

Chapter 22 HISTORIC PRESERVATION

ARTICLE I. IN GENERAL

Sec. 22-1. Purpose.

- (a) The purpose of this chapter is to identify, evaluate, preserve and protect historical and archaeological sites and districts, and to promote the cultural, health, moral, economic, educational, aesthetic and general welfare of the public by:
- (1) Creating an historic Preservation Board with the power and duty to review historic sites, areas, structures and buildings for possible designation as historic resources.
 - (2) Empowering the Historic Preservation Board to determine the historical significance of a designated historic resource.
 - (3) Protecting designated historic resources by requiring the issuance of Certificates of Appropriateness and Certificates to Dig before allowing alterations to those resources.
 - (4) Encouraging historic preservation by creating programs of technical assistance and financial incentives for preservation practices.
 - (5) Stabilizing and improving property values through the revitalization of older residential and commercial neighborhoods.
 - (6) Enhancing the County's attraction to visitors and the ensuing positive impact on the economy as a result of historic preservation activities.
 - (7) Creating and promoting cultural and educational programs aimed at fostering a better understanding of the community's heritage.
 - (8) Promoting the sensitive use of historic and archaeological sites, resources and districts for the education, pleasure and welfare of the people of the County.
- (b) The further purpose of this chapter is to obtain Certified Local Government status pursuant to the Procedures for Approved State and Local Government Historic Preservation Programs, 36 CFR 67 (1987) and the National Historic Preservation Act of 1966, as amended, 16 USC 470.

(LDC 1994, § 22-1; Ord. No. 88-62, § 3, 12-21-1988)

Sec. 22-2. Applicability.

- (a) This chapter shall govern and be applicable to all property located in the unincorporated areas of the County. The municipalities of Fort Myers, Fort Myers Beach, Bonita Springs, Estero, Sanibel and Cape Coral are excluded from the provisions of this chapter except where such municipalities may undertake activities outside of their corporate limits.
- (b) Nothing contained in this chapter shall be deemed to supersede or conflict with applicable building and zoning codes except as specifically provided in this chapter.

(LDC 1994, § 22-2; Ord. No. 88-62, § 4, 12-21-1988; Ord. No. 21-08, § 6, 6-1-2021)

Sec. 22-3. Definitions.

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

Archaeological site means an individual historic resource recognized for its prehistoric or historic artifacts and features.

Archaeologist means a person who is qualified under the professional standards of the Florida Archaeological Council or the Society of Professional Archaeologists to conduct archaeological surveys, assessments or excavations, or is recognized as qualified to perform those tasks by the County.

Area of archaeological sensitivity means an area identified in the survey entitled, "An Archaeological Site Inventory and Zone Management Plan For Lee County, Florida" (Piper Archaeological Research, Inc., 1987), as known or being likely to yield information on the history and prehistory of the County based on prehistoric settlement patterns and existing topographical features. Areas of archaeological sensitivity are divided into the following categories:

- (1) *Sensitivity Level 1.* Those areas containing known archaeological sites that are considered to be significant or potentially significant historic resources. These areas include sites listed on the National Register of Historic Places and those considered eligible or potentially eligible for listing on the National Register of Historic Places or local historic resource designation.
- (2) *Sensitivity Level 2.* Those areas containing known archaeological sites that have not been assessed for significance but are likely to conform to the criteria for local designation, or areas where there is a high likelihood that unrecorded sites of potential significance are present.

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

Building official means the officer charged with the administration and enforcement of the County Construction Code as set out in Chapter 6, Article II.

Certificate of Appropriateness means a written authorization by the Historic Preservation Board or County staff to the owners of a designated property or any building, structure (including docks and signs) or site within a designated historic district, allowing a proposed alteration, relocation, or the demolition of a building, structure or site. Certificates of Appropriateness are divided into the following two classes:

- (1) *Regular Certificate of Appropriateness* means a Certificate of Appropriateness issued by the County staff allowing activities that require the issuance of a building permit, but which are classified as ordinary maintenance and repair under the provisions of this chapter and the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.
- (2) *Special Certificate of Appropriateness* means a Certificate of Appropriateness issued directly by the Historic Preservation Board and required for proposed work that will result in the alteration, demolition, relocation, reconstruction, new construction or excavation of a designated historic resource, based upon the criteria listed in the U.S. Secretary of the Interior's Standard for Rehabilitation, 36 CFR 67.

Certificate to Dig means a certificate issued by the County staff or the Historic Preservation Board, authorizing certain clearing, digging, archaeological investigation or archaeological development projects that may involve the exploration of established or suspected archaeological sites in areas of archaeological sensitivity Level 1 or 2.

Certified local government means a designated local government meeting the requirements of the National Historic Preservation Act of 1966, as amended, 16 USC 470, which extends some aspects of the federal and State

responsibilities for historic preservation to qualified local governments. Under the program, local governments are certified to review and make recommendations to the Florida National Register Review Board concerning nominations to the National Register of Historic Places of properties located within the confines of their local jurisdictions.

Contributing property means any building, structure or site which contributes to the overall historic significance of a designated historic district and was present during the period of historic significance and possesses historic integrity reflecting the character of that time or is capable of yielding important information about the historically significant period or independently meets the criteria for designation as an historic resource.

Demolition means the complete removal of a building or structure, or portions thereof, from a site.

Demolition by neglect means the willful abandonment of a building or structure by the owner resulting in such a state of deterioration that its self-destruction is inevitable or where demolition of the building or structure to remove a health and safety hazard is a likely result.

Designation certificate means a certificate issued by the Historic Preservation Board declaring a building, structure, site or district to be an historic resource.

Designation report means a written document indicating the basis for the findings of the Historic Preservation Board concerning the proposed designation of an historic resource pursuant to this chapter.

Exterior means all outside surfaces of a building or structure visible from a public right-of-way or the street easement of the building or structure.

Historic district means a geographically definable area designated pursuant to this chapter possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or physical development. A district may also be comprised of individual elements separated geographically but linked by association or history. To qualify as an historic district, an area may contain both contributing and noncontributing properties.

Historic Preservation Board or Board means a board of citizens appointed by the Board of County Commissioners to administer the provisions of this chapter.

