

**ORDINANCE 97-49**

**AN ORDINANCE OF THE CITY OF DELAND, FLORIDA, CREATING THE CITY OF DELAND HISTORIC PRESERVATION PROPERTY TAX EXEMPTION ORDINANCE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FOR DEFINITIONS; PROVIDING FOR PROPERTY ELIGIBLE FOR TAX EXEMPTION; PROVIDING FOR AD VALOREM TAX EXEMPTIONS FOR IMPROVEMENTS TO HISTORIC PROPERTIES; PROVIDING FOR APPLICABLE TAXES; PROVIDING FOR DURATION OF TAX EXEMPTION PERIOD; PROVIDING FOR APPLICATION AND PROCEDURE FOR GRANTING TAX EXEMPTION; PROVIDING FOR HISTORIC PRESERVATION EXEMPTION COVENANT; PROVIDING FOR APPEAL PROCESS; PROVIDING FOR NOTICE TO APPLICANT; PROVIDING FOR NOTICE TO PROPERTY APPRAISER; PROVIDING FOR REVOCATION PROCEEDINGS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, the electors of the State of Florida approved an amendment to Section 3, Article VII of the State Constitution to authorize any county or municipality to grant an ad valorem tax exemption for historic properties; and

**WHEREAS**, subsequently, the Legislature of the State of Florida adopted Section 196.1997, Florida Statutes, implementing the provisions of the State Constitution to specifically provide for ad valorem tax exemptions for historic properties; and

**WHEREAS**, the Division of Historical Resources, Department of State, State of Florida, has also adopted Chapter 1A-38, Tax Exemptions for Historic Properties, Florida Administrative Code; and

**WHEREAS**, there are located within the City of DeLand certain historic resources, both publicly and privately owned, both individual properties and districts, which are associated with past events and persons important in local, state and national history; or that are significant examples of an architectural style or building type; or that have yielded or are likely to yield important information which cannot be retrieved from the written record on the lifestyles of past inhabitants; and

**WHEREAS**, the City of DeLand has demonstrated its commitment to historic preservation by enacting Section 33-34 of the Land Development Regulations of the City of DeLand, entitled "Historic Districts and Landmarks," to aid in the protection and management of historic resources; and

**WHEREAS**, the said Ordinance created the Historic Preservation Board to certify designation of individual properties and groups of properties (districts) as historically significant; and

**WHEREAS**, the preservation of historic sites enhances the lives of citizens, promotes community understanding, educates school children, and attracts visitors who contribute to the

economy of the City of DeLand, and is in the interest of the public health, safety and welfare; and

**WHEREAS**, the City of DeLand desires to take advantage of these constitutional and statutory provisions;

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF DELAND, FLORIDA:**

**Section 1. Short Title.** This Ordinance shall be known as the "City of DeLand Historic Preservation Property Tax Exemption Ordinance."

**Section 2. Purpose and Intent.**

*Purpose.* The purpose of this Ordinance is to:

- (A) Provide a positive financial incentive for the designation of DeLand Historic Districts and Landmarks as provided in Article 4, Overlay and Floating Zones, Part 33-34 of the Land Development Regulations of the City of DeLand;
- (B) Encourage more restoration, rehabilitation and renovation of designated historic buildings and structures in DeLand;
- (C) Stabilize and improve property values, and enhance the property tax base of the City of DeLand, by encouraging improvement of designated historic buildings and structures; and
- (D) Improve the appearance of designated Historic Districts and Landmarks in the City of DeLand, thereby enhancing their appeal as places to live, work and visit.

**Section 3. Definitions.** The following words and phrases when used in this Ordinance shall have the following meanings:

(A) *Assessed Value-* The total value of a tax parcel, excluding the value of land, as determined by the Property Appraiser for the County of Volusia, and shown on the property tax bill sent to the owner of record by the County of Volusia.

(B) *Contributing Property-* Property that adds to the sense of time, place and historical development of an Historic District Overlay Zone by virtue of its location, design, setting, materials, workmanship, feeling and association, and was deemed as such at the time of designation.

