

Chapter 48 HISTORIC PRESERVATION

ARTICLE I. IN GENERAL

Sec. 48-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Archeological site means a site that contains prehistoric or historic artifacts, relics, or structures which represent a particular culture, historic event or epoch and which are of local, regional or statewide significance.

Building means a structure created to shelter any form of human activity. This may refer to a house, barn, garage, church, hotel, or similar structure. Buildings may refer to a historically or architecturally related complex, such as a courthouse and jail, or a house and barn.

Demolition means the tearing down or razing of 25 percent or more of a structure's external walls.

District means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, objects, or areas, which are united historically or aesthetically by plan or physical development. A district may be comprised of individual resources which are separated geographically but are linked by association or history.

Historic property means any prehistoric or historic district, site, building, object or other real or personal property, of historical, architectural or archaeological value. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure coves, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, or culture of the town.

Object means a material thing of functional, archaeological, aesthetic, cultural, historical, or scientific value that may be by nature of design, movable, yet related to a specific setting or environment.

Ordinary maintenance means work which does not require a construction permit and that is done to repair damage or to prevent deterioration or decay of a building or structure or part hereof as nearly as practicable to its condition prior to the damage, deterioration, or decay.

Original appearance means that appearance which, to the satisfaction of the planning director, closely resembles the appearance of either:

- (1) The feature on the building as it was originally built or was likely to have been built; or
- (2) The feature on the building as it presently exists so long as the present appearance is appropriate, in the opinion of the planning director, to the style and materials of the building.

Site means the location of a significant event, a prehistoric or historic occupation or activity, or building, or structure, whether standing, ruined, or vanished, where the location itself maintains a historical or archaeological value regardless of the value of any existing structures.

Structure means anything constructed or erected, the use of which requires a fixed location on the ground or attachment to something having a fixed location on the ground.

(Ord. No. 96-04, § I(C), 12-17-1996)

Sec. 48-2. Violations and penalties.

- (a) Any person, firm, corporation, or agent who shall violate a provision of this chapter or fail to comply therewith or with any requirement thereof shall be guilty of a violation of this article.
- (b) Upon conviction, the party shall be fined an amount not exceeding \$200.00 per offense.
- (c) Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.
- (d) Nothing herein contained shall prevent the town from taking such other lawful action as necessary to prevent or remedy any situation.

(Ord. No. 2002-04, § 2, 4-2-2002)

Sec. 48-3. Statement of intent.

The intent of the following regulations is to serve the best interest of the health, safety, prosperity and welfare of the citizens of the town by:

- (1) Protecting, enhancing and perpetuating historic resources that represent or reflect elements of the town's cultural, social, economic, political and architectural history.
- (2) Stabilizing and improving property values through the revitalization of older residential and commercial properties and neighborhoods.
- (3) Fostering an awareness and pride in the accomplishments and achievements of the past.
- (4) Protecting and enhancing the town's historic attractions to residents, tourists and visitors which in turn serves to stimulate the local economy and draw new business and industry.
- (5) Enriching the quality of life in the town by fostering knowledge of the living heritage of the past.
- (6) Conserving existing housing stock and extending the economic life of housing units through the rehabilitation of such units under housing and neighborhood redevelopment programs.

(LDC 1982, ch. 11, § 11.1; Ord. No. 96-04, § I(A), 12-17-1996)

Sec. 48-4. Statement of purpose.

The town council shall identify, evaluate, recognize, preserve and protect historical and archaeological resources within the town limits, in the best interest of the health, safety, prosperity and welfare of the citizens of the town by:

- (1) Creating a historic preservation board with the power to effectively administer the duties provided for herein.
- (2) Developing a process to designate individual properties (buildings, structures, sites, objects) and groups of properties (districts) as historically significant.
- (3) Protecting the integrity of designated historic resources by requiring a review of proposals to add to, demolish or in any way alter the exterior historic fabric of such resources.
- (4) Encouraging historic preservation by providing technical assistance and financial incentives.
- (5) Obtaining certified local government status as provided for in the National Historic Preservation Act of 1966, as amended in 1980 (P.L. 96-515) and as procedures dictate in 36 CFR 61 (1987)

(LDC 1982, ch. 11, § 11.2; Ord. No. 96-04, § I(B), 12-17-1996)

Secs. 48-5—48-24. Reserved.

ARTICLE II. LOCAL REGISTER OF HISTORIC PLACES

Sec. 48-25. Created.

A local register of historic places is hereby created as a means of identifying and classifying various sites, buildings, structures, objects, and districts as historic and/or architecturally significant. The local register will be kept by the planning director.

(LDC 1982, ch. 11, § 11.2.1; Ord. No. 96-04, § II(A), 12-17-1996)

Sec. 48-26. Initiation of placement.

Placement of sites, buildings, structures, objects or districts on the local register may be initiated by the historic preservation board. In addition placement may be initiated by the owner of the site, building, structure, object, or area; or, in the case of a district, by the owner of a site, building, structure, object, or area within the proposed district.

(LDC 1982, ch. 11, § 11.2.2; Ord. No. 96-04, § II(B), 12-17-1996)

Sec. 48-27. Placement on the local register.

