

\* Recodified as Chapter ~~34~~ 66 H. 1 \*

BILL NO. 3, 1998

ORDINANCE NO. 6, 1998

AN ORDINANCE OF THE TOWN OF LAKE PARK, FLORIDA, AMENDING THE LAKE PARK CODE BY ADDING A NEW CHAPTER (CHAPTER 34) HISTORIC PRESERVATION, PROVIDING FOR THE IDENTIFICATION, PROTECTION, AND PROMOTION OF RESTORATION OF BUILDINGS AND DISTRICTS WITHIN THE TOWN WHICH HAVE SPECIAL HISTORICAL, ARCHITECTURAL AND ARCHAEOLOGICAL SIGNIFICANCE; PROVIDING DEFINITIONS; PROVIDING FOR THE CREATION OF AND THE POWERS AND DUTIES OF A HISTORICAL PRESERVATION BOARD; CREATING A LOCAL REGISTER OF HISTORICAL PLACES AND ESTABLISHING THE DESIGNATION PROCEDURE FOR PLACEMENT ON THE LOCAL REGISTER AND THE NOMINATION FOR PLACEMENT ON THE NATIONAL HISTORIC REGISTER; PROVIDING FOR THE ISSUANCE OF CERTIFICATES OF APPROPRIATENESS AND CERTIFICATES OF ECONOMIC HARDSHIP BY THE HISTORIC PRESERVATION BOARD WITH CRITERIA FOR ISSUANCE OF SAME; PROVIDING FOR FEES FOR NOMINATION TO THE LOCAL REGISTER AND FOR CERTIFICATES OF APPROPRIATENESS AND ECONOMIC HARDSHIP; PROVIDING FOR AN APPEALS PROCESS; PROVIDING FOR A PENALTY FOR VIOLATION OF THIS ORDINANCE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR CODIFICATION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, in the early 1920's, Harry Seymour Kelsey founded his "Miracle City" in northern Palm Beach County and in 1923 "Kelsey City" was chartered by the Florida Legislature; and

**WHEREAS**, Kelsey City was the first zoned city in Florida and was laid out and planned by the Olmstead Brothers and John Nolen to be the ideal, livable city of traditional design and the "Jewel of the Palm Beaches"; and

**WHEREAS**, the hurricane of 1928 and the Great Depression of 1929 did irreparable damage to many landmarks and architecturally significant structures in Kelsey City, leaving only a few structures and sites for future generations; and

**WHEREAS**, IN 1939 "Kelsey City" was renamed the Town of Lake Park; and

**WHEREAS**, only a few landmarks and structures remain that represent the Kelsey City era and are an important part of the history of the Town and the history of the State of Florida; and

**WHEREAS**, structures of architectural, historic, cultural and aesthetic importance enhance the quality of life of the Town of Lake Park, serve as lessons of the past and examples of quality for today, and contribute to the economy of the Town; and

**WHEREAS**, The Town Commission desires to enact measures designed to protect and preserve such significant sites and structures and simultaneously promote rehabilitation of deteriorated buildings which in turn combats blight.

**BE IT ORDAINED BY THE COMMISSION OF THE TOWN OF LAKE PARK, FLORIDA, AS FOLLOWS:**

### **Section I**

That the Lake Park code is hereby amended by adding a new section to be numbered Chapter 34, which Chapter shall read as follows:

### **Chapter 34**

### **HISTORIC PRESERVATION**

#### **Sec. 34.1. Short Title.**

This chapter shall be known and may be cited as the "Town of Lake Park Historic Preservation Ordinance."

#### **Sec. 34.2. Declaration of legislative intent.**

It is hereby declared as a matter of public policy that the protection, enhancement and perpetuation of properties of historical, cultural, archeological, aesthetic and architectural merit are in the interests of the health, prosperity and welfare of the people of Lake Park. Therefore, this chapter is intended to:

- (1) Effect and accomplish the protection, enhancement and perpetuation of buildings, structures, improvements, landscape features and archeological resources of sites and districts which represent distinctive elements of the Town's cultural, social, economic, political, scientific, religious, prehistoric and architectural history;
- (2) Safeguard the Town's historical, cultural, archeological and architectural heritage, as embodied and reflected in such individual sites, districts and archeological zones;
- (3) Foster civic pride in the accomplishments of the past and maintain examples of

quality structures for the future, and

(4) *Protect and enhance the Town's attraction to visitors and the support and stimulus to the economy thereby provided; and*

(5) *Promote the use of individual sites and districts for the education, pleasure and welfare of the people of the Town of Lake Park*

### **Sec. 34.3. Scope of regulations.**

(1) This chapter is intended to and shall govern and be applicable to all property located in the incorporated Town Limits of Lake Park, Florida. Nothing contained herein shall be deemed to supersede or conflict with applicable building and zoning codes. Provisions contained herein shall be cumulative and read in conjunction with other provisions of the Town of Lake Park Code.