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

Historic resource database means the compilation of data gathered on historical and archaeological sites in the County, based on the findings of the surveys entitled, "Historical and Architectural Survey, Lee County" (1986) and "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (1987), and any subsequent historic or archaeological survey.

National Register of Historic Places means 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, 16 USC 470, as such act may be amended, renumbered or replaced, and its implementing regulation, 36 CFR 60, "National Register of Historic Places," as such regulations may be amended, renumbered or replaced.

Noncontributing property means any building, structure or site which does not contribute to the overall historic significance of a designated historic district due to alterations, disturbances or other changes and therefore no longer possesses historic integrity or was not present during the period of historic significance or is incapable of yielding important information about that period.

Ordinary maintenance and repairs means work done to prevent deterioration, decay 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.

Owner means those individuals, partnerships, corporations or public agencies holding fee simple title to real property. The term "owner" does not include individuals, partnerships, corporations or public agencies holding easements or less than a fee simple interest (including leaseholds) in real property.

Staff means the County staff persons designated by the County Administrator to serve as staff for the Historic Preservation Board and to administer the provisions of this chapter in cooperation with the Building Official and the Zoning Director.

Structure means that which is built or constructed. The term "structure" shall be construed as if followed by the words "or part thereof."

Undue economic hardship means an onerous and excessive financial burden that would be placed upon a property owner by the failure to issue a Special Certificate of Appropriateness for demolition, thereby amounting to the taking of the owner's property without just compensation.

Zoning director means the Director of the Zoning and Development Review Division, or his successor or designee as the person responsible for administering the provisions of Chapter 34.

(LDC 1994, § 22-3; Ord. No. 88-62, § 5, 12-21-1988; Ord. No. 90-35, § 1, 6-20-1990; Ord. No. 90-54, § 2, 10-17-1990; Ord. No. 09-23, § 6, 6-23-2009)

Sec. 22-4. Penalty for violation.

- (a) *Violators subject to penalty; types.* Any person, or any agent or representative thereof, who violates any provision of this chapter shall, upon conviction, be subject to the following penalties:
 - (1) *Criminal penalties.* Such person shall be punished as provided in Section 1-5.
 - (2) *Civil penalties.* The following shall be applicable:
 - a. Injunctive relief to enjoin and restrain any person from violating the provisions of this chapter; and
 - b. Revocation, suspension or amendment of any permit granted pursuant to this chapter.

In addition to all other criminal and civil penalties contained in this section, any person applying for a permit after commencing or completing construction of a structure in violation of this chapter shall pay twice the amount of the building permit fee as established by the County Administrative Codes.

- (b) *Continuation of violations deemed separate as civil or criminal.* For the purposes of this chapter, each day that a violation continues to exist will be considered a separate violation of this chapter, to which both civil and criminal penalties may apply.

(LDC 1994, § 22-4; Ord. No. 88-62, § 13, 12-21-1988)

Secs. 22-5—22-40. Reserved.

ARTICLE II. ADMINISTRATION AND ENFORCEMENT

DIVISION 1. GENERALLY

Sec. 22-41. Stop work orders.

Any work conducted contrary to the provisions of this chapter shall be immediately stopped upon notice from the Building Official or his designee that the work does not conform to the terms of this chapter. Notice shall be in writing and shall be given to the property owner or his agent, or to the person doing the work. If none of these persons are immediately available on the construction site to receive the required notice, it shall be posted on the property. The notice shall state all conditions under which work may be resumed. In emergencies, the Building Official shall not be required to furnish written notice of the stop work order.

(LDC 1994, § 22-41; Ord. No. 88-62, § 12, 12-21-1988)

Sec. 22-42. Appeals.

- (a) Any owner of a building, structure or site affected by the operation of this chapter may appeal a decision of the Historic Preservation Board by filing a written notice of appeal within 15 days of the date the written decision of the Historic Preservation Board was rendered. The notice of appeal must be filed with the Department of Community Development and a copy provided to the Historic Preservation Board staff.
- (b) Appeals shall otherwise be pursued using the procedure set forth in Section 34-145(a), pertaining to appeals from administrative matters, and in accordance with Administrative Code Section 2-6.IS
- (c) Except as may be required by F.S. § 163.3215, and then only pursuant to that statute, a third party shall not have standing to appeal a decision rendered under the provisions of this chapter.

(LDC 1994, § 22-42; Ord. No. 88-62, § 10, 12-21-1988; Ord. No. 90-54, § 3, 10-17-1990; Ord. No. 11-08, § 7, 8-9-2011)

Secs. 22-43—22-70. Reserved.

DIVISION 2. HISTORIC PRESERVATION BOARD

Sec. 22-71. Establishment; general authority.

There is hereby created an Historic Preservation Board as an agency of the County government in and for the County. The Historic Preservation Board is hereby vested with the power, authority and jurisdiction to designate, regulate and administer historical, cultural, archaeological and architectural resources in the County, as prescribed by this chapter, **under the direct jurisdiction and control of the Board of County Commissioners.**

(LDC 1994, § 22-71; Ord. No. 88-62, § 6A, 12-21-1988)

Sec. 22-72. Membership; compensation of members; removal of members; composition; meetings; powers and duties.

The appointment, compensation, and removal of Historic Preservation Board members, the composition of the Board, the conduct of Board meetings, and the powers and duties of the Board will be in accordance with Administrative Code Section 2-10.

(LDC 1994, § 22-72; Ord. No. 88-62, § 6B, 12-21-1988; Ord. No. 21-08, § 6, 6-1-2021)

Sec. 22-73. Rules and regulations.

The Board of County Commissioners shall develop and propose such rules and regulations as are 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 govern and control the procedures, hearings and actions of the Historic Preservation Board. No such rules and regulations shall become effective until the proposed rules and regulations, and any amendments or modifications thereto, have been approved by the Board of County Commissioners as a County Administrative Code policy.

(LDC 1994, § 22-73; Ord. No. 88-62, § 6E, 12-21-1988; Ord. No. 21-08, § 6, 6-1-2021)

Secs. 22-74—22-100. Reserved.

DIVISION 3. CERTIFICATE OF APPROPRIATENESS

Sec. 22-101. Required.

