

ORDINANCE 2008-31

(Correcting Ordinance 2008-11 Historic District Regulatory Board)

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING ORDINANCE 2008-11 TO CORRECT SCRIVENER'S ERRORS IN SECTIONS 4 AND 5 OF SAID ORDINANCE AS PREVIOUSLY ADOPTED; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission adopted Ordinance 2008-11, the Historic District Regulatory Board Ordinance, on May 20, 2008; and

WHEREAS, the City Commission reviewed a draft of the ordinance in public workshops and, based on discussion at those workshops, changes were made in two sections as follows:

SECTION 4 – *Sec. 23-227 Certificate of Appropriateness*

SECTION 5 – *Table 23-242 “Land Use Applications – Required Fees”*

WHEREAS, the staff report that was provided to the City Commission for first reading of the ordinance listed and explained the intended amendments; and

WHEREAS, the workshop draft of the ordinance, rather than the amended draft, was erroneously included in the City Commission packets for the first and second readings of the ordinance and was subsequently signed by the Mayor;

NOW THEREFORE, BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

The scrivener's errors set forth and described herein are hereby corrected and all other provisions of the following enumerated ordinance shall remain as previously adopted:

ORDINANCE 2008-11

(Historic District Regulatory Board)

AN ORDINANCE OF THE CITY OF LAKE WALES, POLK COUNTY, FLORIDA, AMENDING LAKE WALES CODE OF ORDINANCES CHAPTER 23, ZONING, LAND USE AND DEVELOPMENT REGULATIONS; ESTABLISHING THE HISTORIC DISTRICT REGULATORY BOARD AND SETTING FORTH ITS POWERS AND DUTIES; REQUIRING A CERTIFICATE OF APPROPRIATENESS FOR CONSTRUCTION OR ALTERATION OF STRUCTURES AND SITES WITHIN A LOCAL HISTORIC DISTRICT; ENACTING APPLICATION REQUIREMENTS, REVIEW PROCEDURES AND FEES FOR CERTIFICATES OF APPROPRIATENESS; PROVIDING CRITERIA FOR THE EVALUATION OF PROPOSED HISTORIC DISTRICTS; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ENACTED by the City Commission of the City of Lake Wales, Polk County, Florida:

SECTION 1:

Historic District Regulatory Board

Sec. 23-208 establishing a Historic District Regulatory Board is hereby added to Chapter 23, Article II. Administration and Procedures, Div. 1. Administering Officials and Boards, such section to read as follows:

Sec. 23-208. Historic District Regulatory Board

Sec. 23-208.1. Designated.

The City of Lake Wales Historic District Regulatory Board is designated, and referred to herein as the “historic board.” The purpose of the historic board is to administer the regulations within this chapter pertaining to historic districts.

Sec. 23-208.2. Composition of historic board and terms of members

- a. The historic board shall consist of five regular members who shall be appointed by the governing body in accordance with sec. 2-26 of the Lake Wales Code of Ordinances. At least 50% of the members shall reside or own property within the city. Members shall be chosen to provide expertise in the following disciplines to the extent such professionals are available in the community: historic preservation, architecture, architectural history, curation, conservation, anthropology, building construction, landscape architecture, planning, urban design, and regulatory procedures.
- b. No member of the historic board may concurrently serve on any other regulatory board of the city.
- c. Members shall be appointed to three-year terms, staggered so that three members are appointed or reappointed in one year, and two members are appointed or reappointed in each of two other years.
- d. All vacancies on the historic board shall be filled within 60 calendar days. Any member may be removed by the mayor with the approval of the city commission for inefficiency, neglect of duty, malfeasance, conflict of interest or similar cause, after written notice and a public hearing.

Sec. 23-208.3. Rules of procedure.

- a. The historic board shall elect from its membership one member to serve as chairman and one to serve as vice-chairman.
- b. The term of the chairman and vice chairman shall be for a period of one year with eligibility for re-election.
- c. The historic board shall hold regular meetings at the call of the chairman and at such other times as the board may determine. Special meetings may be called by the chairman or vice-chairman with twelve hours of notice. No less than four meetings shall be held each year.
- d. Each board member shall make a reasonable effort to attend State Historic Preservation Office training programs.

- e. The historic board shall adopt rules for transaction of its business and shall keep a public record of its resolutions, transactions, findings, and determinations which record shall be filed with the official records of the city.