(2) The Historic Preservation ordinance shall be filed, and it shall address the following sections: The establishment of an Historic Preservation Board with powers and duties; the creation of a process to designate individual sites, districts and archeological zones; a process of review of certificates of appropriateness and certificates to dig; and an appeal process. The Town shall also submit the proposed ordinance to the National Register of Historic Places for certification by the National Register to be eligible for the 1981 Economic Recovery Tax Act as amended.

### **Sec. 34.4. Definitions.**

(1) *Archeological zone*: An area designated by this chapter which is likely to yield information on the history and prehistory of Lake Park based on prehistoric settlement patterns in Lake Park as determined by the results of the Lake Park historic survey. These zones will tend to conform to natural physiographic features which were the focal points for prehistoric and historic activities.

(2) *Certificate of appropriateness*: A certificate issued by the Historic Preservation Board permitting certain alterations or improvements to a designated individual site or property in a designated district.

(a) *Regular certificate of appropriateness*: A regular certificate of appropriateness shall be issued by the staff of the Historic Preservation Board, based on the guidelines for preservation approved by the Board.

(b) *Special certificate of appropriateness*. For all applications for a special certificate of appropriateness involving the demolition, removal, reconstruction or new construction at

an individual site or in a district, a special certificate of appropriateness is required that is issued directly by the Board.

(3) *Certified Local Government*: A government satisfying the requirements of the United States National Historic Preservation Act Amendments of 1980 (P.L.96-515) and the implementing of regulations of the U.S. Department of the Interior and the State of Florida. A government which is certified will review all nominations to the National Register of Historic Places within its jurisdiction prior to reviews at the state and federal levels.

(4) *Certificate to dig*: A certificate that gives the Board's permission for certain digging projects that may involve the discovery of as yet unknown or known archeological sites in an archeological zone. This certificate is issued by staff of the Board based on the guidelines for preservation approved by the Board.

(5) *Certificate of recognition*: A certificate issued by the Board recognizing properties designated pursuant to this chapter.

(6) *Demolition*: The complete constructive removal of a building on any site.

(7) *Districts*: A collection of archeological sites, buildings, structures, landscape features or other improvements that are concentrated in the same area and have been designated as a district pursuant to this chapter.

(8) *Exterior*: All outside surfaces of a building or structure.

(9) *Guidelines for preservation*: Criteria established by the Preservation Board to be used by staff in determining the validity of applications for a regular certificate of appropriateness and any certificate to dig and to establish a set of guidelines for the preservation of buildings in south Florida.

(10) *Historic Preservation Board*: The Town of Lake Park Historic Preservation Board. (HPB)

(11) *Historic survey*: A comprehensive survey and listing of the cultural, architectural or archeological resources of the town prepared by a knowledgeable historic preservation authority, following standards set forth in federal, state and town regulations for evaluation of such resources and their importance to the Town of Lake Park.

(12) *Individual site*: An archeological site, building, structure, place or other improvement that has been designated as an individual site pursuant to this chapter including auxiliary buildings of an individual site. Auxiliary or appurtenance buildings is subordinate to or adjoins the principal use of the structure, e.g. fences, walls, steps, paving, sidewalks, signs, light fixtures, street furniture, parking areas, public art, fountains, etc. Under the

provisions of this chapter interior spaces may be regulated only where a building or structure is a designated individual site.

(13) *Local Register of Historic Places*: The official list maintained by the Town of buildings, structures, sites, districts and objects significant to town history, architecture, archeology, engineering and culture, which have been designated by the Historic Preservation Board, ("Town Register").

(14) *National Register of Historic Places*: A federal listing maintained by the U.S. Department of the Interior of buildings, sites, structures and districts that have attained a quality of significance as determined by the Historic Preservation Act of 1966 as amended. ("National Register").

(15) *Ordinary repairs or maintenance*: Work done on any building, structure or site to real property for which a building permit is not required, the purpose and effect of which is to correct or prevent deterioration of a building or structure or decay of or damage to a building or structure or any part thereof by restoring the building or structure as nearly as practicable to its condition prior to such deterioration, decay or damage, using the same materials or those materials available which are as close as possible to the original.

(16) *Owner of a designated property*: As reflected on the current Palm Beach County tax rolls or current title holder.

(17) *Undue economic hardship*: Failure to issue a certificate would place an onerous and excessive financial burden upon the owner that would amount to the taking of the owner's property without just compensation.

(18) *Landscape feature*: Any improvement or vegetation including, but not limited to outbuildings, walls, courtyards, fences, shrubbery, trees, sidewalks, planters, plantings, gates, street furniture and exterior lighting.

(19) *Non-Contributing Resource*: A resource or building that does not add to the cultural, historical, social, economic, political, aesthetic, architectural or archeological significance of a designated landmark or a designated historic district.

