

Sec. 74-332. Historic preservation.

- (a) *Purpose.* The purpose of this section is to implement the goals, objectives and policies of the comprehensive land use plan of the town by identifying and encouraging the protection of resources which reflect elements of the town's cultural, social, economic, political and architectural history.

(b) *Intent.*

- (1) This section and regulations relating to this section are intended to:

- a. Encourage the continuance, conservation and improvement of land uses in a manner appropriate to the preservation of the cultural, architectural and historical heritage of the town.
- b. Foster civic pride in the beauty and notable accomplishments of the past.
- c. Preserve and enhance environmental quality and the residential character and desirable aesthetic features of the town.
- d. Encourage property owners against destruction of, or addition of features to significant structures likely to have adverse effects on the historic, architectural or cultural character of the significant structure.
- e. Encourage the preservation of the historic integrity and appearance of significant structures.
- f. Encourage the protection of historic districts against destruction, or encroachment of structures, uses or features likely to have adverse effects on their historic, architectural or cultural character.
- g. Discourage developments in the visual environs of such areas or structures which would detract from their character.

- (2) It is hereby declared as a matter of public policy that the identification and designation and the encouragement of the preservation and protection of historic, architecturally and culturally significant resources within the town is necessary and proper to promote the aesthetic, economic, environmental and educational welfare of the public.

- (c) *Definitions.* For the purposes of this section, the following terms shall have the meanings respectively ascribed to them, except where the context clearly indicates a different meaning:

Alteration means any act or process that changes one or more of the exterior architectural features of a building or structure, including, but not limited to, the erection, construction or reconstruction of any building or structure.

Applicant means the owner of record of a property or the authorized agent of the owner.

Application means the three-part historic preservation property tax exemption application DOS Form No. HR3E101292, effective 1-31-94 and revised 9-3-00. This form may be obtained at the Town Hall, Office of the Town Clerk, or by writing the Florida Bureau of Historic Preservation, 500 South Bronough Street, Tallahassee, Florida 32399-0250.

Assessed value means the total value of a tax parcel (including structures, land and other rights appurtenant thereto) as determined by the county property appraiser and shown on the property tax bill sent to the property owner of record.

Building means any structure, either temporary or permanent, having a roof intended to be impervious to weather, and used or built for the shelter or enclosure of persons, animals or property of any kind.

Certificate of appropriateness means a certificate issued by the town commission or town manager, as the case may be, permitting certain alterations or improvements to a designated significant structure or designated historic district.

- (1) *Standard certificate of appropriateness.* A standard certificate of appropriateness shall be issued by the town manager or designee, based on the guidelines and standards for preservation approved by the town commission.
- (2) *Special certificate of appropriateness.* For all applications for a special certificate of appropriateness involving the demolition, removal, reconstruction or new construction at an individual site or in a district, a special certificate of appropriateness is required that is issued by the town commission after recommendation of the historic preservation board.

Construction means the act of adding or addition to an existing building or structure or the erection of a new principal or accessory building or structure on a lot or property.

Covenant means the historic preservation tax exemption covenant required to be recorded with the deed for property in the official records of the county to obtain the tax exemption pursuant to this section.

Demolition means any act or process that destroys a building or structure, in part or in whole.

Demolition by neglect means a situation in which a property owner intentionally or inadvertently allows a historic property to suffer severe deterioration, potentially beyond the point of repair.

Department of State means the State of Florida Department of State.

Designation report means a document prepared by the town manager or his designee for all properties or districts which are proposed for historic designation, including the boundaries of the proposed historic property or district and a summary of its historical significance, and containing location maps and a review guide which describes the physical characteristics of the property or district, and including those findings and recommendations by the historic preservation board pursuant to subsection 74-332(d)(5) herein.

Division of Historical Resources means State of Florida Division of Historical Resources.

Historic district means an area designated as an historic district by an ordinance of the town, and which may contain within definable geographic boundaries one or more significant structures and which may have within its boundaries other buildings or structures that, while not of such historic or architectural significance to be designated as significant structures, nevertheless contribute to the overall visual characteristics of the significant structure located within the historic district.

Historic property means property that is designated by the town as a historic property pursuant to this section or that is listed in the National Register of Historic Places maintained by the Secretary of Interior and as established by the National Historic Preservation Act of 1966, as amended.

Improvements means changes in the condition of real property brought about by the expenditure of labor or money for the restoration, renovation, or rehabilitation of such property. Improvements include additions and accessory structures (i.e. a garage, cabana, guest cottage, storage/utility structure) so long as the new structure is compatible with the historic character of the building and the site in terms of size, scale, massing, design and materials, and preserves the historic relationship between a building or buildings, landscape features and open space.

