

Sec. 7.16. - Protection of historically significant buildings.

- A. *Purpose and intent.* It is the intent of this Section to assure that sites locally designated as historically significant or as an undesignated historic structure will be protected from demolition or substantial alteration such as would be detrimental to the character of the City and its cultural heritage thus protecting the public interest in historic sites from adverse activities, construction, destruction and other impacts and preventing the unnecessary removal of historic structures or archaeological artifacts. Furthermore, it is the intent of this section to strengthen the economy of the City by stabilizing and improving property values in historic areas, combating urban decay through rehabilitation and revitalization, and providing attractions to residents, tourists and visitors, to provide a stimulus to business and industry and a mechanism to preserve the beauty and historic past of the city. The purpose of these regulations is to provide for a review of any permit request which would affect those sites located in the City and identified in the Land Development Code as deemed to be historically significant or an undesignated historic structure.
- B. *Local list of historically significant sites or undesignated historic structures.* The list of historically significant sites and undesignated historic structures is to be kept by the Community Development Director. Placement of other buildings on the list of historically significant sites or undesignated historic structures may be initiated by the City Council or the owner and added to the list following public hearings before the City Council and amendment to the Land Development Code. At least once every ten years the City Council shall initiate a review of all structures within the city that were originally constructed at least 50 years prior to the year in which the update is conducted for the purpose of determining which structures to add to the local list of undesignated historic structures or historically significant sites and which structures should be removed. The City Council shall utilize the expertise of professionals in the fields of history, architectural history, planning, archaeology, or other historic-preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography or cultural anthropology to offer recommendations and supportive findings regarding the criteria to be designated as a historically significant site or an undesignated historic structure.
1. **Criteria.** Consistent with the criteria established by the National Register of Historic Places, designation as historically significant places, buildings, structures, landscape features, archaeological sites and other improvements as individual sites or districts that are significant in Fellsmere's history, architecture or culture and possess integrity of location, design, setting, materials, workmanship or association shall meet one or more of the following criteria:
 - a. (Significant event.) Are associated with events that have made significant contributions to the pattern of history in the community, Fellsmere, Indian River County, the state or the nation; or
 - b. (Significant person.) Are associated with the lives of persons significant in Fellsmere's past; or
 - c. (Architectural significance.) Embodies the distinctive characteristics of an architectural type, period, style or method of construction; or the work of a prominent designer or builder; or contains elements of design, detail, materials, or craftsmanship of outstanding quality; or that represents a significant innovation or adaptation to the Florida environment; or represents a distinguishable entity whose components may lack individual distinction; or
 - d. (Archaeological significance.) Have yielded, or are likely to yield information in history or prehistory; or
 - e. (Aesthetic significance.) Is a part of or related to a landscape, park, environmental feature or other distinctive area, and should be developed or preserved according to a plan based upon a historic, cultural, or architectural motif; or because of its prominent or special location, contrast of siting, age, or

scale is an easily identifiable visual feature of a neighborhood or the city and contributes to the distinctive quality of such neighborhood or the city.

The placement of a historical marker endorsed by the Florida Division of Historical Resources shall by itself qualify a site to be designated as historically significant.

