

ORDINANCE NO. 2688-06

AN ORDINANCE OF THE CITY OF WINTER PARK, FLORIDA, AMENDING CHAPTER 58 "LAND DEVELOPMENT CODE" ARTICLE VIII, "HISTORIC PRESERVATION" SO AS TO PROVIDE CLARITY, IMPROVE FUNCTIONALITY AND TO ALLOW THE CITY TO MEET THE STANDARDS FOR PARTICIPATION IN THE FLORIDA CERTIFIED LOCAL GOVERNMENT PROGRAM.

(ZTA 6:07)

NOW THEREFORE, BE IT ENACTED BY THE PEOPLE OF THE CITY OF WINTER PARK:

SECTION 1. That Chapter 58 "Land Development Code", Article VIII "Historic Preservation" of the Code of Ordinances is hereby amended and modified as shown in Exhibit A (ATTACHED).

SECTION 2. All ordinances or portions or ordinances in conflict herewith are hereby repealed.

SECTION 3. This ordinance shall become effective immediately upon its final passage and adoption.

ADOPTED at a regular meeting of the City Commission of the City of Winter Park, Florida, held in City Hall, Winter Park, on this 9th day of October, 2006.

ATTEST:


City Clerk Cynthia Bonham


Mayor David C. Strong

EXHIBIT A

Article VIII. HISTORIC PRESERVATION

Division I. GENERAL

Section 58-433. Short title; this article shall be cited as the Winter Park Historic Preservation Code.

(a) Intent and purpose

- (1) The purpose of these regulations is to establish the framework for a comprehensive historic preservation program in the City.
- (2) It shall be the policy of the City to promote the educational, cultural, and economic welfare of the public by preserving and protecting historic structures, sites, portions of structures, groups of structures, manmade or natural landscape elements, works of art, or integrated combinations thereof, which serve as visible reminders of the history and cultural heritage of the City, state, or nation. Furthermore, it is the purpose of this article to strengthen the economy of the City by stabilizing and improving property values in historic areas, and to encourage new buildings and development that will be harmonious with existing historic buildings and districts ~~neighborhoods~~.
- (3) In addition, the provisions of this article will assist the City and private property owners to be eligible for federal tax incentives, federal and state grant funds, property tax abatement, and any other incentive programs for the purpose of furthering historic preservation activities.

Section 58-434. Definitions

The following words, terms and phrases, as used in this article, shall have the meanings set forth below except where the context clearly indicates a different meaning.

Addition means a construction project physically connected to the exterior of an historic building or that increases the gross floor area of the building.

Alteration means any change affecting the exterior appearance of an existing structure or improvement by additions, reconstruction, remodeling, maintenance or structural changes involving exterior changes in form, texture, materials or color, or any such changes in appearance in a specially designated historic site or district. ~~or neighborhood.~~

Applicant means an individual or group who provides sufficient written information to the City to ascertain that the property potentially meets the minimum eligibility requirements for local historic designation, or who is applying for a Certificate of Review.

Archaeological site means a single specific location that has yielded, or based on previous research is likely to yield, information on local history or prehistory.

Certificate of Review means a written document approved by the Winter Park Historic Preservation Commission allowing an applicant to proceed with approved exterior alterations,

relocation, new construction, or demolition of, or other work to, a designated landmark building, historic resource, landmark site or property in a historic district, following a determination of the proposal's suitability to applicable criteria.

(1) Standard Certificate of Review: Those certificates based upon such specific guidelines and standards as may be recommended by the Historic Preservation Commission for which administrative issuance, by the City, has been authorized upon findings that proposed actions are in accord with such official guidelines and standards.

(2) Special Certificate of Review: Those certificates involving the demolition, removal, reconstruction, exterior alteration or new construction, which require determination by the Historic Preservation Commission during a public hearing before such certificate can be issued.

City means the City of Winter Park.

Contributing element means a building or structure that contributes to the historic significance of a district, ~~or neighborhood~~ which by location, design, setting, materials, workmanship, feeling, and/or association adds to the district's sense of time, place and historic development.

Demolition means an act or process that destroys or razes, in whole or in part, a building structure or site, including a building within a district, or which permanently impairs its structural integrity.

Historic landmark or resource means any site, building, structure, landscape feature, improvement, or archaeological site which has been designated as an historic landmark or resource pursuant to procedures described in this article.

Historic district ~~or neighborhood~~ means a geographically defined area possessing a significant concentration, linkage, or continuity of landmarks, improvements, or landscape features united by historic events or aesthetically by plan or physical development, and which area has been designated as an historic district ~~or neighborhood~~ pursuant to procedures described in this article. Such district ~~or neighborhood~~ may have within its boundaries noncontributing buildings or other structures that, while not of such historic and/or architectural significance to be designated as landmarks, nevertheless contribute to the overall visual character of the district.

Historic Preservation Commission (HPC) means the City of Winter Park Historic Preservation Commission as created by section 58-436 – 58-437.

