ORDINANCE 19-21

AN ORDINANCE OF THE CITY OF DUNEDIN, FLORIDA; AMENDING CHAPTER 111 OF THE LAND DEVELOPMENT CODE; PROVIDING FOR THE REVIEW AND PROCESS FOR NOMINATING HISTORIC LANDMARKS TO THE NATIONAL REGISTER OF HISTORIC PLACES; ADDING BRICK ROADWAYS, WALKWAYS AND ALLEYWAYS CRITERIA; REPLACING ALL REFERENCES OF DUNEDIN HISTORIC PRESERVATION COMMISSION WITH CITY COMMISSION; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Commission wishes to revise the historic preservation provision in its Land Development Code.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, IN SESSION DULY AND REGULARLY ASSEMBLED:

Section 1. That Chapter 111 of the Land Development Code of the City of Dunedin is hereby amended to read as follows:

Chapter 111 - HISTORIC PRESERVATION

111-1.1 - General

Purpose and declaration of public policy.

A. The City Commission declares as a matter of public policy that the preservation, protection, perpetuation and use of historic landmarks is a public necessity because they have a special historic, architectural, archaeological, aesthetic or cultural interest and value and thus serve as visible and tangible reminders of the history and heritage of this City, the state and nation. The City Commission finds that this section benefits the City's residents and property owners and declares as a matter of public policy that this section is required in the interest of the health, prosperity, safety, welfare, and economic well-being of the people.

B. The purpose of this Chapter is to:

   1. Effect and accomplish the preservation, protection, perpetuation and use of historic landmarks having a special, architectural,

archaeological, aesthetic or cultural interest and value to this City, the state and nation;

2. Promote the educational, cultural, economic and general welfare of the people and to safeguard the City's history and heritage as embodied and reflected in such historic landmarks;

3. Foster civic pride in the value of notable accomplishments of the past;

4. Strengthen the economy of the City;

5. Protect and enhance the City's attractions to residents, tourists and visitors and serve as a support and stimulus to business and industry;

6. Enhance the visual and aesthetic character, diversity and interest of the City;

7. Provide for incentives to renovate or rehabilitate historic structures by implementing State law (currently F.S. §§ 196.1997 and 196.1998) relating to exemption of certain ad valorem taxes for historic properties.

111-1.2 - Definitions

For the purposes of this section, definitions shall be as provided in the rules of interpretation and definitions section and Appendix A.

111-1.3 - Establishment of Historic Preservation Advisory Committee (HPAC)

A. There shall be a Historic Preservation Advisory Committee of citizens appointed by the City Commission to act without financial compensation in an advisory capacity to the City Commission, the City Manager and his/her staff and to Departments of the City. It is hereby established that the HPAC is responsible for matters pertaining to historic and archaeological preservation as provided in this section. It is the City Commission's intent that the HPAC shall meet the requirements of the state and federal Certified Local Government program.

B. The City Commission has provided for the number of members, their terms, and duties by resolution. When a new member is appointed by the City Commission, the professional education and qualifications of the new member should be considered to ensure that the requirements of the Certified Local Government program are met. When necessary, persons serving on the Committee shall attend educational meetings to develop a special interest, experience or knowledge in history, architecture, or related disciplines.

111-1.4 - Powers and Duties of the HPAC

A. In addition to the powers and duties stated elsewhere, the HPAC shall take action necessary and appropriate to accomplish the purposes of this section. These actions may include, but are not limited to:

B. The designation of historic landmarks;

1. Regulating alterations, demolitions, relocations, and new construction to historic landmarks;

2. Establishing specific design review criteria for historic landmarks;

3. The HPAC shall review all nominations for historic landmarks to the National Register of Historic Places (NRHP) following the regulations of the Florida Division of Historical Resources as stated below. The HPAC determines its own position (if any) regarding the nomination and is not subject to the position of the mayor/city commission.

a. A nomination is submitted to Florida Division of Historical Resources, either by the property owner or the author of the nomination.

b. The Florida Division of Historical Resources will review the nomination for completeness and once deemed complete, the Division will schedule it for the next available State National Register Review Board meeting (held approximately every 3 months in Tallahassee).

c. At least 60 days prior to the State National Register Review Board meeting, the Florida Division of Historical Resources will send a letter to the CLG contact (to be shared with the HPAC) and the Mayor, giving both parties the opportunity to comment on the nomination. Neither party is required to respond.

d. The HPAC and the mayor will have until the date of the meeting to review and respond to the nomination.

i. If the HPAC or the mayor does not respond with any comments, the nomination moves forward.

ii. If both the HPAC and the Mayor send letters in support of the nomination, the nomination moves forward.

iii. If one party supports the nomination and the other does not (both expressed in writing), the nomination moves forward.

iv. If both the HPAC and the Mayor send letters that they do not support the nomination, the nomination does not move forward.

C. The HPAC shall prepare and keep on file available for public inspection a written annual report of its historic preservation activities, cases,

decisions, qualifications of Historic Preservation Advisory Committee members and other historic preservation work.

D. The HPAC shall receive assistance in the performance of its historic preservation responsibilities from the City's Architectural Review Committee. City staff members may be asked to assist the HPAC by providing technical advice or helping in the administration of this section.

