

Sec. 94-46. - Historic preservation.

(a) *Statement of purpose.*

- (1) The city recognizes its collection of historic properties and historic districts, which create a setting, sense of time and place, and ambience highly attractive to tourists, business development and residents.
- (2) The city declares that Ordinance No. 3554-02 (the historic preservation ordinance, codified as the historic preservation provisions in sections 94-45 through 94-53, subsection 94-31(e) and section 94-611) specifically implements the goals, objectives, and policies of the historic preservation element of the comprehensive plan and, further, embodies the city's commitment to preserving, protecting, restoring and fully utilizing its historical, cultural and architectural resources ("resources").
- (3) The historic preservation ordinance is designed to identify, protect, restore and encourage reuse of resources, all of which are essential to the city's health, safety, morals, and its economical, educational, cultural, and general welfare. These valid public purposes shall be fulfilled by the ordinance, to achieve the following goals:
  - a. Preserve, protect, enhance and perpetuate resources which represent distinctive and significant elements of the city's historical, cultural, social, economical, political, archaeological, and architectural identity; and/or serve as visible reminders of the city's culture and heritage;
  - b. Ensure the harmonious, orderly, and efficient growth, prosperity and development of the city through retention and reuse of its historic and cultural resources;
  - c. Strengthen civic pride and cultural stability through neighborhood conservation;
  - d. Contribute to the stabilization of the economy of the city through the continued use, preservation, conservation and revitalization of its resources;
  - e. Protect and enhance the city's historic, cultural and architectural attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;
  - f. Promote the use of resources for the education, pleasure, and welfare of the people of the city;
  - g. Provide a review process for the continued preservation and appropriate, compatible and sensitive development of new construction and additions within the city's historic districts and neighborhoods;
  - h. Protect and enhance the scale, character and stability of existing neighborhoods, and protect against destruction of or encroachment upon areas which contribute to the character of the city;
  - i. Facilitate the creation of a convenient, harmonious and attractive community, and protect the architectural beauty and special architectural features of the city;
  - j. Avoid demolition, or other adverse effect on historic properties (properties) and districts, which would cause an irreparable loss to the city;
  - k. Assist neighborhoods to achieve a positive neighborhood identity and sense of place.
- (4) In addition, the historic preservation ordinance is designed to implement, be consistent with, and assist in the achievement of the goals, objectives and policies, as specifically required by the city's comprehensive plan, with respect to historic, conservation, and neighborhood resources.

- (b) *Historic preservation division.* The historic preservation division of the planning department (the division) shall administer the historic preservation provisions of this chapter. The division shall employ planners with expertise in archeology, history, architectural history, historic preservation,

preservation planning, or a closely related field (the preservation planners). The head of the division shall be the historic preservation planner.

- (c) *Powers and duties of the historic preservation planners.* The preservation planners shall have the following powers and duties:
- (1) To advise the board on applications that come before the board for designations, certificates of appropriateness, and certificates of economic hardship, and to assist in the preparation of complete applications for each;
  - (2) To schedule meetings of the board, prepare agendas and ensure that proper notice is given;
  - (3) To coordinate the city's preservation activities with local, state, federal, and national agencies and preservation organizations;
  - (4) To recommend to the board properties or districts for historic designation;
  - (5) To undertake and continue an ongoing comprehensive survey and inventory to identify properties and districts that have historic, community, or architectural value within the city;
  - (6) To keep a record of all designated properties and districts in the West Palm Beach Register of Historic Places;
  - (7) To accept and administer grants or gifts to the city, including easements, that may be appropriate for carrying out the purpose of the historic preservation provisions of this chapter;
  - (8) To review all permit requests for demolition within the city;
  - (9) To review rezoning applications, applications for special use permits or applications for zoning variances that affect designated properties or districts;
  - (10) To issue notices of violation or to request the building official or other authorized employee to issue notices of violation for properties not in compliance with the historic preservation provisions of this chapter;
  - (11) To recommend to the city commission the appropriate fees for administration of the historic preservation provisions of this chapter;
  - (12) To periodically review the historic preservation provisions of this chapter and the other provisions of this chapter and to recommend changes to the planning director and city commission; and
  - (13) To assist the board in carrying out any of its powers and duties.