Historic survey means the results of a systematic process of identifying significant buildings, sites and structures through visual reconnaissance and research for compilation in the Florida Master Site File maintained by the Bureau of Historic Resources in Tallahassee, Florida.

Improvement means any building, structure, fence, gate, wall, walkway, parking facility, light fixture, bench, fountain, sign, work of art, earthworks, or other manmade object constituting a physical betterment of real property or any part of such betterment.

Multiple property nomination means a group of related significant properties that share common

themes, and are organized by historic contexts and property types.

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

Non-contributing element means a building or structure located within the boundaries of a historic property or district that does not contribute to the historic significance of the district or property by virtue of its age, location, design, setting, materials, workmanship, feeling, and/or association.

Ordinary repairs and maintenance means any:

- a. Work done on any improvement, which does not involve a change of design, appearance or material.
- b. Replacement of any part of an improvement where the purpose and effect of such work or replacement is to correct any deterioration, decay of, or damage to such improvement or any part thereof and to restore the same as nearly as may be practicable to its condition prior to the occurrence of such deterioration, decay or damage.

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

Rehabilitation means the process of repairing or altering a historic building so that an efficient contemporary use is achieved, while preserving those significant historical, architectural or cultural features that establish the character of the property.

Relocation means the act of preserving a historic structure, which cannot remain on its existing site, by physically moving it to a new location.

Restoration means 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.

Standards for Rehabilitation (36 CFR 67) as revised in 1990 means the standards provided by the National Park Service and the Secretary of the Interior that provide guidance on the sensitive rehabilitation of a historic property. The standards generally address issues that 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 resources; and new construction in connection with a historic property.

Section 58-435. Relationship to zoning districts

These regulations are intended to provide the framework to preserve and protect historic or architecturally worthy buildings, structures, sites, monuments, streetscapes, parks, residential neighborhoods and commercial districts. These regulations are intended to act as an overlay to existing zoning designations. Zoning amendments may be applied to designated historic

structures, districts, ~~neighborhoods~~ and sites with such actions and procedures as otherwise provided for in this chapter.

Division II. HISTORIC PRESERVATION COMMISSION

Section 58-436. Establishment of the Commission

There is hereby established a Historic Preservation Commission (HPC) of the City of Winter Park.

Section 58-437. Membership

- (1) The HPC shall consist of five members and one alternate to be appointed by the Mayor and confirmed by the City Commission. The alternate will sit in the absence of a regular member and will vote in the absence of that member. Members shall serve without compensation but shall be reimbursed for actual expenses subject to the prior approval of the City Commission.
- (2) Qualifications: a) Members of the HPC be residents of the City and shall have demonstrated civic pride, interest in historic preservation, and the knowledge, experience, and mature judgment to act in the public interest to make informed and equitable decisions concerning the conservation of historic resources. b) At minimum, one member shall be an architect. c) Other members may have experience, expertise or demonstrated interest in one or more of the following areas: 1) architecture; 2) history; 3) architectural history; 4) archaeology; 5) urban planning; 6) landscape architecture; 7) historic preservation; 8) real estate; 9) law; 10) cultural anthropology; 11) building construction; or related fields.
- (3) Voting: A quorum shall consist of three (3) HPC members. An affirmative vote of three HPC members shall be necessary for the adoption of any motion thereof. A quorum shall include the vote of the alternate when the alternate is voting for an absent member.
- (4) The HPC may appoint advisory members. Advisory members will not vote. They may be appointed to represent historic districts ~~or neighborhoods~~ and/or to provide specific areas of expertise not met by voting members. The advisory members do not need to be residents of Winter Park.
- (5) The City shall provide the HPC with administrative staff and fiscal support subject to budgetary approval by the City Commission. The City Attorney shall serve as legal counsel to the HPC in all matters.

Section 58-438. Terms of Office

Members of the HPC shall serve for a term of three years which shall be staggered; except, however, for initial appointees, when two members shall serve for a term of three years, two members for a term of two years, and one member for a term of one year. Members shall continue to serve in office until the appointment of a successor. Members appointed to fill a vacancy shall serve the remainder of the unexpired term. Members may be re-appointed on the expiration of their term with a two-term limit.

- (1) Vacancies: Vacancies on the HPC caused by expiration of a term or resignation, removal, death, or permanent absence from the City or by incapacity of a member shall be filled by appointment. The alternate shall be appointed to the vacancy and a new alternate appointed.
- (2) Removal: Members may be removed from the HPC by a vote of the City Commission. If a member is absent from two of three consecutive regular meetings without cause, and without prior approval of the chairperson, the HPC shall declare the member's office vacant. The alternate will fill the office and the HPC will petition the City Commission for the appointment of a new alternate. If a member is unable to attend four meetings in a

12-month period, the seat will be declared vacant. The alternate will fill the office and the HPC will petition the City Commission for the appointment of a new alternate.

Section 58-439. Officers

Members of the HPC shall elect a chairperson to serve for a term of one year. In subsequent years, members shall elect a chairperson to serve for a term of one year from among the members who have served at least one year. Nothing shall prevent the HPC from naming a chairperson for a successive term. The HPC may create and fill other offices, as it may deem desirable.