111-1.5 - Designation of Local Historic Landmarks

A. *Generally.* With the recommendation of the HPAC, the City Commission shall approve local historic landmarks by ordinance. An application for the creation a historic ad valorem tax exemption may be processed simultaneously with an application for designation.

B. *Application requirements.* Consideration of the designation of historic landmarks shall be initiated by the filing of an application for designation by the property owner, the HPAC, City Commission, City Manager or Dunedin History Museum staff. The City shall charge a fee for each application. Such fee shall be waived for City-initiated applications and properties listed in, or, upon demonstration of a pending application, proposed to be listed in the NRHP. The Director shall determine when an application is complete and may request additional information when such application is determined to be incomplete.

1. *Generally.* The applicant shall complete an application form provided by the Director which shall include:

   a. A written description of the architectural, historical, or archaeological significance of the proposed historic landmark specifically addressing and documenting those related points contained in the criteria of this section;

   b. The date of construction of each of the structures on the property of the historic landmark;

   c. Photographs of the historic landmark; and

   d. The legal description and a map of the historic landmark to be designated.

C. *Additional requirements.*

1. When an owner objects to an application involving designation of their property, approval by the City Commission shall require a super majority vote.

2. If a designation application for an individual property has been made by a non-owner and has been denied, no application to designate the

same property shall be accepted by the Director for five years from the date of the final public hearing unless initiated by the property owner.

3. One complete copy of a non-owner initiated designation application for an individual property shall be provided by the applicant to each property owner (and may be made to any legal person of interest) as shown in the Public Records of Pinellas County, by certified mail. The application shall not be complete until proof of mailing has been provided to the Director and the Director shall not process the application until complete. The applicant of a non-owner initiated designation application for an individual property shall mail notice of each public hearing at least 30 days prior to each public hearing, to each property owner as shown in the Public Records of Pinellas County by regular mail. The applicant shall provide proof of mailing to the Director at least 14 days prior to the public hearing.

D. *Criteria for designation of individual property.*

1. The HPAC shall recommend the designation of individual property as a historic landmark after the public hearing if the principal structure is at least 50 years old and it meets one or more of the following criteria:

   a. Its value is a significant reminder of the cultural or archaeological heritage of the City, state or nation;

   b. Its location is a site of a significant local, state, or national event;

   c. It is identified with a person who significantly contributed to the development of the City, state, or nation;

   d. It is identified as the work of a master builder, designer, or architect whose individual work has influenced the development of the City, state, or nation;

   e. Its value as a building is recognized for the quality of its architecture, and it retains sufficient elements showing its architectural significance;

   f. It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials;

   g. Its character is a geographically definable area possessing a concentration or continuity of sites, buildings, objects or structures united in past events or aesthetically by plan or physical development;

   h. Its character is an established and geographically definable neighborhood, similar in culture, architectural style or physical plan and development; or

i. It has contributed, or is likely to contribute, information important to the prehistory or history of the City, state, or nation.

2. *Special properties.* Cemeteries, birthplaces, or graves of historical figures, structures that have been moved from their original locations, reconstructions of 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 unless it is an integral part of a historic district that meets the criteria above or if it falls within the following categories:

   a. A cemetery which derives its primary significance from graves of persons of significance either from its age, from its distinctive design features, or from its association with historic events;

   b. A birthplace or grave of a historical figure of significance if there is not an appropriate building or site directly associated with the historical figure's life;

   c. A building or structure removed from its original location but which is significant primarily for its architectural value or which is the surviving structure most importantly associated with a historic person or event;

   d. An accurate reconstruction of an historic building or structure which was destroyed by catastrophic causes, located in an environment which is compatible with its historic location, presented in an academic manner, and no other building or structure with the same historic significance has survived;

   e. A property primarily commemorative in intent if its design, age, tradition, or symbolic value has created its own exceptional significance; or

   f. A property achieving significance within the past 50 years if it is of exceptional importance and meets one or more of the general criteria.

3. *Brick Roadways, Walkways and Alleyways.* Additional criteria for designation of brick roadways, brick walkways, and brick alleyways over fifty years old.

   a. For the purposes of this subsection and unless otherwise directed by City Commission, the City designates all City owned historic brick roadways, brick walkways, and alleyways as local historic landmarks.

   b. The historic brick roadway, brick walkway, and alleyways contribute an aesthetic or cultural interest and value which enhances the character of the City.

E. *Permit issuance.* When a complete (as determined by the Director) application for designation of a local historic landmark has been submitted, no permits shall be issued for any exterior alteration, new construction, demolition, or relocation on the property which is the subject of the recommendation until one of the following has occurred:

1. City Commission approves the application by ordinance.

2. The application is withdrawn; or

3. City Commission denies the designation.

4. This prohibition shall not apply to a noncontributing resource within the boundaries of an application for local historic landmark designation in a historic district. Nor shall it apply to permits for ordinary repair and maintenance of contributing resources, as determined by the Director.