No building, moving or demolition permit shall be issued for a designated historic resource, or a building, structure or site which is part of a designated historic or archaeological district, until a Certificate of Appropriateness has been issued. Except for applications requesting Certificates of Appropriateness for noncontributing properties, the criteria for issuance of a Certificate of Appropriateness (regular or special) shall be the U.S. Secretary of the Interior's Standards for Rehabilitation, 36 CFR 67 (1983), as such standards may be amended, renumbered or replaced, which are hereby adopted by reference as though set forth fully in this article. Applications for Certificates of Appropriateness for noncontributing properties shall be reviewed using the specific criteria set out in the resolution designating the historic district where the property is located.

(LDC 1994, § 22-101; Ord. No. 88-62, § 8, 12-21-1988; Ord. No. 90-35, § 3, 6-20-1990)

Sec. 22-102. Regular Certificate of Appropriateness.

- (a) A regular Certificate of Appropriateness shall be required for work requiring a building permit and classified as ordinary maintenance and repair by this chapter, or for any work that will result, to the satisfaction of the County staff, in the close resemblance in appearance of the building, architectural feature or landscape feature to its appearance when it was built or was likely to have been built, or to its appearance as it presently exists so long as the present appearance is appropriate to the style and materials.
- (b) The Historic Preservation Board staff will, within five working days from the date a complete application has been filed, approve, deny or approve with conditions an application for a regular Certificate of Appropriateness presented by the owner of a designated historic resource or a property within a designated historic district. The findings of the staff will be mailed to the applicant by regular mail, or when available, via electronic means, within two working days of the staff decision, accompanied by a statement explaining the decision. The applicant will have an opportunity to appeal the staff decision by applying for a Special Certificate of Appropriateness within 30 calendar days of the date the decision is issued.

(LDC 1994, § 22-102; Ord. No. 88-62, § 8A, 12-21-1988; Ord. No. 90-35, § 3, 6-20-1990; Ord. No. 13-10, § 6, 5-28-2013; Ord. No. 16-19, § 6, 11-15-2016)

Sec. 22-103. Special Certificate of Appropriateness.

- (a) *Required.* A Special Certificate of Appropriateness shall be issued by the Historic Preservation Board prior to initiation of any work involving alteration, demolition, relocation, reconstruction, excavation or new construction which will result in a change to the original appearance of a designated historic resource or a contributing property within a designated historic district. A Special Certificate of Appropriateness is also required prior to any new construction, reconstruction or alteration of a noncontributing property within a designated historic district. A Special Certificate of Appropriateness may also be issued to reverse or modify a staff decision regarding an application for a regular Certificate of Appropriateness or a Conditional Certificate to Dig.
- (b) *Application.* An applicant for a Special Certificate of Appropriateness shall submit an application to the Historic Preservation Board accompanied by full plans and specifications, a site plan and, in the case of sites involving buildings or structures, samples of materials as deemed appropriate by the Historic Preservation Board to fully describe the proposed appearance, color, texture, materials or design of the building or structure and any outbuilding, wall, courtyard, fence, landscape feature, paving, signage or exterior lighting. The applicant shall provide adequate information to enable the Historic Preservation Board to visualize the effect of the proposed action on the historic resource and on adjacent buildings and streetscapes within an historic district.
- (c) *Public hearing.* The Historic Preservation Board shall hold a public hearing upon an application for a Special Certificate of Appropriateness affecting designated historic resources or districts. Notice of the public hearing shall be given to the property owners by regular mail, or when available, via electronic means, and to other interested parties by an advertisement in a newspaper of general circulation at least five calendar days but no sooner than 20 calendar days prior to the date of hearing. The written staff report will be available to the public and distributed to the applicant and the Historic Preservation Board at least seven days prior to the public hearing. The staff report is final once distributed to the Historic Preservation Board. The applicant may request a meeting with staff to discuss the recommendation made in the staff report prior to the public hearing.
- (d) *Action of Historic Preservation Board.* The Historic Preservation Board will meet and act upon an application for a Special Certificate of Appropriateness on or within 70 calendar days from the date the application and materials adequately describing the proposed action are received. The Historic Preservation Board will approve, deny or approve the Special Certificate of Appropriateness with conditions, subject to the acceptance of the conditions by the applicant, or suspend action on the application for a period not to exceed 35 calendar days in order to seek technical advice from outside sources or to meet further with the applicant to revise or modify the application. Failure of the Historic Preservation Board to act upon an application on or within 70 calendar days (if no additional information is required) or 105 calendar days (if additional information is required by the Historic Preservation Board) from the date the application was received will result in the immediate issuance of the Special Certificate of Appropriateness applied for, without further action by the Historic Preservation Board. This section does not preclude an applicant from requesting, and the Historic Preservation Board from approving, continuances beyond the time frames contained in this section. However, if an applicant obtains continuances from the Historic Preservation Board beyond the time frames specified in this section, then the applicant will be precluded from seeking an automatic approval by the Historic Preservation Board on the grounds that the Historic Preservation Board did not act within the specified time frames.
- (e) *Notice of decision.* All decisions of the Historic Preservation Board shall be in writing and shall include findings of fact. Evidence of approval of the application shall be by the Special Certificate of Appropriateness issued by the Historic Preservation Board or the Board's designated staff representative. Notice of a decision shall be given to the applicant and to the Building Official, the zoning director and any other appropriate public agency, as determined by the Historic Preservation Board. When an application is denied, the notice

of the Historic Preservation Board shall provide an adequate written explanation of its decision to deny the application. The Historic Preservation Board shall keep a record of its actions under this chapter.

(LDC 1994, § 22-103; Ord. No. 88-62, § 8B, 12-21-1988; Ord. No. 90-35, § 3, 6-20-1990; Ord. No. 14-13, § 3, 6-17-2014; Ord. No. 16-19, § 6, 11-15-2016)

Sec. 22-104. Demolition.