(C) *Eligible Property -* The following real property in the City of DeLand is eligible for the Historic Preservation Property Tax Exemption as defined herein, provided it meets such criteria on the date the Historic Preservation Property Tax Exemption is granted by the City Commission:

- (1) any individual property listed on the Local Register of Historic Places as defined by Article 4, Overlay and Floating Zones, Part 33-34, Land Development Regulations of the City of DeLand; OR
- (2) any property identified as a contributing property located within the boundaries of a historic district so listed on the Local Register of Historic Places as defined by Article 4, Overlay and Floating Zones, Part 33-34, Land Development Regulations of the City of DeLand.

In addition to meeting one of the above criteria, in order to be considered an "Eligible Property," the following must apply:

- (3) the property must have been renovated, after the date of adoption of this Ordinance, to the extent that the assessed value of the structure, as defined herein, must have increased twenty-five percent (25%) or more; AND
- (4) the property must be located outside of the City of DeLand Tax Increment Finance District.

(D) *Historic Preservation Board* - The DeLand Historic Preservation Board as created by Section 33-34 of the Land Development Regulations of the City of DeLand.

(E) *Preservation Exemption Covenant* - The Historic Preservation Property Tax Exemption Covenant form identified as Florida DOS Form No. HR3E111292, which provides that those benefiting from the tax exemption agree to maintain the architectural and historical integrity of the building or structure for the duration of the Tax Exemption Period.

(F) *Qualifying Improvement*- Any change in the condition of an eligible property brought about by the expenditure of labor and purchase of materials that results in restoration, renovation or rehabilitation of said property in keeping with the design criteria established for the purposes of this exemption. This shall include, specifically, interior or exterior work, and the construction of additions or accessory buildings or structures.

#### **Section 4. Historic Preservation Property Tax Exemption.**

The owners of qualifying properties who have met all requirements outlined in this Ordinance shall receive an exemption of one hundred percent (100%) of the increase in assessed value of ad valorem taxes levied by the City of DeLand which result from the restoration, renovation or rehabilitation of such buildings or structures for the duration of the exemption period. The amount of exemption shall be determined by the Property Appraiser for the County of Volusia based on the typical post-construction inspection and appraisal. Applications for preconstruction and completed work shall be reviewed by the Historic Preservation Board and such Board shall make its recommendation to the City Commission regarding the granting or denying of such request for exemption. The Historic Preservation Property Tax Exemption for a

specific property shall be granted, upon review and consideration, by Resolution of the City Commission.

The tax exemptions allowed herein apply only to ad valorem taxes assessed by the City of DeLand. The exemption does not apply to taxes levied for the payment of bonds, to taxes authorized by a vote of the electors pursuant to Section 9(b) or Section 12, Article VII of the Florida Constitution, or to improvements made prior to the adoption of this Ordinance.

**Section 5. Exemption Period.**

The exemption period shall be ten (10) years, beginning on January 1 after all three of the following events have occurred: (1) issuance of a Certificate of Occupancy by the City of DeLand; (2) final approval of the restoration, renovation or rehabilitation work has been granted by the City Commission of the City of DeLand; and (3) written notice stating the exemption is in effect has been forwarded by the City of DeLand and received by the Property Appraiser for the County of Volusia.

This exemption shall remain in effect regardless of any change in the authority of the City to grant such exemptions or any change in the ownership of the property.

In the situation that a property owned by an organization or governmental entity exempt from the payment of ad valorem taxes, is subsequently sold to an owner not exempt from the payment of ad valorem taxes, the latter owner shall receive the exemption for the remainder of the exemption period provided that the former owner met all requirements outlined by this Ordinance.

**Section 6. Application.**

Application for the Historic Rehabilitation Tax Exemption shall be made on appropriate forms obtained from the City of DeLand, and application shall be made by the owner of record or a duly authorized agent of the owner. The application forms shall contain all the information required by the Florida Department of State, Division of Historical Resources promulgated in accordance with Rule 1A-38, Florida Administrative Code, and shall include additional information regarding the documentation of the cost of qualifying improvements. All forms and procedures shall be provided in writing by the City of DeLand to any prospective Applicant.