F. *HPAC review and designation.* The HPAC shall schedule a public hearing on the proposed designation within 60 days of a completed application. Notice of the public hearing and notice to the owner(s) shall clearly state the boundaries for the proposed historic landmark and notice shall include mailed notice to the owner, and written and posted notice as provided in the applications and procedures section. After evaluating the testimony, evidence, and other material presented, and considering the criteria for designation, the HPAC shall:

1. Recommend approval of the application, recommend denial of the application, or recommend approval of the application with modifications to the City Commission.

2. Within this 60-day period, the HPAC may vote to defer its recommendation if adequate information is not available to make a recommendation, but shall reconsider the application at the earliest opportunity after adequate information is made available.

3. In addition to the criteria for designation, the HPAC may also consider the relationship of the proposed designation to the existing and future plans for the development of the City.

4. A decision to approve the designation over an owner objection shall be by a super majority vote. Modification of the boundaries of a proposed historic landmark is not a reversal of a Commission recommendation so long as a substantial portion of the recommended area is approved.

5. If a designation is made, the Comprehensive Plan including the land use map shall automatically be amended to show the designation with no further action by City Commission or the HPAC necessary.

6. The Director shall notify the applicant and property owner of the decision relating to the property and shall arrange that notice of the

designation of an individual property as a local historic landmark is provided to the property appraiser and tax collector so that they may include this information in their public records and with the City Clerk.

G. *Amendments and rescissions.* The designation of any local historic landmark may be amended or rescinded through the same procedure utilized for the original designation. Where a physical portion of a historic landmark remains, the HPAC may consider whether the historic landmark has lost its significance as a result of the approval of a COA which required the retention of a portion of the original historic landmark.

H. *Historic Street Signs and Plaques*

1. Once an application for designation of a historic landmark has been approved, only street signs and plaques approved and designed by the city may be displayed.

2. Historic plaques must be attached to the landmark in such a way as to not cause irreversible damage to the structure.

3. Nothing herein shall preclude the display of a plaque designated by the National Register of Historic Places.

111-1.6 - Approval of Changes to Historic Landmarks

A. *Certificate of appropriateness (COA).* No person may undertake any of the following actions affecting a historic landmark without first obtaining a COA:

1. Alteration of a designated archaeological site;

2. Alteration to the exterior part of a building, structure or object within the designated boundary of a historic landmark;

3. New construction;

4. Demolition;

5. Relocation, including the relocation of a building into a historic district;

6. Review of new construction and alterations to designated buildings and structures shall be limited to exterior changes. Whenever any alteration, new construction, demolition, or relocation is undertaken on a historic landmark without a COA, the Building Official is authorized to issue a stop work order;

7. A COA shall be in addition to any other building permits required by law. The issuance of a COA shall not relieve the property owner of the duty to comply with other federal, state, and local laws and regulations;

8. Ordinary repair and maintenance that is otherwise permitted by law may be undertaken without a COA. The final determination of what work is considered ordinary repair and maintenance shall be made by the Director. Property owners may request the Director to review any scope of work to determine if a COA is required at no charge;

9. Owners of properties which are subject to a COA review shall make all artifacts from archaeological sites available to the investigating archaeologists for purposes of analysis and for the reasonable period of time needed for the analysis;

10. No COA approved by the City Commission shall be effective for a period of ten days from the date of approval. If during that ten-day period an appeal is made, the decision shall automatically be stayed during the appeal.

B. *Application procedures for a COA*. Each application for a COA shall be accompanied by the required fee. No permits shall be issued for an alteration, new construction, demolition or relocation affecting a historic landmark without first directing the applicant to the Director to determine if a COA is required. The applicant shall complete an application form provided by the Director which shall include the following information:

1. Drawings of the proposed work;

2. Photographs of the existing building or structure and adjacent properties;

3. A complete written description of the proposed work which clearly describes the building materials to be used;

4. The Director shall determine when an application is complete and may request additional information when such application is determined to be incomplete;

5. For relocations, a written statement from the applicant shall be included in the application addressing:

   a. How the proposed relocation of the historic landmark will impact the NRHP seven factors of integrity which contribute to its; and

   b. Why the relocation is necessary.

C. *Review of a COA*.

1. The City Commission shall hold a public hearing and approve, by resolution, a COA approval matrix for historic landmarks. Changes to the matrix shall be made in the same manner. The matrix shall identify which actions require review. The Director, in consultation with the HPAC, shall have the discretion to refer any application to the City

Commission. Approval of any action which is not specifically identified on the matrix shall be made by the City Commission.

2. The decision to approve, approve with conditions, or deny any application, shall be based on the criteria contained in this section.

3. The decision by the Director/HPAC to approve, approve with conditions, or deny any application shall be provided to the owner, and the applicant, if different than the owner. The decision shall be in writing and shall state the reasons for such approval. The decision may be appealed to the City Commission by following the procedures for appeals in the applications and procedures section, however, only the owner may appeal a decision under this paragraph. The Director shall provide mailed notice to the owner as required in the application and procedures section for each COA request requiring approval at least ten days before making a decision unless this time frame is waived by the owner.