- (a) Demolition of a designated historic resource or a contributing property within a designated historic district may only occur pursuant to an order of a governmental body or board or an order of a court of competent jurisdiction and pursuant to approval of an application by the owner for a Special Certificate of Appropriateness for demolition.
- (b) Governmental agencies having the authority to demolish unsafe structures shall receive notice of the designation of historic resources and districts pursuant to Article III of this chapter. The Historic Preservation Board shall be deemed an interested party and shall be entitled to receive notice of any public hearings conducted by such agencies regarding demolition of any designated historic resource or contributing property to a designated historic district. The Historic Preservation Board may make recommendations and suggestions to the governmental agency and the owner relative to the feasibility of and the public interest in preserving the designated resource.
- (c) No permit for voluntary demolition of a designated historic resource or contributing site within an historic district shall be issued to the owner thereof until an application for a Special Certificate of Appropriateness has been submitted to the Historic Preservation Board and approved pursuant to the procedures in this article. The Historic Preservation Board shall approve, deny or approve with conditions the application for a Special Certificate of Appropriateness for demolition. Refusal by the Historic Preservation Board to grant a Special Certificate of Appropriateness for demolition shall be evidenced by a written order detailing the public interest which is sought to be preserved. The Historic Preservation Board may grant a Special Certificate of Appropriateness for demolition which may provide for a delayed effective date of six months to allow the Historic Preservation Board to seek possible alternatives to demolition. During the demolition delay period the Historic Preservation Board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purpose 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 the building or other feature.
- (d) The Historic Preservation Board shall consider the following criteria in evaluating applications for Certificates of Appropriateness for demolition of designated historic resources or contributing properties within a designated historic district:
 - (1) Is the building or structure of such interest or quality that it would reasonably meet national, State or local criteria for additional designation as an historic or architectural landmark?
 - (2) Is the building or structure of such design, craftsmanship or material that it could be reproduced only with great difficulty or expense?
 - (3) Is the building or structure one of the last remaining examples of its kind in the neighborhood, the County or the region?
 - (4) Does the building or structure contribute significantly to the historic character of a designated historic district?

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- (5) Would retention of the building or structure promote the general welfare of the County by providing an opportunity for the study of local history or prehistory, 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) Has demolition of the designated building or structure been ordered by the appropriate public agency due to unsafe conditions?
- (e) Unless demolition has been ordered by a court of competent jurisdiction or another governmental body, a Special Certificate of Appropriateness for demolition of a designated building or structure shall not be issued until there are definite plans for reuse of the property and a building permit or development order for the new construction has been applied for.
- (f) If an undue economic hardship is claimed by the property owner as a result of the denial of a Special Certificate of Appropriateness for demolition, the Historic Preservation Board shall have the power to vary or modify adherence to its original decision no later than 35 calendar days from the date the original decision is issued. Any variance or modification of a prior order shall be based upon sufficient evidence submitted by the owner and a subsequent finding by the Historic Preservation Board that retention of the building or structure would deny the owner of all economically viable use of the property, thus creating an undue economic hardship. The owner may present the following evidence as grounds for such a finding:
- (1) For all property, the owner may present:
 - a. The amount paid for the property, the date of purchase and the party from whom purchased;
 - b. The assessed value of the land and improvements thereon according to the two most recent property tax assessments;
 - c. The amount of real estate taxes for the previous two years;
 - d. The annual debt service, if any for the previous two years;
 - e. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;
 - f. Any listings of the property for sale or lease, the price asked and offers received, if any; and
 - g. Any profitable adaptive uses for the property which have been considered by the owner.
 - (2) In addition to the items set forth in Subsection (f)(1) of this section, the owner may present, for income-producing property:
 - a. The annual gross income from the property for the previous two years;
 - b. Itemized operating and maintenance expenses for the previous two years; and
 - c. The annual cash flow, if any, for the previous two years.

(LDC 1994, § 22-104; Ord. No. 88-62, § 8C, 12-21-1988; Ord. No. 90-35, § 3, 6-20-1990)

Sec. 22-105. Moving permits.

The Historic Preservation Board shall consider the following criteria for applications for special Certificates of Appropriateness for the moving of all historic resources and contributing properties located within a designated historic district:

- (1) The historic character and aesthetic interest the building or structure contributes to its present setting.

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- (2) The reasons for the proposed move.
 - (3) The proposed new setting and the general environment of the proposed new setting.
 - (4) Whether the building or structure can be moved without significant damage to its physical integrity.
 - (5) Whether the proposed relocation site is compatible with the historical and architectural character of the building or structure.
 - (6) When applicable, the effect of the move on the distinctive historical and visual character of a designated historic district.

(LDC 1994, § 22-105; Ord. No. 88-62, § 8D, 12-21-1988)

Sec. 22-106. Archaeological sites and districts.

- (a) *Designation.* The survey entitled, "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" (Piper Archaeological Research, Inc., 1987) will be used as the initial database when considering the designation of areas of archaeological sensitivity Level 1.
- (b) *Certificate of Appropriateness.* A Certificate of Appropriateness is required prior to the issuance of a development approval for activity within an archaeological site or district designated pursuant to this chapter. Additionally, a Certificate of Appropriateness is required for new, replacement or enlargement of existing septic tanks, drainfields or other accessory structures associated with septic tank installation, replacement or enlargement. An application for a Certificate of Appropriateness must be accompanied by full plans and specifications indicating areas of work that might affect the surface and subsurface of the archaeological site or sites.
 - (1) The requirements outlined in Article III of this chapter apply to all applications and the issuance of all Certificates of Appropriateness for archaeological sites and districts designated pursuant to this chapter.
 - (2) In reviewing the application for a Special Certificate of Appropriateness for a designated archaeological site, the Historic Preservation Board may also require any or all of the following:
 - a. Scientific excavation and evaluation of the site by an archaeologist at the owner's expense.
 - b. An archaeological survey, conducted by an archaeologist, containing an analysis of the impact of the proposed activity on the archaeological site.
 - c. Proposal for mitigation measures.
 - d. Protection or preservation of all or part of the designated archaeological site for green space, in exchange for incentives as provided in Article III, Division 2 of this chapter.
 - (3) To knowingly disturb human burial remains is a third-degree felony in the State, pursuant to F.S. Ch. 872, pertaining to offenses concerning dead bodies and graves. The law includes prehistoric as well as historic period interments, and aboriginal burial mounds or cemeteries as well as historic period cemeteries. Procedures for dealing with the accidental discovery of unmarked human burials are outlined in F.S. Ch. 872. If unmarked human burials are suspected or known in an area under consideration for any Certificate of Appropriateness, the area must be surveyed by a professional archaeologist to locate the remains. Procedures for dealing with human remains must be carried out according to F.S. Ch. 872. Any located human interments should be preserved in place if at all possible. If it is necessary to excavate or otherwise move the remains, every effort must be made to identify and contact persons who may have a direct kinship, tribal, community or ethnic relationship with the deceased in order to arrange for their appropriate reinternment or disposition.

