rehabilitation work shall be eligible for special valuation so long as the property meets the criteria of WAC 25-15-070(1).

(2) No application for special valuation under these rules shall be made after December 31, 1991.

(3) When property has once been classified and valued as eligible historic property, the expiration of the ten-year period allowed for special valuation shall not have the effect of disqualifying the property and thereby invoking the additional tax, interest, and penalty otherwise due when a property is disqualified or determined ineligible.