(Ord. No. 3554-02, art. I, § 2, art. III, §§ 1, 2, 7-22-2002)

Sec. 94-47. - Certified local government review.

The city commission is a certified local government (CLG) approved by the state department of state, division of historical resources. The city commission as a CLG is required to participate in the state National Register of Historic Places nomination process, be involved in the section 106 process, and is eligible to receive grants from the certified local government section of the state department of state historical resources grants-in-aid program.

(Ord. No. 3554-02, art. VIII, § 2, 7-22-2002)

Sec. 94-48. - Designation of historic properties, districts and landmarks.

- (a) *Guidelines for historic designation .*

- (1) *Historic property or district* . To qualify as a property or a district, individual properties must have significance in American history, architecture, archeology, engineering or culture and possess integrity of location, design, setting, materials, workmanship, and association. For districts, eligibility is based on the establishment of historic contexts or themes which describe the historical relationship of the properties within the district. The property or district shall be at least 50 years old (in the case of a district, at least 50 percent of the buildings shall be at least 50 years old), and shall be significant in one or more of the following areas:
- a. Association with events that have made a significant contribution to the broad patterns of the city's history; or
  - b. Association with the lives of persons significant in the city's past; or
  - c. Embodies the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  - d. Has yielded, or may be likely to yield, information important in prehistory or history.
1. Ordinarily cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, buildings or structures that have been moved from their original locations, reconstructed historic buildings or structures, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the West Palm Beach Register of Historic Places. However, such a property will qualify if it is an integral part of a district or if it meets any of the following descriptions:
    - (i) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
    - (ii) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving resource most importantly associated with a historic person or event; or
    - (iii) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with such figure's productive life; or
    - (iv) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features or from association with historic events; or
    - (v) A reconstructed building or structure when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
    - (vi) A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own exceptional significance; or
    - (vii) A property achieving significance within the past 50 years if it is of exceptional importance.
- (2) *Landmark* . To qualify as a landmark property in the Downtown Master Plan area, the property shall have outstanding significance in American history, architecture, archeology, engineering or culture and possess exceptional integrity of location, design, setting, vistas, materials, workmanship, and association. To qualify as a landmark district in the Downtown Master Plan area, eligibility shall be based on the historic context which describes the historical relationship of the properties within the district. The property or district shall be at least 50 years old and, in the case of a district, at least 50 percent of the buildings shall be at least 50 years old. Such property or district shall be exceptionally significant in one or more of the following areas:

- a. Association with events that have made a significant contribution to, and are identified with, or that outstandingly represent, the broad patterns of the city's history and from which an understanding and appreciation of those patterns may be gained; or
  - b. Association with the important lives of persons significant in the city's past; or
  - c. Properties that represent some great idea or ideal of the American people; or
  - d. Embodies a high level of historic integrity of the distinctive characteristics of a type, period or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or
  - e. Properties that are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition, but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture.
  - f. Has yielded, or may be likely to yield information, of major scientific importance by revealing new cultures, or by shedding light upon periods of occupation over areas of the United States. Such sites are those which have yielded, or which may reasonably be expected to yield, data affecting theories, concepts and ideas to a major degree.
- (3) Ordinarily cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, buildings or structures that have been moved from their original locations, reconstructed historic buildings or structures, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible as a landmark, unless such property is an integral part of a district, or if it meets any of the following descriptions:
- a. A religious property deriving primary significance from architectural or artistic distinction or historical importance; or
  - b. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving resource most importantly associated with a historic person or event; or
  - c. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with such figure's productive life; or
  - d. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features or from association with historic events; or
  - e. A reconstructed building or structure when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or
  - f. A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own exceptional significance; or
  - g. A property achieving significance within the past 50 years if it is of exceptional importance.
- (b) *Procedures*.
- (1) *Eligible applicants*.
- a. Applications for historic designation or landmark status may be initiated by only the following:
    - 1. Historic preservation board.
    - 2. City commission.
    - 3. Preservation planners.