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- (c) *Certificate to Dig.* The survey entitled, "An Archaeological Site Inventory and Zone Management Plan for Lee County, Florida" will be used to identify areas of archaeological sensitivity Levels 1 and 2.
- (1) A Certificate to Dig is required prior to or in conjunction with the issuance of a final development order for activity within any area of archaeological sensitivity Levels 1 and 2 that may involve new construction, filling, digging, removal of trees or any other activity that may alter or reveal an interred archaeological site. If submerged or wetland areas, such as ponds, sloughs or swamps, will be damaged by development or by dredge and fill activities, these areas must also be assessed for their potential to contain significant archaeological sites.
 - (2) The purpose of a Certificate to Dig is to allow sufficient time to conduct any necessary investigations, including the location, evaluation and protection of significant archaeological sites in areas suspected of having such archaeological sites.
 - (3) The staff of the Historic Preservation Board must, within 15 calendar days of receipt of a complete application for a Certificate to Dig, approve the application for a Certificate to Dig, or approve the Certificate to Dig subject to specified conditions, including, but not limited to, a delay not to exceed 60 days to allow any necessary site excavation or additional archaeological assessment prior to commencement of the proposed construction activity. Staff's decision must be based on the application and any other guidelines the Historic Preservation Board may establish. If the approved Certificate to Dig requires archaeological excavation, the certificate must specify a period of time during which excavation may occur, not to exceed 60 days unless the owner agrees to an extension. The owner must have an archaeologist conduct excavations as necessary during this period. The Certificate to Dig and any staff findings must be mailed by regular mail, or when available, via electronic means, to the applicant within seven calendar days of its review and approval.
 - (4) The applicant has the opportunity to appeal any conditions attached to a Certificate to Dig by applying for a Special Certificate of Appropriateness within 30 calendar days of the date the Conditional Certificate to Dig is issued. The Historic Preservation Board must convene no later than 50 calendar days after the date a completed application for a Special Certificate of Appropriateness is filed with the staff. Approved Certificates to Dig must contain an effective date not to exceed 60 calendar days, at which time the proposed activity may begin, unless the archaeological excavation uncovers evidence of such significance that it warrants designation of the archaeological site as an historic resource pursuant to Article III of this chapter.
 - (5) All work performed pursuant to the issuance of a Certificate to Dig must conform to the requirements of such certificate. It is the duty of the appropriate County agencies and the staff of the Historic Preservation Board to inspect work for compliance with such certificate. In the event of noncompliance the appropriate County staff has the power to issue a stop work order and all work must cease.

(LDC 1994, § 22-106; Ord. No. 88-62, § 8E, 12-21-1988; Ord. No. 90-35, § 4, 6-20-1990; Ord. No. 09-23, § 6, 6-23-2009; Ord. No. 16-19, § 6, 11-15-2016)

Secs. 22-107—22-140. Reserved.

ARTICLE III. DESIGNATION OF HISTORIC DISTRICTS AND RESOURCES

DIVISION 1. GENERALLY

Secs. 22-141—22-170. Reserved.

DIVISION 2. INCENTIVES

Sec. 22-171. Financial assistance.

All properties designated as historic resources or as a contributing property to a designated historic district shall be eligible for any financial assistance set aside for historic preservation projects by the County, the State or the federal government, provided they meet any additional requirements of those financial assistance programs. The Historic Preservation Board and its staff shall investigate funding sources and make recommendations to the Board of County Commissioners to establish a program providing for transfer of development rights, easements and other local financial assistance programs whenever possible.

(LDC 1994, § 22-171; Ord. No. 88-62, § 11A, 12-21-1988)

Sec. 22-172. Nomination to National Register of Historic Places.

The Historic Preservation Board shall encourage and assist in the nomination of eligible income-producing properties to the National Register of Historic Places in order to make available to those property owners the investment tax credits for certified rehabilitations pursuant to the Tax Reform Act of 1986 and any other programs offered through the National Register of Historic Places.

(LDC 1994, § 22-172; Ord. No. 88-62, § 11B, 12-21-1988)

Sec. 22-173. Relief from building regulations.

Designated historic resources and contributing properties to a designated historic district may be eligible for administrative variances or other forms of relief from applicable building and zoning codes as follows: Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a building or structure may be made without conformance to the technical requirements of the Standard Building Code when the proposed work has been approved by a regular or Special Certificate of Appropriateness and also by the Building Official, pursuant to the authority granted to the Building Official by other ordinances or statutes, provided that:

- (1) The restored building will be no more hazardous based on considerations of life, fire, sanitation and safety than it was in its original condition.
- (2) Plans and specifications are sealed by a State-registered architect or engineer, if required by the Building Official.
- (3) The Building Official has required the minimum necessary corrections to be made before use and occupancy which will be in the public interest of health, safety and welfare.

(LDC 1994, § 22-173; Ord. No. 88-62, § 11C, 12-21-1988)

Sec. 22-174. Relief from zoning regulations.

The Department of Community Development director may, by written administrative decision, approve any relief request for designated historic resources or contributing properties to a designated historic district, for matters involving setbacks, lot width, depth, area requirements, land development regulations, height limitations, open space requirements, parking requirements, signs, docks, and other similar relief not related to a change in use of the property in question.

- (1) Before granting relief, the Director must find that:
 - a. The relief will be in harmony with the general appearance and character of the community.
 - b. The relief will not be injurious to the area involved or otherwise detrimental to the public health, safety or welfare.
 - c. The proposed work is designed and arranged on the site in a manner that minimizes aural and visual impact on the adjacent properties while affording the owner a reasonable use of his land.
- (2) In granting any relief, the Director may prescribe appropriate conditions necessary to protect and further the interest of the area and abutting properties, including, but not limited to:
 - a. Landscape materials, walls and fences as required buffering.
 - b. Modifications of the orientation of any openings.
 - c. Modifications of site arrangements.
- (3) The procedure for granting parking relief in the Matlacha Historic District must be in accordance with the Administrative Code duly adopted by the Board of County Commissioners. The parking relief procedure will include, but will not be limited to:
 - a. Providing notice by certified mail to property owners within 500* feet, by posted notice and by advertisement in a local paper of general circulation.
 - b. Input from two three-person delegations made up of property owners, residents or registered voters of Matlacha.
 - c. Input from the district commissioners, following staff review of submitted applications for parking relief.
 - d. Availability of third-party appeal of the decision to grant parking relief by aggrieved persons.