Local historic preservation office means the office certified by the State of Florida Division of Historical Resources as qualified to review applications for the historic property tax exemptions as established pursuant to Florida Statutes, either a Town of Belleair office, or a state certified local historic

preservation office that is authorized by interlocal agreement with the Town of Belleair to review such applications.

National Register of Historic Places means a national listing maintained by the U.S. Department of the Interior of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966, as amended.

Ordinary repairs or maintenance means work done to prevent deterioration of a building or structure or decay of or damage to a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage.

Reconstruction shall mean the process of reproducing by new construction the exact form and detail of a demolished building, improvement or structure as it appeared at a certain point in time.

Rehabilitation shall mean the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions of the property that are significant to its historic, architectural, and cultural features.

Relocation shall mean the act of preserving an historic structure that cannot remain on its existing site by physically moving it to a new location.

Restoration shall mean the act of accurately recovering the form and details of a property as it appeared at a particular period of time, which may involve the removal of later additions or alterations, or the replacement of missing features.

Secretary of the Interior's Standards for Rehabilitation (as revised March 1990) means a national publication that provides guidance on the sensitive rehabilitation of a historic property. The ten standards generally address design issues, which include character defining elements, changes which have occurred over the course of the property's history, desirable approaches to the repair of damaged features, appropriate cleaning methods, archaeological or paleontological resources, and new construction in connection with a historic property.

Significant structure means a building or structure designated as a significant structure by ordinance of the town, pursuant to procedures described in this section, that is worthy of rehabilitation, restoration and preservation because of its historic or architectural significance to the town.

Structure means anything constructed or erected, the use of which requires permanent or temporary location on or in the ground, including, but without limiting the generality of the foregoing, buildings, fences, bridges, gazebos, monuments, street markers, signs and light poles.

Survey and inventory [means] a comprehensive survey by or under the direction of [the] historic preservation board involving identification, research, and documentation of buildings, sites, and structures of any historic, cultural, archaeological, or architectural importance in town.

Tax exemption means the ad valorem tax exemption for historic properties authorized pursuant to this section.

Undue economic hardship means a finding that failure to issue a certificate would place an onerous and excessive financial burden upon the owner that would amount to the taking of the owner's property without just compensation.

Useable space means that the portion of the space within the building which is available for assignment or rental to an occupant, including every type of space available for use of the occupant.

(d) *Designation of significant structures and historic districts.*

- (1) *Nomination.* Nominations of significant structures for historic preservation shall be made to the historic preservation board or the town commission, and may be submitted by a member of the historic preservation board, by the owner of the property or structure to be nominated, or by the town commission or any member thereof by filing an application for designation with the town manager or designee.
- (2) *Notice to property owner.* Notice of a proposed designation shall be sent by certified mail at least 30 days prior to the designation hearing to the owner of the property proposed for designation, inviting the property owner to participate in the designation hearing to discuss the meaning of designation, the advantages, both historically and financially, of historic preservation of the property, and to encourage the property owner to preserve the property consistent with its historic character and proposed designation. The property owner shall, by written notification, indicate his consent or lack of consent to the designation no later than the close of the designation hearing.
- (3) *Designation hearing.* Prior to making a recommendation for designation of any significant structure or historic district to the town commission, the historic preservation board shall hold a public hearing no sooner than 30 days and within 60 days from the date of the filing of an application for designation. Notice of the time and place, including a description of the proposed designation of the property and its location, shall be published in a newspaper of general circulation in the town at least ten days prior to the hearing. The historic preservation board, property owners and any interested parties may present testimony or documentary evidence at the hearing, which will become part of a record regarding the historic or architectural importance of the proposed significant structure or historic district. The record may also contain expert testimony, public comments, or other evidence offered outside of the hearing.
- (4) *Criteria for designation.* The historic preservation board shall investigate and make a determination as to whether a nominated property, building, structure or area meets one or more of the following criteria:
 - a. Its character, interest or value as part of the development, heritage, or cultural characteristics of the town, county, state or nation.
 - b. Its location as a site of significant local, county, state or national event.
 - c. Its identification with a person or persons who significantly contributed to the development of the town, county, state or nation.
 - d. Its embodiment of distinguishing characteristics of an architectural style valuable for the study of a period, type, method of construction or use of indigenous materials.
 - e. Its identification as the work of a master builder, craftsman, designer, engineer, architect, landscape architect or planner whose individual work has influenced the development of the town, county, state or nation.
 - f. Its embodiment of elements of design, detailing, materials or craftsmanship that render it architecturally significant.
 - g. Its embodiment of design elements that make it structurally or architecturally innovative.
 - h. Its unique location or singular physical characteristics that make it an established or familiar visual feature.
 - i. Its suitability for preservation or restoration.
 - j. Where the interior of a building or structure is designated, the designation shall include a finding designating the specific portions of the interior that make it suitable for designation and a finding that the interior is accessible to the public as a common area in the normal course of the building's use.