4. A property owner for designation of a site.
  5. A majority of property owners (51 percent) for designation of a district.
- b. Only the board or the city commission may initiate designation of a property or district owned by the city, county or state or by an entity created by state law. For district designations, each property shall be allotted one vote. The identity of the property owners shall be determined by the most current county property tax rolls.
- (2) *Application form* . Nominations for historic designations shall be made only on application forms approved by the board. Properties seeking landmark designation shall submit a maintenance plan as part of the application.
  - (3) *Board agenda* . Following the preservation planners' determination that an application for designation is complete, the application shall be scheduled for a public hearing by the board.
  - (4) *Board public hearing notice* . The board shall advertise and hold a public hearing in accordance with F.S. § 166.041. Notice of the time, place and subject matter of the hearing shall be published in a newspaper of general circulation in the city, mailed to the applicant and mailed to any owner of real property within 400 feet of the property or district subject to potential designation, at least 30 calendar days prior to the date set for the public hearing.
  - (5) *No action permitted during pendency* . During the period that a designation application is pending, no changes to the property or district shall be made unless first approved by the board. The application is considered pending until the final decision on the designation is made by the city commission.
  - (6) *Board recommendations* . The board shall make a recommendation as to the proposed designation at the public hearing, based on findings of fact which support the recommendation. The board's recommendation shall be reduced to writing within 15 working days after the hearing date. If the board votes to recommend approval, it will forward the application with recommendations to the city commission. If the board recommends denial, no further action is required unless an applicant, or not less than two-thirds of the affected property owners (in the case of a district), appeals to the city commission. In such event the city commission may reconsider designation or require the board to do so.
  - (7) *City commission decision* . Within 45 working days after the board hearing, a designation application with a board recommendation for approval shall be scheduled for hearing by the city commission. The city commission may approve or deny the designation application. Alternatively, the city commission may approve the designation with conditions or delay designation for up to one year. The city commission shall make written findings of fact on which its decision is based.
  - (8) *West Palm Beach Register of Historic Places* . A property or district designated by the city commission as historic shall be listed in the West Palm Beach Register of Historic Places. All properties and districts designated under the previous city historic preservation ordinances are deemed designated under this chapter and shall be accorded all protection and be subject to all historic preservation regulations contained in this chapter. Properties listed in, or eligible for listing in the National Register or on the West Palm Beach Register of Historic Places, either as a property or as a contributing property within a district, shall be entitled to modified enforcement of the city's applicable building codes.
  - (9) *West Palm Beach Landmark* . A property or district designated by the city commission as a landmark shall be listed in the West Palm Beach Register of Historic Places with a special annotation as landmark. Properties listed in, or eligible for listing in the National Register or on the West Palm Beach Register of Historic Places, either as a landmark property or as a contributing property within a landmark district, shall be entitled to modified enforcement of the city's applicable building codes. Landmark properties shall submit and adhere to a maintenance plan approved as part of the designation process and to be eligible for the TDR transfer.

- (10) *Designation recorded* . The historic or landmark designation ordinance shall be recorded in the official records of the county within ten working days of the designation decision. The designation shall be noted in the official records of the city's planning and construction services departments to ensure that all city actions taken in connection with the subject property or district are taken subject to the designation.
- (11) *Historic district street signs* . For districts, the city shall erect standardized street signs identifying the district within two years from the date of such designation, subject to economic feasibility. The design shall be first approved by the board.
- (c) *Removal of designation* . A designation may be removed by the city commission based upon the board's recommendation. Such recommendation shall be based upon new and compelling evidence and evaluation of work or natural cause producing an adverse effect to a property or district. The same guidelines and the same procedures established for designation shall be considered for a removal of designation.
- (d) *Designation of county, state or other political subdivision properties* . County, state or political subdivision entity-owned properties may be designated as a property or district if such designation is not prohibited or preempted by law, or otherwise provided for in the intergovernmental coordination element of the comprehensive plan. In the absence of prohibition, preemption, or other agreement, such other government may only avoid designation of its property by bearing the burden of proof that public interests, on balance, are best served by avoiding such designation. Such determination shall be established by the process as set forth in the historic preservation provisions of this chapter. Once designated, unless reversed upon appeal, such designated property or district shall comply with and be regulated by all regulations contained in the historic preservation provisions of this chapter.
- (e) *Maintenance and repair of designated properties required*. All designated properties or any portion thereof shall be preserved against decay and deterioration and kept free from structural defects.
- (f) *[Rights granted.]* All rights granted and procedures pertinent to properties listed on the West Palm Beach Register of Historic Places shall also be granted to properties listed therein with a landmark annotation.