Section 58-440. Meetings

The HPC shall meet monthly or as required to conduct its business. The HPC may adopt rules for the governance of its proceedings. All meetings and agendas will be advertised, and open to the public. Minutes of all proceedings shall be kept and made available to the public.

Section 8-441. Functions, powers and duties

The HPC shall be responsible for the development and administration of a comprehensive historic preservation program, and shall identify and maintain the City's historic resources for the benefit of both present and future residents. It shall be the responsibility of the HPC to:

- (1) Provide or recommend incentives for historic preservation, and to recommend for or against rezonings, demolitions, developments, lot splits, lot consolidations, or conditional uses ~~changes needed~~ that could impact historic resources identified in the Florida Master Site File survey of the City of Winter Park. ~~to achieve the preservation of historic resources;~~
- (1) Identify potential historic landmarks and potential historic districts ~~and neighborhoods~~ for designation; and provide assistance to, and education of, owners of properties for potential designation;
- (2) Develop and maintain a local register of historic places and review National Register nominations within the City;
- (3) Develop guidelines based upon the Secretary of the Interior's Guidelines for use in reviewing applications for Certificates of Review. The Secretary of the Interior's Standards for Rehabilitation as revised in 1990 will be used until local guidelines are developed and adopted by the HPC;
- (4) Review applications for Certificates of Review for designated landmarks, resources, and property within designated districts ~~and neighborhoods~~;

- (5) Approve variances that are appropriate for the preservation of historic resources in conjunction with applications for Certificates of Review;
- (6) Conduct an ongoing survey and inventory of historically, culturally or architecturally significant buildings, structures, districts and archaeological sites within the City; coordinate survey results with the Florida Master Site File; and plan for resource preservation with the aid of staff and consultants with professional expertise as may be necessary;
- (7) Develop programs to stimulate public interest and involvement in the City's history and preservation, and inform the public of the City's preservation opportunities and the HPC's activities;
- (8) Cooperate with and advise local, state and federal governments on preservation activities;
- (9) Attend relevant educational meetings, workshops and conferences;
- (10) Adopt rules of procedure, which will be available for public inspection; and
- (11) Perform any other function that may be designated by the City Commission.

Division III. DESIGNATION OF HISTORIC LANDMARKS, RESOURCES OR DISTRICTS AND NEIGHBORHOODS

Section 58-442. Designation Criteria

In order to qualify as a local historic landmark, resource or district or neighborhood, properties must have character, interest or value as part of the historical, cultural, archaeological, aesthetic or architectural heritage of the City, state or nation. For a multiple property nomination, eligibility may be based on the establishment of historic contexts or themes that describe the historical relationship of the properties. The eligibility of any potential historic landmark, resource or district or neighborhood shall be supported by meeting one (1) or more criteria based upon the National Register of Historic Places guidelines for evaluation. Properties must be at least 50 years old to be eligible for designation unless they are of exceptional importance.

I. The National Register criteria for evaluation requires that the quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and associations and:

- (a) That are associated with events that have made a significant contribution to the board patterns of our history; or
- (b) That are associated with the lives of persons significant in our past; or

(c) That embody the distinctive characteristics of a type, period, or method of construction, or that represents the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(d) That have yielded, or may be likely to yield, information important in prehistory or history.

2. Historic districts must meet one or more of the National Register criteria. A district shall possess a significant concentration, linkage, or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

(a) The identity of a district results from the interrelationship of its resources, which can convey a visual sense of the historic environment or be an arrangement of historically or functionally related properties. A significant concentration may be represented by 60% of the sites, buildings, structures or objects that contribute to the historic context of the district.

(b) A district must be a definable geographic area that can be distinguished from surrounding properties by changes such as density, scale, type, age, style of sites, buildings, structures, and objects, or by documented differences in patterns of historic development or associations. The boundaries must be based upon a shared relationship among the properties constituting the district.

Section 58-443. Designation Procedures

Winter Park historic landmarks, resources and districts and neighborhoods shall be designated only as provided in this section. Properties, which meet the criteria for designation as set forth in section 58-442, shall be designated according to the following procedures:

1. Designation of Local Historic Landmarks and Resources.

- (a) Recommendations for nomination for designation of individual local historic landmarks and resources may be submitted to the Planning and Community Development Department by the property owner, the HPC, or a City Commission member who believes that the property meets the criteria for listing as set forth in section 58-442. The proposal shall include a legal description or address of the property, a brief statement regarding its historic, cultural, aesthetic or architectural significance, and must include authorization by the property owner(s). A recommendation for nomination that does not include the property owner(s) authorization shall not proceed.
- (b) Every proposed historic landmark or resource shall have a historic designation report prepared by the City that shall be presented to the HPC at a regularly scheduled meeting.
- (c) For each proposed designation of a historic landmark or resource, the City is responsible for mailing a copy of the designation report and a notice of public hearing to all property owners of record on the latest Orange County tax roll within a 500 foot radius of the proposed landmark at least fifteen (15) days prior to the public hearing held pursuant to this section, however failure to receive such notice shall not invalidate the same as such notice shall also be given by publishing a copy thereof in a newspaper of general circulation in the City and county at least fifteen (15) days prior to the hearing.