Any structure, property or area that meets one or more of the above criteria shall also have sufficient integrity of location, design, materials and workmanship to make it worthy of preservation or restoration.

- (5) *Findings and recommendation.* The historic preservation board, after its review and investigation of a nominated property, shall forward its recommendation, if any, to the town commission on whether or not to make the designation, together with a written designation report with findings of fact. The designation report shall review the testimony at the meeting, survey information and other material the historic preservation board has assembled and, if the board recommends designation, shall explain how the property under consideration meets one or more of the above criteria.
- (6) *Designation of significant structure.* The town commission shall enact an ordinance designating an individual property, building, landmark or structure as a significant structure if it:
 - a. Possesses special character or historic or aesthetic interest or value as part of the cultural, social, economic, political and architectural history of the town, county, state or nation;
 - b. Is identified with a person, event or period of historic significance;
 - c. Embodies the distinguishing characteristics of an architectural style, or a master builder, craftsman, designer, architect or landscape architect that was influential in the history of the town, county, state or nation; or
 - d. Is, by virtue of its design or location, important to maintaining the unique character of the town.
- (7) *Designation of historic district.* The town commission shall enact an ordinance designating a group of properties, buildings or structures as an historic district if it:
 - a. Contains properties, landmarks, buildings or structures which meet one or more of the criteria for designation of a significant structure, and by reason of possessing such qualities, it constitutes a distinct section of the town;
 - b. Embodies distinguishing characteristics of one or more architectural types, or contains specimens inherently valuable for the study of a period, style or methods of construction or use of indigenous materials or craftsmanship; or
 - c. Is representative of the notable works of one or more master builders, craftsmen, designers, architects, landscape architects or planners that was influential in the history of the town, county, state or nation. The boundaries of each historic district designated shall be specified in detail and shall be filed, in writing, in the town clerk's office for public inspection.
- (8) *Effect of designation.*
 - a. This section and historic designation is intended to encourage the preservation of significant historic resources in these ways:
 1. By providing official recognition of the historic significance of the property and encouraging consideration of its historic value in future development planning;
 2. By imposing limited protection from activities involving funding, licensing or assistance by federal agencies that could result in damage or loss of the property's historic values; and
 3. By making the property eligible for federal financial incentives for historic preservation.
 4. By ensuring that development (including reconstruction), relocation or redevelopment (including rehabilitation or restoration) of the resource meets standards and guidelines for preservation as adopted by the town commission.
 - b.

Designated significant structures and historic districts, at the option of the town commission and consistent with state law, may be eligible for forms of relief from variance fees, building codes and other relief.

- (9) *Amendment or rescission; appeal.* Designation may be amended or rescinded upon petition to the town commission on the basis of changed circumstances and according to the same criteria set forth herein for designation.
- (10) *Comprehensive land use plan.* Following designation, the town manager shall initiate action at the earliest possible date to amend the town's comprehensive land use plan to identify designated significant structures and historic districts on the land use map.
- (11) *Moratorium.* Upon the filing of an application for designation, until such time as a final decision has been made by the town commission, no individual or private or public entity shall:
 - a. Erect any structure on the subject property; or
 - b. Alter, restore, renovate, move or demolish any structure on the subject property.
- (12) *Property owner consent.* Designation by the town commission of a structure that is less than 100 years old or that is not listed on the National Register of Historic Places shall require the consent of the owner of the subject property.
- (13) *Property owner objection.* Objections by property owners must be notarized to prevent nomination to the National Register of Historic Places.
- (e) *Application of certificate of appropriateness.* No significant structure or historic district which is designated under this section shall be altered, restored, rehabilitated, renovated, excavated, relocated or demolished until an application for a certificate of appropriateness regarding any architectural features, landscape features or site improvements has been reviewed and approved pursuant to the procedures in this section.

The town commission hereby adopts the U.S. Secretary of the Interior's Standards for Rehabilitation by which applications for any certificate of appropriateness are to be measured and evaluated. In adopting these standards and guidelines, it shall be the intent of the commission to promote maintenance, restoration, adaptive reuses appropriate to the property, and compatible contemporary designs which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites and streetscapes. These guidelines shall also serve as criteria for the town manager or designee to make decisions regarding applications for standard certificates of appropriateness. From time to time, the town commission, with the advice of the historic preservation board, may adopt additional standards to preserve and protect special features unique to the town.

A certificate of appropriateness shall be, in addition to any other building permits, required by law. The issuance of a certificate of appropriateness from the commission shall not relieve the property owner of the duty to comply with other state and local laws and regulations.