(Ord. No. 4691-17, § 3, 2-13-2017)

**Editor's note**— Ord. No. 4691-17, § 3, adopted Feb. 13, 2017, amended § 94-48 in its entirety to read as herein set out. Former § 94-48 pertained to designation of historic properties and districts, and derived from Ord. No. 3554-02, art. IV, adopted July 22, 2002; Ord. No. 4633-16, § 2, adopted May 23, 2016.

Sec. 94-49. - Certificate of appropriateness procedures for review.

- (a) *Review*. The board or the preservation planners must review actions affecting the exterior of properties and all resources, including noncontributing properties, within districts.
- (b) *Board approval required*.
- (1) *Approval*. The board hears applications for certificates of appropriateness for alterations, new construction, demolitions, relocations, and certificates of economic hardship affecting proposed or designated properties or properties within districts.
- (2) *Delegation of Review Authority*. The board may delegate to the preservation planners the authority to administratively review and grant a certificate of appropriateness without formal action by the board. This delegation of review shall be depicted in a historic preservation board certificate of appropriateness approval matrix (the "matrix"). The matrix will contain a list of design features, such as roofing materials, window types, shutter types, etc. The matrix will indicate whether such features may be administratively reviewed or if board review is required.

The board shall approve or amend the historic preservation board certificate of appropriateness approval matrix at its annual meeting, and at any other time as needed. This delegation of review may also be returned to the board at its discretion.

If the division does not grant administrative approval of an application, the application will be referred to the board for review. Any applicant may request referral to the board rather than administrative review. An application referred by the division or an applicant will be considered in accordance with the application review schedule contained in this section.

(c) *Application procedure, fees and review.*

- (1) *Application and fees.* Requests for certificates of appropriateness shall be made on application forms approved by the board. Submittal of the application must be made with the appropriate site plans, drawings, photographs, descriptions, and other documentation needed to provide the division and the board with a clear understanding of the proposed action. Application fees and other applicable charges shall be established by resolution adopted by the city commission.
- (2) *Completeness review and board agenda.* The preservation planners shall review all applications for certificates of appropriateness to determine whether an application is complete. If the application is incomplete, the preservation planners will notify the applicant of what additional information is necessary. An application will not be reviewed until the preservation planners determine that it is complete. All certificate of appropriateness applications eligible for administrative review will be reviewed within 15 working days. A written decision will be sent to the applicant. All certificate of appropriateness applications requiring board review will be scheduled for hearing by the board at the first available meeting approximately six weeks after receipt of the completed application. Notice of the time, place and subject matter of the hearing shall be published in a newspaper of general circulation in the city not less than seven days before the meeting. A sign stating that an application for demolition and new construction will be considered by the board shall be posted at the property not less than seven days before the meeting.
- (3) *Secretary of the Interior's standards for rehabilitation.* In reviewing an application, the Secretary of the Interior's standards for rehabilitation (as may be amended from time to time) shall be applied. The current version is as follows:
  - a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.
  - b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.
  - c. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.
  - d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.
  - e. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.
  - f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.
  - g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of buildings or structures, if appropriate, shall be undertaken using the gentlest means possible.