Sec. 23-208.4. Functions, powers, and duties.

- a. To hear and decide upon applications for certificates of appropriateness as required under this chapter.
- b. To adopt guidelines for the review and issuance of certificates of appropriateness consistent with the purposes of this chapter, the historic preservation element of the comprehensive plan, and the Secretary of the Interior's standards for historic properties.
- c. To make recommendations to the city commission on matters relating to the establishment of historic districts and regulation of such districts.
- d. To make recommendations to the planning board and the city commission for amendments to the code of ordinances and the comprehensive plan on matters relating to historic preservation.
- e. To make recommendations to the planning board and city commission regarding special permits for properties within an historic district in cases in which the special permit involves work requiring a certificate of appropriateness.
- f. To perform any other duties which are lawfully assigned to it by the city commission.

SECTION 2.

Petition for creating a historic district

Sec. 23-218 Zoning map amendment is hereby amended by adding at the end of the paragraph in subsec. a, under Sec. 218.1 Eligibility, the following:

For the creation of a new historic district or for changes to an existing historic district, notarized affidavits requesting the amendment are required from the owners of at least 51% of the properties in the proposed district or in the area to be added, as applicable.

SECTION 3.

Criteria for review of application for historic district

Under Sec. 218 Zoning Map Amendment, subsec. 218.4. Planning board recommendation, add subsec. "f" to read as follows:

- f. *Historic overlay districts.* A proposed historic overlay district shall be consistent with the criteria for establishing such districts, set forth in sec. 23-652.2. in Article VI. Resource Protection Standards, Division 5 Historic Preservation.

SECTION 4.

Certificate of Appropriateness

Sec. 23-227 requiring a certificate of appropriateness for certain types of construction in an historic district is hereby added to Chapter 23, Article II,

Administration and Procedures, Div. 2. Application and Approval Requirements and Procedures, such section to read as follows:

Sec. 23-227. Certificate of Appropriateness.

A certificate of appropriateness is a written approval issued by the historic preservation regulatory board for work proposed on buildings or sites within an historic district designated under this chapter. See sec. 23-802 for definitions of terms used in this section.

Sec. 227.2. Applicability

- a. *Certificate of appropriateness.* Unless otherwise provided herein, no person may undertake the following actions affecting any property in an historic district designated under this chapter without first obtaining a certificate of appropriateness from the historic regulatory board.
1. Alteration of the exterior part of any building or structure, regardless of whether a building permit is required for the work.
 2. Demolition of a building, structure or object or removal of a significant exterior feature of a building or structure. (Demolition delay only. See sec. 23-227.3.b.)
 3. Installation of a new sign or alteration of an existing sign; removal of existing signs integral to the architecture of any building. (See exemption for incidental signs.)
 4. Construction of a new building or an addition to an existing building.
 5. Construction of fences, not including hedges.
 6. ~~Installation of art, including murals, sculptures, art work on pavement or walls, and similar works, but not including landscaping.~~
- b. *Exemptions.* The following actions are exempt from the requirement of a certificate of appropriateness:
1. Ordinary maintenance and repairs, provided the work involves repairs to existing features of a structure or site or the replacement of elements of a structure with pieces identical in appearance and provided that the work does not change the exterior appearance of the structure or site ~~and does not require the issuance of a building permit.~~
 2. Landscaping, not including non-vegetative features such as walls, fences, and paving.
 3. The administrative official may determine that work is exempt from the requirement for a certificate of appropriateness if the alteration will not be visible from a public street or pedestrian way. The administrative official may impose reasonable conditions on the approval in keeping with the guidelines of the historic board.
 4. Murals, provided they do not meet the definition of a sign under this chapter.

5. Alterations meeting guidelines adopted by the historic board for paint color or other materials.
 6. Directional and other incidental signs exempt from permitting requirements under this chapter.
- c. *Other permits.* No building permit, demolition permit, land alteration permit, or site development permit shall be issued for work on a building or site in an historic district designated under this chapter unless a certificate of appropriateness has been issued for the work or the work has been verified as exempt by the administrative official. The issuance of a certificate of appropriateness shall not relieve the applicant from obtaining other required permits and approvals. A building permit or other permit issued by the city shall be invalid if it is obtained without the presentation of the certificate of appropriateness required for the proposed work.
 - d. *Violations; stop work.* A stop work order shall be issued for any work undertaken in violation of the requirement for a certificate of appropriateness or the conditions of a certificate of appropriateness.