2. Criteria considerations. Ordinarily cemeteries, birth places, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures which have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature and properties that have achieved significance within the past 50 years shall not be considered eligible for designation as historically significant. However, such properties will qualify if they fall within the following categories:
 - a. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or
 - b. A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his or her productive life; or
 - c. 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; or
 - d. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan and no other building or structure with the same association has survived; or
 - e. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
 - f. A property achieving significance within the past 50 years if it is of exceptional importance based on National Register of Historic Places criteria; or
 - g. A religious property deriving primary significance from architectural or artistic distinction or historical importance.
3. Historically Significant Sites. The following sites have been determined to be historically significant to the City of Fellsmere:
 - a. 107 N. Broadway Street, Fellsmere Inn
 - b. 63 N. Cypress Street, Marian Fell Library, 1915
 - c. 56 N. Broadway Street, Fellsmere Community Center (Old Bank Building)
 - d. 39 N. Broadway Street, Fellsmere United Methodist Church
 - e. 44 N. Broadway Street, Fellsmere Estates Building
 - f. 12 N. Hickory Street, Fellsmere Community Bible Church
 - g. 22 S. Orange Street, Fellsmere Municipal Building (Old Elementary School)
 - h. 130 N. Broadway Street
 - i. 102 N. Broadway Street
 - j. 94 N. Broadway Street
 - k. 46 N. Broadway Street
4. Undesignated Historic Structures. All structures initially constructed 50 years or more prior to the year in which the City Council initiates an update to the list of historic structures shall be determined to be undesignated historic structures. The structures that qualify as undesignated historic structures are contained in the *Historic Properties Survey of Fellsmere, Florida dated September 1995*, or most recent edition, excluding those structures identified in Section (3) above.C. *Effect of placement on local list of*

historically significant sites. The structures placed on the local list of historically significant sites shall be deemed historically significant and entitled to modified enforcement of the Florida Building Code. Demolition, alteration, relocation or construction activities may only take place after receipt of a special certification granted by the City Council as provided below. The U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties are hereby adopted as the standards by which applications for any special certification are to be measured and evaluated. In adopting these guidelines, it is the intent of this chapter to promote the proper maintenance, restoration, preservation, rehabilitation, or reconstruction appropriate to the property, and compatible contemporary designs, which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites and streetscapes

1. If the work constitutes ordinary maintenance, the work may be done without special certification. Ordinary maintenance is defined as work which does not require a construction permit and that is done to repair damage or to prevent deterioration or decay of a building or structure or part thereof as nearly as practicable to its condition prior to the damage, deterioration or decay.
2. If the work is not ordinary maintenance as defined above, but will result in the original appearance, special certification may be issued by City Council for the City. Original appearance is defined as that appearance (except for color) which, to the satisfaction of City Council closely resembles the appearance of either (1) the feature on the building as it was originally built or was likely to have been built, or (2) the feature on the building as it presently exists so long as the present appearance is appropriate, in the opinion of City Council, to the style and materials of the building.
3. If the work is not ordinary maintenance and will not result in the original appearance, special certification must be obtained from City Council before the work may be done.
4. The following are regulated work items:
 - a. Installation of all metal awnings or metal canopies.
 - b. Installation of all decks above the first floor level and/or on the front of the structure.
 - c. Installation of an exterior door or door frame, or the in-fill of an existing exterior door opening.
 - d. Installation or removal of any exterior wall, including the enclosure of any porch or other outdoor area with any material other than insect screening.
 - e. The installation or relocation of wood, chain link, masonry, or wrought iron fencing.
 - f. The installation or removal of all fire escapes, exterior stairs or ramps for the handicapped.
 - g. Painting unpainted masonry including stone, brick, terra-cotta and concrete.
 - h. Installation or removal of railings or other wood, wrought iron or mason detailing.
 - i. Abrasive cleaning of exterior walls.
 - j. Installation of new roofing materials, or removal of existing roofing materials.
 - k. Installation or removal of security grills, except that in no case shall permission to install such grills be completely denied.
 - l. Installation of new exterior siding materials, or removal of exterior siding materials.
 - m. Installation or removal of exterior skylights.
 - n. Installation of exterior screen windows or exterior screen doors.
 - o. Installation of an exterior window or window frame or the in-fill of an existing exterior window opening.
 - p. A Special Certification must be obtained from the City Council to demolish or relocate a building, structure or object on the Local List of Historically Significant Sites or Undesignated Historic Structures.