4. The City Commission shall hold a public hearing after providing mailed and posted notice as required in the application and procedures section for each COA request requiring City Commission approval. The City Commission may vote to defer its decision if adequate information is not available to make a decision but shall reconsider the application at the earliest opportunity after adequate information is made available. The City Commission shall act within 60 days after the close of the public hearing unless an extension is agreed to by the property owner.

D. *Modifications to a COA.* Modifications to a COA shall be made only by the corresponding approval authority, based on the approval matrix, after receipt of a completed application by following the procedures for approval of a COA. Modification to any work or materials approved by the COA or any condition of the COA is prohibited without receipt of an approval as set forth herein. Fees for review of a COA shall be established by the City Commission.

E. *General criteria for granting a COA.* In approving or denying applications for a COA for alterations, new construction, demolition, or relocation, the Director/HPAC and/or the City Commission shall evaluate the following:

1. The effect of the proposed work on the historic landmark;

2. The relationship between such work and other structures on the property;

3. The extent to which the historic, architectural, or archaeological significance, architectural style, design, arrangement, texture and materials of the historic landmark or the property will be affected;

4. Whether the denial of a COA would deprive the property owner of reasonable beneficial use of the property;

5. Whether the plans may be reasonably carried out by the applicant;

F. *Additional guidelines for alterations.* In approving or denying applications for a COA for alterations, the Director /HPAC and/or the City Commission shall also use the following additional guidelines which are based on the United States Secretary of the Interior's Standards for the Treatment of Historic Properties:

1. A historic landmark should be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

2. The distinguishing historic qualities or character of a building, structure, or site and its environment shall be preserved. The removal or alteration of any historic material or distinctive architectural features shall be avoided when reasonable.

3. Each property shall be recognized as a physical record of its time, place, and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings shall not be undertaken.

4. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

5. Distinctive features, finishes, and construction techniques or examples of craftsmanship that characterize a property shall be preserved.

6. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, texture, and other visual qualities and, where reasonable, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

7. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the gentlest means possible.

8. Significant archaeological resources affected by a project shall be protected and preserved if designated pursuant to this section. If such resources must be disturbed, mitigation measures shall be undertaken.

G. *Additional guidelines for new construction.* In approving or denying applications for a COA for new construction (which includes additions to

an existing structure), the Director /HPAC and/or the City Commission shall also use the following additional guidelines:

1. The height of the proposed new construction shall be visually compatible with the historic character of the surrounding neighborhood.

2. The relationship of the width of the new construction to the height of the front elevation shall be visually compatible with the historic character of the surrounding neighborhood.

3. The relationship of the width of the windows to the height of the windows in the new construction shall be visually compatible with the historic character of the surrounding neighborhood.

4. The relationship of solids and voids (which is the pattern or rhythm created by wall recesses, projections, and openings) in the front facade of a building shall be visually compatible with the historic character of the surrounding neighborhood.

5. The relationship of the new construction to open space between it and adjoining buildings shall be visually compatible with the historic character of the surrounding neighborhood.

6. The relationship of the entrance and porch projections to sidewalks of the new construction shall be visually compatible with the historic character of the surrounding neighborhood.

7. The relationship of the materials and texture of the facade of the new construction shall be visually compatible with the predominant materials used in the historic character of the surrounding neighborhood.

8. The roof shape of the new construction shall be visually compatible with the historic character of the surrounding neighborhood.

9. Appurtenances of the new construction such as walls, wrought iron, fences, evergreen, landscape masses, building facades, shall, if necessary, form cohesive walls of enclosures along a street, to ensure visual compatibility of the new construction with the historic character of the surrounding neighborhood.

10. The size of the new construction, the mass of the new construction in relation to open spaces, the windows, door openings, porches and balconies shall be visually compatible with the historic character of the surrounding neighborhood.

11. New construction shall not destroy historic materials that characterize the historic landmark. The new construction should be differentiated from the old and shall be compatible with the massing, size, scale, and

architectural features to protect the historic integrity of the historic landmark and its environment.

12. New construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic landmark and its environment would be unimpaired.

H. *Additional requirements for demolition.* In approving or denying applications for a COA for demolition, the Director /HPAC and the City Commission shall also use the following additional guidelines:

1. The purpose and intent of these additional requirements is to determine that no other feasible alternative to demolition of the historic landmark can be found.

2. No COA for demolition shall be issued by the City Commission until the applicant has demonstrated that there is no reasonable beneficial use of the property or the applicant cannot receive a reasonable return on a commercial or income-producing property. The City Commission may solicit expert testimony and should request that the applicant furnish such additional information believed to be necessary and relevant in the determination of whether there is a reasonable beneficial use or a reasonable return. The information to be submitted by a property owner should include, but not be limited to, the following information:

a. A report from a licensed architect or engineer who shall have demonstrated experience in structural rehabilitation concerning the structural soundness of the building and its suitability for rehabilitation including an estimated cost to rehabilitate the property.

b. A report from a qualified architect, real estate professional, or developer, with demonstrated experience in rehabilitation, or the owner as to the economic feasibility of rehabilitation or reuse of the property. The report should explore various alternative uses for the property and include, but not be limited to, the following information:

i. The amount paid for the property, date of purchase, remaining mortgage amount (including other existing liens) and the party from whom purchased, including a description of the relationship, if any, between the owner of record or applicant and the person from whom the property was purchased, and any terms of financing between the seller and buyer.