- (1) *Standard certificate of appropriateness.* An applicant for a standard certificate of appropriateness shall submit an application to the town manager or designee with information in the form of plans, drawings or photographs as deemed necessary by the town manager to fully describe the alteration. Based on the town's adopted standards and guidelines for preservation, the designation report, a complete application for standard certificate of appropriateness, and any other guidelines the town commission may deem necessary, the town manager or designee, within ten days from the date a complete application has been filed, may approve or deny the application for a standard certificate of appropriateness. The findings of the town manager or designee shall be mailed to the applicant within five days of such decision, accompanied by a statement in full regarding the decision. The applicant shall have an opportunity to challenge the decision by applying within 30 days for a special certificate of appropriateness.

The issuance of a standard certificate of appropriateness may include, but is not limited to the following:

- a. Ordinary repairs and maintenance that do not change the architectural integrity of the structure.
- b. Exterior alterations and forms of new exterior construction when the total cost is less than \$25,000.00.
- c. Minor modifications to previously approved certificates of appropriateness, including but not limited to:
 1. Any change to a structure equal to or less than ten percent of the total gross building floor area, not to exceed 6,000 square feet gross floor area; or
 2. For parking and landscaping areas, any change equal to or less than ten percent of the total lot area.

In each case, a minor modification cannot change or waive any condition specified by the commission.

(2) *Special certificate of appropriateness.*

- a. An applicant for a special certificate of appropriateness shall submit an application to the historic preservation board with full plans and specifications, site plan and samples of materials as deemed appropriate by the historic preservation board to fully describe the proposed appearance, color, texture or materials, and architectural design of the building and any accessory structures, wall, courtyard, fence, landscape feature, paving, signage and exterior lighting. The applicant shall provide adequate information to enable the historic preservation board to visualize the effect of the proposed action on the applicant's building, its site, and its adjacent buildings and streetscapes. If such application involves a designated archeological site the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archeological site.
- b. The historic preservation board shall hold a public hearing upon an application for a special certificate of appropriateness and shall forward a recommendation for approval, denial, or approval with conditions to the town commission. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten days prior to the hearing.
- c. The town commission shall consider the recommendation of the historic preservation board at a public hearing. Notice of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten days prior to the hearing. The decision of the town commission shall be issued in writing. Evidence of approval of the application shall be by certificate of appropriateness issued by the town commission. When an application is denied, the town commission shall provide a written explanation of its decision to disapprove the application.
- d. Unless otherwise provided in the certificate of appropriateness, both regular and special certificates of appropriateness shall expire after 365 days. The town manager or designee may grant extensions of time of up to an additional 180 days for restoration or rehabilitation work only upon satisfaction that the scope of the work originally approved has not changed, and provided a written request is filed and work is commenced before expiration of the certificate.

(f) *Demolition.*

- (1) No permit for voluntary demolition of a designated building, structure, improvement or site shall be issued to the owner thereof until an application for a special certificate of appropriateness has been submitted and approved pursuant to the procedures in this

paragraph, and all other applicable requirements of the Town Code have been met. Denial by the town commission of a special certificate of appropriateness to demolish shall be evidenced by written order detailing the public interest which is sought to be preserved. The town commission shall be guided by the criteria contained in subparagraph (4) below.

- (2) The town commission may grant approval for a special certificate of appropriateness to demolish with a deferred effective date of up to 365 days from the date of the commission's decision. The effective date shall be determined by the commission based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition deferral period, the commission may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this section. Such steps may include, but shall not be limited to, consultation with civic groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features. After the specified expiration date of the deferred special certificate of appropriateness, a demolition permit may be approved by the town commission at a public hearing.
- (3) In connection with any certificate of appropriateness, standard or special, for demolition of buildings or improvements designated as historic structures or located in an historic district, the commission may require at the owner's expense, salvage and preservation of specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in restoration of other historic properties. The commission may also require, at the owner's expense, the recording of the improvement for archival purposes prior to demolition. The recording may include, but shall not be limited to, photographs and scaled architectural drawings.
- (4) In addition to all other provisions of this article, the commission shall consider the following criteria in evaluating applications for a special certificate of appropriateness for demolition of designated properties:
 - a. Is the structure of such interest or quality that it would reasonably meet national, state, or local criteria for designation as an historic structure or is so designated?
 - b. Is the structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense?
 - c. Is the structure one of the last remaining examples of its kind in the neighborhood, the county, or the region?
 - d. Does the structure contribute significantly to the historic character of a designated district?
 - e. Would retention of the structure promote the general welfare of the town by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage?
 - f. Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?
- (9) *Economic hardship.* Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant property, strict enforcement of the provisions of this section would result in serious undue economic hardship that would amount to a taking of property without just compensation or, for properties producing income at the time of the application for a certificate of appropriateness, failure to achieve a reasonable economic return to the applicant, the town commission shall have the power to vary or modify adherence to this section; provided, always, that its requirements ensure harmony with the general purposes hereof and will not adversely affect the town.
 - (1)