Note: In those instances where fewer than ten owners of property would be notified, the distance must be expanded to include all owners of property within 750 feet.
- (4) The provisions of Subsection (3) of this section remain in full force and effect as to any request for parking relief, unless and until an annual sunset review and subsequent determination by a majority of the Historic Preservation Board, prior to March 1 of each year, indicates that those provisions providing for parking relief in the Matlacha Historic District are no longer required. In the event of such a determination, the Historic Preservation Board may make a recommendation to the Board of County Commissioners so that appropriate action regarding the parking provisions may be taken.

(LDC 1994, § 22-174; Ord. No. 88-62, § 11D, 12-21-1988; Ord. No. 90-35, § 6, 6-20-1990; Ord. No. 90-54, § 4, 10-17-1990; Ord. No. 92-34, § 2, 7-15-1992; Ord. No. 94-06, § 2, 2-16-1994; Ord. No. 01-03, § 3, 2-27-2001; Ord. No. 09-23, § 6, 6-23-2009; Ord. No. 22-11, § 5(22-174), 5-17-2022)

Sec. 22-175. Variances from floodplain management regulations.

Variances from the floodplain management regulations may be requested pursuant to the terms of Chapter 6, Article IV.

(LDC 1994, § 22-175; Ord. No. 88-62, § 11E, 12-21-1988)

Secs. 22-176—22-200. Reserved.

DIVISION 3. PROCEDURE

Sec. 22-201. Initiation of process.

The designation process under this chapter may be initiated by a written petition from the property owner, by a majority vote of the Historic Preservation Board, or at the request of the Board of County Commissioners. The historic resource database shall be used to identify buildings, structures and sites potentially eligible for historic designation.

- (1) *Designation proposed by owner.* When designation is requested by the owner, a written petition for designation shall be filed, accompanied by sufficient information to warrant further investigation of the property and to aid in the preparation of a designation report. The Historic Preservation Board shall, based on the request and information presented, either direct staff to begin or assist in preparation of a designation report, accept and direct the filing of a designation report prepared by the owner, reject a report submitted for filing, or deny the designation petition. Upon the filing of a designation report, the Historic Preservation Board may direct staff to commence the designation and notice process.
- (2) *Designation proposed by Historic Preservation Board or Board of County Commissioners.* Upon the recommendation of staff, a request by a member of the Historic Preservation Board or a request by the Board of County Commissioners, the Historic Preservation Board may direct staff to prepare or assist in preparation of a designation report. Upon completion of the designation report, the Historic Preservation Board may, by majority vote, initiate the designation process by a motion directing staff to file the designation report and begin the notification process.

(LDC 1994, § 22-201; Ord. No. 88-62, § 7A, 12-21-1988)

Sec. 22-202. Designation report.

Prior to the designation of any historic resource or historic district pursuant to this chapter, a designation report shall be filed with the Historic Preservation Board. The designation report shall contain the following information:

- (1) For individual historic or archaeological buildings, structures or sites:
 - a. A physical description of the building, structure or site and its character-defining features, accompanied by photographs.
 - b. A statement of the historical, cultural, architectural, archaeological or other significance of the building, structure or site as defined by the criteria for designation established by this chapter.
 - c. A description of the existing condition of the building, structure or site, including any potential threats or other circumstances that may affect the integrity of the building, structure or site.

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- d. A statement of rehabilitative or adaptive use proposals.
 - e. A location map, showing relevant zoning and land use information.
 - f. Staff recommendations concerning the eligibility of the building, structure or site for designation pursuant to this chapter, and a listing of those features of the building's structure or site which require specific historic preservation treatments.
- (2) For historic or archaeological districts:
- a. A physical description of the district, accompanied by photographs of buildings, structures or sites within the district indicating examples of contributing and noncontributing properties within the district; also, a list of all contributing properties outside the proposed boundaries of the district.
 - b. A description of typical architectural styles, character-defining features and types of buildings, structures or sites within the district.
 - c. An identification of all buildings, structures and sites within the district and the proposed classification of each as contributing, contributing with modifications, or noncontributing, with an explanation of the criteria utilized for the proposed classification.
 - d. A statement of the historical, cultural, architectural, archaeological or other significance of the district as defined by the criteria for designation established by this chapter.
 - e. A statement of recommended boundaries for the district and a justification for those boundaries, along with a map showing the recommended boundaries.
 - f. A statement of incentives requested, if any, and the specific guidelines which should be used in authorizing any alteration, demolition, relocation, excavation or new construction within the boundaries of the district.

(LDC 1994, § 22-202; Ord. No. 88-62, § 7B, 12-21-1988)

Sec. 22-203. Required notices; action by Historic Preservation Board.

The Historic Preservation Board will hold timely public hearings on every petition for designation made pursuant to this chapter. References in this chapter to calendar days will include Saturdays, Sundays and legal holidays. References in this chapter to working days exclude Saturdays, Sundays and legal holidays.

- (1) *Notice to owner.* The Historic Preservation Board shall notify the property owners of its intent to consider a proposed designation at least 20 calendar days prior to the date of the public hearing. When designation is proposed by the owner pursuant to Section 22-201(1), notice will be sent to the applicant by regular mail, or when available, via electronic means. When designation is proposed by the Preservation Board or Board of County Commissioners pursuant to Section 22-201(2), notice will be sent by certified mail, return receipt requested, to the record owners of the property as reflected by the current ad valorem tax roll. The designation report will be available to the public and distributed to the applicant and the Historic Preservation Board at least seven days prior to the public hearing. The designation report is final once distributed to the Historic Preservation Board. The applicant may request a meeting with staff to discuss the designation report prior to the public hearing.
- (2) *Notification of public hearing.* For each proposed designation pursuant to this chapter, the Historic Preservation Board will hold a public hearing no sooner than 20 calendar days and no later than 70 calendar days from the date a designation report has been filed with the Historic Preservation Board and notice of the intent to designate sent to the owners. Notice of the public hearing will be published

in a newspaper of general circulation at least five calendar days but no more than 20 calendar days prior to the date of the public hearing.