(20) *Site of "Exceptional Importance"*: A site or structure that is of exceptional importance because it is: a) one of a kind; b) directly related to a major theme in the town's or region's development; c) significant in multiple areas which can include history, architecture, landscape design, and archaeology.

(21) *Secretary of the Interior's Standards for Rehabilitation*: A federal document currently set forth in 36 C.F.R.68 establishing standards and guidelines for the appropriate rehabilitation and preservation of historic resources, as it may be amended from time to time.

**Sec. 34.5. Historic Preservation Board—Created and established.**

The Planning and Zoning Board designated as "HPB". It is hereby established that the Town Planning and Zoning Board shall serve as the Town of Lake Park Historical Preservation Board ("HPB"). as an agency of the Town government in and for the Town of Lake Park, Florida. The Board is hereby vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archeological and architectural resources in Lake Park, Florida, as prescribed by this chapter under the direct jurisdiction and legislative control of the Town Commissioners. To meet the requirements of the certified local government program and to carry out its responsibilities under this article, the membership of the HPB shall include, to the extent available, members from the disciplines of architecture, architectural history, law, investment banking, planning, engineering, archeology and related fields. The Town Commission shall decide whether or not the existing members of the Planning and Zoning Board meet the requirements of the HPB and other programs and may appoint up to two (2) additional members to the HPB if needed. Whenever a new member is appointed to the HPB, the Town Commission shall consider the professional requirements of the new member to ensure that the requirements of the certified local government program are met. When a vacancy occurs on the HPB, it shall be filled within sixty (60) days. When necessary, persons serving on the HPB shall attend educational meetings to develop a special interest, expertise, experience or knowledge in history, architecture or related disciplines.

Cross reference(s)—Standards for creation and review of boards, commissions, etc., ∞

**Sec. 34.6. Same—Members.**

The Board shall consist of five (5) or seven (7) members appointed by the Town Commission. Each member of the Board shall be, and shall hold office only so long as he or she is, a **resident and registered voter** of the Town of Lake Park, Florida. Appointments shall be made on the basis of civic pride, integrity, experience and interest in the field of historic preservation. The term of office of membership shall follow the guidelines of the Lake Park Planning and Zoning Board. Any vacancy occurring on the Board shall be filled by the Town Commission for the remainder of the unexpired term, at the earliest possible date. Members shall be eligible for reappointment, and shall hold office until their successors have been duly appointed and qualified. Members of the Board shall serve without compensation but shall be reimbursed for necessary expenses incurred in the performance of their official duties, as shall be determined and approved by the Town Commission. Before entering upon the duties of office, each member shall file written acceptance of appointment and take and subscribe to the oath of office prescribed by law, which shall be filed in the office of the Town Clerk of Lake Park. A member of the Board may be removed from office with or without cause by a two-thirds vote of the entire membership of the Town Commission; however, whenever a member of the Board shall fail to attend three (3) consecutive meetings, the Chairman shall

certify the same to the Town Commission. Upon such certification, the member shall be deemed to have been removed and the Town Commission shall fill the vacancy by appointment.

**Sec. 34.7. Organization.**

The Chairman of the Planning and Zoning Board shall serve as Chairman of the HPB. The Town Manager shall provide adequate personnel to provide technical expertise to and fulfil the administrative responsibilities of the Board, including but not limited to representatives from the departments of community development, building and zoning, Town Architect and planning staff which shall be deemed the staff of the Board. Minutes of each Board meeting shall be kept and prepared under the supervision and direction of the Board, and copies of such minutes shall be filed with the Town Clerk.

**Sec. 34.8. Rules and regulations.**

The Board shall make and prescribe such rules and regulations reasonably necessary and appropriate for the proper administration and enforcement of the provisions of this chapter. Such rules and regulations shall conform to the provisions of this chapter and shall not conflict with the Constitution and General Laws of the State of Florida. The Board shall prescribe forms for use by applicants in compliance with the provisions of this chapter.

**Sec. 34.9. Powers and duties.**

The Historical Preservation Board shall have the following enumerated powers and duties:

- (1) Adopt or amend rules of procedure.
- (2) Designate individual sites, districts and archeological zones.
- (3) Issue or deny certificates of appropriateness or special appropriateness and certificates to dig.
- (4) Approve historical markers and issue certificates of recognition for individual sites and designated properties in a district.
- (5) Recommend zoning and building code amendments to the proper authorities.
- (6) Establish guidelines for preservation and criteria for issuance by staff of regular certificates of appropriateness.