In any instance where there is a claim of undue economic hardship, the owner shall submit, by affidavit, to the town commission at least 30 days prior to the public hearing, the following information:

- a. For all property:
 1. The amount paid for the property, the date of purchase and the party from whom purchased; and
 2. The assessed value of the land and improvements thereon according to the two most recent assessments; and
 3. Real estate taxes for the previous two years; and
 4. Annual debt service, if any, for the previous two years; and
 5. All appraisals obtained within the previous two years by the owner or applicant in connection with his purchase, financing or ownership of the property; and
 6. Any listing of the property for sale or rent, price asked and offers received, if any; and
 7. Any consideration by the owner as to profitable adaptive uses for the property; and
 8. All cost estimates or reports relating to the demolition of the property obtained within the previous two years; and
 9. All cost estimates or reports relating to the rehabilitation or restoration of the property obtained within the previous two years; and
 10. All reports relating to the engineering, architectural, or construction feasibility of rehabilitating or restoring the property obtained within the previous two years; and
 11. All reports relating to the economic feasibility of restoring or rehabilitating the property obtained within the previous two years, including market studies.
 - b. For income-producing property, the commission may consider the following in determining whether to grant an economic hardship variance:
 1. Annual gross income from the property for the previous five years; and
 2. Itemized operating and maintenance expenses for the previous five years; and
 3. Annual cash flow, if any, for the previous five years.
- (2) The town commission may require that an applicant furnish such additional information as the commission believes is relevant to its determination of undue economic hardship. The owner shall permit access to the subject property for the purpose of inspections and/or appraisals required by the commission. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained. It shall be the applicant's evidentiary burden, however, to support its claim that the denial of a demolition permit will cause undue economic hardship.
- (h) *Maintenance of designated properties.* Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure which does not involve a change of design, appearance or material, and which does not require a building permit.
- (i) *Demolition by neglect.*
- (1) *Affirmative maintenance required.* The owner of a property designated pursuant to this section either individually or as a contributing part of a district shall comply with all applicable codes, laws and regulations governing the maintenance of property. It is the intent of this section to preserve from deliberate or inadvertent neglect the exterior features of such properties and the interior portions thereof when maintenance is necessary to prevent deterioration and decay of the property. All such properties shall be preserved against such

decay and deterioration and shall be free from structural defects through prompt corrections of any of the following defects:

- a. Facades which may fall and injure the subject property, adjoining property, or members of the public.
- b. Deteriorated or inadequate foundation, defective or deteriorated flooring or floor supports, deteriorated walls or other vertical structural supports.
- c. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split or buckle due to defective material or deterioration.
- d. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors.
- e. Any fault or defect in the property which renders it structurally unsafe, insufficiently protected from weathering, or not properly watertight.

- (2) *Enforcement.* In the event the town manager or designee determines that a historically designated structure or a structure is in the course of being demolished by neglect, the town manager or designee shall notify the owner of record of such preliminary findings, stating the reasons, and shall give the owner of record 30 days from the date of such notice in which to commence work rectifying the evidence of neglect. Such notice shall be accomplished by certified mailing to the last known address of the owner of record or, in the event that this procedure is unsuccessful, then by attaching such notice to the structure for a seven-day period.

Upon the failure of the owner of record to commence work within 30 days of such notice, the town manager shall notify the code enforcement board and request a hearing. Written notice of the request for a hearing and subsequent procedures shall comply with the criteria established pursuant to [section 66-412](#) of the Town Code.

Pursuant to [section 66-412](#) of the Town Code, the code enforcement board, upon finding a violation, shall issue an order to comply. Fines may be levied against the property owner, as well as a lien against the land on which the violations exist.

If the town manager or designee determines that the code enforcement process delineated in [section 66-412](#) would be an inadequate response to a given violation, the town may pursue both civil and criminal penalties pursuant to [section 66-413](#) of the Town Code.

- (j) *Appeals of a decision.* An appeal of the decision of the town commission to approve or deny a historic designation or certificate of appropriateness may be made to the circuit court for the county by filing a petition for writ of certiorari as provided under the Florida Rules of Appellate Procedure for the review of the quasi-judicial rulings of municipal agencies.
- (k) *Previously approved and designated properties.* Properties designated as historic structures by the town as of the effective date of this section shall remain so designated and alterations or changes to said structures shall be subject to this section.
- (l) *Vested rights.* Nothing in this section shall be construed or applied to abrogate the vested right of a property owner to complete development where the property owner demonstrates each of the following:
- (1) A governmental act of development approval was obtained prior to the effective date of this section; and
 - (2) The approval is one upon which the property owner has detrimentally relied, in good faith, by making such a substantial change in position or incurring such extensive obligations and expenses; and
 - (3) That it would be highly inequitable to deny the property owner the right to complete the development.