The following procedure shall be followed for placement of sites, buildings, structures, objects, areas, and districts on the local register:

- (1) A nomination form, available from the planning department, shall be completed by the applicant and returned to the planning department.
- (2) Upon receipt of a completed nomination form, including necessary documentation, the planning director shall place the nomination on the agenda of the next regularly scheduled meeting of the historic preservation board. If the next regularly scheduled meeting of the historic preservation board is too close at hand to allow for the required notice to be given, the nomination shall be placed on the agenda of the succeeding regularly scheduled meeting.
- (3) Adequate notice of the historic preservation board's consideration of the nomination shall be provided to the public at large, and to the owner of the nominated properties, at least 15 days in advance of the meeting at which the nomination will be considered by the historic preservation board.
- (4) The historic preservation board shall, within 60 days from the date of the meeting at which the nomination is first on the historic preservation board's agenda, review the nomination and write a recommendation thereon. The recommendation shall include specific findings and conclusions as to why the nomination does or does not meet the appropriate criteria outlined in this section along with any owner's objections to the listing. The recommendation shall also include a map that shows the proposed boundaries for any historic district and any individual historic property recommended for listing. If the nomination is of a district, the recommendation shall also clearly specify, through the use of maps, lists, or other means, those buildings, objects, or structures which are classified as contributing and noncontributing to the historical significance of the district. If the 60-day period runs

and the historic preservation board has not prepared and sent a recommendation, and the period has not been extended by mutual consent of the applicant and the historic preservation board, the nomination may be submitted by the applicant directly to the planning board.

- (5) The nomination form and the historic preservation board's recommendation shall be sent to the planning board. The nomination shall then be handled as any other rezoning.

(LDC 1982, ch. 11, § 11.2.3; Ord. No. 96-04, § II(C), 12-17-1996)

Sec. 48-28. Criteria for listing.

Criteria for placement on the local register of historic places are as follows:

- (1) Any site, building, structure, object or district which is listed on the National Register of Historic Places shall be automatically nominated by the historic presentation board for the local register pursuant to section 48-27.
- (2) A site, building, structure, object, or district must meet the following criteria before it may be listed on the local register:
 - a. It possesses integrity of location, design, setting, materials, workmanship, feeling and association; and
 - b. It is associated with events that have made a significant contribution to the broad patterns of our history; or is associated with the lives of persons significant to our past; or embodies the distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction; or have yielded or may be likely to yield information important to history or prehistory.
- (3) A property located in the district shall be designated as contributing to that district if the property is one which, by its location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.
- (4) A property should be considered noncontributing if the property's integrity of location, design, setting, materials, workmanship, feeling and association have been so altered that the overall integrity of the property has been irretrievably lost; or the property was built within the past 50 years, unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old.

(LDC 1982, ch. 11, § 11.2.4; Ord. No. 96-04, § II(D), 12-17-1996)

Sec. 48-29. Effect of listing.

The effect of placement on the local register of historic places are as follows:

- (1) The mayor is authorized to issue and place official markers identifying designated historic properties and districts.
- (2) Structures and buildings listed individually on the local register or judged as contributing to the character of a district listed on the local register shall be deemed historic and entitled to modified enforcement of the standard building code as provided by chapter 1, section 101.5 of the Standard Building Code Congress International, Inc.

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- (3) No demolition, alteration, relocation or construction activities may take place on designated historic properties or within the boundaries of designated historic districts except as provided in article III of this chapter.

(LDC 1982, ch. 11, § 11.2.5; Ord. No. 96-04, § II(E), 12-17-1996)

Secs. 48-30—48-46. Reserved.

ARTICLE III. CERTIFICATES OF APPROPRIATENESS

Sec. 48-47. When required.

- (a) A certificate of appropriateness shall be required for any of the following activities on properties within designated historic districts and individually designated historic properties:
 - (1) Any material change or alteration in the exterior appearance of existing buildings, objects or structures.
 - (2) Demolition of any building, object or structure.
 - (3) The movement or relocation of any building, object or structure.
 - (4) Any new construction of principal or accessory buildings or structures.
 - (5) Disturbance of an archaeological site.
 - (6) Division of a tract or parcel of land into two or more lots.
- (b) Upon designation of a historic district or individual historic property, the designating ordinance shall prescribe those architectural features considered significant to the district or property and the types of regulated work items other than those requiring a town permit, that should be reviewed for appropriateness.
- (c) For each of the regulated work items listed in the designating ordinance, the following applies:
 - (1) Ordinary maintenance. If the work constitutes ordinary maintenance as defined in section 48-1, the work may be done without a certificate of appropriateness.
 - (2) Staff approval. If the work is not ordinary maintenance, but will result in the original appearance as defined in section 48-1, the certificate of appropriateness may be issued by the planning director for the town.
 - (3) Board approval. If the work is not ordinary maintenance and will not result in the original appearance, a certificate of appropriateness must be obtained from the historic preservation board before the work may be done.
- (d) A certificate of appropriateness shall be a prerequisite to the issuance of any other permits required by law. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other permits or approvals required by the town. A building permit or other municipal permit shall be invalid if it is obtained without a certificate of appropriateness required for the proposed work.

(LDC 1982, ch. 11, § 11.3.1; Ord. No. 96-04, § III(A), 12-17-1996)

Sec. 48-48. Criteria for issuing.

- (a) The decision on all certificates of appropriateness, except those for demolition, shall be guided by the Secretary of the Interior's General Standards for Preservation Projects and Specific Standards for Rehabilitation stated as follows:
- (1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alteration of the building, structure, or site and its environment, or to use a property for its originally intended purpose.
 - (2) The distinguishing original qualities or character of a building, structure, or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.
 - (3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.
 - (4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.
 - (5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.
 - (6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design sign, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.
 - (7) The surface cleaning of structure shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
 - (8) Every reasonable effort shall be made to protect and preserve archeological resources affected by, or adjacent to any acquisition:
 - a. The historic character and aesthetic interest the building, structure, or object contributes to its present setting;
 - b. Whether there are definite plans for the area to be vacated and the effect of those plans on the character of the surrounding area;
 - c. Whether the building, structure, or object can be moved without significant damage to its physical integrity; and
 - d. Whether the proposed relocation area is compatible with the historical and architectural character of the building, structure or object.
- (b) Issuance of certificates of appropriateness for demolition shall be guided by the following factors:
- (1) The historic or architectural significance of the building, structure, or object;
 - (2) The importance of the building, structure, or object to the ambiance of a district;
 - (3) The difficulty or the impossibility of reproducing such a building, structure or object because of its design, texture, material, detail, or unique location;