2. Local Historic Districts or Neighborhoods

- (a) Nominations for designation of historic districts and neighborhoods may be submitted to the Planning and Community Development Department by petition from 20% of the district or neighborhood property owners, by any member of the HPC, or by a City Commission member, who believes that the district or neighborhood meets the criteria for listing as set forth in section 58-442. The proposal shall include a description of the proposed boundaries of the district or neighborhood, and a brief statement explaining its historic, cultural, aesthetic or architectural significance, and a petition representing the ownership of at least 20% of the properties within the proposed district or neighborhood. Designation of historic districts or neighborhoods shall only be considered by the HPC subsequent to meetings with district or neighborhood property owners and actions as described in subsection 2 (b - c).
- (b) Prior to consideration of designation by the HPC, the City shall facilitate conferences with property owners within the nominated district or neighborhood to discuss the following: 1) the historic designation report, 2) proposed boundaries, 3) contributing and non-contributing buildings and elements, 4) district or neighborhood goals, 5) design guidelines, and 6) results of designation and incentives.
- (c) Upon receipt of a favorable vote representing the ownership of two thirds of the properties within the proposed district or neighborhood, a historic designation report shall be forwarded to the HPC. A historic district that is commemorative in nature only and whose designation report does not require design review will not require a vote of the property owners, but shall require a public hearing as described in Section 58-443 (2) (d).

- (d) The nominated historic district ~~or neighborhood~~ shall have a historic designation report that shall be presented to the HPC at a regularly scheduled meeting. The designation report shall include the historic context, proposed boundaries, contributing and non-contributing elements, a staff recommendation and the results of listing which may include guidelines for review, and appropriate incentives. For each proposed designation of a historic district ~~or neighborhood~~, the City is responsible for mailing ~~a copy of the designation report~~ and a notice of public hearing to all property owners of record whose property is located within the boundary of the designation fifteen (15) days prior to the public hearing held pursuant to this section, however failure to receive such notice shall not invalidate the same as such notice shall also be given by publishing a copy thereof in a newspaper of general circulation in the City and county at least fifteen (15) days prior to the hearing.
3. Decision of the Historic Preservation Commission. If, after a public hearing, the HPC finds that the proposed local historic landmark, ~~resource or district or neighborhood~~ meets the criteria set forth in section 58-442, it shall transmit such findings to the City Commission along with the recommendation that the designation be approved. The historic landmark, ~~resource or district, or neighborhood~~ shall only be recorded in the Winter Park Register of Historic Places following adoption of a resolution of the City Commission approving such designation.
4. The City Commission shall further direct staff to notify the following of the action with a copy of the resolution(s) designating the historic landmark district ~~or neighborhood~~ and the adopted guidelines for review:
- Planning and Community Development Department (all divisions)
 - City Clerk
 - Public Works Department
 - Owners of the affected property and other parties having an interest in the property, if known
5. Following the published date of a public hearing before the HPC, no permits shall be issued by the building division, except for permits that do not require the review of the Historic Preservation Commission, for any new construction, exterior alterations, moving, or demolition of the real property that is the subject matter of the recommendation, until one (1) of the following has occurred:
- The historic designation is enacted and a Certificate of Review is issued under the provisions of Division IV; or
 - The historic designation is denied by the City Commission; or
 - The property owner has applied for an accelerated approval of a Certificate of Review prior to final enactment of the historic designation; and such Certificate of Review has been issued under the provision of section 58-450, and the property owner has voluntarily proffered a covenant binding him to comply with all terms and conditions of the Certificate of Review which will cease to be effective should the City Commission deny the historic designation.
6. Historic landmarks, ~~resources or districts and neighborhoods~~ shall be formed as a special overlay, which shall be placed over the existing zoning. The regulations and procedures for both the zoning district and the historic landmark, ~~resource or district~~ regulations or neighborhood shall apply.

Division IV. CERTIFICATE OF REVIEW

The purpose of the Certificate of Review process is to assist owners of historical landmarks or resources and owners in historic districts ~~and neighborhoods~~, in accordance with design guidelines, who plan to rehabilitate, restore or redevelop their property for contemporary use to achieve their goals and take advantage of incentive programs while preserving the historic character, architecture and materials, to the greatest extent possible.

Section 58-444. Pre-application conference

Before entering binding commitments or incurring substantial expense in the preparation of plans, surveys and other data, and before submitting an application for a Certificate of Review, an applicant shall confer with the City to obtain information and guidance. The purpose of such conference is to further discuss and clarify conservation objectives and design guidelines in cases that do not conform to established objectives and guidelines. In no case shall any statement or representation made prior to the official application review be binding on the HPC, the City Commission or any City departments.