Sec. 23-227.2. Application

- a. *Pre-application conference.* A pre-application conference with the administrative official is required prior to submission of an application for a certificate of appropriateness for construction of a new building or an addition or for any alteration of the exterior of a building within an historic district designated under this chapter ~~contributing building as defined in this chapter, and for the installation of art.~~ An applicant for any work within an historic district may request a pre-application conference with the administrative official or with the historic board to obtain information or guidance regarding a proposed project. The purpose of the pre-application conference is to discuss and clarify preservation objectives and guidelines of the historic board in relation to a proposed project.
- b. *Application for certificate of appropriateness.* Application shall be made on forms supplied by the administrative official and shall be accompanied by the fee as set forth in Sec. 23-242. The number of copies of required support documents, application deadlines, and review guidelines shall be set forth in the procedures manual maintained by the administrative official.

The following support documents are required as applicable:

1. A site plan, rendering, sketch or drawing of the proposed work, specifically indicating the proposed changes in appearance, color, texture of materials, dimensions, architectural design of the exterior of the structure, including the front, sides, rear (if

- visible from a public right-of-way), roof, and any alterations to or additions of any outbuilding, courtyard, fence, or other accessory structure or improvement.
2. Photographs of the existing building, structure, or sign as applicable.
 3. Photographs of adjacent buildings.
 4. Any other information which may be reasonably required by the administrative official in order to convey a clear understanding of the applicant's proposal.

Sec. 23-227.3. Review of application for certificate of appropriateness

- a. *Administrative Review ~~Development Review~~ Committee*
 1. All applications for certificates of appropriateness shall be reviewed by the administrative official within 10 working days of receipt to determine that the application is complete in accordance with the requirements of this section. ~~Completed applications will be distributed to the development review committee members.~~ Incomplete applications will be returned to the applicant with reference to deficiencies.
 2. Upon a finding that an application is complete, the administrative official, in consultation with other departments as necessary, shall ~~schedule the application for review at a development review committee meeting within 30 days.~~ The committee shall review the application for compliance with the purpose and intent of these regulations including the provisions of Article IV Resource Protection Standards, Division 5. Historic Preservation (Sec. 23-651 et seq.). ~~The applicant or his designee may meet with the committee in their review of the application. The committee~~ The administrative official may request modifications or additional information and ~~table the application to the next regular committee meeting if necessary.~~
 3. After completion of review ~~by the development review committee and based upon the findings of the development review committee~~, the administrative official may approve transmittal of the application to the historic board or require re-submittal with modifications or corrections.
 4. ~~The administrative official shall inform the applicant in writing of the final review comments of the development review committee.~~ If the administrative official approves transmittal of the application to the historic board, the applicant will submit additional copies or information as required by the procedures manual maintained by the administrative official. The administrative official shall prepare a report with recommendations ~~indicating the recommendations of the development review committee~~ and shall submit the report to the

historic board in advance of its next scheduled meeting in accordance with the schedule established for agendas and public notice.

b. *Historic board review and action*

The historic board shall hold a public hearing on the application except those for signs and shall review the application with reference to these regulations, with particular attention to the historic preservation resource protection standards (sec. 23-651 *et seq.*).

1. Except for applications for demolitions, the board shall approve, approve with stated conditions or stipulations, or deny an application with specific reference to the requirements of this chapter and standards adopted by the historic. The board may continue the hearing until the next regularly scheduled meeting if further information or modifications to plans for the proposed work are requested. However, the board shall make a decision at the continued hearing unless the applicant assents to further delay.
2. For applications for building demolitions, the issuance of a certificate of appropriateness may be delayed for up to 60 days for the purpose of exploring alternatives to demolition, including relocation of the structure. Upon the request of the historic board, an additional 60-day delay may be granted by the city commission with reference to the criteria for certificates of appropriateness for demolitions under sec. 23-652. In no case, however, shall a certificate of appropriateness for a demolition be denied.

Sec. 23-227.4. *Appeal of decision on Certificate of Appropriateness*

See sec. 23-244.

SECTION 5.

Fee for application for certificate of appropriateness

Table 23-242 "Land Use Applications – Required Fees" is hereby amended as follows:

(Under "Type of Application" add:)

23-227 Certificate of Appropriateness

(Under "Review Fee" add:)

~~\$200.~~

\$25 for estimated cost of work \$2,500 and under;

1% of estimated cost of work over \$2,500, maximum \$200.