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- (4) Whether the building, structure, or object is one of the last remaining examples of its kind in the neighborhood, the county, or the region;
 - (5) Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and the effect of those plans on the character of the surrounding properties;
 - (6) Whether reasonable measures can be taken to save the building, structure, or object from collapse; and
 - (7) Whether the building, structure, or object is capable of earning reasonable economic return on its value.
- (c) Issuance of a certificate of appropriateness for any division of a tract or parcel of land into two or more lots shall be guided by these criteria:
- (1) To what extent the proposed division will disrupt the historic pattern of development;
 - (2) The intended use of the proposed division;
 - (3) The compatibility of the use of the proposed division with the surrounding historic district; and
 - (4) To what extent the owner of the property will experience an economic hardship if the request is denied.

(LDC 1982, ch. 11, § 11.3.2; Ord. No. 96-04, § III(B), 12-17-1996)

Sec. 48-49. Procedure.

The procedure for obtaining a certificate of appropriateness is as follows:

- (1) *Application.* A person wishing to undertake any of the actions specified in section 48-47 shall file an application for a certificate of appropriateness, and supporting documents, with the planning director.
- (2) *Conference with planning director.*
 - a. The prospective applicant shall confer with the planning director concerning the nature of the proposed action and requirements related to it. The planning director shall advise the applicant of the nature and detail of the plans, designs, photographs, reports or other exhibits required to be submitted with the application. Such advice shall not preclude the historic preservation board from requiring additional material prior to making its determination in the case.
 - b. Following the conference with the planning director, a preapplication conference shall be held with the historic preservation board if requested by the applicant.
- (3) *Historic preservation board meeting.* Upon receipt of a completed application and all required submittals and fees, the planning director shall place the application on the next regularly scheduled meeting of the historic preservation board allowing for notice as required herein. Applications for certificates of appropriateness may be heard at specially called meetings of the historic preservation board provided all notice requirements are met. Upon mutual agreement between the applicant and the planning director, the application may be set for hearing at a meeting later than the next regularly scheduled meeting.
- (4) *Notice.* No less than seven days, but not more than 30 days, prior to the meeting at which the application is to be heard, the planning director shall give the following notice:
 - a. Written notice of the time and place of the meeting shall be sent to the applicant and all persons or organizations filing written requests with the planning department.

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- b. One advertised notice in a newspaper of general circulation, or a notice posted upon the property for which the certificate of appropriateness has been applied. Such posted notice shall be at least 22 inches by 28 inches in size, and shall be posted within ten feet of the right-of-way and be visible from the right-of-way. One notice shall be posted for each 200 feet of road frontage along all roadways bordering the property.
- (5) *Decision of historic preservation board.* The hearing shall be held at the time and place indicated in the notice. The decision of the historic preservation board shall be made at the hearing.
 - (6) *Board to grant or deny certificate.* The historic preservation board shall use the criteria set forth in section 48-48 to review the completed application and accompanying submittals. After completing the review of the application and fulfilling the public notice and hearing requirements set forth in subsections (4) and (5) of this section, the historic preservation board shall take one of the following actions:
 - a. Grant the certificate of appropriateness with an immediate effective date;
 - b. Grant the certificate of appropriateness with special modifications and conditions;
 - c. Delay granting the certificate of appropriateness for a demolition for a period of not less than 30 days nor more than 60 days;
 - d. Deny the certificate of appropriateness.
 - (7) *Board to make written findings.* The historic preservation board shall make written findings and conclusions that specifically relate the criteria for granting certificates of appropriateness. All parties shall be given the opportunity to present evidence through documents, exhibits, testimony, or other means. All parties shall be given the opportunity to rebut evidence through cross-examination or other means.
 - (8) *Planning department to keep records.* The planning department shall record and keep records of all meetings. The records shall include the vote, absence, or abstention of each member upon each question, all official actions of the historic presentation board, and the findings and conclusions of the historic preservation board. All records shall be filed in the planning department.
 - (9) *Appeal.* Any person aggrieved by a decision reached by the historic preservation board may appeal the decision to the town council.
 - (10) *Certificate to be posted.* No work for which a certificate of appropriateness is required may be undertaken unless a certificate of appropriateness authorizing the work is conspicuously posted on the property where the work is to be performed.

(LDC 1982, ch. 11, § 11.3.3; Ord. No. 96-04, § III(C), 12-17-1996)

Secs. 48-50—48-71. Reserved.

ARTICLE IV. DEMOLITION

DIVISION 1. GENERALLY

Secs. 48-72—48-100. Reserved.

DIVISION 2. PERMIT REQUIRED

Sec. 48-101. Application.

All demolition to existing structures shall not take place without an approved permit. A completed application for demolition must be filed with the town building department and the appropriate fees as outlined by town ordinances on file at the office of the town clerk must be paid.

(LDC 1982, ch. 11, § 11.4; Ord. No. 96-04, § IV(A), 12-17-1996)

Sec. 48-102. Board, planning director to review application.

Application must be reviewed and approved by the historic preservation board and planning director.

(LDC 1982, ch. 11, § 11.4; Ord. No. 96-04, § IV(B), 12-17-1996)

Sec. 48-103. Commercial, multifamily residential developments.

Applications for commercial and multifamily residential developments in existence prior to enactment of the ordinance from which this chapter is derived shall proceed subject to and conditioned upon a comprehensive historic preservation plan being negotiated with the planning director, the historic preservation board and developer and incorporated into the development plan and approved by the planning and zoning board.

(LDC 1982, ch. 11, § 11.4; Ord. No. 96-04, § IV(C), 12-17-1996)

Sec. 48-104. Aggrieved person afforded rights, remedies under development code.