- (3) *Decision deadlines.* Within 14 calendar days after the date of the public hearing, the Historic Preservation Board shall render, by written resolution, its decision approving, denying, or approving with conditions a proposed designation pursuant to this chapter. The rendering of a decision by the Historic Preservation Board shall constitute final administrative action. The Historic Preservation Board shall notify the following parties of its actions and shall attach a copy of the resolution:
- a. The owner of the affected property.
 - b. The Building Official.
 - c. The Zoning Director.
 - d. The County Clerk.
 - e. The Planning Division.
 - f. The Department of Transportation and Engineering.
 - g. The County Property Appraiser.
 - h. Any other County, municipal, State or federal agency, including agencies with demolition powers, that may be affected by the decision of the Historic Preservation Board.
- (4) *Recording of designation.* All resolutions designating historic resources shall be recorded in the public records of the County within 25 calendar days of the date the Historic Preservation Board renders its decision, unless an appeal of that decision has been filed within the time limits established by this chapter.
- (5) *Suspension of activities.* Upon the filing of a designation report, no permits may be issued authorizing building, demolition, relocation or excavation on the subject property until final administrative action occurs or the expiration of 75 calendar days from the date the designation report is filed with the Historic Preservation Board, whichever occurs first, unless an appeal of the decision of the Historic Preservation Board is filed. If an appeal is filed as provided in this chapter, the suspension of activities will continue in effect for an additional 35 calendar days from the date the Historic Preservation Board renders its decision or until the rendering of a decision on the appeal, whichever occurs first. The property owner may waive the suspension of activities deadlines set out in this section. Waivers must be in the form of a notarized statement to the Historic Preservation Board for inclusion in the Board's files. The Historic Preservation Board will notify all affected government agencies of the suspension of activities upon the filing of a designation report. The suspension of activities expires after 60 days if no public hearing is held.

(LDC 1994, § 22-203; Ord. No. 88-62, § 7C, 12-21-1988; Ord. No. 90-35, § 2, 6-20-1990; Ord. No. 99-05, § 6, 6-29-1999; Ord. No. 13-10, § 6, 5-28-2013; Ord. No. 16-19, § 6, 11-15-2016)

Sec. 22-204. Criteria for designation.

- (a) The Historic Preservation Board shall have the authority to designate historic resources based upon their significance in the County's history, architecture, archaeology or culture, or for their integrity of location, design, setting, materials, workmanship or associations, and because they:
- (1) Are associated with distinctive elements of the cultural, social, political, economic, scientific, religious, prehistoric or architectural history that have contributed to the pattern of history in the community, the County, Southwestern Florida, the State or the nation;

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- (2) Are associated with the lives of persons significant in the past;
 - (3) Embody the distinctive characteristics of a type, period, style or method of construction or are the work of a master; or possess high artistic value or represent a distinguishable entity whose components may lack individual distinction;
 - (4) Have yielded or are likely to yield information on history or prehistory; or
 - (5) Are listed or have been determined eligible for listing in the National Register of Historic Places.
- (b) An historic resource shall be deemed to have historical or cultural significance if it is:
- (1) Associated with the life or activities of a person of importance in local, State or national history;
 - (2) The site of an historic event with a significant effect upon the County, State or nation;
 - (3) Associated in a significant way with a major historic event;
 - (4) Exemplary of the historical, political, cultural, economic or social trends of the community in history; or
 - (5) Associated in a significant way with a past or continuing institution which has contributed substantially to the life of the community.
- (c) An historic resource shall be deemed to have architectural or aesthetic significance if it fulfills one or more of the following criteria:
- (1) Portrays the environment in an era of history characterized by one or more distinctive architectural styles;
 - (2) Embodies the characteristics of an architectural style, period or method of construction;
 - (3) Is an historic or outstanding work of a prominent architect, designer or landscape architect; or
 - (4) Contains elements of design, detail, material or craftsmanship which are of outstanding quality, or which represented, in its time, a significant innovation, adaptation or response to the South Florida environment.
- (d) An historic resource shall be deemed to have archaeological significance if it meets one or more of the following criteria:
- (1) There is an important historical event or person associated with the site;
 - (2) The quality of the site or the data recoverable from the site is significant enough that it would provide unique or representative information on prehistoric or historical events;
 - (3) The site was the locus of discrete types of activities such as habitation, religious, burial, fortification, etc.;
 - (4) The site was the location of historic or prehistoric activities during a particular period of time; or
 - (5) The site maintains a sufficient degree of environmental integrity to provide useful archaeological data. Such integrity shall be defined as follows:
 - a. The site is intact and has had little or no subsurface disturbance; or
 - b. The site is slightly to moderately disturbed, but the remains have considerable potential for providing useful information.
- (e) Properties not generally considered eligible for designation include cemeteries, birthplaces or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, buildings or sites primarily commemorative in nature, reconstructed historic buildings, and properties that have achieved significance less than 50 years prior to

the date the property is proposed for designation. However, such properties will qualify if they are integral parts of districts that do meet the criteria described in this section or if they fall within one or more of the following categories:

- (1) A religious property deriving primary significance from architectural or artistic distinction of historical importance.
- (2) 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.
- (3) A birthplace or grave of an historical figure of outstanding importance if there is no other appropriate site or building directly associated with his productive life.
- (4) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events.
- (5) A property primarily commemorative in nature if design, age, tradition or symbolic value have invested it with its own historical significance.
- (6) A building, structure, site or district achieving significance less than 50 years from the date it is proposed for designation if it is of exceptional historical importance.

(LDC 1994, § 22-204; Ord. No. 88-62, § 7D, 12-21-1988)

Sec. 22-205. Removal of designation or change in status.

