

## ARTICLE 3. HISTORIC PROPERTY CLASSIFICATION

**42-12101. Definitions** In this article, unless the context otherwise requires:

1. "Commercial historic property" means real property that:
  - (a) Meets the criteria for classification as class one, paragraph 12 pursuant to section 42-12001 or class four pursuant to section 42-12004.
  - (b) Is listed in the national register of historic places established and maintained under the national historic preservation act (P.L. 89-665; 80 Stat. 915; 16 United States Code section 470 et seq.), as amended.
  - (c) Meets the minimum standards of maintenance established by rule by the Arizona state parks board.
2. "Noncommercial historic property" means real property:
  - (a) That is listed in the national register of historic places established and maintained under the national historic preservation act (P.L. 89-665; 80 Stat. 915; 16 United States Code section 470 et seq.), as amended.
  - (b) That meets the minimum standards of maintenance established by rule by the Arizona state parks board.
  - (c) On which no business or enterprise is conducted with the intent of earning a profit.

**42-12102. Application for classification as historic property; period of classification**

- A. An owner of property who desires that it be classified as historic property for purposes of taxation shall:
  1. Apply to the county assessor on forms that are approved by the department.
  2. Consent in writing to allow the state historic preservation officer to view the property.
- B. Applications shall be filed with the assessor during the valuation year preceding the first tax year for which classification is requested.
- C. Classification as class six property under section 42-12006 may be granted only for the fifteen consecutive tax years immediately following the calendar year in which the application is filed. The assessor may accept an application by the owner during the final year of each fifteen year assessment period for continuation of the classification for a succeeding period of fifteen years.
- D. Classification as class seven property under section 42-12007 or class eight property under section 42-12008 may be granted only for the ten consecutive tax years immediately following the calendar year in which the application is filed.
- E. Within ten days after receiving each application, the county assessor shall refer the application to the state historic preservation officer.

**42-12103. Review of application by state historic preservation officer; approval or denial**

- A. The state historic preservation officer, with the assistance of the Arizona historical advisory commission, shall review the application and may view the premises.
- B. The state historic preservation officer shall notify the county assessor and the applicant of the approval or denial of the application on or before August 1 of the valuation year. An application that is not approved by August 1 is considered to be denied.

C. The state historic preservation officer shall not deny an application solely because of the potential loss of revenue that may result from granting the application if the officer finds that the property is historic property. The state historic preservation officer may approve the application with respect to only part of the property that is subject to the application.

D. If any part of the application is denied, or at any time before approval, the applicant may withdraw the application.

E. An owner whose application has been denied may appeal to either the tax court or the superior court pursuant to section 12-163, subsection B.

F. If the state historic preservation officer determines that the property qualifies for classification as historic property, the officer shall certify the determination in writing and shall file a copy of the certificate with the county assessor within ten days. The certificate shall state the facts on which the approval was based.

#### **42-12104. Valuation and assessment**

A. The county assessor shall determine the assessed valuation of historic property as provided by chapter 15, article 1 of this title. Each year that the property is classified and assessed as historic property the assessor shall enter on the rolls that the property is so assessed and may be subject to additional taxes under section 42-12107 by adding the notation "historic property (potential additional tax)".

B. The assessor shall determine the valuation of commercial historic property that is classified as class seven under section 42-12007 or class eight under section 42-12008 by using the market approach to valuation as described in section 42-16051, subsection B, paragraph 2 or by using the cost approach to valuation as described in section 42-16051, subsection B, paragraph 3, using the year of application as the base year.

#### **42-12105. Disqualification**

A. Property shall remain classified and assessed as noncommercial historic property until it becomes disqualified through either:

1. Notice by the taxpayer to the assessor to remove the assessment as noncommercial historic property.
2. Sale or transfer to an ownership that makes it exempt from property taxation.
3. Notification by the state historic preservation officer to the assessor that the property no longer qualifies as noncommercial historic property.

B. Property shall remain classified and assessed as commercial historic property until it becomes disqualified through either:

1. Notice by the taxpayer to the assessor to remove the assessment as commercial historic property.
2. Sale or transfer to an ownership that makes it exempt from property taxation.
3. Notification by the state historic preservation officer to the assessor that the property no longer qualifies as commercial historic property.
4. The failure to maintain the property in a manner consistent with the minimum standards of maintenance established by rule by the Arizona state parks board.

#### **42-12106. Effect of changing circumstances**

A. A sale or transfer of historic property to a new owner or a transfer of historic property to a new owner by reason of the death of the former owner does not disqualify the property from assessment as historic property if the property continues to qualify as historic property under this article.

B. If all or part of a parcel of property ceases to qualify as historic property under this article, the person who owns the property at the time of the change shall notify the county assessor of the change before the next January 1.

C. The owner of property that is classified and assessed as commercial historic property shall apply to the state historic preservation officer for approval of any improvement, alteration or demolition of the property. Each modification that is intended to restore or rehabilitate commercial historic property must be approved by the historic preservation officer to qualify for classification and assessment as class seven or class eight property.

#### **42-12107. Penalties**

A. If property that is classified as historic property becomes disqualified for that classification, a penalty shall be added to the tax levied against the property on the next tax roll equal to the lesser of:

1. Fifty per cent of the total amount by which property taxes on the property were reduced during the years the property had been classified as historic property.

2. Fifty per cent of the market value of the property. B. If property that is classified as historic property becomes disqualified for that classification and the owner fails to give the notice required by section 42-12106, subsection B:

1. The county assessor shall determine the date that the notice should have been given and shall notify the owner and the county treasurer.

2. The treasurer shall add to the tax levied against the property on the next tax roll in addition to the penalty prescribed by subsection A of this section an amount equal to fifteen per cent of that penalty. The treasurer shall deposit monies collected pursuant to this paragraph in the taxpayers' information fund established by section 11-495.

C. Before assessing a penalty under this section in the case of disqualification pursuant to section 42-12105, subsection A, paragraph 3 or subsection B, paragraph 3 or 4, the assessor shall notify the property owner of the disqualification by mail, return receipt requested.

D. A penalty shall not be imposed under this section:

1. On the sale or transfer of the property to an ownership that makes the property exempt from taxation.

2. If the historic property is destroyed by fire or act of god unless the fire was the result of an intentional act by the owner or by an agent of the owner acting on the owner's behalf.

E. A penalty that is determined to be due under this section shall be paid to the county treasurer before the next tax roll is completed. Except as provided in subsection B of this section, the county treasurer shall distribute the penalty under this section among the respective taxing jurisdictions in proportion to their current primary property tax levies on the property.

F. The penalties prescribed by this section apply only to:

1. The current fifteen year assessment period with respect to noncommercial historic property.

2. The current ten year assessment period with respect to commercial historic property.

**42-12108. Reports**

- A. If requested by the state historic preservation officer, an owner of historic property shall make an annual report as to the continued qualification of the property for classification as historic property.
- B. The state historic preservation officer may demand reports from owners of historic property as to the continued qualification of the property at any other time considered to be necessary.
- C. If an owner fails to make a required report after ninety days' written notice by mail, return receipt requested, to make the report, the state historic preservation officer shall notify the assessor, and the assessor shall withdraw the property from historic classification and assess the penalties prescribed by section 42-12107.