- h. Significant archaeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.
  - i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.
  - j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.
- (4) *Additional criteria.* The above standards for rehabilitation in subsection (c)(3) of this section shall be supplemented by the following criteria specific to certain types of requests:
- a. *New construction and alterations.* The following design elements and features should be visually compatible with resources in the surrounding buildings.
    - 1. *Setting, orientation and setbacks.* The building should be situated approximately the same distance from the street as adjacent buildings, to create a continuous street edge. The orientation of the building should be consistent with that of the surrounding buildings. The setting should be designed with the overall environment in mind. It should take into account the compatibility of landscaping, parking, service areas, walkways and accessory structures.
    - 2. *Building height.* The height of the building at street level should be visually compatible with the height of surrounding buildings.
    - 3. *Design styles.* New buildings should take their design cues from the surrounding buildings. Traditional or contemporary design standards and elements should relate to the surrounding buildings.
    - 4. *Proportion of openings.* The relationship of the width of windows and doors to the height of windows and doors should be visually compatible with the surrounding buildings.
    - 5. *Rhythm of solids to voids.* The relationship between solids (walls) and voids (windows and doors) of a building should be visually compatible with the surrounding buildings.
    - 6. *Rhythm of spacing along the street.* The relationship of buildings to the open space between them should be compatible with the other buildings on each side of the street in that block.
    - 7. *Relationship of materials and textures.* The materials and textures of a building should be chosen with the predominant materials of the historic district in mind. Simplicity in such use is preferable.
    - 8. *Roof shapes.* The roof shape of a building is a major distinguishing feature. The roof shape of a new building should be compatible with those of the buildings in the historic district.
    - 9. *Size, scale, bulk, mass and volume.* The physical size, scale, bulk, mass and volume should be compatible with the surrounding buildings without overwhelming them.
  - b. *Demolition.*
    - 1. *Certificate of appropriateness.* No building or structure on a property or located within a district shall be demolished without first receiving a certificate of appropriateness for new construction. The applications for demolition and new construction shall be reviewed by the board simultaneously. The requirement of a certificate of appropriateness for new construction may be waived by the board upon a good cause showing that such requirement would be unduly harsh or would result in a substantial hardship to the property owner. A showing of good cause may include, but is not

limited to, evidence that the property owner is unable to comply with the requirement for simultaneous new construction due to advanced age, infirmity, physical or other debilitating handicap, or financial hardship. Upon approval by the board of a certificate of appropriateness for demolition, the demolition permit shall not be issued until all demolition and new constructions plans for the property have received all other required governmental approvals.

- a. Any non-contributing primary structure that is 35 years old or older within a historic district that was surveyed, designated or redesignated more than five years ago must obtain an independent review of an historic preservation consultant (contracted through the city meeting the National Park Service Professional Qualification Standards for Historic Preservation) to determine if the structure would contribute to the district if the district was resurveyed.
2. *Denial.* The existence of one or more of the following conditions may be the basis for denial of a demolition application:
    - i. The resource contributes significantly to the historic character of designated property or district.
    - ii. The resource is listed on the National Register.
    - iii. The resource is one of the last remaining examples of its kind in the neighborhood or city.
    - iv. The resource is capable of being repaired and reused in a practical and feasible manner.
    - v. Retention of the resource would promote the general welfare of the city by providing an opportunity to study local history, architecture and design, or by developing an understanding of the importance and value of a particular culture or heritage.
    - vi. Granting a certificate of appropriateness for the demolition would result in an irreparable loss to the city of a significant resource.
    - vii. The plans for the simultaneous new construction (if the demolition is granted) are not compatible with the property or district.
    - viii. The report provided to the Historic Preservation Board by an Historic Preservation Professional meeting the National Park Service Qualification Standards for Historic Preservation indicates the property may be considered contributing.
  3. *Demolition delay period.* The board may grant a certificate of appropriateness for demolition which may contain a delayed effective date. The effective date will be determined by the board based on the relative significance of the resource and the probable time required to arrange a possible alternative to demolition. The board may delay demolition for up to three months. During the demolition delay period, the board may take such steps as it deems necessary to preserve the resource. Such steps may include, but are not limited to: consultations with community groups, public agencies and interested citizens; recommendations for acquisition of the property by public or private bodies, or agencies; and exploration of the possibility of moving the resource.
  4. *Salvage and preservation of specific features.* The city commission upon recommendation by the board may require the property owner, at city expense, to salvage and preserve specified classes of building materials, architectural details, ornaments, fixtures and the like.
  5. *Initiation of designation.* If an undesignated property warrants it and it is otherwise authorized under the historic preservation provisions of this chapter, the preservation planners may initiate, or recommend that the board initiate, the designation