Any property owner claiming to have vested rights under this subsection (l) must file an application with the town commission for a vested rights determination within 30 days after the effective date of this section. The application shall be accompanied by a fee of \$500.00 and contain a sworn statement as to the

basis upon which the vested rights are asserted, together with documentation required by the town manager and other documentary evidence supporting the claim. The town commission shall hold a public hearing on the application, and based upon the evidence submitted shall make a determination as to whether the property owner has established vested rights for the development of the property. To the extent that a property owner demonstrates vested rights, the provisions of this section shall not be applied.

(m) *Ad valorem tax exemption for established historic properties.*

- (1) The purpose of this subsection is to create a program that allows tax exemptions for historic property so as to stimulate preservation and revitalization of those properties and to ease the burden on owners of maintaining these properties.
- (2) Two types of exemptions from Town of Belleair ad valorem taxes are hereby established:
 - a. An exemption for up to 100 percent of the assessed value of improvements to any historic property that result from the restoration, renovation or rehabilitation of the property which applies only to improvements to real property (pursuant to F.S. § 196.1997), excluding those properties qualifying for exemption under subsection (m)(2) b. of this Code; and
 - b. An exemption for up to 100 percent of the assessed value of historic properties that undergo qualified improvement, and which are used for nonprofit or governmental purposes and regularly or frequently open for the public's visitation, use and benefit (pursuant to F.S. 196.1998).
- (3) Properties that seek an ad valorem tax exemption must qualify under this paragraph and must be approved by the town commission. No improvements made prior to the adoption of this section may qualify for the tax exemption. Improvements must be authorized by issuance of a building permit. The exemptions do not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of the electors pursuant to Section 9(b) or Section 12, Article VII of the Florida Constitution.
- (4) In order for an improvement to qualify a property for an exemption, the improvement must:
 - a. Be established as a historic property and the improvements must be approved for restoration, renovation, or rehabilitation under this section prior to any tax exemption approval.
 - b. Be consistent with the United States Secretary of Interior's Standards for Rehabilitation; and
 - c. Be determined by the historic preservation board to meet criteria established in rules adopted by the Florida Department of State, Chapter 1A-38, F.A.C.; and
 - d. Be completed within three years from the date of approval of a complete preconstruction application. A preconstruction application approval shall automatically be revoked if the property owner has not submitted a request for review of completed work within three years following the date of approval of a preconstruction application. The town commission may grant an extension to this provision for up to six months if such request is made in writing prior to the expiration of the initial period; and
 - e. Contain a minimum of \$2,500.00 worth of improvements to the exterior of the property, unless it has been documented in the preconstruction application that no improvements to the exterior of the property are needed; and
 - f. Meet the certificate of appropriateness requirements for a qualifying restoration, renovation, or rehabilitation.
- (5) Any tax exemption granted pursuant to this section shall remain in effect for the period set forth in the resolution approving the application for exemption not to exceed ten years, so long as:
 - a. The covenant required of the property owner by this section is maintained.
 - b.

- The improvements which qualified the property for an exemption are maintained over the period for which the exemption is granted; and
- c. The exemption is not otherwise disqualified and duly revoked pursuant to paragraph (m)(14) below.
- (6) The dollar amount of the tax exemption will be the percentage, (one percent to 100 percent) as established by the town commission at the time of approval of the application for exemption, of the assessed value of the qualified improvements, which assessed value is determined by the county property appraiser's office. This dollar amount will be fixed for the duration of the tax exemption based on the property improvement's assessed value in the year the property improvement is completed.
- (7) Tax exemption for historic properties open to the public and used for nonprofit or governmental purposes.
- a. A property that is used for nonprofit or governmental purposes and is regularly and frequently open for the public's visitation, use and benefits, as defined under Chapter 1A-38, F.A.C., may qualify for the town commission's exemption for 100 percent of the assessed value of the property as improved. The assessed value of the qualifying improvement must be equal to at least 50 percent of the total assessed value of the property as improved. The qualifying improvements must be made by or for the use of the existing property owner.
- b. The historic property will be considered used for nonprofit or governmental purposes if the occupant or the user of at least 65 percent of the useable space for the building is an agency of the federal, state, local government, or a nonprofit corporation, whose articles of incorporation has been filed by the Department of State in accordance with F.S. 617.0125.
- c. A historic property is regularly and frequently open to the public if access to the property is provided for no fewer than 52 days a year on an equitable basis or at other times by an appointment. The property owner may charge a reasonable nondiscriminatory admission fee.
- d. The tax exemption shall be subject to revocation under this section if the property is no longer regularly and frequently open to the public, or if the ownership is transferred to a nonqualifying owner.
- (8) The applicant must obtain approval by the local historic preservation office of plans for construction before commencing construction. The applicant must also obtain a certificate of appropriateness as required by this section. Failure to obtain prior approval shall result in denial of the tax exemption.
- a. A preconstruction application for improvement of a historic property must be submitted to the town on a form prescribed by the Department of State, along with all designated applicable fees. The town shall forward the submittals to the local historic preservation office. Any improvement or any portion of an improvement initiated prior to approval of the preconstruction application or a certificate of appropriateness as required by this section will not be eligible for a tax exemption.
- b. The preconstruction application must contain the following information:
1. Name of the property owner and the location of the historic property;
 2. A description of the improvements to the real property for which a tax exemption is requested, the anticipated costs of the improvements, and the anticipated beginning date for the construction of the improvements;
 3. Proof that that property has been previously designated as a historic property or is listed on the National Register of Historic Properties;
 4. Proof that the improvements to the property will be consistent with the United States Secretary of the Interior's Standards for Rehabilitation and will be made