- (7) Promote the awareness of historic preservation and its community benefits.
- (8) No actions of this Board will supersede or be construed as superseding the authority of the Town Commission.
- (9) Review and update the historic survey for its quality and professional merit, and validate the findings of the survey as bona fide and sincere which shall be compatible with the Florida Master Site File and planning for their conservation and preservation.
- (10) Implement the authority of this chapter and fulfill the tasks set forth for this Board by the Town Commission in this chapter and other ordinances.
- (11) Record and maintain records of the Board's actions and decisions.
- (12) Follow and abide by the laws of the United States of America, the State of Florida, Palm Beach County and the Town of Lake Park.
- (13) Review and recommend sites and structures for nomination to the National Historic Register.
- (14) Provide an annual report to the Mayor and Town Commission.

**Sec. 34.10. Designation process and procedure.**

- (l) [Criteria.] Consistent with the criteria established by the National Register of Historic Places, the Board shall have the authority to designate areas, places, buildings, structures, landscape features, archeological sites and other improvements or physical features, as individual sites, districts or archeological zones that are significant in Lake Park's history, architecture, archeology or culture and possess an integrity of location, design, setting, materials, workmanship or association, or:
  - (a) Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric and architectural history that have contributed to the pattern of history in the community, Palm Beach County, south Florida, the State or the Nation; or
  - (b) Are associated with the lives of persons significant in our past; or
  - (c) Embody the distinctive characteristics of a type, period, style or method of construction or work of a master; or that possess high artistic value; or that represent a distinguishable entity whose components may lack individual distinction; or
  - (d) Have yielded, or are likely to yield information in history or prehistory; or

(e) Are listed in the National Register of Historic Places.

(2) Properties not generally considered; exceptions. Certain properties, which include cemeteries, birthplaces, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, properties commemorative in nature and properties that have achieved significance within the last fifty (50) years, will not normally be considered for designation. However, such properties may qualify if they are integral parts of districts that do meet the criteria, or if they fall within the following categories:

(a) A religious property deriving primary significance from architectural or artistic distinction of historical importance.

(b) A building or structure removed from its location but which is primarily significant for architectural value, or is the surviving structure most importantly associated with an historic event or person.

(c) A birthplace or grave of an historical figure of outstanding importance if there is no other appropriate site or building directly associated with his/her productive life.

(d) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, distinctive design features, or from association with historic events.

(e) A property primarily commemorative in intent if design, age, tradition or symbolic value has invested it with its own historical significance.

(f) A property or district achieving significance within the past fifty (50) years if it is of exceptional importance.

(3) Investigation and designation report. Prior to the designation of an individual site, a district, or an archeological zone, an investigation and designation report must be filed with the Board. The format of these reports may vary according to the type of designation; however, all reports must address the following: (1) The historical, cultural, architectural or archeological significance of the property or properties being recommended for designation; (2) a recommendation of boundaries for districts and archaeological zones and identification of boundaries of individual sites being designated; (3) a recommendation of standards to be adopted by the Board in carrying out its regulatory function under this chapter with respect to certificates of appropriateness and certificates to dig. Where a report is filed recommending designation of a district, the report must identify those properties, if any, within the

district which are not historically or architecturally compatible with structures in the district. The standards for regulating such nonconforming properties shall provide that a certificate of appropriateness may be required only for new construction on such properties. All reports shall take into consideration projected, proposed or existing public improvements and developmental or renewal plans.

**(4) Procedure.**

**(a) Petition of the owner.** The owner(s) of any property in incorporated Lake Park may petition this Board for designation of their property as an individual site, district or archeological zone provided that they appear before the Board with sufficient information to warrant the investigation of the property for future designation and the Board finds that the property may be worthy of designation. The Board shall, based on its findings, either direct the staff to begin the designation process or deny the petition. Nothing in this subsection shall be deemed to restrict the power of the Board to initiate the designation process pursuant to this section.

**(b) Directive of the Board.** The Board shall, upon recommendations from staff or the acceptance of petitions pursuant to part (4), subsection (a) of this section, direct staff to begin the designation process by preparing a designation report, pursuant to part (III) of this section and any other standards the Board may deem necessary, and submitting this report according to the procedures described herein.

**(C) Notification of owner.** For each proposed designation of an individual site, district or archeological zone, the Board is encouraged to obtain the permission of the property owner(s) within the designated area, and is responsible for mailing a copy of the designation report to the owner(s) as notification of the intent of the Board to consider designation of the property at least fifteen (15) days prior to a public hearing held pursuant to this section.

**(d) Notification of government agencies.** Upon filing of a designation report, the Secretary of the Board shall immediately notify the Community Development Department, the Public Works Department and any other County or Municipal agency, including agencies with demolition powers, that may be affected by said filing.

**(e) Notification of a public hearing.** For each individual site, district or archeological zone proposed for designation, a public hearing must be held no sooner than fifteen (15) days and within sixty (60) days from the date a designation report has been filed with the Board. Owners of record or other parties having an interest in the proposed designated properties, if known, shall be notified of the public hearing by certified mail to the last known address of the party being served, according to the Palm Beach County Property Appraiser's records; however, failure to receive such notice shall not invalidate the same as such notice shall also be perfected by publishing a copy thereof in a newspaper of general circulation at least ten (10) days prior to the hearing. Owners shall be given an opportunity at the public hearing to object to the proposed designation.