application and review process. The preservation planners may further request that the board require that the issuance of a demolition permit be stayed pending the board's review of the application and the city commission's decision to designate or deny designation of the property. However, the maximum period during which the issuance of a demolition permit may be stayed pursuant to this subsection (c)(4)b.5. of this section is 120 days, unless extended by the city commission.

- c. *Relocation.* The existence of one or more of the following conditions may be the basis for denial of a relocation application:
  1. The historic character or aesthetic interest of the resource contributes to its present setting in such a manner that relocation would result in a substantial loss to the setting or district.
  2. There are no definite plans for the area to be vacated.
  3. There are definite plans for the area to be vacated that may adversely affect the character of the district.
  4. The resource cannot be moved without significant damage to its physical integrity.
  5. The proposed relocation area is not compatible with the historic, cultural, and architectural character of the resource.
  6. Little or no effort has been made to consider relocation within the same district or within another district with compatible historic, aesthetic, cultural, or design qualities with the relocated resource.
- (5) *Decisions.* Decisions regarding applications for certificates of appropriateness shall be based on the application, the application's compliance with the historic preservation provisions of this chapter, and the evidence and testimony presented in connection with the application. In reviewing an application, the division and the board shall be aware of the importance of finding a way to meet the current needs of the property owner. The division and the board shall also recognize the importance of recommending approval of plans that will be reasonable for the property owner to carry out. Any conditions or requirements imposed shall be reasonably related to the certificate of appropriateness sought by the applicant.
- (6) *Notice of decision on application.* The division shall notify the applicant in writing of any decision on the application within five working days from the date of the decision.
- (7) *Changes in approved work.* Any change in the proposed work following the issuance of a certificate of appropriateness shall be reviewed by the division. If the proposed change does not materially affect the historic character or the proposed change is in accordance with the board's decision, the division may administratively approve the change. If the proposed change is not in accordance with the board's decision, a new certificate of appropriateness application for such change must be submitted for review.

(Ord. No. 3554-02, art. V, 7-22-2002; Ord. No. 4022-07, § 2, 2-26-2007)

Sec. 94-50. - Certificate of economic hardship and appeal of decisions.

- (a) *Certificate of economic hardship.* Prior to taking an appeal of a decision of the board on an application for certificate of appropriateness, an applicant may file an application for a certificate of economic hardship.
  - (1) *Application.* A certificate of economic hardship application must be submitted within 30 days of the date of the hearing at which the board's decision on the application is announced.
  - (2) *Board agenda and notice.* The board shall schedule a public hearing within 60 working days from the receipt of the application and shall provide notice of such hearing in the same manner as for the certificate of appropriateness application.

- (3) *Negotiations prior to hearing.* During the period between receipt of the certificate of economic hardship application and the board's public hearing, the applicant shall discuss the proposed action with the division, other city officials and local preservation organizations to consider alternatives that will avoid an economic hardship and have the least adverse effect to the property and the district. The division may request information from city departments and other agencies in order to negotiate an alternative resolution that is in the best interest of the applicant and the city. If negotiations are successful, the division shall make written recommendations to the board regarding such alternatives.
- (4) *Determination.* The applicant has the burden of proving by competent substantial evidence that the board's decision regarding the certificate of appropriateness application has caused or will cause an unreasonable economic hardship. The effect of denial of the application for certificate of economic hardship is that decision regarding the certificate of appropriateness is upheld. If the application for certificate of economic hardship is granted, the board may issue the certificate of economic hardship without conditions. Alternatively, the board may issue the certificate with conditions that will avoid the economic hardship and have the least adverse effect to the property and the district.