Each Applicant shall also be provided a copy of the Preservation Exemption Covenant, and an explanation of the requirement that the Covenant must be signed before a final application can be approved by the City Commission.

The application shall consist of the following parts:

**A. Preconstruction Application.**

(1) Content of Preconstruction Application. Only expenditures made to contributing properties after the effective date of this Ordinance shall be reviewed by the Historic Preservation Board for approval. The Preconstruction Application form shall be filed with the City of DeLand before any work begins, and shall include, but not be limited to, the following:

- (a) information sufficient to determine if the subject property is an eligible property as defined by this Ordinance;
- (b) information sufficient to determine if the proposed project will be a qualifying improvement as defined by this Ordinance;
- (c) photographs documenting existing conditions of the property;
- (d) information outlining construction estimates for the proposed project; and
- (e) a copy of the latest tax bill issued by the Property Appraiser for the County of Volusia.

(2) Review of Preconstruction Application. The Preconstruction Application shall be reviewed by the City of DeLand Historic Preservation Board at any regular or special meeting of such Board. If applicable, review of the Preconstruction Application can be combined with the review and consideration of issuance of a Certificate of Appropriateness by the Board. The Historic Preservation Board shall make a determination of the following:

- (a) whether or not the proposed project will be a qualifying improvement as defined by this Ordinance; and
- (b) whether or not the work, as proposed, is in compliance with applicable review standards.

If the Board finds, by majority vote, that the proposed project is a qualifying improvement and that the work proposed is in compliance with applicable review standards, the Board shall approve the Preconstruction Application.

If the Board finds, by majority vote, that the proposed project is either not a qualifying improvement, or is not in compliance with applicable review standards, the Board shall advise the Applicant as to the changes necessary to make it a qualifying improvement and the Board's recommendations to bring the project in compliance with applicable review standards. The Applicant may resubmit the Preconstruction Application for further review at a future regular or special meeting of the Historic Preservation Board.

(3) Work Requiring a Certificate of Appropriateness.

If all or part of the proposed work involves exterior work requiring a Certificate of Appropriateness under Section 33-34.03 of the Land Development Regulations, the exterior portion of the work shall be reviewed in accordance with that Code and any design guidelines associated with that Code. The Preconstruction Application process may be initiated and reviewed simultaneously with the procedure for issuance of a Certificate of Appropriateness, but no Preconstruction Application shall be approved by the Board until the process for issuance of a Certificate of Appropriateness has been completed.

**B. Application for Review of Completed Work.**

(1) Content of Application. The application form shall include, but not be limited to, the following:

- (a) information sufficient to determine if the completed work is consistent with work as proposed in the Preconstruction Application, including photographs;
- (b) information documenting the total cost of the project.

(2) Review of Application for Completed Work.

Application for Review of Completed Work shall be made by the Applicant upon completion of all work items summarized in the Preconstruction Application. This form shall be submitted to the Historic Preservation Board for review at a regular or special meeting of said Board. At this meeting, the Board shall determine if the work, as completed, is consistent with the work that was proposed in the Preconstruction Application.

If the Board finds, by majority vote, that the completed work is consistent with the Preconstruction Application, then the Application for Review of Completed Work shall be approved by the Board and forwarded to the City Commission with its recommendation that the City Commission grant the exemption.

If the Board finds, by majority vote, that the completed project is not consistent with the work proposed in the Preconstruction Application, the Board shall advise the Applicant as to the changes necessary to make it consistent. The Applicant shall have sixty (60) days to bring said work into compliance. After this sixty (60) day period the Board shall review information provided by the Applicant to demonstrate compliance. If, to the satisfaction of a majority of the Board, the completed work is consistent with the Preconstruction Application, then the Application for Review of Completed Work shall be approved by the Board and the Board shall forward its recommendation to the City Commission that the exemption be granted. If the Board decides by majority vote that the work is not consistent, then the Board shall not approve the application and shall recommend to the City Commission that it deny the request for tax exemption.