5. The City Council shall utilize the expertise of professionals in the fields of history, architectural history, planning, archaeology, or other historic-preservation-related disciplines such as urban planning, American studies, American civilization, cultural geography or cultural anthropology to obtain recommendations and supportive findings as to the consistency of the proposed alteration, relocation or construction activities to the criteria contained herein.

D. *Demolition of historic sites.*

1. Whenever a property owner clearly demonstrates that a building or structure on a historically significant site or an undesignated historic structure has been condemned by the chief building official of the city such building or structure may be demolished if a report from a licensed engineer or architect with experience in rehabilitation states that the building is structurally unsound and unsuitable for rehabilitation.
2. Whenever an applicant seeks a certificate for the purpose of demolition of a noncondemned, contributing building, structure or appurtenance upon a historically significant site or a noncondemned, building, structure or appurtenance upon an undesignated historic structure, the applicant must satisfactorily demonstrate to the City that no reasonable alternative, such as relocation, to demolition can be found. The applicant must submit a concurrent application for final site plan approval, planned development approval, or conditional use approval for the property as part of an application for demolition. A demolition approval may only be granted in conjunction with the approval of such submittal.
3. No decision of the City Council shall result in undue economic hardship for the property owner. The City Council shall have authority to determine the existence of such hardship in accordance with subsection G below.
4. The City's refusal to grant a certificate of appropriateness for the purpose of demolition will be supported within 30 calendar days by a written statement describing the public interest that the City Council seeks to preserve.
5. The City may grant a certificate of appropriateness for demolition which may provide for a delayed effective date of up to six months from the date of the City's action. The effective date of the certificate will be determined by the City based on the relative significance of the structure and the probable time required to arrange a possible alternative to demolition. In general, the City may delay the demolition of designated historic sites and contributing buildings within historic districts for up to six months. A longer timeframe may be agreed upon between the City and the Applicant.
6. During the demolition delay period, the City may take such steps, as it deems necessary to preserve the structure concerned. Such steps may include, but not be limited to, consultation with community groups, public agencies, and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one or more structures or other features.
7. During the demolition delay period, the Applicant shall authorize and make available access to the property by City staff and consultants or contractors.
8. In connection with any certificate of appropriateness for demolition of buildings or structures as defined in this Code, the City will encourage the owner, to salvage and preserve specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in the restoration of other historic properties. The City Council may require that a qualified historic preservation consultant record the architectural details for archival purposes prior to demolition. The recording may include, but will not be limited to, photographs, documents and scaled architectural drawings.
9. The City will consider these guidelines in evaluating applications for a certificate of appropriateness for demolition of buildings or structures on a designated historically significant site or undesignated historic structures or within designated historic districts:
 - a. Is the structure of such interest or quality that it would reasonably fulfill criteria for designation for listing on the national register?