ii. The most recent assessed value of the property.

iii. Photographs of the property and description of its condition.

iv. Annual debt service or mortgage payment.

v. Real estate property taxes for the current year and the previous two years.

vi. An appraisal of the property conducted within the last two years. The City may hire an appraiser to evaluate any appraisals. All appraisals shall include the professional credentials of the appraiser.

vii. Estimated market value of the property in its current condition; estimated market value after completion of the proposed demolition; and estimated market value after rehabilitation of the existing historic landmark for continued use.

viii. Evidence of attempts to sell or rent the property, including the price asked within the last two years and any offers received.

ix. Cost of rehabilitation for various use alternatives. Provide specific examples of the infeasibility of rehabilitation or alternative uses which could earn a reasonable return for the property.

x. If the property is income-producing, submit the annual gross income from the property for the previous two years as well as annual cash flow before and after debt service and expenses, itemized operating and maintenance expenses for the previous two years, and depreciation deduction and projected five-year cash flow after rehabilitation.

xi. If the property is not income-producing, projections of the annual gross income which could be obtained from the property in its current condition.

xii. Evidence that the building can or cannot be relocated.

c. The City Commission may request that the applicant provide additional information to be used in making the determinations of reasonable beneficial use and reasonable return.

d. If the applicant does not provide the requested information, the applicant shall submit a statement to the City Commission detailing the reasons why the requested information was not provided.

3. The City Commission may ask interested individuals and organizations for assistance in seeking an alternative to demolition.

4. The City Commission shall review the evidence provided and shall determine whether the property can be put to a reasonable beneficial use or the applicant can receive a reasonable return without the approval of the demolition application. The applicant has the burden of proving that there is no reasonable beneficial use of the property or that the owner cannot receive a reasonable return. If the applicant fails to establish the lack of a reasonable beneficial use or the lack of a reasonable return, the City Commission shall deny the demolition application except as provided below.

5. The City Commission may condition any demolition approval upon the receipt of plans and building permits for any new structure and submission of evidence of financing in order to ensure that the site does not remain vacant after demolition.

6. The City Commission may grant a COA for demolition even though the historic landmark has reasonable beneficial use or receives a reasonable return if:

    a. The City Commission determines that the property no longer has significance as a historic, architectural or archaeological landmark; or

    b. The City Commission determines that the demolition of the designated property is necessary to achieve the purposes of a community redevelopment plan or the Comprehensive Plan.

7. The City Commission may, at the owner's expense, require the recording of the property for archival purposes prior to demolition. The recording may include, but shall not be limited to, video recording, photographic documentation with negatives and measured architectural drawings.

I. *Additional guidelines for relocation.* In approving or denying applications for a COA for the relocation of a historic landmark, the Director/HPA and the City Commission shall also use the following additional guidelines:

    1. The contribution the historic landmark makes to its present setting;

    2. Whether there are definite plans for the property the historic landmark is being moved from;

    3. Whether the historic landmark can be moved without significant damage to its physical integrity; and

    4. The compatibility of the historic landmark to its proposed site and adjacent properties.

    5. The property owner may be required to obtain an approved site plan before permits may be issued to relocate a historic landmark.

J. *Additional guidelines for window and external door replacement.* Property owners may replace windows provided that in addition to the City building code requirements, each replacement window or external door meets the following criteria:

1. The relationship of height to width of the replacement window or external door shall be compatible with related elements of the historic building and with the historic character of the surrounding area.

2. The relationship of solids to voids (wall to window) shall be compatible with related elements on the historic building and with the historic character of the surrounding area.

K. *Additional guidelines for replacement and repair of brick roadways, brick walkways, and alleyway preservation areas.* In approving or denying applications for a COA for construction in brick roadways, brick walkways, and alleyway preservation areas, the Commission and the Director shall also use the following additional guidelines:

1. The responsibility for proper repair of brick roadways, brick walkways, and alleyways within a preservation area shall be governed by City policies and ordinances.

2. All construction shall be done in accordance with City specifications and shall be inspected by the Director.

3. All construction must obtain all required permits.

4. The replacement and/or repair of existing brick roadways, walkways, and alleyways shall be made with brick.

L. *Emergency conditions; designated properties.* In any case where the Building Official determines that there are emergency conditions dangerous to life, health or property affecting a historic landmark, the Building Official may order the remedying of these conditions (including demolition) without the approval of the City Commission or issuance of a required COA. The Director shall promptly notify the City Commission of the action being taken.

111-1.7 - Appeals

Decisions of the Director/HPAC may be appealed to the City Commission.

111-1.8 - Conformity with the COA

All work performed pursuant to a COA shall conform to all provisions of such COA. The Director may inspect any work being performed to ensure such compliance. In the event work is not in compliance with such COA the Building Official may issue a stop work order. No additional work shall be undertaken as long as such stop work order is in effect.