**Section 7. Historic Preservation Exemption Covenant.** No final application shall be approved by the City Commission unless it is accompanied by a signed Preservation Exemption Covenant.

**Section 8. Appeals.** The Applicant may appeal any decision of the Historic Preservation Board under this Ordinance to the City Commission. The appeal shall be filed on a form prepared by the Planning Director of the City of DeLand. The City Commission shall review the applications and supporting documentation filed by the Applicant using applicable review standards. A public hearing shall be held and notice provided the Applicant. The Applicant may appeal any decision of the City Commission under this Ordinance to a Court of competent jurisdiction.

**Section 9. Notice to Applicant.** Written notice shall be made to the Applicant in reference to each application after a recommendation or final decision has been made. Each written notice shall include reasons for the decision and recommendations for changes to the proposed improvement project that will make it a qualifying improvement.

**Section 10. Notice to Property Appraiser.** Within three (3) working days following adoption of a Resolution by the City Commission granting the Historic Preservation Property Tax Exemption, the Planning Director shall transmit a copy of the Resolution, the Preservation Exemption Covenant, and the final application to the Property Appraiser for Volusia County, with instructions that the Property Appraiser provide the Historic Preservation Property Tax Exemption to the Applicant.

**Section 11. Revocation Proceedings.**

(A) The Planning Director may initiate proceedings to revoke the Historic Preservation Property Tax Exemption in the event that the Applicant, or any subsequent owner or successor in interest to the property, fails to maintain the property according to the terms, conditions and standards to the Preservation Exemption Covenant. Proceedings under this section may also be initiated following a finding by the Code Enforcement Board that a housing code violation has occurred. The Historic Preservation Board shall provide notice to the current owner of record, hold a hearing and make a recommendation to the City Commission. The City Commission shall review the recommendation of the Historic Preservation Board and make a determination as to whether or not the exemption should be revoked.

(B) Upon a determination by the City Commission that the Historic Preservation Property Tax Exemption shall be revoked, the Planning Director shall provide written notice of the decision to the property owner of record as well as to the Property Appraiser of Volusia County. The notice to the owner of record shall be accompanied by reasons and recommendations for changes to the property that may result in reinstatement of the exemption.

(C) Upon receipt of a notice of revocation, the Property Appraiser of Volusia County shall discontinue the Historic Preservation Property Tax Exemption on the property as of January 1 of the year following receipt of the notice of revocation.

(D) Reinstatement. A property may be reinstated for the Historic Preservation Property Tax Exemption upon satisfactory submission of evidence that the recommendations for changes to the property previously made by the Historic Preservation Board have been completed. The process for reinstatement shall be the same as the process for review of an Application for Review of Completed Work. Upon completion of the reinstatement process, the Planning Director shall notify the Property Appraiser per Section 11(B) above. The Historic Preservation Property Tax Exemption shall only be reinstated for the remaining unexpired term of the initial exemption period.

**Section 12.** If any section, sentence, clause or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, that holding shall in no way affect the validity of the remaining portions of this Ordinance.

Section 13. All ordinances, or parts of ordinances, in conflict herewith are, to the extent of such conflict, hereby repealed.

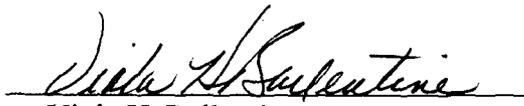
Section 14. This Ordinance shall become effective immediately upon its adoption.

**PASSED AND DULY ADOPTED** this 1st day of December, 1997.



David C. Rigsby  
Mayor - Commissioner

**ATTEST:**



Viola H. Ballentine  
City Clerk - Auditor

Passed on first reading: November 17, 1997  
Adopted on second reading: December 1, 1997

**APPROVED AS TO FORM AND LEGALITY:**



Mark A. Zimmerman  
City Attorney