Any person or entity aggrieved by this division shall be afforded all the rights and remedies under the Land Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.4; Ord. No. 96-04, § IV(D), 12-17-1996)

Secs. 48-105—48-121. Reserved.

DIVISION 3. DEMOLITION BY NEGLECT

Sec. 48-122. Determining neglect.

In the event the historic preservation board determines that a property with a designated historic district or a designated historic resource is in the course of being demolished by neglect, the historic preservation board shall notify the owner of record of such preliminary findings, stating the reasons therefor. The historic preservation board shall request a meeting with the owner or the tenant of the building that is not being adequately maintained, and the historic preservation board shall present ways to improve the condition of the property. If the

owner or tenant fails to take action, the board may notify the building official to institute proceedings before the town code enforcement board under the authority of applicable laws and regulations.

(LDC 1982, ch. 11, § 11.4.1; Ord. No. 96-04, § IV, 12-17-1996)

Sec. 48-123. Statement of intent.

The intent of the regulations of this division is to serve the best interest of the health, safety, prosperity and welfare of the citizens of the town.

(LDC 1982, ch. 11, § 11.4.1; Ord. No. 96-04, § IV(A), 12-17-1996)

Sec. 48-124. Responsibility of owner.

Every owner of a property within a designated historic district shall keep in good repair:

- (1) All of the exterior portions of such buildings or structures;
- (2) All interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise fall into a state of disrepair; and
- (3) In addition, where the historic resource is an archaeological site, the owner shall be required to maintain his property in such a manner as not to adversely affect the archaeological integrity of the site.

(LDC 1982, ch. 11, § 11.4.1; Ord. No. 96-04, § IV(B), 12-17-1996)

Secs. 48-125—48-146. Reserved.

ARTICLE V. HISTORIC PRESERVATION BOARD

Sec. 48-147. Establishment.

The historic preservation board is hereby established to implement the historic preservation provisions of this chapter.

(LDC 1982, ch. 11, § 11.5(intro.); Ord. No. 96-04, § V, 12-17-1996)

Sec. 48-148. Board membership.

- (a) The historic preservation board shall have five members appointed by the town council. One member of the historic preservation board shall be a registered architect and another a local historian, if available. The appointments shall be made on the basis of civic pride, integrity, experience, and interest in the field of historic preservation. The town council should appoint a representative from each of the following areas of expertise:
 - (1) History.
 - (2) Real estate or real property appraisal.
 - (3) Urban planning.

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- (4) Engineering or building construction.
 - (b) Whenever possible, each member shall reside in the town.
 - (c) Each member shall be appointed to a three-year term except that, initially, two members shall be appointed for a term of two years, and one member shall be appointed for a term of three years. No person may serve more than two consecutive three-year terms. Persons disqualified by this provision may be reappointed after one year elapses after the expiration of the second term of service.
 - (d) When a position becomes vacant before the end of the term, the town council shall appoint a substitute member within 60 days to fill the vacancy for the duration of the vacated term. A member whose term expires may continue to serve until a successor is appointed and qualified.
 - (e) An individual who misses three consecutive, regularly scheduled meetings of the historic preservation board without good cause shall be deemed to have resigned from that board and is not eligible for reappointment to that or any other board for at least one year. In that event, the town clerk shall notify the individual that his position will be declared vacant by the town council at the next regularly scheduled town council meeting unless the individual demonstrates good cause for having been absent. In addition, the town council may terminate the appointment of any board member for cause, including, but not limited to, excessive absences and conflicts of interest, upon giving notice and an opportunity to be heard. The town council shall take any and all action it deems appropriate in its sole discretion.

(LDC 1982, ch. 11, § 11.5.1; Ord. No. 96-04, § V(A), 12-17-1996; Ord. No. 2003-2, § 1, 7-15-2003; Ord. No. 2010-05, § 1, 3-2-2010)

Sec. 48-149. Officers.

The members of the historic preservation board shall annually elect a chair and vice-chair from among the members and may create and fill other offices as the historic preservation board deems necessary.

(LDC 1982, ch. 11, § 11.5.2; Ord. No. 96-04, § V(B), 12-17-1996)

Sec. 48-150. Subcommittees.

- (a) The historic preservation board shall create whatever subcommittees it deems necessary to carry out the purposes of the historic preservation board.
- (b) The chair of the historic preservation board shall annually appoint the membership of each subcommittee from the members of the historic preservation board.

(LDC 1982, ch. 11, § 11.5.3; Ord. No. 96-04, § V(C), 12-17-1996)

Sec. 48-151. Staffing.

The planning director shall appoint a town employee to serve as secretary to the historic preservation board, recorder and custodian of all board records.

(LDC 1982, ch. 11, § 11.5.4; Ord. No. 96-04, § V(D), 12-17-1996)

Sec. 48-152. Compensation.

Members shall not be compensated.

(LDC 1982, ch. 11, § 11.5.5; Ord. No. 96-04, § V(E), 12-17-1996)

Sec. 48-153. Funding.

The town council shall appropriate funds to permit the historic preservation board to perform its prescribed functions.

(LDC 1982, ch. 11, § 11.5.6; Ord. No. 96-04, § V(F), 12-17-1996)

Sec. 48-154. Required meetings.

The historic preservation board shall meet at least four times each year and minutes of each meeting shall be kept. Meetings will be conducted according to rules of procedure adopted by the board.

(LDC 1982, ch. 11, § 11.5.7; Ord. No. 96-04, § V(G), 12-17-1996)

Sec. 48-155. Board to adopt the rules of procedure.

The historic preservation board shall adopt the rules of procedure as the recognized authority.

(LDC 1982, ch. 11, § 11.5.7; Ord. No. 96-04, § V(H), 12-17-1996)

Sec. 48-156. Responsibilities of local board.

The responsibilities of the historic preservation board shall be complementary to those of the state historic preservation board office.