No fee for signs

(Under "Reimbursement" add:)

Public Notice - \$75 (if public hearing required)

SECTION 6.

Reference certificate under regulations for structures

Article III "General Development Regulations," Division I. "Land Development," Sec. 23-301. "Land and Structures" is hereby amended to add the following:

- e. A certificate of appropriateness may be required prior to commencement of work on a property within a historic district, per sec. 23-227.

SECTION 7.

Standards for historic preservation

Article VI, Resource Protection Standards, is hereby amended to add Division 5, Historic preservation to read as follows:

DIVISION 5. HISTORIC PRESERVATION

Sec. 23-651. Purpose and intent, findings of fact

The purpose and intent of this Division is to protect the historic resources of the city through establishing standards for the creation of local historic districts, for nominating properties to the National Register of Historic Places, and for the issuance of certificates of appropriateness for work undertaken in the locally adopted historic district(s).

Findings of fact:

- a. There are located within the city districts, sites, buildings, structures, objects and areas, both public and private, which are reminders of past eras, events and persons important in local, state or national history, or which provide significant examples of architectural styles of the past, or which are unique and irreplaceable assets to the city and its neighborhoods, or which provide for this and future generations examples of the physical surroundings in which past generations lived.
- b. In recognition of these assets, the historic preservation element of the Comprehensive Plan was enacted and includes a policy to consider a historic preservation ordinance.
- c. A study entitled "Historic Properties Survey of Lake Wales, Florida" was completed by Historic Property Associates, Inc. of St. Augustine Florida in 1988 to catalogue historical buildings in the downtown business district and in those areas that were closely tied historically or stylistically with the downtown.
- d. Through the dedicated efforts of local groups and individuals, the value of a district and several sites, buildings, structures, objects and areas, both public and private, have been recognized by their inclusion in the National Register of Historic Places, the state inventory maintained by the division of archives.
- e. The recognition, protection, enhancement and use of such resources has a public purpose, being essential to the health, safety, morals and economic,

educational, cultural and general welfare of the public, since these efforts result in the enhancement of property values, the stabilization of neighborhoods and areas of the city, the increase of economic benefits to the city and its inhabitants, the promotion of local interest, the enrichment of human life in its educational and cultural dimensions, serving spiritual as well as material needs, and the fostering of civic pride in the beauty and noble accomplishments of the past.

f. It is the policy of the city to encourage beautification and general improvement of and cleanliness within the city by requiring the installation of appropriate landscaping which will enhance the community's ecological, environmental and aesthetic qualities and which will preserve the value of the property.

g. The city commission desires to take advantage of all available state and federal laws and programs that may assist in the development of the city.

Sec. 23-652. Criteria for historic designations

Criteria in this section shall be used to review National Register nominations and for establishing historic districts as zoning overlay districts under this chapter.

Sec. 23-652.1. National Register nominations

The nomination of properties to the National Register of Historic Places shall be reviewed by the city using criteria established by the federal government in 36 C.F.R. 60.4, as amended.

Sec. 23-652.2. Historic overlay districts

This section sets forth criteria for the use of the city in deciding to establish a new historic district or to approve a request for the establishment of such a district or expansion of an existing district.

The proposed district must be a geographically compact area including a concentration of structures and/or sites documented to meet one or more of the following criteria:

- a. Listed on the National Register of Historic Places
- b. Eligible for listing on the National Register of Historic Places
- c. At least 40% of the structures are 50 years of age or older and satisfy any one of the following criteria:
 1. associated with a significant local, state, or national event;
 2. identified with a person or persons who significantly contributed to the development of the city, state, or nation;
 3. identified as the work of a master builder, designer, or architect whose individual work has influenced the development of the city, state, or nation;

4. recognized as valuable for the quality of its architecture and retains sufficient elements showing its architectural significance;
5. has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;
6. embodies distinguishing characteristics or architectural style or elements of design, detailing, materials or craftsmanship that render it architecturally significant or valuable for the study of a period, type, method of construction or use of indigenous materials;
7. is a recognizable part of a geographically definable area possessing a significant concentration or continuity of sites, buildings, objects, or structures united in past events or aesthetically by plan or physical development;
8. is a recognizable part of an established and geographically definable neighborhood, united in culture, architectural style or physical plan and development;
9. associated with a singular location that is unique or possesses singular physical characteristics that make it an established or familiar visual feature;
10. demonstrates a likelihood of yielding significant information in terms of archaeology, history, or prehistory.