Such conditions may include, but are not be limited to: ad valorem tax relief, loans or grants, requiring the owner to market and offer the property for sale for a fair market price with appropriate preservation protections for a period of time not to exceed six months, acquisition by a third party for a fair market value, taking by eminent domain and fair compensation, building and zoning code modifications, relaxation of the historic preservation provisions of this chapter, recommendation by the mayor that some or all of the applicable board fees be waived, or such other relief as appropriate.

- (b) *Appeal of decisions.* Any applicant may appeal a decision of the board to the city commission regarding an application for certificate of appropriateness and/or an application for certificate of economic hardship. The applicant shall file a written notice of the appeal with the historic preservation division within 30 days of the date of the hearing at which the board's decision on the application is announced. The city commission shall place the matter on the commission's agenda within 45 working days from the date of the written notice of appeal. The meeting at which the appeal is placed on the agenda shall be no later than 60 working days from the date of the written notice of appeal. Consideration of the appeal by the city commission shall be de novo review. The city commission shall be required to apply the applicable standards and criteria set forth in the historic preservation provisions of this chapter. A decision of the city commission may be appealed to a court of competent jurisdiction within 30 days after the hearing at which the decision is announced.

(Ord. No. 3554-02, arts. VI, VII, 7-22-2002)

Sec. 94-51. - Historic preservation property tax exemption program.

- (a) *[Exemption.]* A property owner may apply for an exemption from ad valorem taxation of 100 percent of the assessed value of qualified improvements which result from the restoration, renovation or rehabilitation of eligible historic properties.
- (b) *Eligible property.* A property is eligible for an exemption if, at the time the exemption is granted, the property is listed in the National Register of Historic Places, or is a contributing property to a national-register-listed district, or is designated as a historic property in the city's register of historic places, or is a contributing property to a city-designated historic district under the terms of the city's ordinances.
- (c) *Improvements.* Qualified physical improvements shall be those necessary to restore, renovate or rehabilitate an eligible property consistent with any city ordinance designating the property or district as historic. The improvements must comply with the United States Secretary of Interior's Standards for Rehabilitation and comply with Florida Department of State guidelines. Improvements may include additions, alterations and new construction.

(d) *Process.*

- (1) Application for the tax exemption shall be written and submitted on the form prescribed by the state. Applications shall be submitted to the planning divisions accompanied by the fees established by resolution of the city commission. An application shall be submitted before the project is initiated.
- (2) Upon receipt of a complete application, the historic preservation planner shall, within 60 days, conduct a review to determine if the property is eligible and the improvements qualify for exemption. If the historic preservation planner finds that the property is eligible and the improvements are qualified, the application shall be approved. If the historic preservation planner determines that the planned improvements do not meet the requirements of statute or this section, the applicant shall be so advised in writing and the historic preservation planner shall make recommendations concerning changes to the proposed work to make it a qualifying improvement and bring it into compliance with the review standards.
- (3) All work shall be completed within two years of approval by the historic preservation planner, unless such time is extended by decision of the historic preservation board, and provided such extension does not conflict with the building permit or requirements of the city's building code.
- (4) Upon completion of the work, the applicant shall submit a final application/request for review of completed work, along with documentation of the total cost of the qualifying improvements. Upon receipt of a complete final application, the historic preservation planner shall, within 30 days, conduct a review to determine whether the completed improvements comply with the approved application and the United States Secretary of Interior's Standards for Rehabilitation and comply with Florida Department of State guidelines. The city may inspect the work as part of such review. If the historic preservation planner finds that the property is eligible and the improvements are qualified, the historic preservation planner shall present such final request for review to the historic preservation board with a recommendation for approval. If the historic preservation planner determines that the planned improvements do not meet the requirements of statute or this section, the applicant shall be so advised in writing and the historic preservation planner shall make recommendations concerning changes to the proposed work to make it a qualifying improvement bring it into compliance with the review standards.
- (5) If the historic preservation planner recommends approval of the final request for review, the recommendation, and the reasons therefore, shall be provided in writing to the applicant and the historic preservation board at a public meeting. The historic preservation board shall review the application, final request for review and shall recommend that the city commission either grant or deny the exemption.
- (6) The final request for review, along with the recommendation of the historic preservation planner and the recommendation of the historic preservation board shall be presented to the city commission for consideration. The city commission shall make the determination to grant or deny the exemption.
- (7) The resolution of the city commission approving an exemption shall provide the name of the property owner, the property address, legal description and parcel control number, the period of time the exemption may be effective and the expiration date of the exemption, and shall further provide that such exemption shall not be effective unless the owner records the restrictive covenant in the public records of Palm Beach County, as required in this section.