Section 58-445. Review Requirement

The HPC shall review and render a decision during an advertised public hearing on applications for Special Certificates of Review for any proposed exterior alterations, demolitions, or relocations of designated historic landmarks. The HPC shall review and render a decision on all applications for Special Certificates of Review for any proposed exterior alterations, demolitions, new construction or relocations within the boundaries of designated historic districts ~~and neighborhoods~~. The HPC may approve, approve with recommendations, or deny an application. For reconstructed buildings that have been permitted pursuant to section 58-457, the provisions of this section shall still apply.

Section 58-446. Guidelines for review

In adopting guidelines for review, it shall be the intent of the HPC to preserve the exterior historic characteristics of the landmark, resource or district, and 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. Guidelines shall also serve as criteria for staff to make decisions, as permitted by the HPC, regarding applications for Standard Certificates of Review.

A. The U.S. Secretary of the Interior's Standards for Rehabilitation as revised in 1990 are the standards by which applications for any Certificate of Review for landmark historic buildings, sites, or districts ~~or neighborhoods~~ are to be measured and evaluated. The HPC may recommend additional standards to preserve and protect special features unique to the City or may recommend amending existing guidelines to the City Commission.

- B. Variances may be granted from the land development code requirements as may be appropriate to achieve the design review standards for historic preservation. These variances may include those for building height, side, rear and front setbacks, building coverage, floor area ratio, impervious coverage, and walls and fences. Building code exemptions may be granted subject to the guidelines of the Florida Building Code for qualified historic buildings or structures.
1. When a variance or exception is considered, the application shall comply with the notice standards listed in Section 58-88 (c - 2).
 2. All variance requests through the HPC design review process shall be limited to properties with individual landmark, resource or district designation. This landmark, resource or district designation must be completed before issuance of a building permit for the work that required a variance.
 3. The appeal of a decision to grant or deny a variance by any person aggrieved by the decision of the HPC shall be taken to the City Commission after following notice criteria of Section 58-88 (c - 1) if filed within 15 (fifteen) days of the date of the decision by the HPC.
- C. The HPC may also allow garage apartments or accessory cottages to be determined to be conforming uses on designated historic landmarks or resources, or to properties in a designated historic district. Historic designation must be completed before the issuance of a building permit or approval for the construction, re-establishment or construction of a new garage apartment or accessory cottage. Building setbacks shall be determined by the HPC, however no garage apartment or accessory cottage shall be closer than five feet to a rear or side line, unless such setback currently exists, or in a required front setback. Garage apartments or accessory cottages shall not exceed 1000 square feet in size. Conversion of any existing garage space shall not be allowed, but an existing garage may be enlarged in height or ground area to accommodate the garage apartment. Garage apartments or accessory cottages may utilize a separate electric meter and utility connections. Tenants must be provided on site parking space(s) behind the front setback of the principal residence. All required parking spaces must be accessed independently and shall not require moving any vehicle to allow another vehicle to enter or exit from the property. All vehicles shall be parked on-site in spaces conforming to setbacks so that no regular daytime or overnight parking occurs on City streets. Violation of these terms and conditions will be deemed sufficient grounds for the Code Enforcement Board to order the discontinuation of the garage apartment or accessory cottage as a secondary living unit along with other penalties and remedies at their discretion.
- D. Each designated historic district ~~or neighborhood~~ may adopt specific district ~~or neighborhood~~ guidelines for design review based upon the U.S. Secretary of the Interior's Standards for Rehabilitation as revised in 1990 subject to final approval by the HPC.
- E. Local guidelines for design review may be adopted based upon the U.S. Secretary of the Interior's Standards for Rehabilitation as revised in 1990.

Section 58-447. Forms

Applications for Certificates of Review will be made on forms approved and provided by the Historic Preservation Commission.

Section 58-448. Delegation of review authority

HPC may delegate the authority to appropriate staff members to review and grant Standard Certificates of Review without referral to the HPC and without a public hearing in the case of certain types of applications, which the HPC shall determine in advance.

Section 58-449. Standard Certificates

Based upon the Standards for Rehabilitation, the designation report, a complete application for Standard Certificates of Review, and any additional plans, drawings or photographs to fully describe the proposed alteration, the City shall within fifteen (15) business days from the date a complete application has been filed, approve, approve with conditions or deny the application for a Standard Certificate of Review. The findings of the City shall be mailed to the applicant within three (3) days of the City's decision accompanied by a statement in full regarding the decision. The applicant shall have an opportunity to challenge the decision by applying for a Special Certificate of Review within fifteen (15) days of the findings.

Section 58-450. Special Certificates

- A. An applicant for a Special Certificate of Review whether for exterior alteration, addition, restoration, renovation, moving or demolition, shall submit an application to the HPC accompanied by photographs, elevations, site plans, floor plans, and samples of materials as deemed appropriate by the HPC to fully describe the proposed appearance, materials and architectural design of the building, other outbuilding, and site plan. The applicant shall provide adequate information to enable the HPC to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscapes. If such application involves a designated archaeological zone, the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archaeological site.
- B. In the event that the applicant is requesting a Special Certificate of Review for demolition, the HPC shall be provided with the details for the proposed disposition of the site. The HPC may require architectural drawings, financial plans or other information regarding any proposed new construction. Proposed demolitions shall be reviewed subject to the considerations in section 58-456.
- C. The HPC will rule upon applications for a Certificate of Review during a public hearing. A notice of the hearing shall be published in a newspaper of general circulation within the City at least 15 (fifteen) days in advance of the hearing. Written notice of the time and place of the hearing and the proposed action to be taken shall be mailed to all owners of record of property within 500 feet of the property requesting a Certificate of Review. A notice shall also be posted upon the property.