111-1.9 - Maintenance and Repair of Historic Landmarks

A. Every owner of a historic landmark shall protect the historic landmark against any fault, defect, or condition of the historic landmark which renders it structurally unsafe or not watertight and shall keep it in good repair including:

1. All of the exterior portions of such buildings or structures including but not limited to all roofing materials and roof components, window glass, window frames and sashes, exterior doors and door frames; and

2. All interior portions thereof which, if not so maintained, may cause such buildings or structures to deteriorate or to become damaged or otherwise to fall into a state of disrepair.

B. *Compliance*. The property owner and any other person having possession or control of a historic landmark shall comply with the City's minimum building standards and repair the historic landmark if it is found to have any of the defects listed above. In addition, the property owner and any other person having possession or control of the historic landmark shall keep all property, including vacant property, clear of all fallen trees or limbs, debris, abandoned vehicles, and all other refuse as specified under the City's minimum building codes and ordinances. The provisions of this section shall be supplemental to any other laws requiring buildings and structures to be kept in good repair.

C. *Enforcement*.

1. The Director/HPAC and/or the City Commission may work with the property owner to encourage maintenance and stabilization of the structure and identify resources available before taking enforcement action under this section.

2. The Director/HPAC and/or the City Commission may file a complaint with the Code Enforcement Division requesting that the Code Enforcement Inspector issue a citation to require repairs to any historic landmark so that the historic landmark shall be preserved and protected in accordance with this section.

111-1.10 - Expedited Actions; Stop Work Order; Non-Designated Properties

A. The City Commission may call a special meeting to review a threat to property that has not yet been designated as a historic landmark by the City.

B. The Director may issue a temporary stop work order for a maximum of 15 days or until City Commission conducts the special meeting or discusses the property at a regular City Commission session within that period. The City Commission may request that a stop work order be issued for up to

120 days to provide time to negotiate with the property owner to remove the threat to the property.

C. During the stop work order period the City Commission may initiate steps to designate the property. Within the stop work order period the City Commission shall meet and seek alternatives that may remove the threat to the property and determine if the property should be designated.

111-1.11 - Identification of Potentially Eligible Landmarks which are not Locally Designated

A. In order to protect and preserve the City's historic resources, the City shall discourage the demolition of historic resources which are listed or eligible for listing on the NRHP or the Dunedin Inventory of Historic Structures.

1. The property records and HPAC database should identify all properties listed individually or as a contributing resource on the Dunedin Inventory of Historic Structures or the NRHP. The property records and HPAC database should also identify all properties which are potentially eligible for designation as a historic landmark.

2. Upon receipt of a complete application (or substantially complete as determined by the Director) for a site plan that includes demolition, the Director shall delay the processing of the site plan and the issuance of a permit for the demolition of a property which is potentially eligible for designation as a historic landmark and which is identified as such in the property records and HPAC database, for 30 days.

3. The requirement for delay and notice set forth in subsections 1. through 3. of this section shall not apply when:

   a. The Building Official or Fire Chief determines that it is necessary to demolish all or part of a building to protect the safety of the public;

   b. The Building Official determines that the building is structurally unsafe;

   c. The property has been the subject of an application for historic designation which has been denied and which is not on appeal; and

   d. The property has been the subject of an application for a site plan which has been approved and which is not on appeal, and the site plan approval has not expired or been withdrawn.

111-1.12 - Procedure for Ad Valorem Tax Exemption for Historic Properties

A. *Generally.* State statutes (currently F.S. §§ 196.1997 and 196.1998) authorize the City to adopt an ordinance allowing certain ad valorem tax exemptions under the state Constitution for historic properties which meet certain requirements.

B. *Definitions.* For the purposes of this section, the following words shall have the following meanings:

1. *Assessed value* means the total value of a tax parcel (including the structures, land and any other rights appurtenant thereto) as determined by the county property appraiser and shown on the property tax bill sent to the owner of record by the county.

2. *Covenant* means the Historic Preservation Property Tax Exemption Covenant required to be recorded to obtain an exemption pursuant to this chapter.

3. *Exemption* means the ad valorem tax exemption for historic properties authorized pursuant to this chapter.

4. *Qualifying improvement* means:

   a. Any change in the condition of a qualifying property which is sympathetic to the architectural and/or historical integrity of the structure as determined by a review for a COA which may include additions and accessory structures (e.g., a garage, cabana, guest cottage, storage/utility structure) so long as the new construction is compatible with the historic character of the building and site in terms of size, scale, massing, design, and materials and preserves the historic relationship between a building or buildings, landscape features and open spaces; and

   b. Which occurs as a result of the expenditure of money on labor or materials for the restoration, renovation or rehabilitation of such property; and

   c. Which expenditures the property owner can document to the satisfaction of the City; and

   d. Which improvements were made on or after the adoption of this section; and

   e. That the total expenditure on the qualifying improvement was paid within the two years prior to the date of submission of the request for review of completed work; and

   f. That the total expenditure equals or exceeds ten percent of the assessed value of the property in the year in which the qualifying improvement was initiated (expenditures for interior and exterior work, including construction of additions but excluding all recreational facilities, shall be included in the meaning of improvement for purposes of this section); and

   g. That the qualifying improvement complies with the COA criteria and the Secretary of the Interior's Standards for Rehabilitation and

Guidelines for Rehabilitating Historic Buildings (Revised 1990) U.S. Department of Interior, National Park Service and F.A.C. ch. 1A-38.