(LDC 1982, ch. 11, § 11.5.7; Ord. No. 96-04, § V(I), 12-17-1996)

Secs. 48-157—48-180. Reserved.

ARTICLE VI. GENERAL FUNCTIONS, POWERS, AND DUTIES

Sec. 48-181. General responsibility of planning director.

It shall be the general responsibility of the planning director to take appropriate action to ensure that the historic preservation provisions of this chapter are implemented.

(LDC 1982, ch. 11, § 11.6; Ord. No. 96-04, § VI(A), 12-17-1996)

Sec. 48-182. Specific responsibility of historic preservation board.

(a) It shall be the specific responsibility of the historic preservation board to:

- (1) Update the official inventory of cultural resources and submit to the town council recommendations and documentation concerning the updating.

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- (2) Develop programs to stimulate public interest in urban neighborhood conservation, to participate in the adaptation of existing codes, ordinances, procedures, and programs to reflect urban neighborhood conservation policies and goals.
 - (3) Explore funding and grant sources and advise property owners concerning which might be available for identification, protection, enhancement, perpetuation, and use of historic, architectural, archeological, and cultural resources.
 - (4) Cooperate with agencies of the town, county, regional, state and federal governments in plan proposed and future projects to reflect historic presentation concerns and policies, and assist in the development of proposed and future land use plans.
 - (5) Advise property owners and local governmental agencies concerning the proper protection, maintenance, enhancement, and preservation of cultural resources.
 - (6) Advise the town council concerning the effects of local governmental actions on cultural resources.
 - (7) Review and recommend the designation of sites, buildings, structures, objects, and districts, both public and private, as historically or architecturally significant.
 - (8) Approve or deny petitions for certificates of appropriateness required under the historic preservation regulations in this chapter.
 - (9) Notify the planning director who shall take appropriate action when it appears that there has not been compliance with the historic preservation regulations of this chapter.
 - (10) Assist in developing a historic preservation element to be incorporated into the town comprehensive plan and, if necessary, make recommendations for amendments to historic preservation goals, objectives and policies in the plan.
- (b) All local officials, owners of record and application shall be given a minimum of 30 days, and not more than 75 days, prior to commission meetings in which to comment on or object to the listing of a property in the National Register.
 - (c) Objection by property owners must be notarized to prevent nomination to the National Register.
 - (d) The state historic preservation officer will be provided with 30 days prior notice to all meetings.
 - (e) The process of initiating and continuing the identification of historical properties within the jurisdiction inventory materials shall be compatible with the state files.
 - (f) The historic preservation board shall review all proposed National Register nomination within its jurisdiction.
 - (g) The historic preservation board shall be afforded representation at any pertinent informational or educational meetings workshops and conferences.
 - (h) The town council shall provide funding for seeking expertise on proposals or matters requiring evaluation by a professional of a discipline not represented on the historic preservation board.

(LDC 1982, ch. 11, § 11.6; Ord. No. 96-04, § VI(B), 12-17-1996)

Secs. 48-183—48-202. Reserved.

ARTICLE VII. BUILDING PERMITS

Sec. 48-203. Intent; establishment of the process and enactment of building permits and other regulatory statutes.

All commercial and residential building permits in process at the time of enactment of the ordinance from which this chapter is derived shall be allowed to proceed pursuant to Development Code, Revised January 1982 with this additional requirement. They are required to notify the town of the discovery of any artifacts, monuments, footings, etc., and permit reasonable time for inspection, documentation and proper cataloguing.

(LDC 1982, ch. 11, § 11.7; Ord. No. 96-04, § VII(1), 12-17-1996)

Sec. 48-204. New commercial, residential permits.

Commercial and residential building permits applied for subsequent to the enactment of the ordinance from which this chapter is derived shall be accepted or approved for projects with a demonstrated economic hardship or unusual circumstances or both. All projects shall be reviewed on a case-by-case basis. All permitted projects shall include the following:

- (1) Plans and specifications and budget documentation to demonstrate that the project will protect, conserve and restore historic and archaeological resources discovered during construction according to Federal Secretary of the Interior Standards for preservation and state department of historic resources guidelines.
- (2) Two copies of all plans, specifications and budget documentation must be provided to the town at the time the building permit is requested.
- (3) Unreasonable economic hardship.
 - a. When a claim of unreasonable economic hardship is made due to the effect of this chapter, the owner must prove that he cannot realize a reasonable return upon the value of his property. The public benefits obtained from retaining the cultural resource must be analyzed and duly considered by the historic preservation board.
 - b. The historic preservation board shall apply the test utilized by the Supreme Court of Florida in construing Fla. Constitution Article XX, section XX, in determining the existence of an unreasonable economic hardship. The owner shall submit by affidavit to the historic preservation officer for transmittal to a constituted committee of the historic preservation board for evaluation and recommendation to the full board at least the following information for all property:
 1. The assessed value of the land improvements thereon according to the two most recent assessments;
 2. Real estate taxes for the previous two years;
 3. The date of purchase of the property or other means of acquisition of title, such as by gift or inheritance, and the party from whom purchased or otherwise acquired;
 4. Annual debt service, if any, for the previous two years;
 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;
 6. Any listing of the property for sale or rent, price asked and offers received, if any;
 7. Any consideration by the owner as to profitable adaptive uses of the property;

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8. Maintenance or construction plans for the landmark in question;
 9. Financial proof of the ability to complete the project which may include, but not be limited to, a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and the current fair market value of the property, as determined by at least two independent appraisals made by appraisers with competent credentials.

When an indigent resident or homeowner is unable to meet the requirements set forth in this section, then the historic preservation board, at its own discretion, may waive some or all of the requirements and/or request substitute information that an indigent resident homeowner may obtain without incurring any costs. If the historic preservation board cannot make a determination based on information submitted and an appraisal has not been provided, then the historic preservation board shall request that an appraisal be made by the town.