The removal of an historic resource designation or the change in a designation from contributing to noncontributing property (or the reverse) in a designated district may be initiated in one of three ways:

- (a) *Written petition.* By written petition of the property owner;
- (b) *Majority vote.* By majority vote of the Historic Preservation Board; or
- (c) *Board of County Commissioners' request.* At the request of the Board of County Commissioners.
 - (1) *Removal of designation or change in status initiated by owner.* The owner must file a written petition for removal of designation or change in status. The petition must state with specificity the reason for the request and include sufficient information to support investigation of the property in response to the request. The complete petition or subsequently requested report will be presented to the Historic Preservation Board for action. At that time the Historic Preservation Board may:
 - (a) Accept a removal of designation petition and direct it to public hearing;
 - (b) Direct that a removal of designation report be prepared by either the staff or the applicant for consideration by the Board;
 - (c) Reject a report submitted and state the specific reasons for the rejection; or
 - (d) Deny the removal of designation petition and state the reasons for denial.

Notice must be provided in accordance with Section 22-207 prior to action under this section.

- (2) *Removal of designation or change in status initiated by Historic Preservation Board or Board of County Commissioners.* The Historic Preservation Board has the authority to direct staff to prepare a removal of designation or change in status report based upon a recommendation of County staff, a request from the Historic Preservation Board or direction by the Board of County Commissioners. Once completed, the requested report will be considered by the Historic Preservation Board at a duly noticed meeting.

(LDC 1994, § 22-205; Ord. No. 09-23 , § 6, 6-23-2009)

Sec. 22-206. Removal of designation or change in status report.

Action by the Historic Preservation Board to accept a removal of an historic resource designation or the change in status from contributing to noncontributing property (or the reverse) must be based upon a report prepared in accordance with this section. The report must be in writing and provide specific and detailed information as to why the historic designation applicable to the property should be removed or changed from contributing to noncontributing (or the reverse).

Removal of an historic resource designation or the change in status from contributing to noncontributing property (or the reverse) is appropriate only if the subject property no longer meets the criteria set forth in Section 22-204 for the applicable designation.

(LDC 1994, § 22-206; Ord. No. 09-23 , § 6, 6-23-2009)

Sec. 22-207. Notice; action by board; recording.

- (a) *Notice to owner.* A notice to the property owner must be filed in accordance with Section 22-203(1).
- (b) *Notice of public hearing.* The County will provide written notice regarding the public hearing in accordance with Section 22-203(2).
- (c) *Decision deadlines.* After review of the report, the Historic Preservation Board must take action in accordance with Section 22-203(3).
- (d) *Recording.* The Board's written decision must be recorded as set forth in Section 22-203(4).

(LDC 1994, § 22-207; Ord. No. 09-23 , § 6, 6-23-2009)

Secs. 22-208—22-240. Reserved.

ARTICLE IV. MAINTENANCE AND REPAIR OF PREMISES

Sec. 22-241. Ordinary maintenance and repair.

Nothing in this chapter shall be construed to prevent or discourage the ordinary maintenance and repair of the exterior elements of any historic resource or any property within a designated historic district when such maintenance and repair do not involve a change of design, appearance (other than color) or material, and do not require a building permit.

(LDC 1994, § 22-241; Ord. No. 88-62, § 9A, 12-21-1988)

Sec. 22-242. Correction of deficiencies generally.

When the Historic Preservation Board determines that the exterior of a designated historic resource, or a contributing property within a designated historic district, is endangered by lack of ordinary maintenance and repair, or that other improvements in visual proximity of a designated historic resource or historic district are endangered by lack of ordinary maintenance, or are in danger of deterioration to such an extent that it detracts from the desirable character of the designated historic resource or historic district, the Historic Preservation Board

may request appropriate officials or agencies of the County government to require correction of such deficiencies under the authority and procedures of applicable ordinances, laws and regulations.

(LDC 1994, § 22-242; Ord. No. 88-62, § 9B, 12-21-1988)

Sec. 22-243. Unsafe structures.

If the Building Official determines that any designated historic resource or contributing property is unsafe pursuant to the provisions of the applicable County ordinances, the Building Official will immediately notify the Historic Preservation Board by submitting copies of such findings. Where appropriate and in accordance with applicable County ordinances, the Historic Preservation Board shall encourage repair of the building or structure rather than demolition. The Building Official will, in these instances, take into consideration any comments and recommendations made by the Historic Preservation Board. The Historic Preservation Board may also endeavor to negotiate with the owner and interested parties, provided such actions do not interfere with procedures established in the applicable ordinances.

(LDC 1994, § 22-243; Ord. No. 88-62, § 9C, 12-21-1988)

Sec. 22-244. Emergency work.

For the purpose of remedying an emergency condition determined to be imminently dangerous to life, health or property, nothing contained in this chapter will prevent the temporary construction, reconstruction, demolition or other repairs to an historic structure, building or site or a contributing or noncontributing property, structural improvement, landscape feature or archaeological site within a designated historic district. Such temporary construction, reconstruction or demolition must take place pursuant to permission granted by the Building Official, and only such work as is reasonably necessary to correct the emergency conditions may be carried out. The owner of a building or structure damaged by fire or natural calamity will be permitted to immediately stabilize the building or structure and to later rehabilitate it under the procedures required by this chapter. The owner may request a special meeting of the Historic Preservation Board to consider an application for a Certificate of Appropriateness to provide for permanent repairs.

(LDC 1994, § 22-244; Ord. No. 88-62, § 9D, 12-21-1988)

Sec. 22-245. Demolition by neglect.

If the staff of the Historic Preservation Board or the Building Official inform the Historic Preservation Board that a designated historic resource or contributing property within an historic district is being demolished by neglect, as defined pursuant to this chapter, the Historic Preservation Board shall notify the owners of record by certified mail of its preliminary findings and intent to hold a public hearing no later than 35 calendar days from the date the notice was sent to determine evidence of neglect. The owner shall have until the time of the public hearing to make necessary repairs to rectify the evidence of neglect as identified in the certified notice. Upon failure by the owner to abate the structural, health or safety hazards identified in the initial notice within 35 calendar days, the Historic Preservation Board shall hold a public hearing to consider recommending to the Building Official that the owner be issued a citation for Code violation. The owner shall have the right to rebut the preliminary findings of the Historic Preservation Board at the public hearing. If the Historic Preservation Board finds that the building or structure is being demolished by neglect pursuant to this chapter, the Historic Preservation Board may recommend to the Building Official that the owner be issued a citation for Code violations and that penalties be instituted pursuant to this chapter.

(LDC 1994, § 22-245; Ord. No. 88-62, § 9E, 12-21-1988; Ord. No. 90-35, § 5, 6-20-1990)