- in accordance with guidelines developed by the Department of State, Chapter 1A-38, F.A.C.;
5. Other information as identified in applicable Florida Department of State regulations; and
 6. If necessary, a completed application for a certificate of appropriateness for the qualifying restoration, renovation or rehabilitation. The certificate of appropriateness must be approved prior to any completion of construction.
- c. The local historic preservation office shall review the application for work and notify the applicant in writing of the results of the review. The local historic preservation office shall make recommendations for correction of any planned work that it finds does not meet the criteria of this section.
 - d. Any changes made to the plan of improvements after approval of the preconstruction application must receive prior approval of the local historic preservation office to ensure compliance with the criteria of this section.
 - e. The local historic preservation office shall have the authority to inspect the interior or exterior of the property, as applicable to the plan of construction, to ascertain the effect, if any, of the improvement project on significant historical or architectural features. The local historic preservation office shall make arrangements with the property owner for such inspection.
 - f. The historic preservation board shall be notified of the application submittal, and the results of the local historic preservation office's review of the preconstruction application.
- (9) Once the work has been completed, the applicant must obtain a historic preservation board recommendation and a town commission approval of the work.
- a. A request for review of a completed work application shall be submitted to the local historic preservation office upon completion of the property improvement. The local historic preservation office shall review the application and provide a written recommendation and reasons therefore, to the town commission and to the historic preservation board, with a copy to the applicant. The review will be conducted in accordance with the rules adopted by the Department of State, Chapter 1A-38, F.A.C.
 - b. The local historic preservation office shall have the right to inspect the completed property improvement to verify that the work is completed in accordance with the approved preconstruction application. The local historic preservation office shall make arrangements with the owner for an inspection. This inspection will determine whether the property improvement has been constructed to meet the criteria for tax exemption.
 - c. In order to determine the assessed value of improvements, whether exterior or interior to the property, the county property appraiser's office shall be permitted by the owner to inspect the improvements after the tax exemption has been granted by the town commission.
- (10) A covenant is required to be entered into between the property owner and the town commission for the term for which the tax exemption is granted. The form of the covenant must be approved by the Florida Department of State.
- a. The covenant shall provide that the property owner, his successors or assigns, shall maintain and repair the property so as to preserve the historic qualities and integrity of the property during the period for which the tax exemption was approved. If the exemption is granted, the property owner shall record the covenant with the deed for the property in the official records of the county prior to the effective date of the tax exemption. A certified copy of the recorded covenant shall be provided to the town commission within 30 days of the approval of the tax exemption or the approval shall be void and of no effect.