- b. Is the structure of such design, craftsmanship or material that it could be reproduced only with great difficulty and/or economically unviable expense?
 - c. Is the structure one of the last remaining examples of its kind in the city or designated historic district?
 - d. Would retaining the structure promote the general welfare of the City by providing an opportunity to study local history, architecture and design, or by developing an understanding of the importance and value of a particular culture and heritage?
 - e. Are there definite plans for immediate reuse of the property if the proposed demolition is carried out, and what effect will those plans have on the character of the surrounding area?
 - f. Does the building or structure contribute significantly to the historic character of the historic district or to the overall ensemble of buildings in the general vicinity?
 - g. Has the building or structure been determined to be structurally unsound and unsuitable for rehabilitation by a qualified engineer or architect?
10. Notice of application for demolition shall be posted on the premises of the site, building or structure proposed for demolition in a location and manner clearly visible from the street. Such notice will be posted within five working days of receipt of the application for demolition by the City.
- E. Procedure for obtaining a special certification. A person wishing to obtain special certification shall file an application with the City Manager or designee, along with supporting documentation, pay all fees as established by resolution and costs, and schedule a pre-application conference with the City Manager and/or his/her designee. Further documentation may be required at that time. Upon receipt of all required submittals, the City Manager or designee shall place the application on the agenda of a regularly scheduled meeting of the City Council for public hearing, allowing for notification. Written notice of the time and place of the meeting shall be sent to the Applicant and all persons or organizations filing written requests with the City Manager or designee, and one advertised notice must be placed in a newspaper of general circulation at least 15 days, but not more than 30 days prior to the meeting at which the application is to be heard. At the time of the meeting of the City Council, the City Council shall take one of the following actions:
- a. Grant the special certification.
 - b. Grant the special certification with modifications and conditions.
 - c. Deny the special certification.
- No work for which a special certification is required may be undertaken unless the special certification is conspicuously posted on the property where the work is to be performed.
- F. *Effect of placement on local list of undesignated historic structures.* All properties listed within the *Historic Properties Survey of Fellsmere, Florida dated September 1995*, or most recent edition, not otherwise located on the Local List of Historically Significant Sites in subsection B.3 above, that are the subject of a request for a demolition permit, Final Site Plan, Planned Development rezoning, or Conditional Use permit shall be subject to the requirements of subsection E above.
- G. *Undue economic hardship.*
- 1. Undue economic hardship may only be considered after a property has been designated a historically significant site or an undesignated historic structure and after an application for approval to alter or demolish a building or structure has been denied by the City Council. In any instance where there is a claim of undue economic hardship, the owner may submit, by affidavit, to the City within ten days after the public hearing where an application was denied, the following information:
 - a. For all property:
 - i. The amount paid for the property, the date of purchase and the party from whom purchased;

- ii. The assessed value of the land and improvements thereon, according to the two most recent assessments by the Indian River County Property Appraiser;
 - iii. Real estate taxes for the previous two years;
 - iv. Annual debt service, if any, for the previous two years;
 - v. All appraisals obtained within the previous two years by the owner or applicant in connection with the purchase, financing or ownership of the property;
 - vi. Any listing of the property for sale or rent, price asked and offers received, if any;
 - vii. Any consideration by the owner as to profitable adaptive uses for the property.
 - b. For income producing property:
 - i. Annual gross income from the property for the previous two years;
 - ii. The assessed value of the land and improvements thereon, according to the two most recent assessments by the Indian River County Property Appraiser;
 - iii. Annual cash flow, if any, for the previous two years; and
 - iv. Itemized operating and maintenance expenses for the previous two years.
 - c. The City may require that an applicant furnish such additional information that they believe to be relevant in the determination of undue economic hardship and may provide, in appropriate instances, that such additional information be furnished under seal, subject to Florida's Public Records Act.
 - d. In the event that any of the required information is not reasonably available to the property owner and cannot be obtained by the property owner, the property owner shall file with his/her/their affidavit a statement of the information which cannot be obtained and the reasons why such information cannot be reasonably obtained. Where such unobtainable information concerns required financial information, the property owner will submit a statement describing estimates which will be as accurate as are feasible.
 2. Upon receipt of an affidavit requesting a determination of undue economic hardship, the City shall conduct a public meeting as set forth in subsection D above and may maintain their original denial or revise with or without conditions.
- H. *Appeals.* Any final action by the City Council made in accordance with the provisions of this Section may be appealed to the Circuit Court, in the Nineteenth Judicial Circuit in and for Indian River county within thirty (30) days after rendition of the decision of the City Council. Review shall be governed by the Florida Rules of Appellate Procedures. Such appeal shall not be a hearing de novo but shall be limited to appellate review of the record created before the City Council.
- I. *Enforcement and Penalties.*
1. Violation of any of the provisions of this Section is subject to enforcement through the powers of the Special Master.
 2. The City may obtain judicial relief to restrain, prohibit or otherwise respond to any violation of this Section.
 3. Any person(s) who is found to be in violation of any provision of this Section shall be subject to a fine as set forth in the Code of Ordinances, Section 2-179.