(f) Requirement of prompt decision and notification. Within seven (7) days of a public hearing on a proposed individual site, district or archeological zone, the Board shall by written resolution state its decision to approve, deny or amend the proposed designation and shall direct the Secretary of the Board to notify the following of its actions with a copy of the resolution:

- (1) The Community Development Department,
- (2) The Town Clerk,
- (3) The appropriate County Officials.
- (4) Owner(s) of the affected property and other parties having an interest in the property, if known,
- (5) The Public Works Department, and
- (6) Any other County or municipal agency, including agencies with demolition powers, that may be affected by this action,
- (7) Palm Beach County Property Appraiser.

(g) Amendment or rescission. The Board may amend or rescind any designation provided it complies with the same manners and procedures used in the original designation.

(h) Moratorium. Upon the filing of a designation report by the staff, the owner(s) of the real property which is the subject matter of the designation report or any individual or private or public entity shall not:

- (1) Erect any structure on the subject property.
- (2) Alter, restore, renovate, move or demolish any structure on the subject property until such time as final administrative action, as provided by this chapter, is completed.
- (l) Recording of designation. The Board shall provide the Clerk of the Circuit Court with all designations for the purpose of recording such designation and the Clerk of the Circuit Court shall thereupon record the designation according to law.

**Sec. 34.11. Application for certificate of appropriateness.**

(i) Certificate required as prerequisite to alteration, etc. No building, structure, improvement, landscape feature or archeological site within The Town of Lake Park which is designated pursuant to Section 34.10 or has been identified as 50 years or older in the Lake Park Historical Structure Survey dated June, 1998 shall be erected,

altered, restored, renovated, excavated, moved or demolished until an application for a certificate of appropriateness regarding any architectural features, landscape features or site improvements has been submitted to and approved pursuant to the procedures in this section. Architectural features shall include, but not be limited to, the architectural style, scale, massing, siting, general design and general arrangement of the exterior of the building or structure, including the type, style and color of facades, roofs, windows, doors and appurtenances. Architectural features shall include, when applicable, interior spaces where interior designation has been given pursuant to Section 34.10. Landscape features and site improvements shall include but are not limited to, site regrading, subsurface alterations, fill deposition, paving, landscaping, walls, fences, courtyards, signs and exterior lighting. No certificate of appropriateness shall be approved unless the architectural plans for said construction, alteration, excavation, restoration, renovation, relocation or demolition are approved by the Board.

(2) Board to develop procedures. The Board shall set the fees needed and develop procedures for making application for both a regular and special certificate of appropriateness.

(3) Standards for issuance. The Town of Lake Park hereby adopts the Secretary of Interior's Standards of Rehabilitation. The Board shall also adopt supplemental guidelines which may be amended from time to time. These standards by which applications for any certificate of appropriateness are to be measured and evaluated. In adopting these guidelines, are intended by the Board 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 streetscape. These guidelines shall also serve as criteria for staff to make decisions regarding applications for regular certificates of appropriateness.

(4) Regular certificates of appropriateness. A) Based on the guidelines for preservation, the designation report, a complete application for a regular certificate of appropriateness, any additional plans, drawings or photographs to fully describe the proposed alteration and any other guidelines the Board may deem necessary, the staff of the Board shall, within ten (10) days from the date a complete application has been filed, approve or deny the application for a regular certificate of appropriateness by the owner(s) of a designated individual site, or property within a designated district. B) Regular certificates of appropriateness may be issued by Staff for ordinary repair and maintenance for which a building permit is not required, the purpose and effect of which is to correct or prevent any deterioration of, decay of or damage to the exterior of such building, structure or site or any part thereof, and to restore the same as nearly as may be practicable to its condition prior to such deterioration, decay or damage, using the same materials or those materials available which are as close as possible to the

original. C) The findings of the staff shall be mailed to the applicant within three (3) days of staff decision accompanied by a statement in full regarding the staff's decision. The applicant shall have an opportunity to challenge the staff decision by applying for a special certificate of appropriateness within thirty (30) days of the staff's findings.

(5) Special certificates of appropriateness. Special certificates of appropriateness are required for any alteration to buildings or sites other than ordinary maintenance.

(a) An applicant for a special certificate of appropriateness shall submit his fees and application to the Board pursuant to Section 34.11 and accompany such application to the Board with full plans and specifications, site plan and samples of materials as deemed appropriate by the Board to fully describe the proposed appearance, color, texture or materials, and architectural design of the building and any outbuilding, wall, courtyard, fence, landscape feature, paving, signage and exterior lighting. The applicant shall provide adequate information to enable the Board to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscape. If such application involves a designated archeological site the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archeological site.

