



## Legislation Text

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File #: 18-507, Version: 1

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**TO: Mayor and Commissioners**  
**FROM: Timothy Stillings, Planning, Zoning, and Building Director**  
**THROUGH: Mark R. Lauzier, City Manager**  
**DATE: September 6, 2018**

ORDINANCE NO. 12-18: A CITY-INITIATED AMENDMENT TO THE LAND DEVELOPMENT REGULATIONS TO CREATE AN ENTIRELY NEW SUBSECTION REGARDING HISTORIC SITE AND BUILDINGS MAINTENANCE REGULATIONS, TO REVISE PROCEDURES FOR CERTIFICATES OF ECONOMIC HARDSHIP, AND TO REVISE REGULATIONS REGARDING TAX EXEMPTION REVOCATION PROCEEDINGS WITHIN LDR SECTION 4.5.1. (FIRST READING)

### **Recommended Action:**

Motion to Approve Ordinance No. 12-18 adopting the City-initiated amendment to Land Development Regulation Article 4.5 "Overlay and Environmental Management Districts", Section 4.5.1 "Historic Preservation: Designated Districts, Sites and Buildings" to create an entirely new subsection regarding Historic Site and Buildings Maintenance Regulations, to revise procedures for Certificates of Economic Hardship, and to revise regulations regarding Tax Exemption Revocation Proceedings, by adopting the findings of fact and law contained in the staff report, and finding that the text amendment and approval thereof is consistent with the Comprehensive Plan and meets the criteria set forth in pursuant to LDR Section 2.4.5(M).

### **Background:**

The proposed ordinances were drafted by City staff in concert with the Historic Preservation Task Force (HPTF). The HPTF was formed by the City Manager at the City Commission's direction in November 2015. The group was tasked with strengthening historic preservation in Delray Beach, to fill in any gaps in resources, to protect & preserve properties and to create incentives. The City Commission reviewed the HPTF's recommendations in June 2017 and directed staff to move forward with their recommendations.

One of the HPTF's recommendations to the City Commission was to create new or updated ordinances and Land Development Regulations (LDR) that would add strength to the City's current regulations. The proposed amendments are as follows:

- Create new LDR Section 4.5.1(E)(9):
  - Maintenance Requirements for Historic Sites and Buildings; Penalties: Language added to require every owner of historic and archeological sites or owner of buildings, structures, improvements and appurtenances within historic districts to maintain and keep such in good repair in order to prevent destruction and decay as caused by either decay, deterioration or other hazards.
  - Creates new requirements relating to maintenance of structural components in order to prevent against decay and deterioration. Prohibits deterioration and decay either

- through willful action or willful neglect.
- Places affirmative duty on homeowner to properly maintain structure. Create penalties when violations of the maintenance regulations occur which are a repeat violation or a serious threat to the public health, safety and welfare, or if the violation is irreparable or irreversible in nature than such penalties can include:
  - No permit to be issued for any alteration or new construction affecting such property for a period of five (5) years, other than permits necessary to correct the violation. A waiver clause is included to address corrections to the violation.
  - Condition for any new land use approval to rebuild, reconstruct, restore or replicate the structure or object on the property in accordance with the standards and development procedures as set forth in Section 4.5.1.
  - Elimination of qualification of historic preservation incentives including but not limited to ad valorem tax exemption.
- Amend subsection 4.5.1(H), Undue Economic Hardship by repealing and readopting it to provide for new and revised procedures relating to applicants that received code enforcement violations and are experiencing economic hardship to obtain a Certificate of Economic Hardship that affords additional time to make repairs and provides notice of local agencies able to provide assistance. Certificate of Economic Hardship tolls the imposition of fines and liens against the property for a period up to 12 months; can be revoked for noncompliance. Requires applicant to take affirmative steps to obtain assistance to cure defects. Provides incentive for property owner to resolve code issues.
- Amending subparagraph 4.5.1(J)(10), Revocation Proceedings by repealing and readopting it to provide for revised regulations concerning tax exemption revocation to the conditions set forth in LDR Section 4.5.1(E)(5), Standards and Guidelines and the newly created LDR Section 4.5.1(E)(9) as a requirement to maintain an ad valorem tax exemption.

The item is now before the City Commission is for final approval. Additional background and an analysis of the request are provided in the attached P&Z Board Staff Report.

### **Review by Others**

The Historic Preservation Board reviewed the item as a discussion item at the January 7, 2018 meeting and were in support of the request. The Board asked for expanded definitions and clarifications to the ordinances, that improved communications be provided to the Board regarding Code Enforcement efforts and supported the process for boarding.

The Historic Preservation Board reviewed the item at the June 13, 2018 meeting, and recommended approval by a vote of 7-0.

The Downtown Development Agency (DDA) reviewed the item at the April 9, 2018 meeting and voted unanimously in support of the proposed amendment.

The Pineapple Grove Mainstreet reviewed the item at the April 25, 2018 meeting and voted in support of the proposed amendment.

The West Atlantic Redevelopment Coalition (WARC) reviewed the item at the May 3, 2018 meeting

and voted unanimously in support of the proposed amendment but noted concerns with:

- Enforcement on violations prior to adoption of new ordinances;
- How will public be informed of the new ordinances;
- The Economic Hardship Certificate should include more extensions;
- New ordinances regarding Affirmative Maintenance should be more stringent on developers; and,
- Clear boarding - want program to be put in place.

The Planning and Zoning Board reviewed the item at the July 16, 2018 meeting and recommended approval by a vote of (5-0, Jacobson and Marcus Absent)

**City Attorney Review:**

Approved as to form and legal sufficiency.

**Funding Source/Financial Impact:**

N/A

**Timing of Request:**

N/A