- c. The owner shall submit by affidavit to the historic preservation officer for transmittal to a constituted committee of the historic preservation board for evaluation and recommendation to the full board at least the following information for income-producing property:
 1. Annual gross income from the property for the previous two years.
 2. Itemized operating and maintenance expenses for the previous two years, including proof that adequate and competent management procedures were followed.
 3. Annual cash flow, if any, for the previous two years.
 4. Proof that efforts have been made by the owner to obtain a reasonable return on his investment based on previous service.
 5. The applicant shall submit all necessary materials to the town planner at least 15 days prior to the historic preservation board hearing in order that staff may review and comment and/or consult on the case. Staff and/or professional comment shall be forwarded to the historic preservation board for consideration and review and made available to the applicant for consideration prior to the hearing.
 6. The historic preservation board may require that an applicant furnish such additional information that is relevant to its determination of unreasonable economic hardship and may require that such additional information is furnished under seal. The historic preservation board or its agent may also furnish additional information as the historic preservation board believes is relevant. The historic preservation board shall also state which form of financial proof it deems relevant and necessary to a particular case.
 7. 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.

(LDC 1982, ch. 11, § 11.7; Ord. No. 96-04, § VII(2)—(4), 12-17-1996)

Sec. 48-205. Unusual and compelling circumstances.

- (a) When an applicant fails to prove unreasonable economic hardship, the applicant may provide to the historic preservation board additional information which may show unusual and compelling circumstances in order to receive historic preservation board recommendation for demolition of or new construction in the historic district.

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- (b) The historic preservation board, using criteria set forth in this chapter, shall determine whether unusual and compelling circumstances exist and shall be guided in its recommendation, such instances by the following additional considerations:
- (1) The historic or architectural significance of the building, object, site, or structure;
 - (2) The importance of the building, object, site, or structure to the integrity of a historic district, an area, or a cluster;
 - (3) The difficulty of the impossibility of maintaining such a building, object, site, or structure because of its design, texture, material, detail, or unique location;
 - (4) Whether the building, object, site, or structure is one of the last remaining examples of its kind in the neighborhood, the county, or the region;
 - (5) Whether there are definite plans for reuse of the property and what effect such plans will have on the architectural, cultural, historical, archaeological, social, aesthetic, or environmental character of the surrounding areas in accordance with Secretary of Interior Standards, as well as the economic impact of the new development;
 - (6) Whether reasonable measures can be taken to save the building, object, site, structure, or cluster from further deterioration, collapse, arson, vandalism, or neglect;
 - (7) The town with respect to this section 5 (2) shall negotiate with the property owner or his designee, a comprehensive historic preservation plan which shall include instructions and guidelines for each resource identified and the property owner shall follow and comply with the comprehensive historic preservation plan.
- (c) The town with respect to article V of this chapter shall negotiate with the property owner or his designee, a comprehensive historic preservation plan which shall include instructions and guidelines for each resource identified and the property owner shall follow and comply with the comprehensive historic preservation plan.
- (d) Sections 48-148 through 48-150 shall be read in conjunction with article VI, Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.7; Ord. No. 96-04, § VII(5), 12-17-1996)

Sec. 48-206. Person aggrieved by decision of the town afforded rights, remedies.

Any person or entity aggrieved by a decision of the town based on article I of this chapter shall be afforded all of the rights and remedies provided in chapter 60.

(LDC 1982, ch. 11, § 11.7; Ord. No. 96-04, § VII(E), 12-17-1996)

Secs. 48-207—48-237. Reserved.

ARTICLE VIII. SITE PLAN

Sec. 48-238. Commercial, multifamily residential.

Commercial and multifamily residential site plans submitted to the town prior to the enactment of the ordinance from which this chapter is derived, but not completely reviewed, shall be allowed to proceed subject to

and conditioned upon a comprehensive historic preservation plan being negotiated with the town and the historic preservation board and property owner or developer and such plan shall be incorporated in its entirety into the proposed development plans.

(LDC 1982, ch. 11, § 11.8.1; Ord. No. 96-04, § VIII(1), 12-17-1996)

Sec. 48-239. All commercial or multifamily plans to be accepted or approved for review.

All commercial or multifamily residential site plans shall be accepted or approved for review on a case-by-case basis according to demonstrated economic hardship or unusual circumstances or both.

(LDC 1982, ch. 11, § 11.8.2; Ord. No. 96-04, § VIII(2), 12-17-1996)

Sec. 48-240. Applications, plans to be reviewed.

- (a) All applications and plans submitted under article II of this chapter shall be reviewed by the historic preservation board and planning director and approved by the planning and zoning board. The planning director and the historic preservation board shall make their recommendation to the planning and zoning board for approval or denial.
- (b) Section VI, (8), and (C) shall be read in conjunction with chapter 44, pertaining to this Land Development Code administration.

(LDC 1982, ch. 11, § 11.8.4; Ord. No. 96-04, § VIII(3), (4), 12-17-1996)

Sec. 48-241. A person aggrieved by decision based on article shall be afforded rights, remedies.

Any person or entity aggrieved by a decision based on article II of this chapter shall be afforded all of the rights and remedies provided in chapter I, article 3, Development Code, Revised January 1982.

- (1) Applications made for signs prior to the enactment of the ordinance from which this chapter is derived shall be allowed to proceed pursuant to this Land Development Code, with this additional requirement. Owner shall allow the town to review the final plans submitted for construction to ensure compliance with the Secretary of Interior guidelines.
- (2) All applications for new signs shall be denied while this chapter is in effect.
- (3) Existing signs may be repaired or restored exactly to current size and content following review and approval by the planning director and the historic preservation board.
- (4) Article III of this chapter shall be read in conjunction with chapter viii, article IV, Development Code, Revised January 1982.
- (5) Any person or entity aggrieved by a decision based on this section shall be afforded all the rights and remedies provided in chapter VIII, article IV, Development Code, Revised January 1982.
- (6) Any person or entity violating article III of this chapter shall be subjected to such penalties as provided in chapter VIII, article IV, Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.8.5; Ord. No. 96-04, § VIII(5), 12-17-1996)

Secs. 48-242—48-262. Reserved.