(b) The Board shall hold a public hearing upon an application for a special certificate of appropriateness affecting property under its control. In such instances, notice and procedure of the public hearing shall be given to the property owner(s) by certified mail and to other interested parties by an advertisement in a newspaper of general circulation at least ten (10) days prior to the hearing.

(c) The Board shall act upon an application within sixty (60) days of receipt of application materials adequately describing the proposed action. The Board shall approve, deny or approve in modified form an application, subject to the acceptance of the modification by the applicant, or suspend action on the application for a period not to exceed thirty (30) days in order to seek technical advice from outside its members or to meet further with the applicant to revise or modify the application.

(d) The decision of the Board shall be issued in writing. Evidence of approval of the application shall be by certificate of appropriateness issued by the Board or the Board's designated staff representative to the applicant and, whatever its decision, notice in writing shall be given to the applicant and the Community Development Department. When an application is denied, the Board's notice shall provide an adequate written explanation of its decision to disapprove the application. The Board shall keep a record of its actions under this chapter.

**(6) Demolition.**

(a) Demolition of a designated building, structure, improvement or site may occur pursuant to an order of a government agency or a court of competent jurisdiction or pursuant to an approved application by the owner for a special certificate of appropriateness.

(b) Government agencies having the authority to demolish unsafe structures shall receive notice of designation of individual sites, districts or archeological zones pursuant to Section 34.10 (4)(f). The Board shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by said government agency regarding demolition of any designated property. The Board may make recommendations and suggestions to the government agency and the owner(s) relative to the feasibility of and the public interest in preserving the designated property.

(c) No permit for voluntary demolition of a designated building, structure, improvement or site shall be issued to the owner(s) thereof until an application for a special certificate of appropriateness has been submitted and approved pursuant to the procedures in this section. Refusal by the Board to grant a special certificate of appropriateness shall be evidenced by written order detailing the public interest which is sought to be preserved. The Board shall be guided by the criteria contained in part (VI), subsection (d) herein. The Board may grant a special certificate of appropriateness which may provide for a delayed effective date of up to six (6) months. The effective date shall be determined by the Board based upon the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition delay period, the Board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this chapter. Such steps may include, but shall not be limited to, consultation with civic groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one (1) or more structures or other features.

(d) In addition to all other provisions of this chapter, the Board shall consider the following criteria in evaluating applications for a special certificate of appropriateness for demolition of designated properties:

(1) Is the structure of such interest or quality that it would reasonably meet national, State or local criteria for designation as an historic or architectural landmark?

(2) Is the structure of such design, craftsmanship, or material that it could be reproduced only with great difficulty and/or expense?

(3) Is the structure one (1) of the last remaining examples of its kind in the Town, neighborhood, the County or the region?

- (4) Does the structure contribute significantly to the historic character of a designated district?
- (5) Would retention of the structure promote the general welfare of the Town, County or region 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) Are there definite plans for reuse of the property if the proposed demolition is carried out, and what will be the effect of those plans on the character of the surrounding area?
- (7) [Building permit not to issue without certificate.] No building permit shall be issued by the Building Official which affects any designated property in the Town of Lake Park without a certificate of appropriateness.
- (8) [Compliance of work with certificate standards.] All work performed pursuant to the issuance of any certificate of appropriateness shall conform to the requirements of the certificate. The Town Manager shall designate an appropriate official to assist the Board by making necessary inspections in connection with enforcement of this chapter and the Manager or the Building Official shall be empowered to issue a stop work order if performance is not in accordance with the issued certificate. No work shall proceed as long as a stop work order continues in effect. Copies of inspection reports shall be furnished to the Board and copies of any stop work orders both to the Board and the applicant. The Building Official and staff for the Board shall be responsible for ensuring that any work not in accordance with an issued certificate of appropriateness shall be corrected to comply with the certificate of appropriateness prior to withdrawing the stop work order.
- (9) [Emergency, temporary measures.] For the purpose of remedying emergency conditions determined to be dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction or other repairs to a building or site in the Town of Lake Park, pursuant to an order of a government agency or a court of competent jurisdiction. The owner of a building damaged by fire or natural calamity shall be permitted to stabilize the building immediately without Board approval, and to rehabilitate it later under the normal review procedures to this chapter.
- (10) [No action to constitute approval.] If no action upon an application is taken within sixty (60) days from the date of application, such application shall be deemed to have been approved and no other evidence of approval shall be needed. This time limit may be waived by mutual written consent of the applicant and the Board.
- (11) [Power of review.] The Board shall have the authority to review applications for certificates of appropriateness for all property in the Town of Lake Park, however owned, by either private or public parties. The purposes of this chapter shall apply

equally to plans, projects or work executed or assisted by any private party, governmental body or agency, department, authority or Board of the Town, County or State.