Section 58-451. Decision of the Commission

The decision of the Historic Preservation Commission shall be based upon the guidelines set forth in section 58-446 as well as the general purpose and intent of these regulations and any specific planning objectives and design guidelines officially adopted for the particular historic landmark, resource or historic district or neighborhood. The decision may include such incentives for preservations as the HPC finds appropriate. No decision of the HPC shall result in an inordinate burden for the owner if the HPC has determined the existence of such burden in accordance with state law. The decision of the HPC shall include a complete description of the reasons for such findings and details of the public interest that is sought to be preserved and shall direct one (1) or more of the following actions:

- (1) Issuance of a Special Certificate of Review for the work proposed by the applicant; or
- (2) Issuance of a Special Certificate of Review with specified modifications and conditions or;
- (3) Issuance of a Special Certificate of Review with recommendations for zoning required to preservation of the building or site and those recommendations shall be placed on the consent agenda of the soonest possible Planning and Zoning Commission meeting.
- (4) Denial of the application and refusal to grant a Certificate of Review; or
- (5) Issuance of a Special Certificate of Review with a deferred effective date of up to twelve (12) months from the date of the HPC's decision at a public hearing in cases of demolition or moving of a significant building.

Section 58-452. Time limit

The Historic Preservation Commission shall act upon an application within sixty (60) days of receipt of the proposed action. The time limit may be waived at any time by mutual written consent of the applicant and the HPC.

Section 58-453. Records

The decision of the Historic Preservation Commission shall be issued in writing. Evidence of approval of the application shall be by Certificate of Review issued by the HPC or the HPC's designated staff representative to the applicant, and whatever its decision, notice in writing shall be given to the applicant, City Clerk, and the Director of the Planning and Community Development Department. When an application is denied, the HPC's notice shall provide an adequate written explanation of its decision. The HPC shall keep a written record showing its action on each application considered.

Section 58-454. Appeals

- (1) Any substantially affected party may appeal any decision of the HPC to the City Commission by filing within fifteen (15) days after the date of the decision a written notice of appeal and an appeal fee as established by the schedule of fees. The notice shall set forth concisely the decision appealed from and the reasons or grounds for the appeal.
- (2) The appeal shall be heard by the City Commission, which shall hear and consider all facts material to the appeal and render a decision promptly. The City Commission may affirm, modify or reverse the HPC's decision. The decision of the City Commission shall constitute final administrative review. Appeals from decisions of the City Commission may be made to the courts as provided by the Florida Rules of Appellate Procedure.

Section 58-455. Change in approved work

The HPC's staff shall review any change in work proposed subsequent to the issuance of a Certificate of Review. If the HPC's staff finds that the proposed change does not materially affect the historic character or the proposed change is in accord with approved guidelines, it may issue a supplementary Standard Certificate of Review for such change. If the proposed change is not in accordance with guidelines, standards, or Certificates of Review previously approved by the HPC, a new application for a Special Certificate of Review shall be required.

Section 58-456. Guidelines for issuance – Demolition, and construction, excavation or other disturbance in archaeological zones

(a) In addition to all other provisions of this article the HPC shall consider the following criteria in evaluating applications for a Special Certificate of Review for demolition of designated properties:

- (1) The structure is of such interest or quality that it would reasonably meet national, state or local criteria for designation as a historic landmark.
- (2) The structure is of such design, craftsmanship or material that it could be reproduced only with great difficulty and/or expense.
- (3) The structure is one of the last remaining examples of its kind in the City neighborhood, the county or the region.
- (4) The structure contributes to the historic character of a designated district.
- (5) Retention of the structure promotes the general welfare of the City 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.
- (6) There are definite plans for reuse of the property if the proposed demolition is carried out, and an there is an explanation of what will the effect of those plans will be on the character of the surrounding area.

(b) In cases where new construction, excavation, tree removal or any other activity may disturb or reveal an identified interred archaeological site, the HPC may issue a Certificate of Review with a delayed effective date up to sixty (60) days. During the delay period, the applicant shall permit the subject site to be examined under the supervision of an archaeologist approved by the HPC. A Certificate of Review may be denied if the site were of exceptional importance and such denial would not unreasonably restrict the primary use of the property.

Section 58-457. Reconstruction of destroyed historic landmarks

- (1) The loss of local historic landmarks, resources or contributing structures within a historic district ~~or neighborhood~~ that have been destroyed by fire or other natural disaster may be ameliorated by efforts to reconstruct the resource. Reconstruction means the process of reproducing by new construction the exact form and detail of a demolished building structure or object as it appeared at a certain point in time. The HPC shall encourage reconstruction when deemed appropriate.