ARTICLE IX. LANDSCAPE DEVELOPMENT

Sec. 48-263. Applications.

Applications for area landscape development existing prior to the enactment of the ordinance from which this chapter shall proceed pursuant to Land Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.9.1; Ord. No. 96-04, § IX(A), 12-17-1996)

Sec. 48-264. Upgrading existing or new area landscape development.

Applications for upgrading existing or new area landscape development shall be accepted and reviewed on a case-by-case basis pursuant to section 48-2 while this chapter is in effect.

(LDC 1982, ch. 11, § 11.9.2; Ord. No. 96-04, § IX(B), 12-17-1996)

Sec. 48-265. A person aggrieved by a decision based on article shall be afforded rights, remedies.

Any person or entity aggrieved by a decision based on this article shall be afforded all the rights and remedies under chapter V, Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.9.3; Ord. No. 96-04, § IX(C), 12-17-1996)

Secs. 48-266—48-293. Reserved.

ARTICLE X. TREE REMOVAL

Sec. 48-294. Applications.

All applications for tree removal made prior to the enactment of the ordinance from which this chapter is derived shall proceed pursuant to Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.10.1; Ord. No. 96-04, § X(A), 12-17-1996)

Sec. 48-295. No new applications accepted or approved while chapter in effect.

No application for tree removal subsequent to the enactment of the ordinance from which this chapter is derived shall be accepted or approved while this chapter is in effect.

(LDC 1982, ch. 11, § 11.10.2; Ord. No. 96-04, § X(B), 12-17-1996)

Sec. 48-296. Trees, vegetation.

Trees and vegetation which create hazardous and/or life threatening conditions may, in emergency situations, be removed if reviewed and approved by the planning director or his designee.

(LDC 1982, ch. 11, § 11.10.3; Ord. No. 96-04, § X(C), 12-17-1996)

Sec. 48-297. A person aggrieved by a decision based on article shall be afforded rights, remedies.

Any person or entity aggrieved by a decision based on this article shall be afforded all the rights and remedies under chapter VI, Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.10.4; Ord. No. 96-04, § X(D), 12-17-1996)

Secs. 48-298—48-327. Reserved.

ARTICLE XI. COMMERCIAL AND MULTIFAMILY RESIDENTIAL DEVELOPMENTS

Sec. 48-328. Notification required of discoveries; inspection and documentation.

Commercial and multifamily residential developers are required to notify the town of the discovery of any artifacts, monuments, footings, etc., and permit reasonable time for inspection, documentation and proper cataloguing.

(LDC 1982, ch. 11, § 11.11(intro.); Ord. No. 96-04, § XI, 12-17-1996)

Sec. 48-329. Application.

No application for a planned unit development made after the enactment of the ordinance from which this chapter is derived shall be processed, accepted or approved while this chapter is in effect.

(LDC 1982, ch. 11, § 11.11.1; Ord. No. 96-04, § XI(A), 12-17-1996)

Sec. 48-330. A person aggrieved by a decision of the town shall be afforded rights, remedies.

Any person or entity aggrieved by a decision of the town based on this chapter shall be afforded all the rights and remedies under chapter III, Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.11.2; Ord. No. 96-04, § XI(B), 12-17-1996)

Secs. 48-331—48-359. Reserved.

ARTICLE XII. STREET, CURB OR SIDEWALK

Sec. 48-360. Applications.

All applications made for street, curb or sidewalk installation or improvement made prior to the enactment of the ordinance from which this chapter is derived shall be processed pursuant to the Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.12.1; Ord. No. 96-04, § XII(A), 12-17-1996)

Sec. 48-361. No new applications shall be processed, accepted, approved while chapter in effect.

No applications made for nonemergency street, curb or sidewalk installation or improvement subsequent to the enactment of the ordinance from which this chapter is derived shall be processed, accepted or approved while this chapter is in effect.

(LDC 1982, ch. 11, § 11.12.2; Ord. No. 96-04, § XII(B), 12-17-1996)

Sec. 48-362. Major emergency street work.

Any application for major emergency street work shall be considered for approval on a case-by-case basis and must be reviewed and approved by the planning director and the historic preservation board.

(LDC 1982, ch. 11, § 11.12.3; Ord. No. 96-04, § XII(C), 12-17-1996)

Sec. 48-363. A person aggrieved by decision of the town shall have rights, remedies.

Any person or entity aggrieved by a decision of the town based on this chapter shall have all the rights and remedies afforded under chapter V, Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.12.4; Ord. No. 96-04, § XII(D), 12-17-1996)

Secs. 48-364—48-384. Reserved.

ARTICLE XIII. SUBSURFACE UTILITY

Sec. 48-385. Applications.

All applications for major subsurface utility (water, wastewater, electrical, gas, telephone, cable, etc.) made prior to the enactment of the ordinance from which this chapter is derived shall proceed pursuant to Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.13.1; Ord. No. 96-04, § XIII(A), 12-17-1996)

Sec. 48-386. Applications to be reviewed, approved by planning director, historic preservation board.

All applications for major emergency subsurface utility work shall be considered on a case-by-case basis and must be reviewed and approved by the planning director and the historic preservation board.

(LDC 1982, ch. 11, § 11.13.2; Ord. No. 96-04, § XIII(B), 12-17-1996)

Sec. 48-387. Applications to be accompanied by engineering plans.

All applications made pursuant to section 48-386 must be accompanied with engineering plans for each approved utility project and must include specifications and guidelines which minimize impacts on historic archaeological resources.