**Sec. 34.12. Variances.**

Where, by reason of particular site conditions and restraints, or because of unusual circumstances applicable solely to the particular applicant, strict enforcement of the provisions of this chapter would result in serious undue economic hardship to the applicant, the Board shall have the power to vary or modify adherence to this chapter; provided always that its requirements ensure harmony with the general purposes hereof and will not adversely affect the Town of Lake Park.

(a) In any instance where there is a claim of undue economic hardship, the owner may submit, by affidavit, to the Board at least fifteen (15) days prior to the public hearing, the following information:

(1) For all property:

(1) The amount paid for the property, the date of purchase and the party from whom purchased;

(2) The assessed value of the land and improvements thereon according to the two (2) most recent assessments;

(3) Real estate taxes for the previous two (2) years;

(4) Annual debt service, if any, for the previous two (2) years;

(5) All appraisals obtained within the previous two (2) 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; and

(7) Any consideration by the owner as to profitable adaptive uses for the property; and

(2) For income-producing property:

(1) Annual gross income from the property for the previous two (2) years;

(2) Itemized operating and maintenance expenses for the previous two (2) years; and

(3) Annual cash flow, if any, for the previous two (2) years.

(b) The Board may require that an applicant furnish such additional information as the Board believes is relevant to its determination of undue economic hardship and may provide in appropriate instances that such additional information be furnished under seal. 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.

**Sec. 34.13. Maintenance of designated properties.**

Nothing in this chapter shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure which does not involve a change of design, appearance or material, and which does not require a building permit.

**Sec. 34.14. Certificates to dig.**

(1) [When required; how granted.] Within an archeological zone, new construction, filling, digging, the removal of trees, or any other activity that may alter or reveal an interred archeological site shall be prohibited without a certificate to dig. All applications to the Town involving new construction, large-scale digging, the removal of trees or any other activity that may reveal or disturb an interred archeological site, in an archeological zone shall require a certificate to dig before approval. Based on the designation report for the archeological zone, a complete application for a certificate to dig and any additional guidelines the Board may deem necessary, the staff of the Board shall, within ten (10) days from the date the completed application has been filed, approve the application for a certificate to dig by the owners of a property in a designated archeological zone. The certificate to dig may be made subject to specified conditions, including but not limited to conditions regarding site excavation. In order to comply with the site excavation requirements of the certificate to dig, the applicant may agree to permit the Town or its designee to conduct archeological excavation from the time of the approval of the certificate to dig until the effective date thereof. The findings of the staff shall be mailed to the applicant by registered mail promptly. The applicant shall have the opportunity to challenge the staff decision or any conditions attached to the certificate to dig by requesting a meeting of the Board. The Board shall convene within thirty-five (35) days after such a request and shall make every effort to review and reconsider the original staff decision to arrive at an equitable decision. The decision of the Board shall be reduced to writing within seven (7) days from the date of the meeting.

(2) Approved certificates to dig. Approved certificates to dig shall contain an effective date not to exceed sixty (60) days at which time the proposed activity may begin, unless the Board decides to designate the site in question as an individual site or district pursuant to

Section 34.10 in which all the rules and regulations pertaining to the designation process shall apply from the date the designation report has been filed.

(III) [Work to conform to certificate; stop work order.] All work performed pursuant to the issuance of a certificate to dig shall conform to the requirements of such certificate. It shall be the duty of the appropriate government agencies and the staff of the Board to inspect from time to time any work pursuant to such certificate to assure compliance. In the event work is performed not in accordance with such certificate, the official designated by the Town Manager pursuant to Section 34.11(8) shall be empowered to issue a stop work order and all work shall cease. No person, firm or corporation shall undertake any work on such projects as long as such stop work order shall continue in effect.

#### **Sec. 34.15. Appeals.**

Within twenty (20) days of the written decision of the Board, an aggrieved party may appeal the decision by filing a written notice of appeal with the Town Clerk of Lake Park. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought. Within sixty (60) days of the filing of the appeal or the first regular Town Commission meeting which is scheduled, whichever is later in time, the Town Commission shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the Board. Nothing contained herein shall preclude the Town Commission from seeking additional information prior to rendering a final decision. The decision of the Town Commission shall be in writing and a copy of the decision shall be forwarded to the Board and the appealing party.

Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the Town Commission may appeal an adverse decision to the Circuit Court in and for Palm Beach County, Florida. The party taking the appeal shall be required to pay to the Town Clerk the sum of two hundred dollars (\$200.00) to defray the costs of preparing the record on appeal.

#### **Sec. 34.16. Penalties.**

Failure by an owner of record or any individual or private or public entity to comply with any provisions of this chapter shall constitute a violation hereof and shall be punishable by civil or criminal penalties including a fine of not more than five hundred dollars (\$500.00) per day for each day the violation continues and including a requirement that any work performed contrary to this chapter must be removed and the property returned to its condition prior to commencement of said action. The Code Enforcement Board shall have jurisdiction to enforce the codes and ordinances of the Town.