- (e) *Covenant.* A historic tax exemption shall only be effective provided the property owner executes a covenant, in such form established by the state, committing that the historic character of the property and the qualifying improvements shall be maintained for the term of the tax exemption. The covenant shall be recorded in the public records of Palm Beach County and shall be binding on the property owners and all subsequent owners during the exemption term. Failure to record the covenant, or failure to maintain the qualifying improvements and historic character of the property may subject the property owner to pay the taxes which would have been paid had the property not received the exemption, plus interest, in accordance with statute.

- (f) *Permits.* The property owner shall remain responsible for obtaining a building permit and all other required permits and approvals. No certificate of occupancy shall be issued by the city until the city commission has approved the tax exemption and any appeal proceedings have been completed.
- (g) *Term.* Any historic tax exemption granted shall remain in effect for up to ten consecutive calendar years provided: (i) the historic character of the property and the improvements which qualified the property for exemption are maintained, and (ii) if the property is in a community redevelopment agency district, the city finance director has made an annual determination that there is sufficient debt service coverage for any outstanding agency bonds.
- (h) *Fiscal analysis.* During each year's budget process, the finance director shall perform an analysis of tax increment revenue and debt service coverage for any outstanding community redevelopment agency bonds for the next fiscal year. In the event that the historic tax exemptions in that agency district negatively impact debt service coverage, the finance director shall notify the property appraiser, prior to September 15 and certification of the tax rolls, that the historic tax exemption is suspended for the properties within that district for the next fiscal year. The tax exemption may be re-instituted for the next fiscal year provided there is sufficient debt coverage.
- (i) *Revocation.* The historic preservation planner or the historic preservation board may initiate proceedings to revoke the tax exemption in the event that the property owner fails to maintain the qualifying improvements and historic character of the property in accordance with the conditions of the restrictive covenant. The historic preservation board shall review the property's compliance and shall recommend that the city commission either maintain or revoke the tax exemption. The historic preservation planner shall provide the property owner with a least thirty days prior notice of the hearing before the historic preservation board. The city commission shall review the recommendation of the historic preservation board at a public hearing and make a determination as to whether the tax exemption shall be revoked. Should the city commission determine that a tax exemption shall be revoked, a written resolution revoking the exemption including a notice of penalties shall be provided to the owner the property appraiser and recorded in the public records of Palm Beach County.

(Ord. No. 4672-16, § 1, 11-7-2016)

**Editor's note**— Ord. No. 4672-16, § 1, adopted Nov. 7, 2016, amended § 94-51 in its entirety to read as herein set out. Former § 94-51 pertained to similar material, and derived from Ord. No. 3554-02, art. VIII, § 1, adopted July 22, 2002.

Sec. 94-52. - Enforcement and penalties.

- (a) *Generally.* It shall be unlawful for any person or entity to violate the historic preservation provisions of this chapter. Such violations shall be enforced and penalties imposed according to the provisions of chapter 26, articles II and III. In addition to all other employees authorized by the Code to enforce the Code, the historic preservation planners are hereby designated as employees who are duly authorized to issue notices of violations of the historic preservation provisions of this chapter.
- (b) *Enforcement of maintenance and repair provisions.* Should the historic preservation board or the historic preservation division determine that any property is endangered by lack of maintenance and repair, a request shall be made to the appropriate officials or agencies of the city to require correction of such deficiencies under authority of applicable laws and regulations.

(Ord. No. 3554-02, art. VIII, 7-22-2002)