Division V. ADMINISTRATION AND ENFORCEMENT

Section 58-458. National Register of Historic Places Nominations

The HPC shall review local nominations to the National Register of Historic Places and shall forward a record of their actions and recommendations to the Florida State Historic Preservation Officer.

- (1) The City Commission, City Manager, Planning and Community Development Department Director, Chief Planner, owners of record and applicants shall be given a minimum of 30 and not more than 75 days prior to the HPC meeting in which to comment on or object to the listing of a property in the National Register.
- (2) Objections by property owners must be submitted in writing and their signature notarized to prevent nomination to the National Register of Historic Places.

Section 58-459. Certified Local Government Performance

The HPC shall apply to participate in the Certified Local Government program through the Florida Division of Historical Resources. As part of the program requirements the HPC shall:

- (1) Provide 30 days prior notice of all meetings to the State Historic Preservation Officer.
- (2) Submit minutes of each meeting to the State Historic Preservation Officer within 30 days of each meeting.
- (3) Submit record of attendance for the HPC to the State Historic Preservation Officer within 30 days of each meeting.
- (4) Submit public attendance figures for each meeting to the State Historic Preservation Officer within thirty days of each meeting.
- (5) Notify State Historic Preservation Officer of any change in HPC membership within 30 days of the action.
- (6) Notify State Historic Preservation Officer immediately of all new historic designations or alterations to existing designated buildings, structures and sites.
- (7) Submit amendments to ordinance to the State Historic Preservation Officer for review and comment at least 30 days prior to adoption.
- (8) Submit annual report by November 1 covering previous October 1 through September 30 of each year. The Annual Report shall include:

- a. Any changes to the rules of procedure.
- b. The number of proposals reviewed.
- c. All new designations.
- d. Changes to the HPC.
- e. Revised resumes of HPC members as appropriate.
- f. Changes to the historic preservation ordinance.
- g. A review of any survey and inventory activity with a description of the system used.
- h. A program report on each grant-assisted activity.

Sections 58-460 – 58-462 Reserved

Section 58-463. Amendments

Applications for amendments to existing designated historic landmarks, resources or historic districts ~~or neighborhoods~~ shall be processed according to the provision of sections 58-442 and 58-443 of this chapter provided that no action resulting from such application shall have the effect of eliminating the requirement for Certificates of Review as otherwise provided for in this article. Where the HPC has issued a Certificate of Review for demolition or moving of the improvement or feature of principal historic significance on a historic landmark site, the historic classification may be changed through the amendment process.

Section 58-464. Ordinary maintenance and repair

Nothing in this article shall be construed to prevent the ordinary maintenance or repair of any improvement, which does not involve a change of design, appearance or material, or to prevent ordinary maintenance of landscape features.

Section 58-465. Enforcement of maintenance and repair provisions

Where the HPC or City determines that any improvement of a designated historic landmark or resource, or historic district ~~or neighborhood~~ is endangered by lack of maintenance and repair, or that other improvements in visual proximity to a historic landmark, resource or historic district ~~or neighborhood~~ lack maintenance and repair to such an extent as to detract from the desirable character of the historic landmark, resource or historic district ~~or neighborhood~~, it shall request appropriate officials or agencies of the City to require correction of such deficiencies under authority of applicable laws and regulations.

Section 58-466. Unsafe structures

In the event the building official determines that any designated ~~landmark~~ building or contributing structure within a designated historic district ~~or neighborhood~~ is unsafe pursuant to the Winter Park Building Code, he or she shall immediately notify the HPC with copies of such findings. Where reasonably feasible within applicable laws and regulations, the building official shall endeavor to have the structure repaired rather than demolished and shall take into consideration any comments and recommendations by the HPC. The HPC may take appropriate actions to effect and accomplish the preservation of such structure including, but not limited to, negotiations with the owner and other interested parties, if such actions do not interfere with procedures in the Winter Park Building Code.

Section 58-467. Emergency conditions

For the purpose of remedying emergency conditions determined to be imminently dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction, demolition or other repairs to an improvement, or site within a designated historic landmark, resource or district ~~or neighborhood~~ pursuant to an order of a government agency or a court of competent jurisdiction, provided that only such work as is reasonably necessary to correct the hazardous condition may be carried out. The owner of an improvement damaged by fire or natural calamity shall be permitted to stabilize the improvement immediately and to rehabilitate it later under the normal review procedure of this article.

Section 58-468. Inspections

The Building Division ~~of the Planning and Community Development~~ Department shall assist the HPC by making necessary inspections in connection with enforcement of this article. The building official shall be responsible to promptly stop any work attempted to be done without or contrary to any Certificate of Review required under this division and shall further be responsible for ensuring that any work not in accordance with an issued Certificate of Review shall be corrected to comply with the certificate, or that authorized remedial action in accordance with City codes is initiated promptly.