- b. Violation of the covenant shall subject the property owner to the payment of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant was in effect had the property not received the exemption, and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. 212.12(3).
 - c. The requirements of the covenant must be transferred to the new owner if the property changes ownership during the tax exemption period. The new property owner may sign a waiver to discontinue the tax exemption, with no penalty to the new property owner. The tax exemption shall not be reinstated after the waiver has been delivered to the town manager. A copy of the waiver shall be delivered by the property owner to the county property appraiser's office. The waiver will discontinue the tax exemption in the tax year in which the waiver was received, if the waiver is received by the property appraiser's office by July 1. A waiver received by the property appraiser's office after July 1 shall cause the discontinuance to be effective the following tax year.
 - d. With respect to nonresidential properties, the covenant may require that the primary business use of the property and of any structures, facilities or land that are associated with such business use at the time the exemption is granted shall be continuously conducted.
- (11) The town commission shall review and take action on applications for tax exemption.
- a. Once the local historic preservation office has reviewed a post construction application, it shall deliver a copy of the application, its recommendation to grant or deny the tax exemption and the proposed covenant to the historic preservation board and the town commission. The historic preservation board shall make a recommendation to the town commission prior to the town commission's consideration of the application.
 - b. The town commission shall by resolution then approve, modify, defer or deny an application for a tax exemption. Any approval must be accompanied by the covenant required under this section and approved by majority vote of the town commission. If approved, the tax exemption shall take effect on January 1 of the year following the resolution approving the tax exemption. The approval shall be conditioned upon receipt by the town commission of the recorded covenant.
 - c. The resolution by the town commission shall include but not be limited to the following:
 - 1. The name of the property owner and the address of the historic property for which the tax exemption is granted;
 - 2. The period of time for which the tax exemption will remain in effect and the expiration date of the tax exemption;
 - 3. A finding that the historic property and the improvement meets the requirements of this section; and
 - 4. Any conditions of approval.
- (12) On or before March 1, the town commission will deliver to the county property appraiser a copy of each application for a historic property tax exemption approved in the previous calendar year. After certification of the assessment roll or recertification for the tax exemption and pursuant to F.S. 193.122, the county property appraiser shall report the following information to the town commission:
- (a) The total taxable value of all property within the Town of Belleair for the current fiscal year; and
 - (b) The total exempted value of all property in the Town of Belleair which had been approved to receive an historic ad valorem tax exemption for the current fiscal year.
- (13) The property owner with a tax exemption may reapply for additional improvements to a property during the tax exemption period or apply for additional tax exemptions for additional improvements following the expiration of the tax exemption period. The property owner is not

allowed to reapply for a tax exemption that has been previously denied for a specific property improvement.

- (14) A tax exemption may be revoked by the town commission at any time in the event that the property owner, any subsequent property owners, or a successor in interest to the property:
- a. Violates the covenant, or
 - b. Fails to maintain the historic property according to the terms, conditions, and standards of the covenant, the historic character of the property and improvements which qualified the property for the tax exemption are not maintained, or
 - c. If the qualifying property has been damaged by accidental or natural causes to the extent that the historic integrity of the features, materials, appearances, workmanship, environmental, or archeological integrity which made the historic property eligible for listing or designation have been lost or damaged so that restoration is not possible.

Notice of such proceedings shall be provided to the historic property owner of record at the time of the proceeding. The town commission shall hold a public hearing to determine whether or not the tax exemption shall be revoked and whether and in what amount the property owner owes back taxes pursuant to this section. A written notice of the decision by the town commission will be provided to the historic property owner of record and, if the decision is to revoke, to the county property appraiser.

- (n) *Time frame for reviews and consideration of development permit.* The commission shall hold a public hearing on each certificate of appropriateness for relocations and demolitions and exterior alterations and forms of new construction when the total cost is \$50,000.00 or more with 30 days after receipt of a completed application. The commission shall approve, approve with conditions, or disapprove each application, based on the criteria contained in this chapter. The commission may vote to defer its decision if adequate information is not available to make a decision but shall reconsider the application at the earliest opportunity after adequate information is made available. The commission shall act within 60 days after the close of the public hearing.
- (o) *Survey and inventory of historic properties.* Develop and maintain a database and a system for survey and inventory of historic properties. The inventory shall be:
- (1) Compatible with the state master site file.
 - (2) Kept current and regularly provided to the state historic preservation officer for incorporation in the state master site file.
- (p) *Coordination with the State of Florida's Division of Historical Resources Certified Local Government program.*
- (1) The division shall be given 30 days prior notice of all meetings and within 30 days following such meetings the division shall be provided with the minutes and record of attendance of both the board and the public.
 - (2) The division shall be notified of any changes to the board members within 30 days of their appointment.
 - (3) Notify the state historic preservation officer immediately of all new historic designations or alterations to existing designations.
 - (4) Any amendments to the article shall be submitted to the state historic preservation officer for review and comment at least 30 days prior to adoption.
 - (5) The division of historic resources shall be provided with an annual report by November 1 covering activities to the previous October 1 through September 30 and shall include the following information:
 - a. Any changes in the board's rules of procedure;
 - b. All new National Register listings;
 - c. All new local historic designations and alterations to existing designations;
 - d. Any changes to board memberships and a copy of their resumes;

- e. Revised resumes of board members as appropriate;
- f. Any amendments to this chapter;
- g. A review of survey and inventory activity with a description of the system used;
- h. A program report on each grant-assisted activity; and
- i. Number of projects reviewed.

(Ord. No. 399, § 1, 11-20-01; Ord. No. 429, §§ 3—5, 10-26-05; Ord. No. 448, § 2, 12-4-07; Ord. No. 463, § 3, 7-21-09; Ord. No. 480, 9-4-12)

Cross reference— *Historic preservation board, § 66-131 et seq.*