**Sec. 36.17. Incentives.**

All properties designated as individual sites or as designated properties within a district shall be eligible, upon application by the owner(s), for any available financial assistance set aside for historic preservation by the Town of Lake Park contingent on the availability of funds and the scope of the project as described in the application.

**Sec. 34.18. Tax exemptions for historic properties.**

(a) Scope of tax exemptions. A method is hereby created for the Lake Park Town Commissioners, at its discretion, to allow tax exemptions for the restoration, renovation, or rehabilitation of historic properties. The exemption shall apply to one hundred (100) percent of the assessed value of all improvements to historic properties which result from restoration, renovation, or rehabilitation made on or after the effective date of this ordinance. The exemption applies only to taxes levied by The Town of Lake Park. 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. The exemption under this ordinance does not apply to properties within a community redevelopment area previously or hereafter established pursuant to Part III of Chapter 163, Florida Statutes, by either the Board of County Commissioners of Palm Beach County or the Lake Park Town Commission.

(b) Duration of tax exemptions. Any exemption granted under this section to a particular property shall remain in effect for ten (10) years. The Town Commission shall have the discretion to set a lesser term. The term of the exemption shall be specified in the resolution approving the exemption. The duration of the exemption as established in the resolution granting the exemption shall continue regardless of any change in the authority of the Town to grant such exemptions or any change 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 in their historic state over the period for which the exemption was granted.

(c) Eligible properties and improvements.

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

(A) At the time the exemption is granted the property:

(1) Is individually listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, as amended; or

(2) Is a contributing property to a national-register-listed district; or

(3) Is designated as a historic property, or as a contributing property to a historic district, under the terms of a local preservation ordinance; and

(B) The Historic Preservation Board has certified to the Town Commission that the property for which an exemption is requested satisfies paragraph (A).

(2) In order for an improvement to a historic property to qualify the property for an exemption, the improvement must:

(A) Be consistent with the United States Secretary of Interior's Standards for Rehabilitation; and

(B) Be determined by the Lake Park Historic Preservation Board to meet criteria established in rules adopted by the Department of State.

(d) Applications. Any person, firm, or corporation that desires an ad valorem tax exemption for the improvement of a historic property must, in the year the exemption is desired to take effect, file with the Town Commission a written application on a form prescribed by the Department of State. 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 improvements;

(3) Proof, to the satisfaction of the Historic Preservation Board, that the property to be rehabilitated or renovated is a historic property under this section;

(4) Proof, to the satisfaction of the Lake Park Historic Preservation Board, 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 Department of State;

(5) Other information identified in appropriate Department of State regulations, or requested by the Lake Park Historic Preservation Board; and

(6) The property within the jurisdiction of the Lake Park Historic Preservation Board, has filed a completed application for a certificate of appropriateness for the qualifying restoration, renovation, or rehabilitation.

(e) Required covenant. To qualify for an exemption, the property owner must enter into a covenant or agreement with the Town Commission for the term for which the exemption is granted. The form of the covenant or agreement must be established by the 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. Violation 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 Section 212.12(3), Florida Statutes.

(f) **Review By Historic Preservation Board.** The Lake Park Historic Preservation Board, or its successor, is designated to review applications for exemptions. The Lake Park Historic Preservation Board must recommend that the Town Commission grant or deny the exemption. Such reviews must be conducted in accordance with rules adopted by the Department of State. The recommendation, and the reasons therefor, must be provided to the applicant and to the Town Commissioners before consideration of the application at an official meeting of the Lake Park Town Commission.

(g) **Approval By Town Commission.** A majority vote of the Town Commissioners 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 Town Commission shall include the following in the ordinance approving the written application for exemption:

(1) The name of the 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 section.

(h) **Recording in public record.** The covenant evidencing the tax exemption shall be recorded by the Town at the owner's expense in the public records of Palm Beach County, Florida.

## **SECTION II**

That should any section or provision of this Ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

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**SECTION III**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of the Town of Lake Park, Florida. The Sections of this Ordinance may be renumbered or relettered to accomplish such; and the word "Ordinance" may be changed to "Section," "Article," or other appropriate word.

**SECTION IV**

All ordinances of the Town of Lake Park in conflict with any provisions of this Ordinance are hereby repealed to the extent of such conflict.

**SECTION V**

This Ordinance shall take effect immediately upon passage.

PLACED ON FIRST READING THIS 17<sup>th</sup> DAY OF JUNE, 1998. PUBLISHED IN THE PALM BEACH POST THIS 21<sup>st</sup> DAY OF June, 1998.

PLACED ON SECOND, FINAL READING AND ADOPTED THIS 1<sup>st</sup> DAY OF July, 1998.



*Barbara L. Scheiking*  
Town Clerk

*William Wagner*  
William Wagner, Mayor

Approved As to Form  
And Legal Sufficiency:

\_\_\_\_\_  
Town Attorney