Section 58-469. Inordinate burden

Nothing in this ordinance shall cause an inordinate burden to a property owner's existing use of real property or a vested right under 1995 FLA. Laws Ch. 95-181, § (1-2), the Bert J. Harris, Jr. Private Property Rights Protection Act. An ordinate burden to a property owner's existing use of real property or a vested right may not be considered unless an application for a Certificate of Review for a designated property has been denied. In any instance where there is a claim of an inordinate burden to existing use of real property or vested rights, the owner shall submit, by affidavit, to the Commission at least thirty (30) days prior to a public hearing, such information as may be required to describe those vested rights and the perceived inordinate burden to those rights.

Section 58-470. Violations

(1) Any person who carries out or causes to be carried out any work in violation of this article shall be required to restore the subject improvement, landscape feature or site either to its appearance prior to the violation or in accordance with a Certificate of Review approved by the HPC. This civil remedy shall be in addition to and not in lieu of any criminal prosecution and penalty otherwise provided in section 2-108 in the Code of Ordinances of Winter Park, Florida.

(2) Any person who carries out or causes to be carried out any work in violation of this article that causes irreparable or irreversible damage to a designated historic resource, or to any contributing or non-contributing resource within a designated historic district a fine not to exceed three times the amount per violation provided for in section 2-108 in the Code of Ordinances of Winter Park, Florida.

Sections 58-471 – 58-475 Reserved

Division VI. TAX EXEMPTIONS FOR HISTORIC PROPERTIES

Section 58-476. Scope of tax exemptions

A method is hereby created for the City Commission to allow tax exemptions for the restoration, renovation or rehabilitation of historic properties. The exemption may apply to one hundred (100) percent of the assessed value of all improvements to historic properties, which result from restoration or rehabilitation made on or after the effective date of an approved application. The exemption applies only to taxes levied by the City. The exemption does 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. The exemption does not apply to personal property.

Section 58-477. Duration of tax exemptions

Any exemption granted under this section to a particular property may remain in effect for ten (10) years as specified in the ordinance approving the exemption. The duration of ten (10) years may continue regardless of any change in the authority of the City to grant such exemptions or any changes in ownership of the property. In order to retain an exemption, however, the historic character of the property, and improvements, which qualified the property for an exemption, must be maintained over the period for which the exemption was granted.

Section 58-478. Eligible properties and improvements

(A) Property is qualified for an exemption under this section if:

(1) At the time the exemption is granted, the property is:

- a. Individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended;
- b. A contributing property within a National Register listed district; or
- c. Individually listed in the Winter Park Register of Historic Places or noted as a contributing structure within a designated local historic district or neighborhood as enacted by ordinance of the City Commission.

(2) The HPC has certified to the City Commission that the property for which an exemption is requested satisfies subsection (A) (1).

- (B) In order for an improvement to a historic property to qualify the property for an exemption the improvement must be;
- (1) Consistent with the United States Secretary of the Interior's Standards for Rehabilitation and/or local design guidelines for historic preservation; and
 - (2) Determined by the HPC to meet criteria established in rules adopted by the Department of State.

Section 48-479. Applications

Any person, firm or corporation that desires ad valorem tax exemption from the improvement of a historic property must, in the year the exemption is desired to take effect, file with the historic preservation staff a written application on a form approved by the Florida Department of State. All applicable fees shall be paid at the time the application is submitted. The application must include the following information:

- (1) The name of the property owner and the location of the historic property.
- (2) A description of the improvements to real property for which an exemption is requested and the date of commencement of construction of such improvement.
- (3) Proof to the satisfaction of the HPC that the property that is to be rehabilitated or renovated is a historic property under this section.
- (4) Proof to the satisfaction of the HPC that the improvements to the property will be consistent with the United States Secretary of Interior's Standards for Rehabilitation and will be made in accordance with guidelines developed by the Florida Department of State.
- (5) Other information identified in appropriate Florida Department of State regulations.

Section 58-480. Required covenant

To qualify for an exemption the property must enter into a covenant or agreement with the City Commission for the term for which the exemption is granted. The form of the covenant must be established by the Florida Department of State and must require that the character of the property, and the qualifying improvements to the property, be maintained during the period that the exemption is granted. The covenant or agreement shall be binding on the current property owner, transferees, and their heirs, successors or assigns. Violations of the covenant or agreement results in the property owner being subject 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 or agreement 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).

Section 58-481. Review by Historic Preservation Commission

The HPC or its successor is designated to review exemptions. The HPC must recommend that the City Commission grant or deny the exemption. Such reviews must be conducted in accordance with rules adopted by the Florida Department of State. The recommendation and the reason therefore must be provided to the applicant and to the City Commission before consideration of the application at an official meeting.

Section 58-482. Approval by the City Commission

A majority vote of the City Commission shall be required to approve a written application for exemption. Such exemption shall take effect on the January 1 following substantial completion of the improvement. The City Commission shall include the following in the ordinance approving the written application for exemption:

- (1) The name of the property owner and the address of the historic property for which the exemption is granted.
- (2) The period of time for which the exemption will remain in effect and the expiration date of the exemption.
- (3) A finding that the historic property meets the requirements of this article.