5. *Qualifying property* means real property which is:

   a. Property designated as a local historic landmark or part of a multiple property landmark;

   b. A property listed in the NRHP;

   c. A contributing resource in a historic district listed in the NRHP; or

   d. A property proposed for listing as an individual or contributing resource on either historic register. "Proposed" in this instance means that a historic landmark application or NRHP nomination report has been submitted to the City for review or an agreement has been signed by the City or other parties to prepare the historic landmark application or NRHP nomination. A property must be officially designated as a local historic landmark or contributing resource by the City or by the federal government's keeper of the NRHP before the City Commission will approve the ad valorem tax exemption request.

C. *Ad valorem tax exemption for historic properties.* A qualifying property that has completed a qualifying improvement may be granted an exemption from that portion of the ad valorem taxation levied by the City on 100 percent of the assessed value of the qualifying improvement.

   1. This exemption shall not apply to taxes levied for the payment of bonds or to taxes authorized by a vote of electors pursuant to section 9(b) or section 12, article VII of the state Constitution.

D. *Ad valorem tax exemption period.* Any exemption granted shall remain in effect for up to ten years, with the effective date being January 1 of the year following substantial completion of the qualifying improvement. The exemption shall continue in force if the authority of the City to grant exemptions changes (unless the City is preempted by state law) or if ownership of the property changes (including any change from a tax-exempt entity to a tax paying entity except as set forth in the following subsection).

E. *Ad valorem tax exemptions for historic properties open to the public.* If a qualifying improvement is for a qualifying property that is used for non-profit or governmental purposes and is regularly and frequently open for the public's visitation, use and benefit, the City may exempt 100 percent of the assessed value of the property as improved from ad valorem taxes levied by the City provided that the assessed value of the qualifying improvement must be equal to at least 50 percent of the total assessed value of the property as improved. This subsection applies only if the qualifying improvements are made by or for the use of the existing property owner. A qualifying property is considered used for non-profit or

governmental purposes if the occupant or user of at least 65 percent of the useable space of the building is an agency of the federal, state or local government or a non-profit corporation whose articles of incorporation have been filed by the Department of State in accordance with F.S. § 617.0125. Useable space means that portion of the space within a building which is available for assignment or rental to an occupant. A property is considered regularly and frequently opened to the public if public access to the property is provided not less than 52 days a year on an equitably spaced basis, and at other times by appointment. This exemption does not prohibit the owner from charging a reasonable nondiscriminatory admission fee. If a property that qualifies for this exemption is no longer used for non-profit or governmental purposes or is no longer regularly and frequently open to the public or if ownership is transferred then this exemption shall be revoked.

F. *Application process.*

1. Preconstruction application. Consideration of the exemption shall be initiated by the filing of a preconstruction application by the property owner on the form provided by the City prior to the initiation of any work on a qualifying improvement. Qualifying improvements or any portion thereof initiated prior to approval of the preconstruction application shall not be eligible for the exemption.

2. The property owner shall also provide all information required for a COA review, the proposed cost of the qualifying improvement based on a licensed contractor's price estimates or other city approved cost estimate method, and a copy of the most recent tax assessment and bill for the property.

3. The Director shall review and approve or deny the preconstruction application and shall follow the review and appeal procedures for a COA. After such review, the Director shall notify the property owner in writing of the following:

    a. Whether the proposed work is a qualifying improvement;

    b. Whether the work, as proposed, is consistent with the criteria for the certificate of appropriateness and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings (Revised 1990) U.S. Department of Interior, National Park Service and F.A.C. Ch. 1A-38; and

    c. Making recommendations for correction of work which is not consistent with the foregoing.

4. Any changes made to the qualifying improvement after approval of the preconstruction application must receive prior approval by the Director/HPAC and/or the City Commission to ensure compliance with

the criteria set forth herein. Failure to obtain prior approval may result in denial of the exemption.

5. The property owner must complete the qualifying improvement within two years following the date of approval of a preconstruction application. A preconstruction application approval shall automatically be revoked if the property owner has not submitted a request for review of completed work within two years following the date of approval of a preconstruction application. The Director may grant an extension to this provision for up to six months if such request is made in writing prior to the expiration of the initial period. Any other extensions must be approved by the City Commission and shall require a public hearing and notification as set forth for appeal of a COA decision.

6. Request for review of completed work. A request for review of completed work (post construction application) shall be submitted to the Director by January 15 for work completed by December 31 of the prior year. The request for review of the completed work shall include documentation acceptable to the City showing the total cost of, and an itemized list of expenses for, the qualifying improvement. Appropriate documentation may include paid contractor's bills, canceled checks, an approved building permit application listing cost of work to be performed and any other information required by the Director. The Director may inspect the qualifying improvement to determine compliance with this section. Following the Property Appraiser's established time frames, the Director shall recommend that City Commission grant or deny the exemption and shall notify the property owner in writing of the recommendation and the date which the City Commission shall consider the exemption.