(LDC 1982, ch. 11, § 11.13.3; Ord. No. 96-04, § XIII(C), 12-17-1996)

Secs. 48-388—48-417. Reserved.

ARTICLE XIV. ZONING AND PUD

Sec. 48-418. Zoning applications.

All zoning applications made 90 days prior to the enactment of the ordinance from which this chapter is derived shall be processed pursuant to the Development Code, Revised January 1982. However, they are required to notify the town of the discovery of any artifacts, monuments, footings, etc., and permit reasonable time for inspection, documentation and proper cataloguing.

(LDC 1982, ch. 11, § 11.14.1; Ord. No. 96-04, § XIV(A), 12-17-1996)

Sec. 48-419. No new zoning applications shall be processed, accepted, approved while chapter in effect.

No zoning application made subsequent to the enactment of the ordinance from which this chapter is derived shall be processed accepted or approved during the effective period of this chapter.

(LDC 1982, ch. 11, § 11.14.2; Ord. No. 96-04, § XIV(B), 12-17-1996)

Sec. 48-420. A person aggrieved by a decision based on article shall be afforded rights, remedies.

Any person or entity aggrieved by a decision based on this article shall be afforded all the rights and remedies under chapter 11, Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.14.3; Ord. No. 96-04, § XIV(C), 12-17-1996)

Sec. 48-421. Planned unit development; applications.

All applications for a planned unit development made prior to the enactment of the ordinance from which this chapter is derived shall be processed pursuant to the Development Code, Revised January 1982.

(LDC 1982, ch. 11, § 11.15.1; Ord. No. 96-04, § XV, 12-17-1996)

Secs. 48-422—48-440. Reserved.

ARTICLE XV. STORMWATER PERMITS

Sec. 48-441. Applications.

Applications for stormwater management permits made to the town prior to the enactment of the ordinance from which this chapter is derived shall proceed, subject to and conditioned upon engineering plans for each stormwater project provided which must include specifications and guidelines which minimized impact on historic archaeological resources.

(LDC 1982, ch. 11, § 11.16.1; Ord. No. 96-04, § XVI(A), 12-17-1996)

Sec. 48-442. Stormwater problems.

Stormwater problems which create hazardous or life-threatening conditions may be implemented following review and approval by planning director and the historic preservation board. If the application is accepted, the requirements of section 48-441 must be met prior to approval.

(LDC 1982, ch. 11, § 11.16.2; Ord. No. 96-04, § XVI(B), 12-17-1996)

Sec. 48-443. Restrictions on acceptance, approval of new stormwater management permits.

No applications for stormwater management permits made after the enactment of the ordinance from which this chapter is derived will be accepted or approved unless subject to section 48-442 during the effective period of this chapter.

(LDC 1982, ch. 11, § 11.16.3; Ord. No. 96-04, § XVI(C), 12-17-1996)

Sec. 48-444. A person aggrieved by a decision based on article shall be afforded rights, remedies.

Any person or entity aggrieved by a decision based on this article shall be afforded all the rights and remedies under chapter VII, Development Code, Revised January 1992.

(LDC 1982, ch. 11, § 11.16.4; Ord. No. 96-04, § XVI(D), 12-17-1996)

Secs. 48-445—48-471. Reserved.

ARTICLE XVI. REPAIRS AND REHABILITATION

Sec. 48-472. Existing single-family residential structures.

Minor repairs and rehabilitation of existing single-family residential structures which do not significantly change the character of the structure may be granted on a case-by-case basis after review and approval by planning director and the historic preservation board.

(LDC 1982, ch. 11, § 11.17.1; Ord. No. 96-04, § XVII(A), 12-17-1996)

Sec. 48-473. Commercial, multifamily residential structures.

All minor repairs and rehabilitation of commercial and multifamily residential structures which do not significantly change the character of the structure may be granted on a case-by-case basis with the approval of the planning director and the historic preservation board.

(LDC 1982, ch. 11, § 11.17.2; Ord. No. 96-04, § XVII(B), 12-17-1996)

Secs. 48-474—48-499. Reserved.

ARTICLE XVII. STANDARD OF REVIEW

Sec. 48-500. Federal, state guidelines.

The standard of review for matters contained in this chapter shall be based on Federal Secretary of the Interior Standards for Historic Preservation and the state division of historical resources guidelines which are attached and will be adopted as an appendix to this chapter which is on file in the office of the town clerk.

(LDC 1982, ch. 11, § 11.18.1; Ord. No. 96-04, § XVIII(A), 12-17-1996)

Sec. 48-501. Guidelines made available upon request.

Upon the request of any person, the town shall provide such person with copies of the Federal Secretary of the Interior Standards for Historic Preservation and the state division of historical resources guidelines at costs not to exceed \$0.25 per page.

(LDC 1982, ch. 11, § 11.18.2; Ord. No. 96-04, § XVIII(B), 12-17-1996)

Secs. 48-502—48-521. Reserved.

ARTICLE XVIII. LOCAL DESIGN STANDARDS

Sec. 48-522. Adopted.

The town council hereby adopts the local design standards for the historic district to complement this chapter, a copy of which is attached to this article and can be found on file in the office of the town clerk.

(Ord. No. 2002-04, § 1, 4-2-2002)

Sec. 48-523. Terms.

The ordinance from which this article is derived shall remain in effect from the date of its enactment, subject to amendments and revisions.

(Ord. No. 2002-04, § 3, 4-2-2002)

Sec. 48-524. Conflicts.

Any conflict with this article and the Development Code, pertaining to standards of review shall be resolved in favor of this article.

(Ord. No. 2002-04, § 3, 4-2-2002)

Sec. 48-525. Effective date.

The ordinance from which this article is derived shall become effective immediately upon its final passage and adoption.

(Ord. No. 2002-04, § 6, 4-2-2002)