Sec. 23-653. Certificates of Appropriateness

A certificate of appropriateness is required for work within an adopted historic district if the work meets the criteria set forth in sec. 23-227. A certificate of appropriateness may be issued by the historic board through the process set forth in that section.

This section sets forth the standards for issuance of a certificate of appropriateness.

Sec. 23-653.1. General review criteria

The decision on all certificates of appropriateness, except those for demolition or relocation, shall be guided by the Secretary of the Interior's *Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings*. The historic board may also adopt guidelines specific to a historic district and shall be guided by the following visual compatibility standards:

a. Height. Height shall be visually compatible with that of adjacent buildings.

b. Proportion of building. The width of building, structure or object to the height of the front elevation shall be visually compatible to buildings and places to which it is visually related.

c. Proportion of openings within the facility. The relationship of the width of the windows in a building, structure or object shall be visually compatible with buildings and places to which the building, structure or object is visually related.

d. Rhythm of solids to voids in front facades.
The relationship of solids to voids in the front facade of a building, structure or object shall be visually compatible with buildings and places to which it is visually related.

e. Rhythm of buildings, structures, objects or parking lots on streets.
The relationship of the buildings, structures, objects or parking lots to open space between it and adjoining buildings and places shall be visually compatible to the buildings and places to which it is visually related.

f. Rhythm of entrance and porch projection.
The relationship of entrances and projections to sidewalks of a building, structure, object, or parking lot shall be visually compatible to the buildings and places to which it is visually related.

g. Relationship of materials, texture, and color.
The relationship of materials, texture, and color of a parking lot or of the façade of a building, structure or object shall be visually compatible with the predominant materials used in the buildings to which it is visually related.

h. Roof Shapes.
The roof shape of the building, structure or object shall be visually compatible with the buildings to which it is visually related.

i. Walls of Continuity
Appurtenances of a building, structure, object, or parking lot such as walls, fences, and landscape masses shall, if necessary, form cohesive walls of enclosure along a street, to ensure visual compatibility if the building, structure, object, or parking lot to the building and places to which it is visually related.

j. Scale of Building.
The size of the building, structure, object, or parking lot; the building mass of the building, structure, object, or parking lot in relation to open space; and the windows, door openings, porches and balconies shall be visually compatible with the buildings and places to which it is visually related.

k. Directional expression of front elevation.
A building, structure, object, or parking lot shall be visually compatible with the buildings and places to which it is visually related in its directional character.

Sec. 23-652.2. Relocation.

In addition to the guidelines provided in subsec. 23-652.3., concerning demolition, issuance of certificates of appropriateness for relocations shall be guided by the following factors:

- 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 what the effect of those plans on the character of the surrounding areas will be;
- 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.

Sec. 23-652.3. Demolition.

A decision by the historic board on whether to delay (See sec. 23-227.) the demolition of a building, structure, or object shall be guided by criteria in this section.

- a. The historic or architectural significance of the building, structure, or object;
- b. The importance of the building, structure, or object to the ambience of a district;
- c. The difficulty or the impossibility of reproducing such a building, structure or object because of its design, texture, material, detail, or unique location;
- d. Whether the building, structure, or object is one of the last remaining examples of its kind in the neighborhood, the county or the region;
- e. Whether there are definite plans for reuse of the property if the proposed demolition is carried out, and what the effect of those plans on the character of the surrounding area would be;
- f. Whether reasonable measures can be taken to save the building, structure or object from collapse; and
- g. Whether the building, structure or object is capable of earning reasonable economic return on its value.

SECTION 8.

Definitions

Sec. 23-802 is hereby amended to add the following definitions:

Certificate of appropriateness. A certificate of appropriateness is a written approval issued by the historic preservation regulatory board for work proposed on buildings or sites within an historic district designated under this chapter.

SECTION 9.

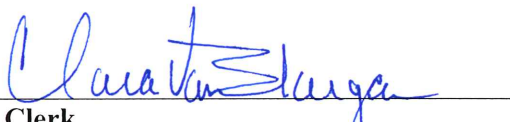
This ordinance shall become effective upon passage by the City Commission.

CERTIFIED AS TO PASSAGE this 17th day of October 2008.



Mayor/Commissioner

Attest:



City Clerk