7. If the completed qualifying improvement complies with the requirements set forth in the preconstruction application approval, as amended, this section, the COA, the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings and any additional conditions required by the City, then the Director shall recommend that City Commission grant the exemption.

8. If the completed qualifying improvement does not comply with the requirements of this section, then the Director shall provide a written summary of the reasons for that determination, including recommendations to the property owner concerning changes to the proposed work necessary to comply and shall recommend that City Commission deny the exemption.

9. If the property owner is notified that the improvement does not comply with the requirements of this section, the property owner shall have 15 days from the date of the Director's notification to respond in writing

describing the specific actions to be taken by the property owner to comply. If the Director receives a written response within 15 days, the property owner shall have 30 days from receipt of the written response to comply with the requirements of this section. The Director may grant an extension to this provision for up to an additional (60 days if such request is made prior to the expiration of the initial period. At the end of this period the Director shall review the qualifying improvement and make a recommendation to City Commission to grant or deny the exemption based on the requirements of this section.

G. *Historic preservation property tax exemption covenant.*

1. A covenant in the form approved by the City Attorney must be executed by the property owner for the term of the exemption before an exemption is approved by the City Commission. The covenant shall provide that the property owner shall maintain and repair the property so as to preserve and maintain the historic architectural qualities or historical or archaeological integrity of the qualifying property for which an exemption was granted. If the exemption is granted, the property owner shall have the covenant recorded with the deed for the property in the official records of the county prior to the effective date of the exemption which shall be binding on the property owner, transferees, and their heirs, successors or assigns.

2. The applicant shall provide a certified copy of the recorded covenant to the Director by June 15 or said approval by the City Commission shall be void.

3. If the property changes ownership during the exemption period, the requirements of the covenant must be transferred to the new owner. The property owner may sign a waiver which discontinues the exemption on the property. The exemption will be discontinued beginning with the tax year in which the waiver was received with no penalty to the property owner. The exemption may not be reinstated after the waiver has been delivered to the Director.

H. *City Commission review and approval of the request for review for completion of work.* The City Commission shall approve, modify, defer or deny the exemption by resolution within 60 days of the Director's recommendation. If approved the resolution shall include but not be limited to the following: the period of time the exemption shall be in effect and the expiration date of that period, approval of the covenant, any conditions of approval, the name of the owner and address of the property for which the exemption is granted and a finding that the property meets the requirements of F.S. § 196.1997. Said approval shall be conditioned upon receipt by the Director of a certified copy of the recorded covenant.

I. *Reapplication.* A property owner previously granted an exemption may undertake additional qualifying improvements during this period or apply

for additional exemptions for qualifying improvements following its expiration. A property owner may not reapply for an exemption for a qualifying improvement which has been denied by City Commission.

J. *Notice to property appraiser.* Within 15 days following receipt of a certified copy of the recorded covenant, the Director shall transmit a copy of the approved request for review of completed work to the county property appraiser. The property appraiser shall implement the exemption as provided by State law.

K. *Revocation proceedings.* The City Commission may revoke an exemption at any time in the event that the property owner, or any subsequent owner or successor in interest to the property, violates the covenant, fails to maintain the qualifying property according to the terms, conditions and standards of the covenant, the historic character of the property and improvements which qualified the property for the exemption are not maintained or if the qualifying property has been damaged by accidental or natural causes to the extent that the historic integrity of the features, materials, appearances, workmanship and environment, or archeological integrity which made it eligible for listing or designation have been lost or damaged so that restoration is not possible. The Director shall provide written notice of such proceedings to the owner of record of the qualifying property at least ten days before the public hearing. The City Commission shall hold a public hearing and determine whether or not the exemption shall be revoked. The Director shall provide written notice of the decision to the owner of record and the county property appraiser.

L. *Civil penalties.* If an exemption is revoked for violation of the covenant required hereby, the property owner shall pay an amount equal to the total amount of taxes that would have been due in March in each of the previous years in which the covenant was in effect had the property not received the exemption, less the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. § 212.12(3). This payment shall be made to the City within 30 days of the effective date of the revocation. If the City initiates an action in any court to enforce this provision, the property owner shall be liable for all administrative expenses, attorneys' fees and all other costs associated with such action.

111-1.13 - Civil Penalties

In addition to any other penalties, any person who violates any provision of this section shall forfeit and pay to the City civil penalties equal to the fair market value of any property demolished or destroyed in violation of this section or the cost to repair or rehabilitate any property that is altered in violation of this section. In lieu of a monetary penalty, any person altering property in violation of the provisions of this section may be required to repair or restore any such property.

Section 2. That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any conflict with this Ordinance.

Section 3. The provisions of this Ordinance shall be severable. If any provision of this Ordinance is deemed unconstitutional or otherwise invalid, such determination shall not affect the validity of any other provisions of this Ordinance.

Section 4. This Ordinance shall take effect upon its passage and adoption.

PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF DUNEDIN, FLORIDA, THIS 5th day of September, 2019.

Julie Ward Bujalski
Mayor

ATTEST:

Denise M. Kirkpatrick
City Clerk

READ FIRST TIME AND PASSED: August 22, 2019

READ SECOND TIME AND ADOPTED: September 5, 2019